

AGENDA
CANFIELD CITY COUNCIL
REGULAR MEETING

May 15, 2024-5:30 P.M.

FRANCIS J. McLAUGHLIN MUNICIPAL BUILDING

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call: Quorum is Present - Meeting is in Session.
4. Proclamations & Presentations.
5. Approval of Minutes.
6. Reading of Communications.
7. Reports of Committees, Boards, Mayor's Report, City Manager, Finance Director, Chief of Police, Zoning Inspector and Public Works Superintendent.
8. Public questions from residents (or representative) related to the above referenced reports. Questions may be limited to three (3) minutes.
9. Recognition of Persons Desiring to Appear Before Council.

10. OLD BUSINESS

Note: After each item is placed on the table for action, public comments from residents (or representative) as to that business item are received. May be limited to three (3) minutes per person and thirty (30) minutes total.

11. NEW BUSINESS

Note: After each item is placed on the table for action, public comments from residents (or representative) as to that business item are received. May be limited to three (3) minutes per person and thirty (30) minutes total.

- A. An **Ordinance** Authorizing the City Manager to Enter Into An Agreement with MS Consultants, Inc. in the Form Attached Hereto for Professional Services Related to the 2024 Street Improvement Project.

Description: This Ordinance is for the 2024 Street Improvement Project for Engineering Services. The scope of the services consists of design/bidding, construction/administration and inspection. As you recall the streets that this project encompasses are: Cross, Oak, S. Hillside and Manor Hill.

Action Needed:

Attachment(s): Agreement with MS Consultants, Inc.

- B. An **Ordinance** Affirming the Prohibition of Medical Marijuana Cultivation, Processors and Dispensaries with the City of Canfield.

Description: This Ordinance is to prohibit the retail cultivation, processing and/or retail dispensing or sale of marijuana.

Action Needed: Passage of Ordinance

Attachment(s): None

12. Council Comments.

13. Adjournment

Introduced by: _____
First Reading: _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH MS CONSULTANTS, INC.
IN THE FORM ATTACHED HERETO FOR PROFESSIONAL SERVICES
RELATED TO THE 2024 STREET IMPROVEMENT PROJECT

WHEREAS, the City of Canfield hereby desires to engage MS Consultants, Inc. for professional services related to the 2024 Street Improvement Project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANFIELD, COUNTY OF MAHONING COUNTY, AND STATE OF OHIO:

Section 1: That the City Manager is hereby authorized and directed to enter into the attached agreement with MS Consultants, Inc. for professional services described therein, for an amount not to exceed \$37,003.00 (Thirty-Seven Thousand Three and zero cents).

Section 2: That this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meeting of this Council, all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2024.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

Certification of Publication

I, the undersigned Clerk of Council of the City of Canfield, Ohio, hereby certify that the foregoing Ordinance was posted in a prominent place at the Municipal Building, Canfield, Ohio for seven continuous days, to-wit: _____
_____.

CLERK OF COUNCIL

APPROVED AS TO FORM:

MUNICIPAL ATTORNEY

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT ("Agreement") effective as of _____, 2024 ("Effective Date") between the City of Canfield, 104 Lisbon Street, Canfield, Ohio 44406 ("Owner") and ms consultants, inc., 333 East Federal Street, Youngstown, Ohio 44503("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: 1.5" mill and fill resurfacing project of various City streets as identified in Exhibit A.

Engineer's services under this Agreement are generally identified as follows: Engineer shall provide design, bidding, and construction administration/inspection services for the Owner's Project.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in this Agreement.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or

3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time and, in any event, no later than the dates set forth in any exhibit or amendment to this Agreement.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of this Agreement. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 1. amounts due Engineer will be increased at the rate of 2.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and

Exhibit K – Amendment to Owner-Engineer Agreement.

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2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of this Agreement.

4.03 Compensation

- A. Owner shall pay Engineer for Basic Services set for in Exhibit A, except for services of Engineer's Resident Project Representative, if any, as follows:
 1. A Lump Sum amount of \$37,003.00 based on the following estimated distribution of compensation in accordance with the funding amounts secured as part of the Ohio Public Works Commission agreement:
 - a. Design/Bidding \$11,900.00
 - b. Construction Admin/Inspection \$25,103.00
 2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
 3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
 4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.
- B. Period of Service: The compensation amount stipulated in this Agreement is conditioned on a period of service not exceeding the Time for Completion set forth in Paragraph 3.02. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in an exhibit to this Agreement.

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or

customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures:*

1. Engineer and Owner shall comply with applicable Laws and Regulations.
 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless both parties mutually agree to use other general conditions.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of

Exhibit K – Amendment to Owner-Engineer Agreement.

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the Construction Contract Documents, other than those made by Engineer or its Consultants.

- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a

limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in this paragraph. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
 - 1. Commercial General Liability. Commercial General Liability Insurance with a minimum combined single limit of liability of \$1,000,000 per occurrence for bodily injury and / or property damage with a \$1,000,000 annual aggregate. This shall include products / completed operations coverage and shall also include Broad Form Contractual Insurance specifically covering this Agreement.

2. **Business Automobile Liability.** Business Automobile Liability Insurance covering all owned, hired and non-owned vehicles and equipment used by Consultant with a minimum combined single limit of liability of \$1,000,000 for bodily injury, death and / or property damage.
 3. **Workers' Compensation / Employers' Liability.** Workers' Compensation Insurance which shall fully comply with the statutory requirements of all applicable state and federal laws.
 4. **Professional Liability.** Professional Liability Insurance in an amount not less than \$2,000,000 per claim / annual aggregate on a claims-made basis.
- B. Owner shall procure and maintain policies of property and liability insurance for the Project. Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
 - C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
 - D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in the Agreement. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - E. All policies of insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
 - F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
 - G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in the Agreement. If so requested by Owner, and if

commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and the Agreement will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

Exhibit K – Amendment to Owner-Engineer Agreement.

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- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in this Agreement.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking other dispute resolution procedures.
- B. All disputes between the parties arising out of this Agreement that are not resolved by negotiation shall be subject to arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. In no event shall a demand for arbitration be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known

Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.

- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in this Agreement.
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.

- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.
- F. *Confidential and Proprietary Information:* Owner agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by the Engineer pertaining to this Project or this Agreement shall be considered confidential and

proprietary, and shall not be released or otherwise made available by Owner to any third-party without the express written consent of the Engineer unless such information (a) was known by the Owner prior to receiving the confidential information from the Engineer; (b) becomes rightfully known to the Owner from a third-party source not under an obligation to the Engineer to maintain confidentiality; (c) is or becomes publicly available through no fault of or failure to act by the Owner in breach of this Agreement; or (d) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation.

- G. *Construction*: The parties acknowledge that each party has reviewed this Agreement and voluntarily entered into this Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement, or any amendments or exhibits to it
- H. *Counterparts*: This Agreement may be executed in any number of counterparts each of which when so executed and delivered will be an original hereof, and it will not be necessary in making proof of this Agreement to produce or account for more than one counterpart hereof. This Agreement may be executed and delivered by facsimile or via electronic mail.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer beyond those identified as Basic Services in Exhibit A of this Agreement.
 - 3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 - 5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with of Exhibit A of this Agreement.
 - 6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract

Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.

7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities

relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as

delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in an exhibit to this Agreement.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design

professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included*:

- A. Exhibit A, Engineer's Services.

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties.

8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

[THE BOTTOM OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: City of Canfield

Engineer: ms consultants, inc.

By: _____

By: Steve Preston

Print name: David A. D'Apolito

Print name: Steve Preston, P.E.

Title: City Manager

Title: Project Manager

Date Signed: _____

Date Signed: May 8, 2024

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

City of Canfield
104 Lisbon Street
Canfield, Ohio 44406

ms consultants, inc.
333 East Federal Street
Youngstown, Ohio 44503

Designated Representative (Paragraph 8.03.A):

Designated Representative (Paragraph 8.03.A):

David A. D'Apolito

Steve Preston, P.E.

Title: City Manager

Title: Project Manager

Phone Number: 330-533-1101

Phone Number: 330-744-5321

E-Mail Address: ddapolito@canfield.gov

E-Mail Address: spreston@msconsultants.com

EXHIBIT A

SCOPE OF SERVICES

City of Canfield 2024 Street Improvement Project

May 8, 2024

Project Understanding

ms consultants, inc. (Engineer) understands that the City of Canfield (Owner) intends to enter into an agreement with an Engineer for the 2024 Street Improvement Project. The Scope of Services for the project consists of the following:

1. Design/Bidding

- A. Prepare resurfacing specifications for a standard 1.5 inch “mill and fill” pavement project. The specifications shall include pavement planing, tack coat, and asphalt surface course for the following streets:
 - i. *Base Bid*
 - Manor Hill (0.09 miles between East Main and Cul-De-Sac)
 - South Hillside (0.35 miles between East Main Street and Janet Drive)
 - Oak Street (0.21 miles between Fair Street and High Street)
- B. Construction drawings showing the location of the roadway section to be resurfaced or repaired shall be provided in the contract documents. A standard cross section detail will be provided. Specifications will follow ODOT Construction & Material Specifications.
- C. Produce a set of contract documents that will include construction drawings, notices to Contractors, general and special conditions and construction specifications.
- D. Provide a detailed construction cost estimate based on current prices calculated from items of work to be performed.
- E. Prepare the necessary documents and submit the final set of construction drawings and specifications to the Owner for final approval.
- F. Engineer shall assist Owner in bidding of the project by assisting in the distribution of plans and contract documents, answering all questions during the bidding procedure, preparing and issuing all addenda (one addenda assumed), assistance in the receipt of bids, review of all bids including reference checks, preparation of a bid tabulation and recommendation of award letter.

