



City of Mentor-on-the-Lake

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www.CityMOL.org

AGENDA

REGULAR/VIRTUAL MEETING OF COUNCIL CITY OF MENTOR-ON-THE-LAKE

MAY 24, 2022

7:00 p.m.

CALL TO ORDER: PLEDGE OF ALLEGIANCE

ROLL CALL:

At Large: KEVIN BITTNER, Vice-President
At Large: JIM LUNDER
Ward 4: DESIREA THOMPSON
At Large: MICHELLE MOORE
Ward 1: DAVID CHABUT
Ward 2: PAUL MORRIS
Ward 3: ROB JOHNSON, President

APPROVAL OF MINUTES: Regular/Virtual Meeting of Council – April 26, 2022

CORRESPONDENCE:

ADMINISTRATIVE AND DEPARTMENT HEAD REPORTS:

Mayor & Safety Director - Mr. Eva
Administrative Director - Mrs. Bartone
Law Director - Mr. Lyons
Service Director – Mrs. Bartone

QUESTIONS TO ADMINISTRATION AND DEPARTMENT HEADS:

BOARD/COMMITTEE/COMMISSION REPORTS:

Council of the Whole (to discuss the PUD)	Monday, May 16, 2022
Board of Zoning Appeals and Public Hearing	Monday, May 16, 2022
Ordinance Committee	Wednesday, May 18, 2022

OPEN TO THE PUBLIC TO SPEAK:

LEGISLATION BEFORE COUNCIL:

RESOLUTION NO. 2022-R-13

A RESOLUTION APPROVING THE 2023 BUDGET

RESOLUTION NO. 2022-R-14

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATION TO USE THE STANDARD ALLOWANCE FOR THE SLFRF FUNDS THAT THE CITY HAS RECEIVED FROM THE FEDERAL GOVERNMENT AND DECLARING AN EMERGENCY

ORDINANCE NO. 2022-O-05 (SECOND READING) REFERRED TO COUNCIL OF THE WHOLE

AN ORDINANCE CREATING CHAPTER 1255 – LAKEFRONT PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OF THE CODIFIED ORDINANCES

ORDINANCE NO. 2022-O-07 (SECOND READING)

AN ORDINANCE TO AMEND THE 2022 APPROPRIATION ORDINANCES AND DECLARING AN EMERGENCY

ORDINANCE NO. 2022-O-08

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$875,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, (I) TO PAY THE COSTS OF ACQUIRING A VEHICLE AND RELATED EQUIPMENT FOR THE SERVICE DEPARTMENT AND ALL RELATED EXPENSES THERETO; (II) TO PAY A PORTION OF THE COSTS OF THE ACQUISITION AND INSTALLATION OF THE LAKE STREET TRUNK STORM SEWER, AND ALL RELATED EXPENSES THERETO, (III) TO PAY A PORTION OF THE COSTS OF THE ACQUISITION AND INSTALLATION OF THE PINEHURST STREET TRUNK STORM SEWER, AND ALL RELATED EXPENSES THERETO, AND (IV) TO PAY A PORTION OF THE COSTS OF THE ACQUISITION OF CITY VEHICLES INCLUDING A DUMP TRUCK AND A POLICE SQUAD CAR, AND DECLARING AN EMERGENCY

ORDINANCE NO. 2022-O-09

AN ORDINANCE ESTABLISHING A 12 MONTH MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR ZONING AND/OR OCCUPANCY PERMIT APPROVALS FOR SMALL BOX DISCOUNT STORES AND THE ISSUANCE OF SUCH APPROVALS IN THE CITY OF MENTOR-ON-THE-LAKE, AND DECLARING AN EMERGENCY

OLD BUSINESS:

NEW BUSINESS:

OPEN TO THE PUBLIC TO SPEAK:

ANNOUNCEMENTS AND SETTING OF MEETINGS:

Schedule Committee of the Whole (CRA/PUD) Meeting for June 7, 2022

Public Hearing on Ordinance No. 2022-O-05 POSTPONED TO Tuesday, June 14, 2022, at 7:00 P.M.