2. Construction Administration/Inspection

- A. General Administration of Construction Contract
 - i. Engineer shall consult and advise the Owner. All of the Owner’s instructions to Contractor(s) will be issued through Engineer who will have authority to act on behalf of the Owner to the extent provided in said Standard General Conditions except as otherwise provided in writing.

B. Visits to Site and Observation of Construction

- i. Engineer shall provide a project representative (PR) totaling no more than 104 hours of full-time inspection for one inspector for the scheduled duration of the project to observe as an experienced and qualified design professional the progress and quality of the various aspects of the Contractor(s) work. The work will be based on the Contractor's schedule. Based on information obtained during such visits and on such observations, Engineer shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and Engineer shall keep the Owner informed of the progress of the work.
- ii. The purpose of Engineer's visits to the site will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by exercise of Engineer efforts to provide for the Owner a greater degree of confidence that the completed work of the Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, Engineer shall not, during such visits or as a result of such observations of Contractor(s) work in progress, supervise, direct or have control over Contractor(s) work. Also Engineer shall not have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s)', or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, Engineer can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s) failure to furnish and perform their work in accordance with the Contract Documents.

C. Defective Work

- i. During such visits and on the basis of such observations, Engineer may advise the Owner to disapprove or reject Contractor(s) work while it is in progress if Engineer believes that such work will not produce a completed project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the project as reflected in the Contract Documents.

D. Interpretations and Clarifications

- i. Engineer shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.

E. Shop Drawings

- i. Engineer shall review and approve (or take other appropriate action in respect of) Shop Drawings, samples and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the

project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

F. Substitutes

- i. Engineer shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s).

G. Inspections and Tests

- i. Engineer shall as the Owner's representative, require special inspection or testing of the work, and shall receive and review all certifications of inspection, testings and approvals required by laws, rules, regulations, ordinances, codes, or orders of the Contract Documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents).

H. Disputes between the Owner and Contractor

- i. Engineer shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of the Owner and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of work. Engineer shall not be liable for the results of any such interpretations or decisions rendered in good faith.

I. Application of Payment

- i. Based on Engineer's onsite observations as an experienced and qualified design professional, and on review of applications for payments and the accompanying data and schedules:
- ii. Engineer shall determine the amount owing to Contractor(s) is such amount. Such recommendations of payment will constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of Engineer's knowledge, information and belief, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendations).
- iii. By recommending any payment, Engineer will not hereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made by Engineer to check the quality or quantity of Contractor(s) work as it is furnished and performed beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Engineer's review of Contractor(s) work for the purposes of recommending payments will not impose on Engineer responsibility to supervise, direct or control such work for the means, methods, techniques, sequences, or

procedures of construction or safety precautions or programs incident thereto or Contractor(s) compliance with laws, rules, regulations, ordinances, codes or orders applicable to their furnishing and performing the work. It will also not impose responsibility on Engineer to make any examinations to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials, or equipment has passed to the City free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between the Owner and the Contractor that might affect the amount that should be paid.

J. Contractor(s) Completion Documents

- i. Engineer shall receive and review schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, test and approvals the results certified indicate compliance with, the Contract Documents); and shall transmit them to the Owner with written comments.

K. Inspections

- i. Engineer shall not be responsible for the acts or omissions of any Contractor(s), or of any subcontractor or supplier, or any of the Contractor(s) or subcontractors' or supplier's agents or employees or any other persons (except Engineer's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s) work; however, nothing shall be construed to release Engineer from liability for failure to properly perform duties and responsibilities assumed by Engineer in the Contract Documents.

3. Additional Services of Engineer

A. Services Requiring Authorization in Advance

- i. If authorized in writing by the Owner, Engineer shall furnish or obtain from others Additional Services that are not included as part of Basic Services; these will be paid for by the Owner as a negotiated extra to the proposed work.
- ii. Services resulting from significant changes in the general scope, extent or character of the project or its design including, but not limited to, changes in size, complexity, Owner's schedule, character in construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond Engineer's control.
- iii. Preparing to serve or serving as a Engineer or witness for the Owner in any litigation, arbitration or other legal or administrative proceeding involving the project.

4. Owner's Responsibilities

- A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define the Owner's policies and decisions with respect to Engineer's services for the project.
 - i. Assist Engineer by placing at Engineer's disposal all available information pertinent to the project including previous reports and any other data relative to design or construction of the project.
 - ii. Arrange for access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
 - iii. Furnish approvals, pay for and secure all permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.
 - iv. If the Owner designates a person to represent the Owner at the site who is not Engineer or Engineer's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of Engineer will be set forth in an exhibit that is to be identified, attached to and made part of this Agreement before such services begin.
 - v. Attend the preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
 - vi. Give prompt written notice to Engineer whenever the Owner observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services, or any defect or non-conformance in the work of any Contractor.
 - vii. Furnish, or direct Engineer to provide additional services as stipulated in this Agreement or other services as required in a timely manner.
 - viii. Bear all costs incidental to compliance with the requirements of this Section.

5. Assumptions/Exclusions

- A. The scope of work does not include any field survey services.
- B. Asphalt core samples and geotechnical investigation will not be performed for this project.
- C. The Engineer assumes that work to be performed will be a standard 1.5" "mill and fill" resurfacing. If additional Engineering is required outside of a standard "mill and fill" project, Engineer and Owner shall negotiate a modification to this agreement.

6. Period of Service

- A. The Engineer agrees to commence work within ten (10) days after written authorization to proceed and to be prepared to bid within sixty (60) calendar days of the Notice to Proceed.

Introduced by: _____
First Reading: _____

**AN ORDINANCE AFFIRMING THE PROHIBITION OF
MEDICAL MARIJUANA CULTIVATION,
PROCESSORS AND DISPENSARIES
WITHIN THE CITY OF CANFIELD**

WHEREAS, on November 7, 2023 the citizens of the state of Ohio passed Issue 2 to legalize marijuana in Ohio including allowing the sale and purchase of marijuana, the possession of marijuana of up to 2.5 ounces by adults 21 years and older, and the cultivation of up to six marijuana plants at home; and

WHEREAS, Canfield City Council previously passed Ordinance No. 2017-16 prohibiting medical marijuana cultivators, processors, and retail dispensers within the City of Canfield as necessary and proper to protect the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, the Ohio legislature is currently considering laws and regulations related to the use, sale and cultivation of marijuana subsequent to the passage of Issue 2.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Canfield, State of Ohio:

Section 1: That Canfield Codified Ordinance Chapter 737 entitled “Marijuana Cultivation, Processing, and Retail Sales” is hereby re-affirmed, as follows:

Section 2: Ordinance Section 737.01 Cultivation, Processing and Retail Sales of Marijuana

The retail cultivation, processing and/or retail dispensing or sale of marijuana, is hereby prohibited within the City of Canfield.

Section 3: Ordinance Section 737.02 Penalties

Whoever violates any provision of this Ordinance is guilty of a misdemeanor of the first degree. Each day that any person continues to violate any provision of this Ordinance shall constitute a separate and complete offense.

Section 4: That this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings of this Council, all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield

PASSED IN COUNCIL THIS _____ day of _____, 2024.

CLERK OF COUNCIL

Certification of Publication

I, the undersigned Clerk of Council of the City of Canfield, Ohio, hereby certify that the foregoing Ordinance was posted in a prominent place at the Municipal Building, Canfield, Ohio for seven continuous days, to wit:_____

.

CLERK OF COUNCIL

APPROVED TO FORM:

MUNICIPAL ATTORNEY

MINUTES

CANFIELD CITY COUNCIL

REGULAR MEETING

MAY 1, 2024-5:30 P.M.

The meeting was called to order by Mrs. Christine Oliver, President of Council, followed by the Pledge of Allegiance. The Clerk called the roll to which a quorum responded as follows: Mr. Graham, Mr. Neff, Mrs. Oliver and Mr. Tieche.

Absent: Mr. Dragish.

Staff present: Charles Colucci, Chief of Police; Jodi Flinn, Zoning Inspector; and John Rapp, Public Works Superintendent.

Absent: Christine Stack-Clayton, Finance Director.

Under **PROCLAMATIONS & PRESENTATIONS**, there were none.

Under **APPROVAL OF MINUTES**, the Minutes of the Regular Meeting on April 17, 2024 were approved as presented.

Under **READING OF COMMUNICATIONS**:

MR. TIECHE: I don't have anything written, I have something that I want to talk about when we get further down into reports.

MR. NEFF: I received a call from a concerned resident who expressed his opinion, different from all the other opinions that I've gotten on the merger of the fire district. He is adamantly in favor and chastised our council for opposing it. I will also take issue with John Morvay's criticism on opposing it. Again, I would assert and admonish John for proclaiming it's dead. We the council killed it. I believe we're opposing it because until the facts are shared, put forward, that is in the best interest of our community, to merge, that we stand in opposition. My opinion, no one compares to our safety forces, the fire, the EMT and our police, we have the best. It's because we hire the best and train and retain the best. Our community pays for it, our levies, both permanent and scheduled. I understand that by state statute, if a merger would happen that our levies would be imposed on Boardman without a vote by residential ballot. My opinion, it would take some time to come up to our standards. So, while I'm still opposed, I'm open to having my mind changed with the additional facts but not speculation.