Public Hearing on Resolution No. 2022-R-13 (2023 Budget) June 28, 2022, at 7:00 P.M.

ADJOURNMENT:

The next **REGULAR AGENDA MEETING** will be held on
Thursday, June 9, 2022, at 6:00 P.M.

The next **REGULAR MEETING OF COUNCIL** will be held on
Tuesday, June 14, 2022, at 7:00 P.M.

RESOLUTION NO. 2022-R-13

A RESOLUTION APPROVING THE 2023 BUDGET

WHEREAS, the Administrative Director has prepared a proposed Budget for 2022, in accordance with the form prescribed by the Auditor of State, and approved by the Auditor of Lake County, as required by law; and

WHEREAS, a Public Hearing on said proposed Budget was held by Council on June 28, 2022; and

WHEREAS, this Council has duly considered the proposed Budget on the dates shown below.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MENTOR-ON-THE-LAKE, COUNTY OF LAKE, AND STATE OF OHIO, AS FOLLOWS:

Section 1. That the annual Budget for 2023, as attached hereto and made a part hereof, be and the same is hereby adopted by the Council.

Section 2. That the following funds that derive revenues from general property tax sources and their respective levied millage rates are hereby submitted to the County Budget Commission for approval:

<u>FUND</u>	<u>MILLAGE</u>	<u>ESTIMATED REVENUES</u>
General - 101	2.70	\$ 375,000
Police Pension - 211	.30	\$ 42,000
Police Protection Levy - 212	9.20	\$ 415,000
Fire Protection Levy - 221	7.30	\$ 330,000
Safety Forces Levy - 240	4.50	\$ 620,000
Charter Police Levy - 241	1.50	\$ 207,000
Charter Fire Levy - 242	1.10	\$ 153,000
Charter Road Levy - 243	1.20	\$ 166,000
TOTAL MILLAGE	27.80	

Section 3. That the Administrative Director is hereby authorized and directed to certify the same to the Lake County Auditor according to law.

Section 4. That this Resolution shall take effect and be in full force from and after its adoption at the earliest period allowed by law.

ADOPTED: _____

ROBERT JOHNSON
PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

DAVID R. EVA **DATE**
MAYOR

1st Reading _____

2nd Reading _____

3rd Reading _____

AN RESOLUTION AUTHORIZING THE CITY ADMINISTRATION TO USE THE STANDARD ALLOWANCE FOR THE SLFRF FUNDS THAT THE CITY HAS RECEIVED FROM THE FEDERAL GOVERNMENT AND DECLARING AN EMERGENCY

WHEREAS, the City has received Coronavirus State and Local Fiscal Recovery Funds (SLFRF), which are a part of the American Rescue Plan; and

WHEREAS, pursuant to the final Treasury regulations for the SLFRF, the final rule presumes that for each recipient of these funds up to \$10 million in revenue has been lost due to the public health emergency and recipients (cities) are permitted to use that amount (not to exceed the award amount) to fund “government services” and if the City selects the standard allowance, then the City has the right to use the SLFRF funds for the government services that the City deems necessary and appropriate; and

WHEREAS, the City administration is recommending that the City adopt the SLFRF standard allowance for the use of these funds.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MENTOR ON THE LAKE, THE COUNTY OF LAKE, AND THE STATE OF OHIO:

SECTION 1. The Council of the City of Mentor on the Lake hereby authorizes the Mayor and the City Director of Administration and Finance to use the SLFRF standard allowance of Ten Million Dollars for these SLFRF funds and that these funds will then be used for government services per the requirements of the final treasury rule and pursuant to the approval of Council.

SECTION 2. That all formal actions of this Council concerning the passage of this Resolution were adopted in an open meeting, and all deliberations of this Council, or any of its Committees, which resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22, of the Ohio Revised Code.