MRS. OLIVER: Thank you.

MR. NEFF: I have another comment. I had a meeting with our school superintendent today. I would just like to comment on the school board's pending decision to go with a plan to tear

down the middle school and build around a new building. I met with the superintendent, he's a super guy but I don't agree with him. I've worked on different committees over 20 years about improving our city and the number one ask that continues to surface is a wish for a community center. So, for preschool, all the way to seniors. I'm a preservationist and don't want to tear down historic structures. Now the problem is, they need a spot and that is the best spot for a school. It's also, I think, the best spot for a community center. It has multiples gyms, a Library a media center, a stage, a cafeteria and space. If one of the wings is torn down the newest wing, ironically, that would be an aquatic center. I talked to the YMCA and they would like a facility in Western Mahoning County. If we can find another location for the school, facilities committee, I've always voted for every school levy, even with my children grown and on their own. That's just my opinion but I wanted to state it publicly.

I was going to get into, finally and most importantly, Red Gate but I'll save that for next session. Thank you.

MRS. OLIVER: Mr. Graham.

MR. GRAHAM: I have nothing.

MRS. OLIVER: I did receive an email from Trevor Wilson, 520 East Main Street. Hello, I'm starting a petition against the construction of a car wash on Rt. 224, at 520 East Main Street.

I think it is extremely wrong for a car wash to be constructed there for several reasons which are included in the petition.

I have just learned that there has been several meetings about this topic already, however this was unknown to the majority of the residents here. Most residents were only aware of the situation when construction equipment showed up on the property. This construction must cease immediately. I've included a link to my petition for information only. Frankly, I'm very disappointed that this area has switched zoning to Highway Commercial and it should be purely residential or farming. I was informed that the city only informed residents within 200 feet of the property of the car wash's creation. This was simply a poor decision because too many residents don't live that close, it's a huge property. The citizens of Canfield still deserve a say. There has been a lot of interest in my petition already. I'm trying to work in the most professional way possible. I would appreciate it if this information is shared at the next city council meeting, this is an urgent matter. I'm unable to attend the meeting myself. If you have any question, please let me know.

Attached was Canfield Citizen's against car wash on 224, which he gave the reason's that he feels that, that should be done. It's becoming too over developed, it's supposed to be residential property and has been for a long time. A business of this kind, in this location, ruins the image of our town. There are at least 4 other car washes within a mile radius, Bellino, Sheetz, Canfield Auto Spa, Canfield Touch-Free Car Wash, there are roughly 2 dozen more in a five-mile radius of Canfield. Roughly, 7 years ago, they built a brand-new car part shop next to

Giant Eagle and that failed quickly and has remained ever since. Canfield citizens need to stop us from repeating history and prevent a mistake from ruining our town. Then he sent me an addendum the other day and he thank me for reading over this, he's looking forward to reading the minutes, he just wanted to add a few more remarks. The petition is continuing to grow stronger. I have not had a chance to go door-to-door and have this much support already. Second, I think it would be a productive use of time to ask the council at this point, what can actually be done. Nothing has been built at this sight so far, just some ground work. It's not too late to stop this. I also want to clarify my goal which overall is to stop the creation of the car wash at this site. Ideally, this property should be switched to residential or agricultural. At this point, anything is better than a car wash, would it be more effective for citizens to pursue the car wash owner to directly cause change.

Finally, I want to state that I wanted to be at the meeting in person but I'm a pharmacist that works a lot of hours. Thank you, Trevor Wilson.

DAVID D'APOLITO: Is there a petition attached?

CHRISTINE OLIVER: Well, there is actually this link that you go online and it will show you everything. I'll forward the email to all of you.

MR. D'APOLITO: Is there a number of people that signed? Just curious.

CHRISTINE OLIVER: When I clicked it to see what it was, I was the petition but I didn't delve any further into it. I wanted to wait until I shared it and I will forward this along to you guys to examine it and the council members.

MR. TIECHE: Have permits been issued on that structure?

ZONING INSPECTOR: No, they have not. They're still with MS Consultants.

MRS. OLIVER: I to have been receiving feedback regarding the proposed fire merger, including people who listen to the Dan River's Show, via in person, email, text message and they were all highly in favor of what Mr. Dragish and I had to say. They felt that we were cut-off when we would try to answer questions and explain our view. They felt that we didn't get to really elaborate, that it was one-sided. The residents in-fact, one today, expressed to me that she believes that in the future our residents will not pass another fire levy if it's attached to Boardman Township. I think it's important for people to realize that, I ask questions at the last fire board meeting, at the end of the evening and we wouldn't see any money in the City of Canfield from that if it was not completed by October 1st; which they were definitely on the race to get it done by July 1st and that's why we passed the Resolution because we didn't want something to be taken to the finish line without any information to the residents, nor was there any information to the Boardman Township residents. So, if that happened before October 1st, we wouldn't see one dime of that money, until next April. If it did not occur until next year, like in January, we would not see any money, until the following January; which would be 2026. So,

I think it's important for people to know that it's not like we merge and then we receive all this money and share in it. We would be standing on our own for quite some time. I think that is very important for our residents to know and for the Boardman Township residents to know. That's all I have for communications.

Under **REPORTS** of Committees, Boards, Mayor's Report, City Manager, Finance Director, Chief of Police, Zoning Inspector and Public Works Superintendent.

MR. TIECHE: I think all members of Council received copies of the most recent Parks Board Report with the individuals that were there objecting to the expansion of the parks and also with regard to development of the Village Green. Just take those under consideration, I'm sure we're going to have some additional discussions about those by citizens coming into council meetings or at Parks Board. We will see where that ends up going.

MRS. OLIVER: Thank you. Mr. Neff.

MR. NEFF: I'll defer to our zoning director, Jodi. We had a good meeting but I didn't bring my notes.

MR. GRAHAM: Design Review meets next week.

MRS. OLIVER: Thank you. I forgot my phone at home but fortunately, I have the answer on my watch. So, I'm on the Fire Board and the calls for April were a total of 224, ambulance transports were 94, there was one house fire for a loss of \$100.00, valued at 263,380 for the home. I questioned that and I made sure it was supposed to be \$100.00 and it was a chimney fire with minimal damage. The police used an AED last month and restarted a heart and medic's transported. That's what I have for Fire Board.

MR. TIECHE: At your Fire Board meeting did they talk anything about the ambulance evaluation that was just completed? Can members of council get a copy of that?

MRS. OLIVER: I just received in my email information on the inspection for the ambulance and we did get an excellent report. In fact, we're supposed to be top-notch, of all the ambulances that they have inspected. So, I did receive that today, I will forward that along. Everything seems good.

MR. NEFF: Christine, 224 calls, 94 EMT's. I thought usually there are a lot more EMT's than fire calls.

MRS. OLIVER: No, as total of 224 calls and ambulance transports, actual transports, he has as 94. He didn't break down the EMS calls, he just put total 224.

MR. NEFF: Thank you.

MR. D'APOLITO: Mrs. Oliver, did he report anything about mutual aid calls?

MRS. OLIVER: No, he did not.

MR. TIECHE: I'm thinking the report that we got in January there was a summary of 2023 calls, when they compared mutual aid calls, mutual aid that we gave and mutual aid that we received and if you look at those numbers, we are giving far more than what we are getting; which doesn't to justify a reason to expand our.....

MR. D'APOLITO: Which is part of the reason I asked, Mr. Tieche because in prior reports, I thought the Fire Board had given us that information. It just seemed interesting that this month's report did not include that.

MRS. OLIVER: I have noticed a difference in the information that I receive over the months. In the beginning, it was very detailed. Now, it's quite vague. But on the other hand, I did find it quite interesting, just before I came here, that I received a photo of an ambulance with Boardman LOGO's on it. That was send by the Chief to me. It was sent to the fire board members. I got a very short report but I did receive the picture of their ambulance. I was quite pleased to see that they have an ambulance and from what I understand they have hired a marketing firm that is putting out a flier to their residents, to test the waters of putting on a fire levy in Boardman. I hope that goes well for them. Public Works Superintendent, Mr. John Rapp.

PUBLIC WORKS SUPERINTENDENT: Good evening. Our annual stick and limb pick-up has been completed. All went well. Crews have been out doing multiple storm drains, line repairs, sink holes, those pop up every year in the spring and people notice them when they're out getting in their yards. Water cuts from the winter time and late fall are being restored right now.

Crews were up and tapered down a new sidewalk and put dirt in on the pickleball courts. I don't know if any one has been up there. We brought in a hydro-seeder today and it's all hydroseeded. With the rain it should start sprouting up quick. It turned out really nice, if you get a chance, stop up there and see that.

Also, Lead and Copper has started for the year. You just have to sample 10 per week for a total of 4 weeks. They require 40 samples per half. We have until June to do that. We like to get that done in May.

I had another crew out hot patching potholes today. They spent the whole day on that. If you see any, please give us a call and we'll get it on the next round.

We are also out doing meter upgrades. We started back in May after we did the mulching and the grounds ready for spring. That's all I have.

MRS. OLIVER: Thank you. Any updates on when you go down towards Giant Eagle and the bumpy road?

PUBLIC WORKS SUPERINTENDENT: I'll defer to our city manager.

MRS. OLIVER: We'll wait until we get to you. Are we starting to go out and notice high grass? I did notice today, from the corner of when I turned onto 46, pass Sleepy Hollow, the vacant property on the left. There are a lot of dandelions and a lot of high grass.

PUBLIC WORKS SUPERINTENDENT: We discussed that today. We'll be getting some letters out.

MRS. OLIVER: Okay, thank you. Does anybody have a report for Mrs. Clayton?

MR. D'APOLITO: The Finance Director wanted me to report that the new online bill payment is now available. Customers can make a payment without creating an account or create a new account where they can see account details, view all transactions and manage their own account contact preferences. As part of the new software, customer can receive all types of email alerts which can be selected on this screen. Customers can also opt out of receiving bills in the mail and receive them by email.

Customers can enroll in Auto Pay at a date they select. Even though currently we are still billing quarterly, a date in the month can be selected. If there is no amount due, no payment will be withdrawn for that month. Payments can also be made by credit card or electronic check. A convenience fee does apply.

MRS. OLIVER: Are you saying, you can pay a monthly amount but we'll see receive a quarterly bill or they working towards getting a monthly breakdown?

MR. D'APOLITO: Eventually, it will be billed monthly. Currently, it's still billed quarter but you can pick a date in that quarter for when your bill will be paid. It will change.

MR. TIECHE: You we have the option of receiving the hard copy of the bill vs. the electronic?

MR. D'APOLITO: Yes. You can opt-in or out.

MRS. OLIVER: Our Zoning Inspector, Mrs. Flinn.

ZONING INSPECTOR: Thank you, Mrs. Oliver. We had our last Planning & Zoning Meeting on April 18th. We also had a public hearing on that date, it was a fence adjustment for a corner lot on Hood. There was also two items on the agenda that were set for public hearings, those will be on May 9th. One is for a fence height adjustment and the other one is for a setback adjustment for a new build. Also, during that meeting it was voted on, to change the meeting time from 6:30pm to 5:30pm. That will start with the first meeting in May. That is all for the Planning & Zoning part.

For the month of April, we ended with 16 zoning permit, totally \$805.00, for a valuation of \$141,475.00. That brings our total permits issued for the year to 47 for a valuation of \$1,069,992. I had a couple of reminders that it is grass mowing time. The property across the street from Sleepy Hollow, I did get a demo permit for that house, they picked it up today. It was something that was approved by Design Review back in February. I'll be reaching out to the property owner about the grass.

MRS. OLIVER: Thank you.

MR. TIECHE: The one request that you had for a setback adjustment, what zoning district is that in?

ZONING INSPECTOR: It's in R-1.

MR. TIECHE: And we're going to adjust the setback by 10 feet, going to 40 ft instead of 50 ft?

ZONING INSPECTOR: That's correct. That's what they're asking.

ATTY. FORTUNATO: We haven't done it yet. It's set for a hearing.

MR. TIECHE: I understand. What's the address?

ZONING INSPECTOR: It's Lake Wobegon.

ATTY. FORTUNATO: It's a very unique lot.

MR. NEFF: The public hearing because we moved the time up, instead of 5:30, it will be at 5:10pm.

MR. D'APOLITO: Mr. Neff because you mentioned that, it's something I would like to address with council. I think that all of these meetings should start at the same time. When we have things, we can move it backwards. I don't understand the reason to go forward. So, people know we start at a set time, the regular meeting. I think when we adjust those times forward, I think it can be unfair to people. Even with our council meetings when we have a public hearing first, I would want it to start at 5:30pm and then we can move our meeting after that. I just think that people are maybe not aware, usually you don't adjust forward.

MR. NEFF: That's a good idea.

MR. TIECHE: Get everybody used to the fact, we're having a public meeting and it's going to start at whatever time and not be earlier than that.

MR. D'APOLITO: Right. If we have more hearings we move forward.

MR. TIECHE: Good point.

MR. D'APOLITO: It might be unfair to residents that think that we start hearings early at 5:30pm and then it started at 20 after or 10 after.

MR. TIECHE: The interesting thing is we have a sign on the Village Green that says they start at 5:30pm.

MR. D'APOLITO: Anyway, that's something I want council to look at and for the (INAUDIBLE) as well, they always start at the same time. We just extend them on the back-end.

MR. TIECHE: Daytime meetings, we're not going to change them to night time.

MR. D'APOLITO: No.

MRS. OLIVER: A lot of the residents might work until 5:00pm. Our City Clerk, Mrs. Bernat.

CLERK: Thank you. Just a couple of announcements. The police department and the Civil Service Commission will be giving a physical assessment test at Canfield High School on Saturday, May 4th at 10:00am, for the position of the patrol officer.

I believe, although I haven't received the invitations, as of yet, that next Friday, will be Civil Day here at the City Building.

MR. TIECHE: Next Friday.

CLERK: I don't have the official invitation yet but I believe it's next Friday.

ATTY. FORTUNATO: What time is that Patty?

CLERK: It's usually 10:00-10:30.

MRS. OLIVER: I'm sure you'll send us out emails.

CLERK: Yes.

MRS. OLIVER: You're always very good at doing that. Thank you. Let's move on to the Chief of Police, Chief Colucci.

CHIEF OF POLICE: Thank you, very much. For the last 7 days, we've had multiple traffic stops but 3 of the multiple traffic stops that we've had in the last 7 days resulted in a total of 4-gun seizures. I'll remind everybody that it's been over a year that carrying a concealed weapon is legal now. So, these guns seizures come on top of that law. They are either people that shouldn't be possessing guns or people in possession of them that (inaudible) another crime.

So, we've seized a total of 4 guns, including a loaded AR-15 assault rifle. One (inaudible) gun out of Cleveland PD. Two other guns, one and we've discussed it in here before, one was loaded with armor piercing bullets. That was just yesterday. None of these traffic stops were residents of Canfield City or Township for that matter. Two of the stops included multiple drug possession and drug trafficking charges. So, really a great patrol and investigative skill on our officers to do this. One stop alone was 6 trafficking charges of what we suspect to be heroin & cocaine and crystal meth and other unidentified substances, all felony charges. It's disturbing. We kind of anticipated there was some discussion, periodical articles that discuss with the legalization of carrying concealed weapons would come an increased amount of people carrying weapons, obviously but then some that shouldn't be carrying them. One was on parole, one had prior felony convictions which is considered weapons under disability, so great job by our officers. The stop last night was scary. We're confident that if this individual got back into his vehicle, we don't know what would have happened. We had a hard time keeping him out of the vehicle. I give our officers a lot of credit. We had a nice long discussion today about 4th Amendment issues. The City Manager and I and 3 of my other supervisors. We want to make sure that people are guaranteed their 4th Amendment Rights, protect them from unlawful and illegal seizures. I was at Rotary last week and I was asked that question, if we search every car. There are very strict parameters on when we search cars. Other than a search warrant, there are very few exceptions to search a vehicle. Our officers are trained in that very well. I'm very confident with where they stand and how they go about doing that. We'll bring in a few experts from the State Highway Patrol this summer, to go over it again. Again, that's just part of that liability shield we provide our community while keeping unlawful weapons and drugs out of the city. Hats off to our officers, they did a good job.

Also, the better news, this summer, if you go to our website and look under community events, you'll see that Brittany Simboli our Receptionist, one of the reasons she was hired was her incredible ability to organize such events. She did it for the Public Library in the past. We have our summer schedule out there, including all the Summer Series Concerts on Monday nights. But Brittany added two new events to what we normally do. If you go to the website they're all there. I'll give you the quick summary. The first one is going to be June 8th-It's a summer kickoff carnival. This is something that Brittany implemented. It's going to be from 2:00pm to 6:00pm. On June 22nd, we'll do our annual Safety Day, that's 2:00pm to 6:00pm as well. July 25th will be Christmas in July. The City works together with Akron Children's Hospital and we do a toy donation and we give toys to kids that are getting surgery or in the hospital. July 26th, Brittany added this, this is going to be exciting, I'm sure a lot of residents are going to be interested, Outback Ray's Animal Show from 12:30-1:30, more details to follow but that sounds like an incredible, fun event. We'll also put out our Fall Festival dates and times and other events that we have planned, they're forthcoming. If you go to our website, click on Community Events, you'll see the list to include all summer concert events.

Finally, for me, from the police department and the city will be involved in the Memorial Day Parade; which is Monday, May 27th, 10:00am at the Veteran's Plaza. The City loves working with the American Legion to honor fallen soldiers on Memorial Day. That will be from 10:00am and then the Parade.

MR. KUBITZA: It will go past the cemetery and then back to the War Vet Museum.

CHIEF OF POLICE: So, May 27th, Monday, Memorial Day. Everything is posted and will be updated as soon as we can. Great job to Brittany for coordinating all of this. Thank you.

MRS. OLIVER: I remember walking to the cemetery so, wear comfortable shoes. I have a question on the city's events, is it only the city's events that are listed on there, or do we also list, like when we have the Junior Women's League, Fall Festival, that type of thing?

CHIEF OF POLICE: We don't post those but I don't see why we couldn't.

MR. D'APOLITO: We're going to be working on our website. We've been really spending a lot of time on the website. That is something that we can include. We're probably going to be doing most of it in-house.