SECTION 3. That this Resolution is hereby declared to be and is passed as an emergency measure, the emergency being the need to use the SLFRF funds in a prudent, timely and efficient manner. Said Resolution is necessary for the health, safety and well-being of the City of Mentor on the Lake; and this Resolution shall, therefore, take effect immediately upon its passage.

WHEREFORE, this Resolution shall be in full force and effect as provided by law upon its passage by Council and approval by the Mayor.

**ROBERT JOHNSON
PRESIDENT OF COUNCIL**

**DAVID R. EVA
MAYOR**

ADOPTED: _____

ATTEST: _____
Clerk of Council

ORDINANCE NO. 2022-O-08 _____

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$875,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, (I) TO PAY THE COSTS OF ACQUIRING A VEHICLE AND RELATED EQUIPMENT FOR THE SERVICE DEPARTMENT, AND ALL RELATED EXPENSES THERETO, (II) TO PAY A PORTION OF THE COSTS OF THE ACQUISITION AND INSTALLATION OF THE LAKE STREET TRUNK STORM SEWER, AND ALL RELATED EXPENSES THERETO, (III) TO PAY A PORTION OF THE COSTS OF THE ACQUISITION AND INSTALLATION OF THE PINEHURST STREET TRUNK STORM SEWER, AND ALL RELATED EXPENSES THERETO, AND (IV) TO PAY A PORTION OF THE COSTS OF THE ACQUISITION OF CITY VEHICLES INCLUDING A DUMP TRUCK AND A POLIC SQUAD CAR, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2021-O-13 passed May 25, 2021, a note in anticipation of bonds in the aggregate amount of \$1,085,000, dated June 10, 2021, was issued for Project Nos. 1, 2, 3 and 4, among others, as described and identified in Section 1 and as a consolidated issue pursuant to Section 133.30(B) of the Revised Code to mature on June 10, 2022 (the Outstanding Note); and

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

WHEREAS, the Administrative Director as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of Project No. 1, Project No. 2, Project No. 3, and Project No. 4 as described above and in Section 1 is at least five years, the estimated maximum maturity of the bonds described in Section 1 is six years with respect to Project No. 1, 39 years with respect to Project No. 2, 40 years with respect to Project No. 3, and eight years with respect to Project No. 4, the maximum maturity of the notes described in Section 3, to be issued in anticipation of the bonds, is June 17, 2030 with respect to Project No. 1, June 15, 2036 with respect to Project No. 2, June 14, 2037 with respect to Project No. 3 and June 13, 2033 with respect to Project No. 4 and that the portion of the principal amount of those bonds with respect to Project No. 1 is \$80,000, with respect to Project No. 2 is \$350,000, with respect to Project No. 3 is \$310,000 and with respect to Project No. 4 is \$135,000;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mentor-on-the-Lake, Lake County, Ohio, that:

Section 1. It is necessary to issue bonds of this City in the aggregate principal amount of \$875,000 (the Bonds) (i) to pay the costs of acquiring a vehicle and related equipment for the Service Department, and all related expenses thereto (Project No. 1), (ii) to pay a portion of the costs of the acquisition and installation of the Lake Street trunk storm sewer, and all related expenses thereto (Project No. 2), (iii) to pay a portion of the costs of the acquisition and installation of the Pinehurst Street trunk storm sewer, and all related expenses thereto (Project No. 3), and (iv) to pay a portion of the costs of the acquisition of City vehicles including a dump truck and a police squad car (Project No. 4).

Section 2. The Bonds shall be dated approximately June 1, 2023, shall bear interest at the now estimated rate of 5.5% per year, payable on June 1 and December 1 of each year, commencing December 1, 2023, until the principal amount is paid, and are estimated to mature in

six annual principal installments with respect to Project No. 1, in 39 annual principal installments with respect to Project No. 2, 40 annual principal installments with respect to Project No. 3 and eight annual principal installments with respect to Project No. 4, such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year. Based on the foregoing, the principal installments payable on the Bonds on December 1 of each year (commencing December 1, 2023) are estimated to be as follows: (i) with respect to Project No. 1, \$10,000, \$10,000, \$15,000, \$15,000, \$15,000, and \$15,000; (ii) with respect to Project No. 2, approximately \$9,000 each year; and (iii) with respect to Project No. 3, approximately \$7,750 each year; and (v) with respect to Project No. 4, approximately \$16,875 each year.