MRS. OLIVER: I would like to include that because, this will be my 5th year for Back the Blue and a lot of people would come up to us and they didn't know what was going on at the Green. So, I think it would be nice for our community to know what is going on there.

CHIEF OF POLICE: Yes, Yoga on the Green.

MRS. OLIVER: I think it would be nice. I was happy to see that a friend of mine, John Reese has been added to the schedule. I remember when he reached out to me last year to say, how can I get our group up there and I sent him to Patty.

CHIEF OF POLICE: The Green looks fantastic John.

PUBLIC WORKS SUPERINTENDENT: Thank you.

MR. NEFF: Absolutely!

CHIEF OF POLICE: The landscaping, wow! What a different a year makes. Good job.

MRS. OLIVER: I have an update on the clock. I know that Sam ordered the glass, but it's not glass, it's the type that's tempered, so that nobody can get hurt if it were to be broken, today. Ben called me, he did get one of the motor's running. The other one, it's obsolete, so he was researching the internet for it. We are definitely getting that done. It was dropped off. It's being blasted and all that good stuff. We're moving forward. The goal is to have it, maybe we want to do something on the Green with it around the 4th of July. We think that would be a nice time to have it all done. Mrs. Bernat, did you say people can hear our meeting but they can't see it?

CLERK: They can see it but they can't hear it.

MRS. OLIVER: Okay. I was going to give a shout-out this evening, it's very noticeable that Mr. Micchia is not here but I'm sure he's watching. I wanted to send well-wishes his way. At least he'll get to read about it in the minutes.

MR. TIECHE: I have a question. We're talking about things that are going to be on the internet. I've had some seniors come up and say, how do you find out about what's going on if we don't get the internet and we're not computer savvy. Have we ever talked about some way to address those kinds of situations? Like the activities we're talking about having on the Village Green.

MR. D'APOLITO: My first thought is, they're welcome to call city hall here anytime.

MR. TIECHE: That's the comment that I made.

MR. D'APOLITO: Brittany is very receptive, no pun intended. Patricia takes calls all day.

CHIEF POLICE: We lost a lot of that communication when we lost the Town Crier.

MR. D'APOLITO: A lot of events are also advertised on the Green in the sign boards. That's another way.

MR. TIECHE: Very good. Thank you.

MRS. OLIVER: Our City Manager, Mr. D'Apolito.

MR. D'APOLITO: Day 121 here in the city. I'm trying to spend more time in the field. I'm spending more time meeting the employees of the city. I'm incredibly impressed with them. The Public Works, those gentlemen truly work very hard for the city. They have the city on their backs, as far as maintaining it. I'm out there with them, obviously not doing anything but just observing and they do a great job. The police department, I'm spending more time over there, getting to know the (inaudible) we had conversations today regarding the 4th Amendment and things like that. So, just very impressed.

Getting to some specific issues, East Main Street, we have an agreement with Lindy Paving. They are going to be returning possibly 85% of the money that was spent on the patching itself. The agreement has not been signed yet but we do have the agreement that was proposed to us. Once that is completed, I already talked to our engineer about putting out some specs to have it paved, the entire section from Hillside back to be paved completely over, because they don't think it would be effective to re-patch those holes, to grind them out and re-patch them. Hopefully, in 3 years the State will be repaving the entire 224.

MR. TIECHE: Do we have an idea of when we're getting the money and when we can repave that? I probably have a comment at least 3 times a day if my wife is riding in the car with me.

MR. D'APOLITO: I believe it said within 30 days of the signing that we would have the money.

MR. TIECHE: Have we talked to a paver, with regard to doing the paving work?

MR. D'APOLITO: We need to put specs together first to bid it.

MR. TIECHE: Might I suggest that we put specs together, bid it and then have the thing done and pay them, when we get the money back.

MR. D'APOLITO: That's the plan that we have. At our Tuesday meeting, yesterday we talked to the engineer about putting the specs together, so we can get it out. Lindy will want to bid on the job. I was hoping to just do it with a settlement with them and just have them go out and do it, they did not want to take that on. They just wanted to just return truly 85% of the money to us and then they will bid on the paving project.

ATTY. FORTUNATO: They do have 7 days of the execution.

MR. D'APOLITO: 7 days of the execution of the agreement. Regarding a couple of things that we already discussed, Patricia put together a pamphlet for the Concerts on the Green, I think you have it in your hand. I think it looks fantastic. That's available. Farmer's has them.

It's been discussed several times, the fire department situation. I want council to be aware that yesterday I signed a letter and sent it to the county auditor asking for an inventory of what the city would receive if we were to dissolve the district. Under the statute, the County Auditor would take the assets of the Fire District and it would be divided between the township and the city and the district would be dissolved. We're all trying to obtain more information, so I think it's important to have that information of what would be received. That letter went out yesterday. I've also contacted the Township Administrator from Canfield Township and asked if they would be interested in a joint meeting between members of City Council and members of the Board of Trustees for Canfield Township and have a joint meeting and go into Executive Session to discuss potential litigation or try to avoid litigation for the fire district. Those things are happening. I believe the Trustees are going to be receptive to a meeting. I don't want to speak for them. That's where we're at.

MRS. OLIVER: Are we going to divvy up, the council members that will announce the bands on the Green?

CLERK: Yes.

MR. D'APOLITO: I thought you made a great point. I think the city really has elite, I think that's the best word for it, elite public services, between the police department and the fire department. Our citizens are willing to pay for it. I don't think that we should sacrifice that. So, they provide elite service, they truly do. Our residents pay for it. I think our goal should be to maintain that level of service and it is elite. That's all I have.

MRS. OLIVER: Thank you. Council any questions on any of the reports that we just heard?

MR. TIECHE: I have nothing in regards to reports. I have a small item that I would like to bring up, that has to do with sidewalks around the city. Two weeks ago, on a Sunday, a resident of Canfield tripped on some sidewalks, over in front of the Bell Telephone Company on Scott Street. Lacerated her chin, it bled pretty badly, got it under control, not a problem there. But the issue is, do resident's know that they are responsible for maintaining the sidewalks that run-in front their property? That's the residential property, commercial properties any type of manufacturing property. If you got a sidewalk running past your house you have a responsibility for maintaining that in a safe fashion for the pedestrians. I think Jodi was contacted, she went out and took some photos of the sidewalk at Ohio Bell. She prepared a letter which is going to go out to them. Again, it didn't seem like they were interested in suing. They were more interested in getting the public information out to make sure that the residents of Canfield or the occupants that own property here, are aware of their individual responsibilities and they need to live up to that standard. I would hate to think that we're going to add another responsibility to Jodi and have her walk all the sidewalks in town. That might be something that you might take a look at. Police Officers, if you're out and you happen to notice something or firefighters, citizens, if you're out walking, feel free to. You're going to be the contact person on that?

ZONING INSPECTOR: Yes.

MR. TIECHE: I'm not trying to give you a job, it's not my responsibility. But I think that's something that we need to do, stay on top of that and make sure that our pedestrian ways are safe for pedestrians to travel.

CHIEF OF POLICE: If you don't mind, I'll ask Mark, this comes up every so many years. It's not like that's a Canfield rule, it's Ohio Revised Code.

ATTY. FORTUNATO: I was just telling Jodi; Ohio Revised Code Section 729.01 states the condition and maintenance of the sidewalk is the responsibility of the property owner.

MR. TIECHE: 723.011.

MRS. OLIVER: 729.

MR. TIECHE: That's what he said.

ATTY. FORTUNATO: 729.01 that's what pulled up when I looked at it.

MR. TIECHE: All owners and occupants of abutting lots and lands shall keep the sidewalks, curbs and gutters in repair and free from snow or any nuisance. ORC 723.011. At any rate.

MRS. OLIVER: I was aware as a homeowner and probably as an insurance agent but I automatically, no matter where I go, if I'm in restaurant and the mat by the door if folded or something, I fix it automatically. It's the insurance agent in me because I don't want someone to trip and get hurt. I was aware that you have to maintain those.

MR. NEFF: There are some really bad sidewalk sections on S. Broad Street and a few around the Green as well for people walking the Green.

MR. TIECHE: I think John has repaired several sections.

PUBLIC WORKS SUPERINTENDENT: Yes, we made a lot of repairs in the past couple of years. There is none there, that I'm aware of.

MR. NEFF: Okay.

PUBLIC WORKS SUPERINTENDENT: On the other side of the street, that's the property owners, that's theirs. If you notice any, please let me know and we'll have it taken care of.

MRS. OLIVER: If you're going to get your steps, Mrs. Flinn just give me a call and we can get them in together. Any other questions? Hearing none. Residents any questions on the reports? Hearing none.

MR. STEVE PLANEY: Steve Planey, Neff Court. My wife has fallen up on Talsman and other people have fell on Talsman, all of Montgomery Estates there are places where the sidewalk is lifted 3,4 or 5 inches. What's the enforcement?

ATTY. FORTUNATO: Property Maintenance Code.

MR. STEVE PLANEY: But who is going to enforce it? What are you going to do?

ATTY. FORTUNATO: Send a letter and tell them to repair it. If they don't repair it, they get cited into Mayor's Court and pay a fine.

MR. STEVE PLANEY: Okay. We need to photograph the address and the sidewalk and bring it here.

ATTY. FORTUNATO: Send it to the zoning inspector.

MR. STEVE PLANEY: Okay. Thank you.

MRS. OLIVER: You might want to stay there. I have you up next anyway.

Under **RECOGNITION** of Persons Desiring to Appear Before Council:

MR. STEVE PLANEY: Steve Planey, 121 Neff Court. Regarding this Canfield Joint Fire District Merger, the people that I talked to, the people I represent, they want you to stay the course with the refusal to merger. They are more adamant than ever based on the push-back that has been occurring publicly. Even if this study or whatever it is, that comes out by the Auditor, they fear that there will be skewed statistics, contaminated information and misinformation and that we're fine on our own two feet and we're satisfied with our services and let's keep it that way. I'm reminded of a story, 49 years ago, I was an orderly in surgery at St. E's and I walked up to the Chairman of the Department of Urology and I said, Hello and Good Morning. He started on this rant. Here he was in the midst of what you would now term, negotiations. He called it a fight with this hostile board of his departments allocation for the upcoming year. He said to me, son no matter what they put out there in public, no matter what people tell you, no matter what they put in the news media, in the newspaper, on the radio, on billboards, everything comes down to one or two things, power or money. If you don't think it does, you just take a step back and you take a deep breath and look at it again. You'll see that all it's ever been about is power or money. This Fire District Merger, the money part is easy, Boardman doesn't have enough, they know they're going to lose money, they need Canfield's deep pockets to subsidize them. That's easy. The Governor was just here a month ago, in Campbell. They were going to build some kind of building. He called it an impoverished community. The City of Youngstown struggles with fire and ambulance services, it's well documented. Why doesn't Boardman want to merge with them? Why didn't they go to them first? They came to us because we got the deep pockets. It's money. That's all it's about with Boardman. The power thing, that's a little bit more disturbing. The powers to be at the Fire District, they've proven they don't handle power well. They put out that deceitful statement that they had their employees support of this when they had no support from their employees. Then our representatives goes to the first meeting and is welcome. Then she has the audacity to ask a couple of questions, to want some information and now her role, it seems to me, marginalized and trivialized. You can't give people like that more power. Power is as addictive as any drug. These guys are salivating over the tremendous amount of power they're going to acquire, should this merger go through. They already have it all worked out. They have the guys on top, they have the 4 or 5 guys beneath them and they've all been promised equal pay and equal power. There is no jealousy or in-fighting with them. Each one of those 4 or 5 guys is going to have 2 or 3 people beneath them and they'll just stack every committee with all their puppets and then, that will be that. They'll just do whatever they want. They'll walk all over everybody. If I was at the Fire District< I love power, I'd want more. What I would do is, I'd find some entity, say the Auditor's Office, maybe the State or the County and I would have them do a study but I would feed them information that supported my point of view. I would feed them statistics and data that would point them to certain areas that would further my agenda. I would struggle to give them any information that didn't support my point of view. That's what people fear. This study is just going to be some sort of skew. Not only would I feed information to the Auditor, the people (inaudible) the study that served my purpose. I'd get my little puppets and minions and stooges and I'd run them out in public. I'd say, Canfield don't rush to judgement. Canfield don't put the cart before the horse. Don't do anything too hasty. The power that's there for them to grab

ahold of, it's tremendous. The Chief was here talking about looking 5 years down the road. Well, the people I talk to look 5 years down the road and the first thing they see immediately is, our free ambulance service is gone. Boardman is going to say, we're losing too much money, we can't give anything away. We're not paying, we can't subsidize Canfield's ambulance service. Then the second thing you'll see is, I guess we have 3 ambulances with one extra one, we're going to need 2 ambulances soon after that because they're going to say, money is tight, we can't be running an ambulance, we looked at it, running an ambulance into Canfield and back to Boardman all day long. It's too much in fuel. We're just going to station in Boardman. There goes our ambulance. The third, it has to be a perfect storm with that event, but if they're ever going to close a fire station, they aren't going to close one in Boardman. They're going to close Canfield's fire station. Boardman has the nursing homes, Boardman got hotels, all the traffic accidents. If there was an accident or two, people failed to yield to an emergency vehicle and they end up with an ambulance or a fire truck in a wreck and they already auctioned off excess equipment, now they don't have equipment, they have to lay off some firefighters, they have to close a fire station. Well, they're not going to close one in Boardman, they're going to close one in Canfield. That's peoples fear. The thing that bothers people, that statement that "if it ain't broke, don't fix it" was such a vanilla non-threatening, non-controversial statement about why we didn't want to vote for it. For them to ridicule that and make fun of that, what should you have said, should you have been more blunt or more harsh and said, it's a great plan, it's just not for us at this time. So, why don't you just take your plan and shop it around and don't forget to tell everybody that if they want in on your plan, they have to subsidize you. In closing, it's only about power and money. Boardman wants more money. The Good OL Boys at the Fire District want the power and there is nothing in it for the citizens of Canfield. We live here for a reason. We support our fire and police. We pay for it. The only thing that can happen is detrimental to the services that we currently enjoy.

MRS. OLIVER: Mr. Planey, what is the number of your address on Neff Court?

MR. PLANEY: 121.

MRS. OLIVER: Thank you. I would also like to thank you for recognizing my audacity because I would like to think I am a very tenacious person and I do ask questions. Thank you for that.

MR. PLANEY: As soon as they found out you weren't the stooge they were accustomed to, you're probably supposed to be seen but not heard. They try to trivialize you. Like you said, forming a committee with two people. I don't know. It just reeks of, there is so much power at my fingertips and all I have to do is orchestrate, manipulate a couple of things and I'll have all this power and be untouchable. People fear the first thing these guys are going to do is, they're going to get better pensions for themselves, they're going to get more paid time off. That's the first thing they'll do when they get all this power. They'll be untouchable.

MRS. OLIVER: Thank you. Anyone else desiring to speak before council?

MR. JOHN MORVAY: John Morvay, 7 Willow Way, Canfield, Ohio. I will respectfully disagree with your viewpoint and Mr. D'Apolito's viewpoint about the Fire District. I sat on that board. When Mr. Costello and Loree came to us, we were running ambulances over to Boardman and we quite doing that, we shut them off because it wasn't fair. They weren't reciprocating with ambulances. So, we had a discussion and that was it. We weren't going to do each way with the ambulances, until they were able to reciprocate. I told Mr. Loree and Mr. Costello, you bring us a plan that our marginal benefit is greater than the marginal expense and they did. It has nothing to do with power and greed. We're in an aging community here. We have infrastructure that's going to be replaced and it's going to be nothing but more and more expenses as this city gets older. Number 1, the reason that Boardman looked at Canfield is because we already had the model. We had the Joint Fire District already written. If we expand that, they get two representatives, a Trustee and a citizen to come aboard. They have as much representation as the City, the Township and Boardman would have. They have no more. They have no more representation. The Fire District runs on its own. I'm going to throw numbers out that aren't realistic but you'll get the idea. For Boardman to fix their ambulance problem on their own, would be like 10 million dollars. If they came aboard the Fire District, it's 7 million. So, it's less expensive for them to join the Cardinal Joint Fire District and we then collect the same revenue as the citizens of Canfield are paying, the Boardman citizens would pay. It would be mandated. They would pay the same millage as what we're paying. We'll find out what that brings in when we do that study. Economy's (inaudible) scale, yes, we could possibly shut down Messerly because there is a fire station on Shields Road a mile away. You can combine services. We have automatic backups, so our ISO Ratings go down. It helps business and homeowners out, lower insurance cost. On paper, it's a winner. I agree, there is the union, there is our city and it's not going to happen. I'm going to tell you right here, right now. We had conversations with everybody. But we were simply looking out to lower our future costs for the City of Canfield, that was our objective. They brought us a plan that our marginal benefit went up and our marginal costs went down.

MR. TIECHE: John, you just made the statement that it's not going to go forward. Are you saying it's dead?

MR. MORVAY: I think so.

MR. TIECHE: You don't have inside information, that's just your opinion?

MR. MORVAY: No. There is not enough information out there. The residents are going to vote against it. I'm saying, we should have taken a real hard look at it but I think it's water over the dam. I just wanted to defend our position, my position on the board at that time, when we started entertaining it.

MR. TIECHE: From the report that I have from Josh Grossman, he's saying in 2023, Boardman Fire calls totaled and this is EMS, Fire and I believe it includes Lane's calls, was 6,332 calls, Canfield's is 2, 777. That's how many more. It just seems like adding those numbers does nothing but drive the cost up overall and we're going to share in that cost. Stay where we're at

and maintain our cost. So, if we have to buy some additional equipment, it seems to be that it's still more cost-effective.

MR. MORVAY: They would be paying more into the Fire District.

MR. TIECHE: For how long?

MR. MORVAY: Forever.

MR. TIECHE: When does the levy renew?

MR. MORVAY: They are staggered. There is the equipment levy, there is the operating and then there is the levy for the Fire District. There is like 3.

MR. TIECHE: If the District is approved, that additional levy goes on all the residents in Boardman Township, is that correct?

MR. MORVAY: Correct.

MR. TIECHE: Is there a point when I as a resident of Boardman Township says, that's not fair, we should be able to vote on whether we should have that on. Does that come up? If that's the case, don't you have the chance that, that is going to be defeated and you're going be back to square one?

MR. MORVAY: Then they drop out of the Fire District.

MR. TIECHE: Okay, now they drop out of the Fire District.