Section 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$875,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Note. The Notes shall bear interest at a rate or rates not to exceed 5% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate or rates of interest on the Notes shall be determined by the Administrative Director in the certificate awarding the Notes in accordance with Section 6 (the Certificate of Award). The Notes shall be dated the date of issuance and shall mature one year from the date of issuance, provided that the Administrative Director may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is up to seven days less than one year from the date of issuance by setting forth that maturity date in the Certificate of Award.

Section 4. The debt charges on the Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Administrative Director in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent (the Paying Agent), at the principal corporate trust office of The Huntington National Bank, Columbus, Ohio, or at the office of a bank or trust company designated by the Administrative Director in the Certificate of Award after determining that the payment at that bank or trust company will adequately protect the funds of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Administrative Director if agreed to by the Administrative Director and the original purchaser.

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

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

the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

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

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

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

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Administrative Director may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Administrative Director does not or is unable to do so, the Administrative Director, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Administrative Director is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, including the execution of a Blanket Issuer Letter of Representations in the form utilized by The Depository Trust Company.

Section 6. The Notes shall be sold at private sale by the Administrative Director at a price of not less than par and accrued interest, if any, in accordance with law and the provisions of this Ordinance. The Administrative Director shall sign the Certificate of Award referred to in Section 3 of this Ordinance evidencing that sale, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price. The Mayor, the Administrative Director, the Clerk of Council, the Law Director and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Administrative Director is authorized, if it is determined to be in the best interest of the City, to combine the issue of the Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Administrative Director is hereby authorized to sign and deliver, in the name and on behalf of the City, a Note Purchase Agreement between the City and the original purchaser of the Notes, if requested by the original purchaser of the notes, in substantially the form as is now on file with the Administrative Director, providing for the sale and purchase of the Notes. The Note Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Administrative Director on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Purchase Agreement or amendments thereto.

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

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

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

Section 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (i) the Notes will not (a) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (b) be treated other than as bonds to which Section 103(a) of the Code applies, and (ii) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

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

The Notes are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents and covenants that it, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which it issues obligations, in or during the calendar year in which the Notes are issued, (i) have not issued and will not issue tax-exempt obligations designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, including the Notes, in an aggregate amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and will not issue, tax-exempt obligations (including the Notes, but excluding obligations, other than qualified

501(c)(3) bonds as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code to the extent that the amount of the refunding obligations does not exceed the outstanding principal amount of the refunded obligations) in an aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not adversely affect the status of the Notes as "qualified tax-exempt obligations". Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Notes as "qualified tax-exempt obligations," it has not formed or participated in the formation of, or benefitted from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Notes are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

The Administrative Director, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (ii) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

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

Section 11. In connection with the issuance of the Notes, the legal services of Squire Patton Boggs (US) LLP (or such successor to Squire Patton Boggs (US) LLP), as bond counsel, are retained pursuant to an engagement letter which has been delivered to the City by that firm. That engagement letter, and the execution thereof by the Mayor, the Administrative Director, the Law Director, or any one of them, are hereby authorized, ratified and approved. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county, municipality or other political subdivision, or of this City, or the execution of public trusts.

Section 12. The Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor.

Section 13. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 14. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 15. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that the immediate effectiveness of this Ordinance is required in order to effect the issuance and sale of the Notes, which is necessary to enable the City to retire the Outstanding Note and thereby preserve its credit.

WHEREFORE, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.

ROBERT JOHNSON

MAYOR DAVID EVA

Passed: _____

Attest: _____
CLERK OF COUNCIL

**AN ORDINANCE ESTABLISHING A 12 MONTH MORATORIUM
ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS
FOR ZONING AND/OR OCCUPANCY PERMIT APPROVALS
FOR SMALL BOX DISCOUNT STORES AND THE ISSUANCE OF
SUCH APPROVALS IN THE CITY OF MENTOR ON THE LAKE,
AND DECLARING AN EMERGENCY.**

WHEREAS, "Small Box Discount Stores" means a retail, variety or discount store up to 15,000 square feet that sell at retail, directly to the consumer, a limited assortment of physical goods and other consumer products, including food or beverages for off premises consumption, that generally cost less than ten dollars or cost 20% - 40% lower than the same type of good, products or merchandise sold at grocery or drug stores; and

WHEREAS, there has been a proliferation of small box discount stores in the Greater Cleveland and Northeast Ohio area; and

WHEREAS, although small box discount stores may fill a need in places that lack basic retail services, there is growing evidence that small box discount stores are not only a byproduct of economic distress - they are a cause of it; and

WHEREAS, small box discount stores' strategy of saturating communities with multiple stores make it impossible for local grocery stores to stay open, if they are already in a neighborhood, or for new local grocers to open a store and prosper; and

WHEREAS, there is usually less than 15% of shelf space devoted to fresh produce in small box discount stores and most have only a limited selection of processed foods; and

WHEREAS, small box discount stores sell packaged foods in single-serving quantities that have lower price points, but are in actuality more expensive per ounce; and

WHEREAS, small box discount stores employ fewer people at lower wages than grocery stores, often face class-action lawsuits for violating fair labor standards and lean heavily on taxpayers to subsidize their employees' healthcare; and

WHEREAS, profits small box discount stores go back to their corporate office, while local business profits go back to the community in which they serve; and

WHEREAS, there are concerns about safety and security surrounding small box discount stores because of the often high incidences of crime and theft in and around them, often due to their lack of security; and

WHEREAS, in accordance with the Constitution of the State of Ohio and the pertinent provisions of the Ohio Revised Code, the City of Mentor on the Lake has the power to enact planning and zoning laws and business license laws that are intended to protect the health, welfare and safety of the citizens of the City; and

WHEREAS, that City Council wishes to study the current planning and zoning ordinances and also the business regulation and sign ordinances of the City in order to determine the appropriate location and regulation of small box discount stores within the context of the City's Ordinances; and

WHEREAS, that City Council wishes to also study the impact of these types of stores relative to an increase in traffic, change in traffic patterns, the need for an extra turning lane traffic, safety issues, any increases in noise and litter, hours of operation, security requirements and also whether regulations need to be adopted that regulate the architectural details for these types of buildings and other buildings that will be located in the City's commercial corridor, especially along the Andrews Road commercial corridor; and

WHEREAS, until such regulations are reviewed, Council desires to declare a moratorium on the acceptance and processing of applications for zoning and occupancy approvals and business license approvals for small box discount stores and the issuance of such approvals.

WHEREAS, this Council believes that a temporary moratorium on the acceptance and processing of appropriations for zoning and occupancy and business license permit proposals for small box discount stores will not deny property owners economically stable use of their property and will afford City Officials and this Council the time necessary to put in place reasonable zoning and business recalculation to preserve the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MENTOR ON THE LAKE, LAKE COUNTY, STATE OF OHIO, THAT:

SECTION 1. Council hereby declares a 12 month moratorium on the acceptance and processing of applications for zoning, occupancy and/or building permit approvals for small box discount stores and the issuance of such approvals.

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with the statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of Mentor on the Lake for the reason that it is necessary to impose this moratorium immediately to facilitate a study of current planning, zoning and business ordinances in order to determine appropriate rules and regulations for these types of businesses. Said Ordinance is necessary for the immediate preservation of the public health, safety and welfare of the inhabitants of the City of Mentor-on-the-Lake, Ohio

WHEREFORE, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.

ROBERT JOHNSON
PRESIDENT OF COUNCIL

DAVID R. EVA
MAYOR

Dated: _____

ADOPTED: _____

ATTEST: _____

Clerk of Council