MR. D'APOLITO: I don't think that's how it works. They can't just drop out. I mean they could but that's not how it happens.

MR. MORVAY: If the township right now, wanted to leave the Fire District, they could.

MR. TIECHE: That's correct.

MR. MORVAY: The City too.

MR. TIECHE: That's correct.

MR. D'APOLITO: I'm asking the Auditor to give a break down because I think that is something the city should consider.

MR. MORVAY: In my opinion, the Boardman residents should have the ability to vote on it, whether they want to join the Fire District or not.

MR. GRAHAM: The citizens of Canfield and Canfield Township voted to support the Cardinal Joint Fire District, alone. I would think the citizens of Canfield would have a say before we go and merge with anybody.

MR. MORVAY: I agree.

MR. D'APOLITO: The Fire Board there is no elected officials to answer to anybody, there is one Township Trustee and one Council Member but the others don't answer to anybody.

MR. MORVAY: They're residents.

MR. D'APOLITO: I think the membership of the District should go for Council and Trustees for the District. It should be made by the Fire Board. They don't answer to anyone.

MR. MORVAY: In reality, if Loree and Costello said, we're going to do it, they don't even have to bring it to the Boardman voters. I think everybody should get an education in learn about what it is.

MR. D'APOLITO: It's recreating the district in such a way that major decisions are only decided by Council Members and Trustees, not by.....

MR. MORVAY: That's the way the Board was formed.

MR. D'APOLITO: That's why we're looking at dissolving it and recreating it.

MRS. OLIVER: It was made very clear to me that, I don't have a say in the matter by other board members.

MR. MORVAY: You're on the Fire Board.

MRS. OLIVER: They made it very clear that it's not up to me. Those words were spoken to me.

MR. MORVAY: If that is the truth, then I disagree with that.

MRS. OLIVER: Mr. D'Apolito was present when that was said to me.

MR. D'APOLITO: I should have mentioned this in my report. I have also requested and I filed a letter yesterday, requesting the actual recordings of the Fire Board Meetings. They record them, but the minutes do not reflect, they're not a transcription at all. It's a selective process.

MRS. OLIVER: Yes, I asked for certain things to be added to the record that were not, that I felt were important from the last meeting. Then, they were not added once again. So, I agree, it selective by what they want those minutes to say and I don't think that's right because there

were some things I felt were very important that should have been on the record. Once again, I'd like to bring attention to the financial matter. We would not see any of that money, it could be over a year. In the meantime, we're paying for everything.

MR. MORVAY: No.

MRS. OLIVER: That's exactly what Atty. Comstock explained to us. If it happens before October 1st, we see the money next April. If it happens in January, we won't see it until the following January. So, we're not getting the money right away.

MR. MORVAY: That's not to say Boardman wouldn't have to fund it, though.

MRS. OLIVER: I also understand that they're going to move monies, it kind of reminds me of 'robbing Peter to pay Paul' concept. They have different things that they've passed their levies for but what they've decided to do is, take monies from those different areas to put towards the fire. To me, if I were a resident and I voted on something that I felt my money should be going towards and then I find out they decided they're going to move it around and fund something else that I didn't vote for, I think I would have a problem with that.

MR. MORVAY: That's Boardman entirety. The way that, that Boardman Fire Stations or their Fire Department is funded, it comes out of the General Fund. So, they don't dedicate any money for that but if they were to join the Joint Fire District, that millage that they collect, which is the same as what we pay, which would be exponentially more because of more people, that money would come right to the fire district.

MR. TIECHE: But is it exponentially more? If you take the property valuations on per site.

MR. MORVAY: I'm just thinking about the number of people that it's to be.

MR. TIECHE: I think it will be more money, no question about it. But per household it's going to be even.

MR. MORVAY: We can stand and argue all night. I just wanted to bring the other viewpoint and respectively disagree. We were there to help save the residents of the city and township money. That's what our intent was. It's backfired. I don't think it's going to happen, my opinion. I just wanted to clear the air on what went on and why it went on. That's all. It's not broken. The system is not broken. We have a great fire district. But we need to look at the future because costs are going to keep going up, both internally here, expenses, we know that. So, we need to find ways to help people pay less taxes. I truthfully may not care because I might be retired in a year. So, let's put that to bed. What else was I going to talk about.

ATTY. FORTUNATO: You got 3 minutes. (Laughter)

MR. MORVAY: Start my clock. Red Gate, I'm going to play Mr. Micchia. I'm out of the loop now, I don't know what plans with direction we're going. I know we're leasing the gas and oil well. I know that last year we signed an agreement with Pidgeon to farm it. I hope we do the same because that was some pretty good money we got. I believe that we should start honing in on what we're going to do with that property and how it's going to benefit the city. With that, I thank you for your time. I thank you for your service. I thank you for participating. It's great to see people involved. Thank you.

MRS. OLIVER: Thank you. Thank you, Mr. Morvay for all the years that you served the people.

Under **OLD BUSINESS**, we have none.

Under **NEW BUSINESS**:

ITEM A: An Ordinance Authorizing Contract Modification Number 3 with MS Consultants, Inc to the 2024 Basic Engineering Services Agreement.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of two readings of the proposed Ordinance and authorize adoption of the same upon its first reading.

MR. TIECHE: Second.

ROLL CALL ON MOTION:	4 Votes-Yes
	0 Votes-No
	Motion passes.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of a full reading of the proposed Ordinance and authorize reading by title only.

MR. NEFF: Second.

ROLL CALL ON MOTION:	4 Votes-Yes
	0 Votes-No
	Motion passes.

MR. GRAHAM: Madam President, I have an Ordinance Authorizing Contract Modification Number 3 with MS Consultants, Inc to the 2024 Basic Engineering Services Agreement. I move for passage.

MR. NEFF: Second.

MR. TIECHE: Tell us about this.

PUBLIC WORKS SUPERINTENDENT: This lift station generator is in the rear of the Giant Eagle. There is a lift station back there. There is no backup power for it. So, we're working with MS to obtain monies for that and get some guidance to get something back there. They are putting a lot of man hours into it so, this is on top of what their general contract is.

MRS. OLIVER: Do we have any idea how many hours? How much that will be?

PUBLIC WORKS SUPERINTENDENT: I don't have that in front of me.

MR. D'APOLITO: \$3,795.00.

MR. TIECHE: Mr. Rapp, did we determine that, that lift station is the city's lift station?

PUBLIC WORKS SUPERINTENDENT: That is correct.

MR. TIECHE: I know we were having some discussion about that. Very good.

MR. NEFF: It's for sanitary, not for storm?

PUBLIC WORKS SUPERINTENDENT: That's correct.

MR. D'APOLITO: Mr. Rapp found that actually in the paperwork.

MR. TIECHE: I think it was in the sewer book.

PUBLIC WORKS SUPERINTENDENT: The good thing is we do have room inside the existing fence area to put that generator and it doesn't have to be a very large one but we definitely need some backup power.

MR. TIECHE: Are we going to have any complaints about noise from neighbors? It's not that close.

PUBLIC WORKS SUPERINTENDENT: I think it will get exercised once per week and it would only last for about 20-30 minutes.

MR. TIECHE: That is daytime, not 3:00am.

PUBLIC WORKS SUPERINTENDENT: Yes. This one gets exercised. They all do. I think the benefit outweighs the noise for 20 minutes. If that goes down it will be chaos. We would have to haul sewage to another manhole.

MR. NEFF: Thank you.

MRS. OLIVER: Any other questions? Any public comments? Hearing none.

ROLL CALL ON ORDINANCE:	4 Votes-Yes
	0 Votes-No
	Ordinance passes
	Ordinance 2024-11.

ITEM B: An Ordinance Authorizing the City Manager to Purchase A Western Star Dump Truck, Dump Body and a Snow Plow and Salt Spreader.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of two readings of the proposed Ordinance and authorize adoption of the same upon its first reading.

MR. GRAHAM: Second.

ROLL CALL ON MOTION:	4 Votes-Yes
	0 Votes-No
	Motion passes.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of a full reading of the proposed Ordinance and authorize reading by title only.

MR. TIECHE: Second.

ROLL CALL ON MOTION:	4 Votes-Yes
	0 Votes-No
	Motion passes.

MR. TIECHE: Madam President, I have an Ordinance Authorizing the City Manager to Purchase a Western Star Dump Truck, Dump Body and a Snow Plow and Salt Spreader. I move for passage.

MR. NEFF: Second.

MRS. OLIVER: Any questions from council? Hearing none. Any questions or comments from residents?

MR. TIECHE: Who is the supplier? It says through ODOT.

PUBLIC WORKS SUPERINTENDENT: It's through the State Purchasing Program. The supplier is T.S.I.

MR. TIECHE: Are they in the area?

PUBLIC WORKS SUPERINTENDENT: Yes. North Jackson.

MR. TIECHE: Okay. Very good.

ROLL CALL ON ORDINANCE:	4 Votes-Yes
	0 Votes-No
	Ordinance passes
	Ordinance 2024-12.

ITEM C: An Ordinance Declaring Surplus Property and Authorizing its Disposal and Declaring an Emergency.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of two readings of the proposed Ordinance and authorize adoption of the same upon its first reading.

MR. GRAHAM: Second.

ROLL CALL ON MOTION:	4 Votes-Yes
	0 Votes-No
	Motion passes.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of a full reading of the proposed Ordinance and authorize reading by title only.

MR. GRAHAM: Second.

ROLL CALL ON MOTION:	4 Votes-Yes
	0 Votes-No
	Motion passes.

MR. NEFF: Madam President, I have an Ordinance Declaring Surplus Property and Authorizing its Disposal and Declaring an Emergency. I move for passage.

MR. TIECHE: Second.

MRS. OLIVER: Any questions from Council? Hearing none. Any questions from residents? Hearing none.

MR. D'APOLITO: Just for clarification it is a 2019 Chevy Tahoe the Sheriff's Department will use it for a K-9 Unit. (inaudible) between the city and the county. They have it on their agenda for tomorrow.

MRS. OLIVER: Thank you, Mr. D'Apolito.

ROLL CALL ON ORDINANCE:

4 Votes-Yes
0 Votes-No
Ordinance passes
Ordinance 2024-13.

ITEM D: A Resolution Authorizing the City Manager to apply for, accept, and enter into A Water Pollution Control Loan Fund (WPCLF) or Water Supply Revolving Loan Account (WSRLA) Agreement on behalf of the City of Canfield for planning and construction of wastewater or water facilities; and designating a dedicated repayment source for the loan.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of two readings of the proposed Resolution and authorize adoption of the same upon its first reading.

MR. NEFF: Second.

ROLL CALL ON MOTION:

4 Votes-Yes
0 Votes-No
Motion passes.

MR. GRAHAM: Second.

ROLL CALL ON MOTION:

4 Votes-Yes
0 Votes-No
Motion passes.

MR. GRAHAM: Madam President, I have A Resolution Authorizing the City Manager to apply for, accept, and enter into A Water Pollution Control Loan Fund (WPCLF) or Water Supply Revolving Loan Account (WSRLA) Agreement on behalf of the City of Canfield for planning and construction of wastewater or water facilities; and designating a dedicated repayment source for the loan. I move for passage.

MRS. OLIVER: Mr. D'Apolito would you like to elaborate on that.

MR. D'APOLITO: I understand that for some time the water tower on Hilltop has been, apparently the outside has been addressed, it looks fantastic but the company that we contracting with to get into a maintenance agreement went inside and structurally, it is not very sound. There is a lot of repair work that needs to be done, in order for us to meet the standard for the maintenance to take effect. We already have a loan for the maintenance contract. This will be for the additional money to get the tower up to standard, so the maintenance contract can take effect. So, literally, they'll be replacing rafters, the whole center of the tower will be replaced. It is substantial work that needs to be done.

PUBLIC WORKS SUPERINTENDENT: The elevation of the tank and the rafters all need replaced, the compression ring in the center that the rafters tie to is completely shot. The overflow that holds the water up there and numerous support structures, the metal is mushrooming out and it's in bad shape, similar to what we experienced at the Fairground tank. This is much harder to get to because it's elevated.

MR. NEFF: Didn't we look at that before when they were giving us a price for the maintenance?

PUBLIC WORKS SUPERINTENDENT: So, that price was given for the interior and exterior to paint but we weren't able to drain the tank at the time. We would have to revisit this and we had high-hopes that this tank was the new tank and everything was going to be much better. It actually turned out to be worse.

MR. D'APOLITO: They say going forward this tank will survive another 50 years, they say 100 but.....

PUBLIC WORKS SUPERINTENDENT: As long as we keep the maintenance plan 100+ years.

MRS. OLIVER: So, we won't even see it.

MR. NEFF: Is there any best guess of what we could be incurring in an additional loan?

PUBLIC WORKS SUPERINTENDENT: It did have a price. I believe it was right around \$500,000.

MR. D'APOLITO: Approximately a half a million in addition to the original loan. It will be spread out over 30 years.

MR. TIECHE: Considerably less than the 2.5 million to put a new one up. When the tower was built was when Hilltop was built.

MR. D'APOLITO: It's about 6 to 7 million today.

MR. TIECHE: Are they going to have to structurally remove the exterior metal or will they be able to do everything interior to the tank above?

PUBLIC WORKS SUPERINTENDENT: They won't have to do anything on the exterior.

MR. D'APOLITO: Except the center ring.

PUBLIC WORKS SUPERINTENDENT: The center ring will be replaced but not on the exterior. It's all interior.

MR. TIECHE: Does the center ring replaced all the way to the ground?

PUBLIC WORKS SUPERINTENDENT: No.

MR. TIECHE: Just the portion that is in the tank?

PUBLIC WORKS SUPERINTENDENT: Correct. There are multiple areas where the thickness of the tank itself is less than 50%.

MR. TIECHE: You've been inside?

PUBLIC WORKS SUPERINTENDENT: I have not been inside.

ATTY. FORTUNATO: You and I were inside. That was many moons ago.

MR. D'APOLITO: Time is of the essence because they do not work after Thanksgiving. So, we have to be on this. Each rafter has to be removed and it's fabricated, each specific rafter is copied. So, it's quite a process. Time is of the essence.

MR. NEFF: Is the outside painted, as well?

PUBLIC WORKS SUPERINTENDENT: It will be getting painted as part of the original contract.

MR. NEFF: We'll keep our nomenclature the Canfield LOGO on the outside of the tank?

PUBLIC WORKS SUPERINTENDENT: It stays the same.

MR. NEFF: Maybe add a drop shadow. Luckily, we're not being recorded tonight.

MR. D'APOLITO: Don't be confused, we're being recorded, just not transmitted.

MRS. OLIVER: I have a motion; do I have a second?

MR. NEFF: Second.

MRS. OLIVER: Any questions from council? Hearing none. Any questions from residents?

MR. MORVAY: John Morvay, 7 Willow Way. Any idea, a 30-year loan, what is the cost per year on that loan?

MR. D'APOLITO: I don't have that information. Our Finance Director may have it, she made application.

MR. MORVAY: Thank you.

ROLL CALL ON RESOLUTION:

4 Votes-Yes
0 Votes-No
Resolution passes
Resolution 2024-10.

ITEM E: A Motion to Authorize the City Manager to Apply for F-1 and F-2 Permits as applicable from the Ohio Department of Commerce/Division of Liquor Control for Family Fun Night on September 19, 2024 and Fall Fest on October 5, 2024.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of a full reading of the proposed Motion and authorize reading by title only.

MR. TIECHE: Second.

ROLL CALL ON MOTION:

4 Votes-Yes
0 Votes-No
Motion passes.

MR. TIECHE: I have a Motion Authorizing the City Manager to Apply for F-1 and F-2 Permits as applicable from the Ohio Department of Commerce/Division of Liquor Control for Family Fun Night on September 19, 2024 and Fall Fest on October 5, 2024. I am not moving for passage. Somebody else can move for passage.

MR. GRAHAM: I will make a motion to pass.

MR. NEFF: Second.

ROLL CALL ON MOTION:

3 Votes-Yes
1 Vote-No (Mr. Tieche)
Motion passes
Motion 2024-04.

ITEM F: A Motion Changing the dates of City Council Meetings for the months of July and August Pursuant to Section 3.09 of the Charter of the City of Canfield.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of a full reading of the proposed Motion and authorize reading by title only.

MR. GRAHAM: Second.

ROLL CALL ON MOTION:

4 Votes-Yes
0 Votes-No
Motion passes.

MR. NEFF: Madam President, I have a Motion Changing the dates of City Council Meetings for the months of July and August Pursuant to Section 3.09 of the Charter of the City of Canfield. I move for passage.

MR. GRAHAM: Second.

CLERK: The dates are July 17th and August 14th.

MRS. OLIVER: Thank you, Mrs. Bernat. Any questions from the residents? Hearing none

ROLL CALL ON MOTION:

4 Votes-Yes
0 Votes-No
Motion passes.
Motion 2024-05.

ITEM G: A Motion Authorizing the Sale of a 2019 Chevrolet Tahoe to a Political Subdivision of the State.

MRS. OLIVER: As per the provisions of Section 4.05 of the Charter of the City of Canfield, I move that Council dispense with the requirement of a full reading of the proposed Motion and authorize reading by title only.

MR. TIECHE: Second.

ROLL CALL ON MOTION:

4 Votes-Yes
0 Votes-No
Motion passes.

MR. GRAHAM: Madam President, I have a Motion Authorizing the Sale of a 2019 Chevrolet Tahoe to a Political Subdivision of the State. I move for passage.

MR. NEFF: Second.

MRS. OLIVER: Any questions from Council? Hearing none. Any questions from residents? Hearing none. I thinking this is what we were previously discussing.

MR. D'APOLITO: We declared it surplus and now this is for the sale of it.

MRS. OLIVER: Thank you.

ROLL CALL ON MOTION:

4 Votes-Yes

0 Votes-No

Motion passes

Motion 2024-06.

Under **COUNCIL COMMENTS:**

MR. NEFF: Is it okay if I make a Motion that all city meeting shall start at 5:30pm?

ATTY. FORTUNATO: Let's take a deeper dive and see how we want to do that.

MRS. OLIVER: Any other comments? I just want to say, I appreciate that the residents have been getting involved in different things in our city and at times we don't agree so, I do appreciate everybody coming out and speaking. I just want to say, thank you for that. I feel our council is doing our best to look out for our residents. Do we have a motion to adjourn?

MR. TIECHE: So, moved.

MR. GRAHAM: Second.

MRS. OLIVER: The meeting is adjourned.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL