



NEWTON FALLS CITY COUNCIL
REGULAR MEETING AGENDA
Friday, October 6, 2023; 4:30 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

| CITY COUNCIL MEMBERS | |
|----------------------|------------------|
| Ward 1 | Gideon Fetterolf |
| Ward 2 | John Baryak |
| Ward 3 | Tesa Spletzer |
| Ward 4 | Kevin Rufener |
| At- Large | Julie Stimpert |
| Acting Mayor | John Baryak |

| CITY ADMINISTRATION | |
|---------------------|---------------|
| City Manager | Pamela Priddy |
| Law Director | |
| Finance Director | Sean Housley |
| City Clerk | Michael Acomb |

- I. Call to Order**
- II. Pledge of Allegiance / Silent Prayer**
- III. Roll Call**
- IV. Changes To Tonight's Agenda**
- V. Special Presentations by Staff Members or Invited Consultants**
- VI. Public Comments (Agenda Items Only)**
- VII. Reports**
 - a. Mayor
 - b. Council Members
 - c. Finance Director
 - d. Law Director
 - e. City Manager
- VIII. Approval of Previous Minutes**

Special Meeting Minutes February 25, 2022
Special Meeting Minutes September 11, 2023
Regular Meeting Minutes September 20, 2023
- IX. Public Hearings**

ORDINANCE 2023-30 *Sponsor: Councilperson Spletzer*
AN EMERGENCY ORDINANCE REAPPOINTING BRADRIC BRYAN AS THE
DIRECTOR OF LAW AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A
DIRECTOR OF LAW AGREEMENT

ORDINANCE 2023-31 *Sponsor: Councilperson Fetterolf*
AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE QUOTE OF
PRO-TECH SYSTEMS GROUP, INC. FOR A WATER TREATMENT PLANT
PROGRAMMABLE LOGIC CONTROLLER REMOTE TERMINAL UNIT UPGRADE

ORDINANCE 2023-34

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE OF RESOURCES WITH THE COUNTY AUDITOR

ORDINANCE 2023-35

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

ORDINANCE 2023-36

Sponsor: Councilpersons Spletzer, Fetterolf

AN ORDINANCE AUTHORIZING AN AMENDED CITY MANAGER EMPLOYMENT AGREEMENT

ORDINANCE 2023-37

Sponsor: Councilpersons Spletzer, Fetterolf

AN ORDINANCE ESTABLISHING SECTION 153.03 OF THE ADMINISTRATIVE CODE PERTAINING TO CREDIT HOURS FOR FULL-TIME DEPARTMENT HEADS AND SUPERINTENDENTS WHO ARE SALARIED EMPLOYEES

ORDINANCE 2023-38

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF KIRILA CONTRACTORS, INC. FOR THE SR 5 & SR 534 SANITARY FORCEMAIN LATERAL SERVICE SEWER PROJECT

ORDINANCE 2023-39

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

X. Unfinished Business

ORDINANCE 2023-30

Sponsor: Councilperson Spletzer

AN EMERGENCY ORDINANCE REAPPOINTING BRADRIC BRYAN AS THE DIRECTOR OF LAW AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A DIRECTOR OF LAW AGREEMENT

ORDINANCE 2023-31

Sponsor: Councilperson Fetterolf

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE QUOTE OF PRO-TECH SYSTEMS GROUP, INC. FOR A WATER TREATMENT PLANT PROGRAMMABLE LOGIC CONTROLLER REMOTE TERMINAL UNIT UPGRADE

ORDINANCE 2023-34

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE OF RESOURCES WITH THE COUNTY AUDITOR

ORDINANCE 2023-35

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

ORDINANCE 2023-36

Sponsor: Councilpersons Spletzer, Fetterolf

AN ORDINANCE AUTHORIZING AN AMENDED CITY MANAGER EMPLOYMENT AGREEMENT

ORDINANCE 2023-37

Sponsor: Councilpersons Spletzer, Fetterolf

AN ORDINANCE ESTABLISHING SECTION 153.03 OF THE ADMINISTRATIVE CODE PERTAINING TO CREDIT HOURS FOR FULL-TIME DEPARTMENT HEADS AND SUPERINTENDENTS WHO ARE SALARIED EMPLOYEES

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Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF KIRILA CONTRACTORS, INC. FOR THE SR 5 & SR 534 SANITARY FORCEMAIN LATERAL SERVICE SEWER PROJECT

ORDINANCE 2023-39

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

XI. New Business

ORDINANCE 2023-40

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE TO ESTABLISH A COMMUNITY SERVICES AND ACTIVITIES FUND AS A SPECIAL REVENUE AND EXPENDITURE FUND WITHIN THE VILLAGE'S FINANCIAL ACCOUNTS AND FUNDS

ORDINANCE 2023-41

Sponsor: Councilperson Baryak

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF POLLARD LAND SERVICES, INC. FOR THE SCOTT STREET PHASE 2 SANITARY SEWER IMPROVEMENT PROJECT

XII. Public Comments

XIII. Closing Remarks

XIV. Motion to Recess into Executive Session (If Necessary)

XV. Adjournment



NEWTON FALLS CITY COUNCIL
SPECIAL MEETING MINUTES
Friday, February 25, 2022; 5:00 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

| CITY COUNCIL MEMBERS | |
|----------------------|----------------------|
| Ward 1 | Michael Serotko |
| Ward 2 | John Baryak |
| Ward 3 | Tesa Spletzer |
| Ward 4 | Christopher Granchie |
| At- Large | Julie Stimpert |
| Mayor | Kenneth Kline |

| CITY ADMINISTRATION | |
|---------------------|-----------------|
| City Manager | Pamela Priddy |
| Law Director | Alfred Schrader |
| Finance Director | Sean Housley |
| City Clerk | Kathleen King |

I. Call to Order

Mayor Kline called the meeting to order at approximately 5:00 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Council Present: Councilperson Serotko, Councilperson Baryak, Councilperson Spletzer, Councilperson Granchie, Councilperson Stimpert, Mayor Kline

Council Absent: None

Staff Present:

Staff Absent:

IV. Public Comments (limited to those items as identified on the agenda)

Adam Zimmermann – 515 LeMae Avenue

Mr. Zimmermann spoke on several topics including the motion on the agenda to recess into Executive Session having all the boxes for Personnel Matters checked. He spoke against the meeting citing secretive motives of Council. He called for openness and transparency, admonished Mayor Kline and Councilperson Baryak for not returning messages, and urged Council to not vote to recess into Executive Session.

V. Unfinished / New Business (As identified in Special Meeting Notice)

None

VI. Motion to recess to Executive Session (if necessary)

Mayor Kline called for a motion to adjourn into executive session for the purpose of discussing personnel matters and to consider one or more of the following: appointment, employment, dismissal, discipline, promotion, demotion, compensation, investigation of charges/complaints.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

No discussion.

Roll Call Vote: Mr. Serotko-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes.

The motion passed 5-0. The council entered executive session at 5:07 pm.

Mayor Kline called for a motion to exit executive session and resume the special meeting.

Moved by: Mr. Baryak

Seconded by: Mr. Granchie

No discussion.

Roll Call Vote: Mr. Serotko-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes.

The motion passed 5-0. The council exited executive session and resumed the special meeting at 6:28 pm.

MOTION

Mr. Baryak call for a motion to terminate the employment contract of Kathleen M. King.

Seconded by Ms. Spletzer. Mayor Kline exited the room. Mr. Baryak spoke in support of the motion and the removal of Ms. King from office.

Roll Call Vote: Mr. Serotko-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-no; Ms. Stimpert-no.

The motion passed 3-2. Ms. King exited the room.

VII. Adjournment

No records exist to verify the motion to adjourn, the roll call vote, or the time of adjournment.

APPROVED:

John Baryak, Acting Mayor

ATTEST:

Michael Acomb, Council Clerk



NEWTON FALLS CITY COUNCIL
SPECIAL MEETING AGENDA
 Monday, September 11, 2023; 5:00 PM
 COUNCIL CHAMBERS
 612 WEST BROAD STREET

| CITY COUNCIL MEMBERS | |
|----------------------|------------------|
| Ward 1 | Gideon Fetterolf |
| Ward 2 | John Baryak |
| Ward 3 | Tesa Spletzer |
| Ward 4 | Kevin Rufener |
| At- Large | Julie Stimpert |
| Mayor | Kenneth Kline |

| CITY ADMINISTRATION | |
|---------------------|---------------|
| City Manager | Pamela Priddy |
| Law Director | |
| Finance Director | Sean Housley |
| City Clerk | Michael Acomb |

I. Call to Order

Mayor Kline called the meeting to order at 5:00 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Council Present: Councilperson Fetterolf, Councilperson Baryak, Councilperson Spletzer, Councilperson Rufener, Councilperson Stimpert, Mayor Kline

Council Absent: None

Staff Present: City Manager Priddy, Finance Director Housley

Staff Absent: Clerk Acomb

Mayor Kline addressed the Council, the media, and audience members. He expressed pride in serving as Mayor and thanked the community for its support of him and his efforts to improve the Village. He announced his desire to place his family first, his acceptance of employment to a position in which the Ohio Revised Code prohibits his service as mayor, and his resignation effective September 12, 2023.

Ms. Spletzer made a motion to take a 15-minute recess. Seconded by Mr. Fetterolf

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-no; Ms. Stimpert-no.

The motion passed 3-2. The recess began at 5:02 pm.

Mr. Baryak called the meeting back into regular session at approximately 5:17 pm. He also warned the gallery that any disruption would receive one warning and then ejection from the meeting and then charged with disruption of a public meeting. He also announced that a record of proceedings would be created for this meeting. He also announced that Council had not heard a motion to excuse Mr. Rufener or Ms. Stimpert who left the premises during the recess.

IV. Public Comments (limited to those items on the agenda)

Julie Lemon – 609 Ridge Road

She declared this meeting to be illegal and that Mayor Kline is still the Mayor until tomorrow. She cited Section 125.01 of the Codified Ordinances, paragraph (h). She spoke against Ordinance 2023-36 and alleged that she illegally collected money. She stated her intention to call the State of Ohio and report violations.

Patricia Benetis

She spoke against Ordinance 2023-36 and the contents of the proposed employment contract. She stated that the Village budget seems to be in the black, where it was in the red in the previous year. She list the grants that are currently being worked on totally over \$12,000,000.

Rick Kerlin – 1009 Woodglen

He spoke in support of the Village financial statements and the city manager's efforts to bring the accounts from the red and into the black. He stated no public money was spent on the former Senior Kitchen. He spoke against the treatment of the Village over the Senior Kitchen and the seniors not being fed. He spoke in support of Ordinance 2023-36 and the effort of the city manager to improve the Village. He encouraged everyone to spend time reading the financial statements and to understand that the tax recovery programs are working.

Condie Bright

He spoke against Ordinance 2023-36 citing no current evaluation of the city manager's performance. He spoke in support of the Senior Kitchen.

V. New Business

Mr. Baryak made a motion to appoint Mr. Housley to act as Council Clerk to perform the duties of Clerk during this meeting only, due to the absence of Mr. Acomb. Seconded by Ms. Spletzer.

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The motion passed 3-0.

ORDINANCE 2023-30

Sponsor: Councilperson Spletzer

AN EMERGENCY ORDINANCE REAPPOINTING BRADRIC BRYAN AS THE DIRECTOR OF LAW AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A DIRECTOR OF LAW AGREEMENT

Mr. Housley read the ordinance by title only.

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

Ms. Spletzer stated that the position was advertised in July with four different bar associations in Trumbull, Mahoning, Geauga, and Portage Counties. Ads were placed in the Legal News and on the Village website. Mr. Fetterolf stated that the agreement would expire on January 1, 2024.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The ordinance was adopted 3-0. First Reading.

Mr. Housley read the title again.

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The ordinance was adopted 3-0. Second and Final Reading.

ORDINANCE 2023-31

Sponsor: Councilperson Fetterolf

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE QUOTE OF PRO-TECH SYSTEMS GROUP, INC. FOR A WATER TREATMENT PLANT PROGRAMMABLE LOGIC CONTROLLER REMOTE TERMINAL UNIT UPGRADE

Mr. Housley read the ordinance by title only.

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

Mr. Fetterolf spoke in support of the ordinance. He explained that this is a necessary piece of equipment that will replace the current unit. Ms. Spletzer explained that this device is the “brains” of the plant.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The ordinance was adopted 3-0. First Reading.

ORDINANCE 2023-34

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE OF RESOURCES WITH THE COUNTY AUDITOR

Mr. Housley read the ordinance by title only.

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

Ms. Spletzer explained that the changes in appropriations were made due to the need for chemicals at the water plant and roofs that sustained damage. Mr. Housley explained that appropriations were increased in several funds, including the police fund, zoning, the courts, and the law department were increased to ensure expenses would be covered through the end of the year. He explained that \$12,000 was appropriated to the community center to cover utilities and other expenses that are now the responsibility of the Village. Funds 501 and 503 were also increased to cover new capital expenses.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The ordinance was adopted 3-0. First Reading.

ORDINANCE 2023-35

Sponsor: Councilperson Spletzer

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

Mr. Housley read the ordinance by title only.

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

Mr. Housley explained the transfer as \$20,000 for the Community Center.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The ordinance was adopted 3-0. First Reading.

ORDINANCE 2023-36

Sponsor: Councilpersons Spletzer, Fetterolf

AN ORDINANCE AUTHORIZING AN AMENDED CITY MANAGER EMPLOYMENT AGREEMENT

Mr. Housley read the ordinance by title only.

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Ms. Spletzer

Seconded by: Mr. Baryak

Mr. Fetterolf spoke in support of the ordinance. He stated that he served on the Administration Committee and discovered that records of performance evaluations for past city managers do not seem to exist. The Administration Committee is comprised of himself and Ms. Spletzer. They decided to conduct an evaluation. He stated his belief that the contract is very fair and represents an appropriate increase in salary. He stated her past accomplishments as being exceptional. Ms. Spletzer spoke about a letter she received from an anonymous public works employee who wrote in support of Ms. Priddy. The letter cites high employee morale and the number of projects that are getting completed. She continued to read the letter for the public. Mr. Baryak spoke in support of Ms. Priddy at City Manager citing accelerated progress in the development of the Village, including increasing revenue the past couple years. He stated that Ms. Priddy took over under very difficult and questionable circumstances in which many records were missing and computer files were deleted.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The ordinance was adopted 3-0. First Reading.

Motion to Recess into Executive Session (If Necessary)

No motion was made.

Public Comments (limited to those items on the agenda)

Julie Lemon – 609 Ridge Road

She stated that this meeting is illegal. She spoke against Ordinance 2023-36.

Bruce Moore

He asserted that since Mr. Baryak is Acting Mayor, that Council doesn't have a quorum this evening and is conducting business illegally.

Adjournment

Ms. Spletzer made a motion to adjourn the meeting. Seconded by: Mr. Fetterolf

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes.

The motion passed 3-0. The meeting was adjourned at 5:51 pm.

APPROVED:

John Baryak, Acting Mayor

ATTEST:

Michael Acomb, Council Clerk



NEWTON FALLS CITY COUNCIL
REGULAR MEETING AGENDA
Wednesday, September 20, 2023; 6:00 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

| CITY COUNCIL MEMBERS | |
|----------------------|------------------|
| Ward 1 | Gideon Fetterolf |
| Ward 2 | John Baryak |
| Ward 3 | Tesa Spletzer |
| Ward 4 | Kevin Rufener |
| At- Large | Julie Stimpert |
| Acting Mayor | John Baryak |

| CITY ADMINISTRATION | |
|---------------------|---------------|
| City Manager | Pamela Priddy |
| Law Director | |
| Finance Director | Sean Housley |
| City Clerk | Michael Acomb |

I. Call to Order

Mr. Baryak called the meeting to order at 6:02 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Council Present: Councilperson Fetterolf, Councilperson Baryak, Councilperson Spletzer, Councilperson Rufener, Councilperson Stimpert

Council Absent: None

Staff Present: City Manager Priddy, Clerk Acomb, Finance Director Housley. Mr. Brad Bryan was also present.

Staff Absent: None

Mr. Baryak asked the Clerk to read from the Ohio Sunshine Laws 2023 and Ohio Revised Code Section 2917.12 Disturbing a lawful meeting. Enclosed herein.

IV. Changes To Tonight's Agenda

Mr. Baryak made a motion to add to the agenda, as the last item under New Business, a Motion to move the regular meeting scheduled for October 4 at 6:00 pm to October 6 at 4:30 pm. Seconded by Mr. Fetterolf.

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0.

Mr. Baryak made a motion to add to the agenda, before Public Hearings, a Motion to remove Ordinances 2023-31, 2023-34, 2023-35, and 2023-36 from the agenda.

Seconded by Mr. Fetterolf.

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0.

Mr. Baryak made a motion to add to the agenda, in Unfinished Business and before Ordinance 2023-31, to remove Ordinances 2023-31, 2023-34, 2023-35, and 2023-36 from the agenda. Seconded by Mr. Fetterolf.

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0.

V. Special Presentations by Staff Members or Invited Consultants

None

VI. Public Comments (Agenda Items Only)

Adam Zimmermann

He spoke against the motion to move the regular meeting from October 4 to October 6.

He spoke against Ordinance 2023-36. He read quotes from the depositions of Mr.

Baryak and Ms. Spletzer in a recent lawsuit involving the former city clerk to support his comments against the ordinance.

Julie Lemon – 609 Ridge Road

She spoke against Ordinance 2023-36. She spoke against the special meeting held on September 11 as being illegal. She spoke in support of free speech and public comments at meetings.

Rick Kerlin – 1009 Woodglen

He spoke in support of Ordinance 2023-36. He stated that the contract works to retain “good people”. He stated that the city manager has secured grant money and is also saving the Village money. He urged Council and the community to support the city manager.

Patricia Benetis

She read from a prepared statement, included herein. She asked if members of council have asked their constituents about their opinions regarding Ordinance 2023-36.

VII. Reports

- a. Acting Mayor – Mr. Baryak – He attended the end of summer celebration and enjoyed it, especially for the children.
- b. Council Members
 - i. Ward 1 – Mr. Fetterolf – He attended meetings with Attorney Betras.
 - ii. Ward 2 – Mr. Baryak – No report.
 - iii. Ward 3 – Ms. Spletzer - She summarized the Treasury Investment Board Meeting held in August. She encouraged the public to view the report from that meeting. She asked Mr. Housley to add his comments and he declined to do so. She attended the August Parks and Recreation meeting. She spoke in support of the group working with the city manager on potential grants. She attended meetings with Mr. Betras and Mr. Fetterolf. She also met as part of a council committee for the purpose of reviewing the city manager.

- iv. Ward 4 – Mr. Rufener – He stated that Planning and Zoning still has vacancies. There is currently no quorum. Volunteers are desperately needed.
- v. At-Large – Ms. Stimpert – The Fire District met last night. A property transfer agreement was passed. The number of calls seems to be increasing. The employees completed 84 hours of training in August. The next meeting will be October 17 at 6pm at Township Hall.
- c. Finance Director – Mr. Housley – He stated his recommendation that Council move to amend Ordinance 2023-39 in Section 1 to remove “the transfer of \$47,737” and replace it with “a transfer up to \$47,737”.
- d. Law Director – Mr. Bryan – He distributed an amended version of Ordinance 2023-30 and requested an amendment to change the effective date from September 8 to September 12.
- e. City Manager – Ms. Priddy – She stated that the Sheriff’s report was given at the previous meeting. The Scott Street project held a pre-bid meeting and a bid opening. A recommendation will be forthcoming after the consultants finish reviewing the bids. She stated that a contract for Dunkin Donuts is in place and moving forward. Annexation is the next step in the process. No information is available regarding electric meters. More information will be shared when it is available. The company has been warned about possible legal action against them as substantial completion of the project has not been met.

Mr. Baryak gave thanks to several people for their help with the Scott Street project. He stated the timelines can be slow; but Dunkin Donuts continues to move forward. Ms. Priddy stated that the Braceville Community Foundation has offered 6 tickets to a member of Council for a seminar regarding human trafficking.

VIII. Approval of Previous Minutes

Regular Meeting Minutes August 2, 2023

Special Meeting Minutes August 14, 2023

Regular Meeting Minutes September 6, 2023

Mr. Baryak called for a motion to approve the minutes.

Ms. Spletzer made a motion to group the minutes for approval. Seconded by Mr. Baryak.

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The minutes were grouped for approval.

Mr. Baryak called for a motion to approve the group of meeting minutes.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The minutes were approved.

MOTION

A Motion to remove Ordinance 2023-31, Ordinance 2023-34, Ordinance 2023-35, and Ordinance 2023-36 from public hearings.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

No discussion

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinances were removed.

IX. Public Hearings

None

X. Unfinished Business

MOTION

A Motion to remove Ordinance 2023-31, Ordinance 2023-34, Ordinance 2023-35, and Ordinance 2023-36 from Unfinished Business.

Moved by: Mr. Baryak

Seconded by: Mr. Fetterolf

No discussion

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinances were removed.

ORDINANCE 2023-30

Sponsor: Councilperson Spletzer

AN EMERGENCY ORDINANCE REAPPOINTING BRADRIC BRYAN AS THE DIRECTOR OF LAW AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A DIRECTOR OF LAW AGREEMENT

MOTION

A Motion to amend Ordinance 2023-30 to change the effective date from September 7 to September 12.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

No discussion

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinance was amended.

Mr. Baryak made a motion to approve Ordinance 2023-30 as amended. Seconded by Ms. Spletzer.

No discussion

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinance was adopted.

Mr. Bryan stated that Ordinance 2023-30 requires an additional reading due to the recent charter change related to emergency ordinances. A public hearing and one more reading will occur at the next meeting.

XI. New Business

ORDINANCE 2023-37

Sponsor: Councilpersons Spletzer, Fetterolf

AN ORDINANCE ESTABLISHING SECTION 153.03 OF THE ADMINISTRATIVE CODE PERTAINING TO CREDIT HOURS FOR FULL-TIME DEPARTMENT HEADS AND SUPERINTENDENTS WHO ARE SALARIED EMPLOYEES

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

Ms. Spletzer spoke in support of the ordinance to compensate employees for their extra time worked during emergencies. Mr. Rufener spoke in support of the ordinance to assist in cutting down costs and reducing overtime costs. It is an option to provide time off instead of extra money for the employee. Ms. Priddy stated that employees, also, can currently only turn in reimbursements for vacation once annually, but often don't do it for tax implications. This also allows them to cash in quarterly, if they choose.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinance was adopted. First Reading.

ORDINANCE 2023-38

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF KIRILA CONTRACTORS, INC. FOR THE SR 5 & SR 534 SANITARY FORCEMAIN LATERAL SERVICE SEWER PROJECT

Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

Mr. Baryak asked Ms. Priddy to comment. She stated this will benefit the Dunkin Donut project and allow them to tie into the sanitary sewer system. This part of the project is under budget. Mr. Baryak noted that significant progress is being made and hopes that ground can be broken soon. Mr. Housley stated this has not been appropriated yet; but Ordinance 2023-39 does handle a transfer to pay for this ordinance.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinance was adopted. First Reading.

ORDINANCE 2023-39

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

Mr. Baryak called for a motion to adopt the ordinance.

Ms. Spletzer made a motion to amend the ordinance in Section 1 to remove "the transfer of \$47,737" and replace it with "a transfer up to \$47,737". Seconded by Mr. Fetterolf.

Mr. Housley stated that he wants to only transfer an amount equal to the actual costs.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinance was amended.

Mr. Baryak called for a motion to adopt the ordinance as amended.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The ordinance was adopted. First Reading.

MOTION

Sponsor: Councilperson Spletzer

A Motion to schedule Trick or Treat for Saturday, October 28, 2023 from 4:00pm-6:00pm

Mr. Baryak called for a motion to pass the Motion.

Moved by: Ms. Spletzer

Seconded by: Mr. Rufener

Ms. Spletzer stated that this is a recommendation of the Parks and Recreation Committee.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0.

MOTION

Sponsor: Councilpersons Fetterolf

A Motion to Appoint Pamela Priddy to the Unpaid Position of Director of the Department of Historic Sites & Structures.

Mr. Baryak called for a motion to pass the Motion.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

Mr. Fetterolf spoke in support of the motion as Ms. Priddy has been instrumental in the application for the \$5M grant. He spoke in support of Ms. Priddy's previous and future efforts. Mr. Rufener stated that the original ordinance stated that only structures owned by the Village would be part of this department. He spoke against Ms. Priddy citing a lack of qualifications and questions about possible bias in leadership. Mr. Baryak spoke in support of the motion as it would show the Village has a plan and can provide continuity in leadership. Ms. Stimpert directed a question to Mr. Bryan regarding the legality of the motion. He stated his understanding is that an injunction prohibited the Village from moving forward with the grant, but that may be expired. He is not representing the Village on this case. He stated his belief that appointing a person to the board does not violate that order.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-no; Ms. Stimpert-no.

The motion passed 3-2.

MOTION

A Motion to reschedule the Regular Council Meeting previously scheduled for October 4 at 6:00pm to October 6 at 4:30pm.

Moved by: Mr. Fetterolf

Seconded by: Ms. Spletzer

Ms. Stimpert spoke against the rescheduling and asked the purpose of this action.

Mr. Baryak stated that he cannot attend on October 4. Mr. Fetterolf stated that he will also not be available.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-no; Ms. Stimpert-no.

The motion passed 3-2.

XII. Public Comments

Adam Zimmermann

He spoke in support of the closing of the senior kitchen due to inaction by the city manager to adhere to the warnings of the county. He wondered if a mower was being shared appropriately. He asked the purpose of the parliamentary and why the council has not suspended their rules to allow him to sit next to Mr. Baryak. He spoke against the contract for the law director citing excessive costs. He spoke against appointing Ms. Priddy to a new position.

Ana Eby – 50 W. 9th Street

She spoke in support of the Village's cash balance and wondered how much money has been spent on lawsuits and wasted, in general. She spoke in support of Ms. Benetis' comments about representing constituents. She asked Mr. Baryak to be consistent in the application of the council rules. She wanted to know if the public could speak at TIB meetings.

Julie Lemon – 609 Ridge Road

She spoke on a variety of topics, including against a non-public council committee meeting to review the city manager, the presence of the parliamentary, and the waste of public dollars. She spoke in support of the closing of the senior kitchen and the decision of the health department.

Patricia Benetis

She continued to read from a prepared statement, enclosed herein.

Rick Kerlin – 1009 Woodglen

He spoke against the behavior of Ms. Lemon on the day the senior kitchen was closed. He shared a petition signed by the seniors and read it on behalf of the petitioners. He spoke in support of the purchase agreement with Dunkin Donuts. He is disappointed in the continued money spent for electric meters which have not been received by the Village in over two years.

XIII. Closing Remarks

a. Acting Mayor – Mr. Baryak

b. Council Members

- i. Ward 1 – Mr. Fetterolf – He stated that he returns all phone calls that he receives. He stated that Julie Lemon was the one person that brought the senior kitchen to be closed. He is pleased with the way this meeting was handled tonight.
- ii. Ward 2 – Mr. Baryak – He spoke on many topics, including that Ms. Smeiles is working when she is at meetings, he supports the wearing of hats, and he does not support Ms. Lemon's disruptive behavior on the day the senior kitchen was closed. He spoke in support of the proposed city manager's contract. He spoke in support of Mr. Bryan as the law director. He spoke in support of the current direction of the Village. He spoke against those who are working against the progress of the Village, particularly those who are not residents.
- iii. Ward 3 – Ms. Spletzer – She reminded that the next Parks and Recreation meeting is September 26. October 22 is the Dam Duck Drop.

- iv. Ward 4 – Mr. Rufener – He reminded about the upcoming Autumn in the Falls and encouraged all to attend.
- v. At-Large – Ms. Stimpert – She announced a breakfast event on Sunday, September 24 to benefit the Fire District.
- c. Finance Director – Mr. Housley
- d. Law Director – Mr. Bryan – No comments.
- e. City Manager – Ms. Priddy – No comments.

XIV. Motion to Recess into Executive Session (If Necessary)

Mr. Baryak called for a motion to enter into executive session to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-no; Ms. Stimpert-no.

The motion passed 3-2. The executive session began at 7:28 am.

Mr. Baryak called for a motion to adjourn the executive session and return to the regular session.

Moved by: Ms. Spletzer

Seconded by: Mr. Rufener

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The regular meeting resumed at 8:05 pm.

XV. Adjournment

Mr. Baryak called for a motion to adjourn the meeting.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 5-0. The meeting was adjourned at 8:05 pm.

APPROVED:

John Baryak, Acting Mayor

ATTEST:

Michael Acomb, Council Clerk

The Ohio Open Meetings Act

Chapter Eight: Duties of a Public Body

VIII. Chapter Eight: Duties of a Public Body

The Open Meetings Act requires public bodies to provide: (A) openness, (B) notice, and (C) minutes.

A. Openness

The Open Meetings Act declares all meetings of a public body to be public meetings open to the public at all times.¹⁰³³ The General Assembly mandates that the Act be liberally construed to require that public officials take official action and "conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law."¹⁰³⁴

1. Where meetings may be held

A public body must conduct its meetings in a venue that is open to the public.¹⁰³⁵ Although the Open Meetings Act does not specifically address where a public body must hold meetings, some authority suggests that a public body must hold meetings in a public meeting place¹⁰³⁶ that is within the geographical jurisdiction of the public body.¹⁰³⁷ Clearly, a meeting is not "open" when the public body has locked the doors to the meeting facility.¹⁰³⁸

Where space in the facility is too limited to accommodate all interested members of the public, closed-circuit television may be an acceptable alternative.¹⁰³⁹ Federal law requires that a meeting place be accessible to individuals with disabilities.¹⁰⁴⁰

2. Method of voting

Unless a particular statute requires a specific method of voting, the public cannot insist on a particular form of voting. The body may use its own discretion in determining the method it will use, such as voice vote, show of hands, or roll call.¹⁰⁴¹ The Open Meetings Act only specifies the method of voting when a public body is adjourning into executive session by requiring that the vote for that purpose be by roll call.¹⁰⁴² The Supreme Court of Ohio held that the Act precludes a public body from taking official action by way of secret ballot.¹⁰⁴³ Voting by secret ballot contradicts the openness requirement of the Open Meetings Act by hiding the decision-making process from public view.¹⁰⁴⁴

Using a consent agenda whereby a public body votes on the entire agenda in a single motion and with a single vote may violate the Open Meetings Act if doing so constructively closes a public meeting, or otherwise acts as a way around the openness requirement of the Act.¹⁰⁴⁵ A public body is also prohibited from voting on a consent agenda when the public has no way of knowing all the items the consent agenda contains.¹⁰⁴⁶

3. Right to hear but not to be heard or to disrupt

All meetings of any public body are declared to be public meetings open to the public at all times.¹⁰⁴⁷ A court found that members of a public body who whispered and passed documents among themselves constructively closed that portion of their meeting by intentionally preventing the audience from hearing or knowing the business the body discussed.¹⁰⁴⁸ However, the Open Meetings Act does not provide (or prohibit) attendees the right to be heard at meetings. Note that other laws may apply to limit the restrictions the public body can place on the public's ability to speak during meetings.¹⁰⁴⁹ Further, a disruptive person waives his or her right to attend meetings, and the body may remove that person from the meeting.¹⁰⁵⁰

4. Audio and video recording

A public body cannot prohibit the public from audio or video recording a public meeting.¹⁰⁵¹ A public body may, however, establish reasonable rules regulating the use of recording equipment, such as requiring equipment to be silent, unobtrusive, self-contained, and self-powered to limit interference with the ability of others to hear, see, and participate in the meeting.¹⁰⁵²



Ohio Revised Code

Section 2917.12 Disturbing a lawful meeting.

Effective: January 1, 1974

Legislation: House Bill 511 - 109th General Assembly

(A) No person, with purpose to prevent or disrupt a lawful meeting, procession, or gathering, shall do either of the following:

(1) Do any act which obstructs or interferes with the due conduct of such meeting, procession, or gathering;

(2) Make any utterance, gesture, or display which outrages the sensibilities of the group.

(B) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree.

**Patricia Ann Benetis
70 West 8th Street
Ward 1 Council Candidate
Newton Falls, OH 44444
Integrity, Honesty, Transparency and Frugality**

In the Warren Tribune today they had an editorial about the salary being given to City Manager Pamela Priddy. A contract with a clause concerning the no termination except for a felony and a fifty percent (50%) raise. When this was offered to five previous persons, which I would have been against, Mr. John Baryak voted "No", but now it is OK. Goes to prove it is all in who you are. If they are so great, why such a great contract? Let them prove their worth. That should not be any problem.

I would like to start this part of my comment by saying that I had nothing against the Senior Lunches. In fact, I thought it was great as it gave Seniors a chance to get out and mingle plus have a meal. It is no fun sitting in your own home daily, seeing no one, and eating by yourself. It certainly is not conducive to good mental health.

I had NOTHING, and I repeat NOTHING, to do with the cancellation of the program even though one of the attendees in the audience this evening LOUDLY accused me of shutting down the Senior Lunch Program. I didn't realize I had that much power.

When the program was shut down and questions arose on Facebook, I said that I would check it out. This I did. I mistakenly stated that the program was sponsored by SCOPE. That was not true. For that I apologize. It is NOT sponsored by SCOPE.

When I spoke with Jodi It was stated that there were four areas that needed to be corrected before they could be given a license. They were as follows: An industrial refrigerator which, I heard had been already purchased, the same with an industrial stove. The other two areas were some tile needed fixed or replaced and some plumbing under the sink. That is the information that I received.

Again, I DID NOT close down the Senior Lunches.

We the undersigned are sadden at the closing of the Senior Kitchen . A delicious meal and fellow ship with our friends is important. We were not pressured to pay anything!

Julie Lemon and others who tried to strop our Senior Kitchen have succeeded. They have stopped something nice for us seniors. Their constant badgering is embarrassing to Newton Falls.

Thank You Pam, Patti, Julie, Richelle, Mike , Tamie, SCOPE and all who made this program work.

Rick Kerlin AKA Santa Rick

(You can sign this or write a short note)

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-30 (Amended)
SPONSOR: Councilperson Spletzer

**AN EMERGENCY ORDINANCE REAPPOINTING BRADRIC BRYAN AS THE
DIRECTOR OF LAW AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A
DIRECTOR OF LAW AGREEMENT**

WHEREAS, Mr. Bryan was hired as the Newton Falls Director of Law, effective April 14, 2022, pursuant to an Agreement that was authorized by Council and executed by the City Manager in accordance with Ordinance No. 2022-19; and

WHEREAS, on July 6, 2023, Mr. Bryan submitted a letter of resignation with 60 days' notice that was effective the end of the day on September 4, 2023; and

WHEREAS, in order to allow the City Manager and Council to have additional time to identify and hire a new Director of Law and maintain legal representation for the Village while that process continues, the City Manager and Council are requesting Mr. Bryan to continue to serve as the Village Director of Law until December 31, 2023.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein appoints Mr. Bryan as the Director of Law, retroactive to September 12, 2023 through December 31, 2023, and authorizes the City Manager to enter into the attached Director of Law Agreement, or an agreement that is substantially similar thereto.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, and welfare of the residents of the Village of Newton Falls for the reason that it is necessary for the Village to properly appoint a Director of Law on an immediate basis to ensure that upcoming, continuing, and arising legal matters are promptly handled. Therefore, this Ordinance shall take immediate effect upon its passage pursuant to Newton Falls Charter Article III, Section 21.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

ORDINANCE NO. 2023-30
PAGE TWO

Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

AMENDED DIRECTOR OF LAW AGREEMENT

This Agreement is effective this 12th day of September, 2023, by and between the Village of Newton Falls, Ohio (“Newton Falls”), an Ohio municipal corporation, and Bradric Bryan (“Attorney”), 22050 Mastick Road, Fairview Park, Ohio 44126, an attorney licensed to practice law in the State of Ohio, collectively referred to as the “Parties”.

WHEREAS, Attorney was hired as the Newton Falls Director of Law, effective April 14, 2022, pursuant to an Agreement that was authorized by Council and executed by the City Manager in accordance with Ordinance No. 2022-19; and

WHEREAS, on July 6, 2023, Attorney submitted a letter of resignation with 60 days’ notice that was effective the end of the day on September 4, 2023; and

WHEREAS, in order to allow the City Manager and Council to have additional time to identify and hire a new Director of Law and maintain legal representation for the Village while that process continues, the City Manager and Council requested Attorney to continue to serve as the Village Director of Law until December 31, 2023.

NOW, THEREFORE, Newton Falls and Attorney hereby enter into the within Agreement for Attorney to serve as its Director of Law under the supervision of the City Manager in accordance with the provisions of the Newton Falls Charter and the following terms and conditions.

1. **Scope of Work and Compensation.** Mr. Bryan shall regularly attend Regular Council Meetings and Special and other meetings requested by the City Manager and Council and perform all other necessary legal work within the scope of duties for the Director of Law set forth in the Newton Falls Charter, unless otherwise authorized by Council or required by law and with the exception of matters necessitated by contractual obligations (including litigation matters for which insurance counsel has been appointed). As compensation for undertaking the duties of the Director of Law, Attorney shall be paid a fixed monthly salary of \$7,750 per month, pro-rated for the month of September, 2023 based upon the September 12, 2023 effective date, with Attorney being included in the Ohio Public Employees Retirement System. Attorney shall be considered a part-time employee and shall not be entitled to any other employee benefits except as specified herein. Attorney shall cover his own expenses in the performance of his duties with the exception of expenses approved in advance by the City Manager or Council such as court or other government filing fees, court reporter or deposition costs, expert fees, and the like.

2. **Term and Termination.** This Agreement shall be effective as of September 12, 2023 and cover the term of September 12, 2023 through December 31, 2023. This Agreement shall automatically expire as of the end of the day on December 31, 2023. The Agreement may be terminated by either party during the above term: (a) immediately for cause; or (b) at will and without cause with the provision of thirty (30) days’ written notice to the other party.

Attorney

Newton Falls

Bradric T. Bryan

Pamela S. Priddy, City Manager

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-31
SPONSOR: Councilperson Fetterolf

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE QUOTE
OF PRO-TECH SYSTEMS GROUP, INC. FOR A WATER TREATMENT PLANT
PROGRAMMABLE LOGIC CONTROLLER REMOTE TERMINAL UNIT UPGRADE**

WHEREAS, the Village Water Treatment Plant's system control and data acquisition ("SCADA") system, located in the Water Treatment Plant basement, requires a programmable logic controller remote terminal unit ("PLC-RTU") upgrade and a new fiberglass enclosure to protect the new system; and

WHEREAS, quotes for the above work from qualified vendors were solicited, and the Water Department Supervisor and City Manager have determined that the August 16, 2023 quote of Pro-Tech Systems Group, Inc. of Akron, Ohio should be accepted.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to accept the attached August 16, 2023 quote from Pro-Tech Systems Group, Inc. in the amount of \$30,245 for a Water Treatment Plant PLC-RTU upgrade, new fiberglass enclosure to protect the system, and associated work and services as set forth therein.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form

Law Director



August 16, 2023
Q222481

ORD 2023-31
Exhibit A
Page 1 of 4

123 E. WATERLOO RD.
AKRON, OH 44319
TELEPHONE: (330) 773-9828
FAX: (330) 773-9928
EMAIL: CHRIS@PTEINC.COM

Subject: Newton Falls WTP PLC-RTU Upgrade

Thank you for an opportunity to provide a quotation for the Newton Falls WTP PLC-RTU Upgrade. Pro-Tech Systems Group is quoting the following equipment per the following items:

- Upgrade the PLC-RTU in the Basement to Current Components
- New Enclosure will be Fiberglass to eliminate the effects of corrosion.
- PLC Programming
- Installation by Others
- Startup and Commissioning

| | |
|-------------------------------------|---------------------------|
| Pro-Tech Systems Group Price | <u>\$30,245.00</u> |
|-------------------------------------|---------------------------|

***Instrumentation Calibration and Startup**

- On-Site Instrumentation Calibration and Controls Startup is Based on (1) mobilization for (8) hours. If instrumentation, Control Panels or Network Components are not ready for Scheduled Startup and additional mobilizations will be required, additional costs will be incurred.

*The contract price for this Municipal construction project has been calculated based on the current prices for the component building materials. However, the market for the instrumentation and controls materials that are hereafter specified is considered to be volatile, and sudden price increases could occur. Pro-Tech Systems Group, Inc. agrees to use our best efforts to obtain the lowest possible prices from available building material suppliers, but should there be an increase in the prices of these specified materials that are purchased after execution of contract for use in this Municipal construction project, the Builder agrees to pay that cost increase to the Pro-Tech Systems Group, Inc. Any claim by the Pro-Tech Systems Group, Inc. for payment of a cost increase, as provided above, shall require written notice delivered by the Builder to the Owner stating the increased cost, the instrumentation and control material or materials in question, and the source of supply, supported by invoices or bills of sale.



August 16, 2023
Q222481

ORD 2023-31
Exhibit A
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123 E. WATERLOO RD.
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TELEPHONE: (330) 773-9828
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EMAIL: CHRIS@PTEINC.COM

Standard Exclusions

Our scope EXCLUDES the mounting/installation of all devices (enclosures, instruments, field devices, etc); Field and interconnect wiring drawings; Conduit schedules; All piping (including spool pieces), conduit, wiring, cabling, and mounting hardware; Phone lines, radio towers, repeaters, poles, masts, and mounting; Installation and termination of all wiring and cabling; Furniture.

Standard Terms and Conditions of Sale

We offer our standard **TERMS AND CONDITIONS OF SALE** as Attachment 1. Issuance of an order or acceptance of this proposal constitutes acceptance of the included conditions and all conditions in Attachment 1.

Standard lead times

Submittals – 8-10 weeks

Panels – 6-10 weeks from date of release

Long lead items involving instrumentation will be clarified during the submittal process.

Many of Pro-Tech Systems Groups suppliers have advised that until further notice they reserve the right to amend the delivery date, the price and the scope or quantity of supply and/or other terms and conditions set out in their offer or quotation to the extent affected by the Covid-19 pandemic. Be advised the Pro-Tech Systems Group, Inc. considers the Covid-19 related changes imposed by our manufacturers and suppliers as outside of its reasonable control and subject to Force Majeure provisions.

This quote is valid for a period of 30 days. If you have any questions concerning this quotation, please call.

Best Regards,

A handwritten signature in black ink, appearing to read "CVIAR", is written over a horizontal line.

Chris Viar
Project Estimator



August 16, 2023
Q222481

ORD 2023-31
Exhibit A
Page 3 of 4

123 E. WATERLOO RD.
AKRON, OH 44319
TELEPHONE: (330) 773-9828
FAX: (330) 773-9928
EMAIL: CHRIS@PTEINC.COM

Pro-Tech Systems Group Terms and Conditions

ACCEPTANCE of this Order is expressly conditioned on Buyer's agreement that the terms and conditions set forth herein, together with any plans or specifications approved in writing by Pro-Tech Systems Group, are the sole terms and conditions of the Order and constitute a contract representing the entire agreement of the parties with respect to the subject matter thereof. No amendment, modification or waiver of the terms and conditions of this order shall be binding on Pro-Tech Systems Group, unless made in writing and signed by an authorized representative of Pro-Tech Systems Group. Any additional or different terms and conditions contained in Buyer's proper orders or responses to the Order shall be deemed objected to by Pro-Tech Systems Group without need of further notice of objections and shall not be effective or binding unless assented to in writing signed by an authorized representative of Pro-Tech Systems Group. Buyer shall be deemed to have assented to all terms and conditions contained herein upon performance or part performance by Pro-Tech Systems Group under this contract. Should there be a conflict with any terms or conditions in any contract or purchase order used by Buyer, the terms and conditions herein shall prevail.

TERMS OF PAYMENT: 20% Payment on customer receipt of submittals, 80% Payment on multiple invoices. Net cash thirty (30) days, with a discount of one percent (1%) net cash ten (10) days allowed. A service charge of one and one-half percent (1 1/2%) per month will be added to unpaid balances after thirty (30) days. If Buyer's financial condition at any time does not justify continuance of the work to be performed by Pro-Tech Systems Group hereunder on the agreed terms of payment, Pro-Tech Systems Group may require full or partial payment in advance. In the event Buyer's bankruptcy or insolvency or in the event any proceeding is brought against Buyer, voluntarily or involuntarily, under the bankruptcy or any insolvency laws, Pro-Tech Systems Group shall be entitled to cancel any order then outstanding at any time during the period allowed for filing claims against the estate of Buyer and shall receive reimbursement for its proper cancellation charges. Pro-Tech Systems Group's rights under this provision are in addition to any other rights available to it at law or in equity.

RETAINAGE: Pro-Tech Systems Group, Inc., Inc will allow a maximum retainage of 4% on labor only, payable within 30 days of completion of Pro-Tech Systems Group, Inc. work.

TAXES: The price quoted in this contract does not include any taxes and in the event taxes of any nature are assessed, they shall be added to the price herein, unless Buyer is exempt from tax and demonstrates such exemption to the satisfaction of Pro-Tech Systems Group.

WARRANTIES: Pro-Tech Systems Group warrants to Buyer that equipment furnished pursuant to this contract will be free from defects in material, workmanship and title and will be of the kind and quality specified in Pro-Tech Systems Group's quotation.

The foregoing equipment warranties (excluding the warranty of title) shall terminate one (1) year after the date of completion of the work or shipment of the part, requiring correction under this warranty.

Pro-Tech Systems Group warrants to Buyer that software furnished pursuant to this contract will be free from defects and will be of the kind and quality specified in Pro-Tech Systems Group's quotation.

The foregoing software warranties (excluding the warranty of title) shall terminate ninety (90) days after the date of completion of the work or shipment of the part, requiring correction under this warranty.

If any product covered by this contract fails to meet the foregoing warranties (except title), Buyer's exclusive remedies shall be for Pro-Tech Systems Group to correct any such failure by either (at the option of Pro-Tech Systems Group) replacing defective parts or repairing any defective parts of the equipment. Pro-Tech Systems Group shall not be responsible for providing working access to the defect, including the removal, disassembly, replacement or reinstallation of any equipment, materials or structures. Any portion which does not so conform will be corrected by Pro-Tech Systems Group upon notification by the purchaser. Upon expiration of the warranty period, all liability of Pro-Tech Systems Group for its equipment and services shall terminate.

Pro-Tech Systems Group limits its warranty on components not manufactured by Pro-Tech Systems Group to the conditions and duration of warranty offered to Pro-Tech Systems Group by the component manufacturer.

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August 16, 2023
Q222481

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EMAIL: CHRIS@PTEINC.COM

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PTSG's names and logos and all related trademarks, trade names, and other intellectual property are the property of PTSG and cannot be used without its express prior written permission.

NO CLAIMS FOR DIRECT OR CONSEQUENTIAL DAMAGES SHALL BE ALLOWED.

PRO-TECH SYSTEMS GROUP DISCLAIMS ANY MERCHANTABILITY OR WARRANTY OF FITNESS FOR ANY PARTICULAR USE WITH RESPECT TO THE PRODUCTS BEING SOLD PURSUANT TO THIS CONTACT. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION OF THE FACT OF THIS CONTRACT.

LIMITATION OF LIABILITY: Pro-Tech Systems Group shall not be liable for special, incidental, or consequential damages under any circumstances, including, but not limited to, loss of profits or revenue, loss of use of equipment, or cost of temporary equipment. Pro-Tech Systems Group's maximum liability, whether based in contract, tort (including negligence), or otherwise shall not exceed the price of this contract.

Unless otherwise specifically agreed to in writing by an authorized officer of Pro-Tech Systems Group, no Buyer, representative or any other person shall have the right to examine or audit Pro-Tech Systems Group's cost accounts, books, or records of any kind on any matter, or be entitled to or have control over any engineering or production prints, drawings, or technical data which Pro-Tech Systems Group, in its sole discretion, may consider in whole or in part, proprietary to Pro-Tech Systems Group.

DELAYS: Pro-Tech Systems Group will not be liable for any delay in the performance of this contract or for any damages suffered by Buyer by reason of such delay, when such delay is directly or indirectly caused by or in any manner arises from fires, floods, accidents, riots, acts of God, war, governmental interference or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays or other cause or causes (whether or not similar in nature to any of those herein above specified) beyond its control.

QUOTATIONS: This quotation will expire thirty (30) days from its date unless otherwise stated in the quotation or extended in writing by Pro-Tech Systems Group.

PRICE POLICY: Prices are net to all purchasers. Prices are firm for contracts completed within one (1) year from the date of quotation. Equipment or services delivered beyond one (1) year from date of quotation will be subject to price escalation of one-half percent (1/2%) per month or greater based on supplier increases.

DELIVERY: Unless otherwise specified by Pro-Tech Systems Group delivery will be made and title passed F O B point of shipment to Buyer. Risks of loss or damage pass to Buyer on delivery. If products are to be delivered by Pro-Tech Systems Group, such products are to be received and unloaded by Buyer at Buyer's expense and risk.

GOVERNING LAW: The law of the State of Ohio shall govern the validity, performance, interpretation and the effect of this agreement.

AMENDMENTS: This contract may not be modified nor rescinded in any manner except by the written agreement of both Buyer and Pro-Tech Systems Group.

Upon acceptance of the agreement Pro-Tech Systems Group will require a full set of plans and specs w/ addendums, project start and completion dates, and a project schedule.

The above Standard Terms and Conditions are accepted:

By: _____
Title: _____
Date: _____

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-34
SPONSOR: Councilperson Spletzer

**AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE
APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND
AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE
OF RESOURCES WITH THE COUNTY AUDITOR**

WHEREAS, as a result of certain occurrences, information, and expenditures, amendments to the Year 2023 Appropriations and transfers of items already appropriated for the Year 2023 are desired and required; and

WHEREAS, this Ordinance incorporates funding sources and expenditures that originated after the most recent Certificate of Resources was issued; and

WHEREAS, the appropriation amendments authorizes an update of the Certificate of Resources to be filed with the Trumbull County Auditor.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That the Exhibit attached hereto hereby amends the current appropriations for fiscal year 2023. Any funds not listed in this exhibit shall remain intact as previously listed and appropriated.

SECTION 2. That the Village Finance Director is hereby authorized to draw warrants on the Village Treasury for payment of the foregoing appropriations upon receiving proper certification and vouchers thereof, and no salaries or wages shall be paid except to persons employed by authority of and in accordance with law or ordinance.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that 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.

ORDINANCE NO. 2023-34
PAGE TWO

SECTION 4. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

| CITY OF NEWTON FALLS | | 2023 Current Appropriations | 2023 Proposed Appropriations | Difference |
|------------------------------|--|-----------------------------------|------------------------------------|------------|
| 100 | General Fund | | | |
| POLICE | | | | |
| Other Operations | Legal Level | 441,200.00 | 447,200.00 | 6,000.00 |
| | Total: | 727,484.12 | 733,484.12 | 6,000.00 |
| ZONING | | | | |
| Personal Services | Legal Level | 46,020.80 | 55,520.80 | 9,500.00 |
| | Total: | 80,020.80 | 89,520.80 | 9,500.00 |
| LAW | | | | |
| Personal Services | Legal Level | 63,816.76 | 68,075.84 | 4,259.08 |
| | Total: | 81,750.74 | 86,009.82 | 4,259.08 |
| BUILDING & LANDS MAINTENANCE | | | | |
| Other Operations | Legal Level | 103,400.02 | 131,400.02 | 28,000.00 |
| | Total: | 135,558.02 | 163,558.02 | 28,000.00 |
| TRANSFERS / ADVANCES OUT | | | | |
| Other Operations | Legal Level | 78,500.00 | 98,500.00 | 20,000.00 |
| | Total: | 78,500.00 | 98,500.00 | 20,000.00 |
| 100 | Total: | 2,216,656.51 | 2,284,415.59 | 67,759.08 |
| 201 | STREET CMR | | | |
| Other Operations | Legal Level | 77,050.00 | 90,750.00 | 13,700.00 |
| 201 | Total: | 477,800.00 | 491,500.00 | 13,700.00 |
| 204 | PARK AND RECREATION | | | |
| Other Operations | Legal Level | 29,800.00 | 34,000.00 | 4,200.00 |
| 204 | Total: | 31,670.00 | 35,870.00 | 4,200.00 |
| 204 | PARK AND RECREATION / Community Center | | | |
| Other Operations | Legal Level | - | 1,600.00 | 1,600.00 |
| 204 | Total: | - | 1,600.00 | 1,600.00 |
| 222 | COURT COMPUTERIZATI | | | |
| Other Operations | Legal Level | 117,000.00 | 135,000.00 | 18,000.00 |
| 222 | Total: | 117,000.00 | 135,000.00 | 18,000.00 |
| 501 | WATER OPERATING | | | |
| Personal Services | Legal Level | 544,075.00 | 563,075.00 | 19,000.00 |
| Other Operations | Legal Level | 762,150.00 | 928,950.00 | 166,800.00 |
| 501 | Total (Water Operating): | 1,306,225.00 | 1,492,025.00 | 185,800.00 |
| 501 | WATER DISTRIBUTION | | | |
| Other Operations | Legal Level | 437,700.00 | 447,400.00 | 9,700.00 |
| 501 | Total (Water Distribution): | 902,800.00 | 912,500.00 | 9,700.00 |

| CITY OF NEWTON FALLS | | 2023 Current Appropriations | 2023 Proposed Appropriations | Difference |
|----------------------|--------------------|-----------------------------------|------------------------------------|------------|
| <hr/> | | | | |
| 503 | ELECTRIC OPERATING | | | |
| Other Operations | Legal Level | 5,897,428.00 | 5,941,428.00 | 44,000.00 |
| 503 | Total: | 6,413,828.00 | 6,457,828.00 | 44,000.00 |
| <hr/> | | | | |
| Grand Total: | | 17,424,238.07 | 17,768,997.15 | 344,759.08 |

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-35
SPONSOR: Councilperson Spletzer

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

WHEREAS, as the result of certain occurrences, information, and expenditures, a transfer between Village funds is desired and required.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the transfer of \$20,000 from the General Fund (100) to the Parks and Recreation Fund (204).

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that 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 Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-36
SPONSOR: Councilpersons Spletzer and Fetterolf

AN ORDINANCE AUTHORIZING AN AMENDED CITY MANAGER EMPLOYMENT AGREEMENT

WHEREAS, the City Manager has been performing the duties of the City Manager position for period in excess of two (2) years, establishing a remarkable record for efficiency in government for the City of Newton Falls; and

WHEREAS, the City desires to enter into an amended contract with the City Manager to engage the City Manager to carry out those duties as may be required under the provisions of the City's Charter.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the attached Amended City Manager Employment Agreement.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS ____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

AMENDED CITY MANAGER EMPLOYMENT AGREEMENT

This AMENDED AGREEMENT ("Agreement") is made and entered into this 20th day of October, 2023 by and between the City of Newton Falls, a municipal corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as "City", and Pamela S. Priddy, hereinafter referred to as the "City Manager"

WHEREAS, the City Manager has been performing the duties of the City Manager position for a period in excess of two (2) years, establishing a remarkable record for efficiency in government for the City of Newton Falls, Ohio; and

WHEREAS, the City desires to enter into an amended contract with the City Manager to engage the City Manager to carry out those duties as may be required under the provisions of the City's Charter.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1: Duties.

- (a) The City Manager shall perform the duties outlined in the Newton Falls City Charter.
- (b) The City Manager shall also have the authority to hire a Professional Assistant of her choosing for the period of time governed by this contract. That Professional Assistant shall only be hired or terminated at the discretion of the City Manager. The term indicated in Section 2 of this Agreement shall apply to the Professional Assistant's Agreement. The salary arrangement with the Professional Assistant shall be negotiated by the City Manager and be subject to the approval of Council.

Section 2: Term:

The term of this Agreement shall commence on October 20, 2023 and expire upon the completion of all of the following projects (the Scott Street Sewer Project, the Community Center Renovation Project, the River Grant Project, and the 2024 Road Project), or a period of 48 months ending on October 19, 2027, whichever is sooner. The Newton Falls Council may terminate this Agreement prior to its expiration date with sixty (60) days' written notice. If Council terminates this Agreement prior to its expiration date, the City Manager shall be entitled to a minimum severance payment equal to the total amount due for the remaining months left on this contract through October 19, 2027, unless the City Manager materially breaches this contract by the commission of misfeasance, malfeasance, or nonfeasance in office or being convicted of a felony. Any severance payment owed under this Agreement shall be paid in a lump sum unless otherwise agreed to by the City and the City Manager.

Section 3: Compensation:

- (a) The City Manager shall receive a \$90,000 annual salary, prorated as of the effective date of this Agreement, and not be entitled to overtime.
- (b) Except as expressly stated in this Agreement, City Manager shall be eligible to receive the same fringe benefits and across the board raises to which other non-union employees are entitled.
- (c) The City Manager shall be entitled to six weeks of vacation leave per calendar year.

Section 5: Modification:

This Agreement may be modified only by mutual agreement of the parties hereto, provided, however, that any such modification shall be reduced to writing.

Section 6: Indemnification:

The City Manager shall be covered under the Village public officials' liability insurance policy. The City shall indemnify and hold the City Manager harmless for any claims, damages, and liability arising out of the exercise of her authority within the scope of her duties and services provided herein.

Section 7: General Provisions:

(a) Integration. This Agreement sets forth and establishes the entire understanding between the City and the City Manager relating to the employment of the City Manager by the City. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties, by mutual written agreement, may amend any provision of this Agreement during the term of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

(b) Binding Effect. This Agreement shall be binding on the City and the City Manager, as well as their heirs, assigns, executors, personal representatives, and successors in interest.

(c) Effective Date. This Agreement shall have an effective date of October 20, 2023.

(d) Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date indicated next to their signatures.

CITY

CITY MANAGER

Acting Mayor John Baryak

Pamela S. Priddy

Date

Date

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-37
SPONSOR: Councilpersons Spletzer, Fetterolf

**AN ORDINANCE ESTABLISHING SECTION 153.03 OF THE ADMINISTRATIVE
CODE PERTAINING TO CREDIT HOURS FOR FULL-TIME DEPARTMENT HEADS
AND SUPERINTENDENTS WHO ARE SALARIED EMPLOYEES**

WHEREAS, due to work demands within specific pay periods, Full-Time Village Department Heads and Superintendents that are on salary are often unable to flex their time within that specific pay period; and

WHEREAS, Council desires to permit those Department Heads and Superintendents to accrue and cash out credit hours if, due to work demands, they are unable to flex their time within a specific pay period.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein enacts Section 153.03 of the Administrative Code, titled Credit Hours for Full-Time Department Heads and Department Superintendents Who Are Salaried Employees, as set forth in the attachment hereto that is incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

**153.03 CREDIT HOURS FOR FULL-TIME DEPARTMENT HEADS AND
DEPARTMENT SUPERINTENDENTS WHO ARE SALARIED EMPLOYEES.**

(a) Full-Time Department Heads and Department Superintendents who are salaried employees and are required to work more than eight hours in any day during any pay period, with the knowledge and approval of the City Manager, shall be permitted to flex their work schedules during the same pay period, with the permission of the City Manager, in order to reduce their work schedule during that pay period by any hours worked in excess of eight hours in any day during that pay period. Such flex hours shall be credited on an hour to hour basis for any hours worked in excess of eight hours in any day during the pay period.

(b) In the event that due to work demands with respect to their position and/or denial of permission to flex their schedules by the City Manager, any Full-Time Department Head or Superintendent is unable to flex their schedule within any pay period to account for hours worked in excess of eight hours in any day during the pay period, such employee shall earn "credit hours" for those hours worked in excess of eight hours in any day during the pay period. Such employee shall earn one and one-half credit hours for each hour worked in excess of eight hours in any day and may not accumulate more than seventy-five (75) credit hours without using such hours as paid leave. Any credit hours accumulated shall be used prior to utilizing any vacation leave. Unused credit hours may not be carried over from year to year. An employee earning credit hours may cash out earned credit hours by providing notice to the City Manager and Director of Finance prior to the end of each calendar quarter of their desire to cash out any unused earned credit hours for that quarter. In that event, such employee shall be paid out for any unused credit hours earned during that quarter in the second pay period of the month for the month following the end of each quarter.

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-38
SPONSOR: Councilperson Baryak

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF
KIRILA CONTRACTORS, INC. FOR THE SR 5 & SR 534 SANITARY FORCEMAIN
LATERAL SERVICE SEWER PROJECT**

WHEREAS, the Village prepared bid instructions and specifications for the SR 5 & SR 534 Sanitary Forcemain Lateral Service Sewer Project and put the project out for bid; and

WHEREAS, the bid opening for the project was held on September 12, 2023, and Supervisor Novotny is recommending that the Village accept the September 12, 2023 bid of Kirila Contractors, Inc. as the lowest and best bid for the project.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to accept the attached September 12, 2023 bid from Kirila Contractors, Inc. in the amount of \$27,485 for the SR 5 & SR 534 Sanitary Forcemain Lateral Service Sewer Project.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

PROPOSAL

SR 5 & SR 534 SANITARY
FORCEMAIN LATERAL SERVICE

NEWTON FALLS, OHIO

September 12, _____, 20 23

The undersigned, KIRILA CONTRACTORS, INC.

after having carefully examined and investigated the site for the construction of the above entitled Improvements with all its appurtenances and incidental work and, in addition, having read and studied and understood all the plans, specifications and Contract Documents and accepting the same as sufficient to indicate and convey understanding of all the conditions and requirements under the Contract which will be executed for such work, do hereby propose to comply with all the requirements of the Contract and the intent thereof, to furnish all materials, supplies, management and supervision, labor, appliances, plant and equipment, facilities and incidentals, and all shop drawings and samples, and to perform and construct said work inclusive of all appurtenances incidental thereto, in strict compliance with all of the Contract Documents for said work within the time hereinafter stipulated for prices written in the following proposal form.

It is understood, further, that the quantities are those which will be used in determining the total amount of each proposal for this improvement and for the purpose of determining the lowest bidder, but it is understood and agreed that these quantities are approximate only, and that the Contractor to whom the Contract is awarded shall not be entitled to any claim for loss of profits, or for other damages, should the quantity of work done prove to be greater than is herein given in said estimated quantity.

The undersigned hereby acknowledges receipt of and acceptance of the following Addenda:

| Addendum No. | Date | Addendum No. | Date |
|--------------|-------|--------------|-------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

1. Bidder has familiarized itself with the nature and extent of the contract documents, work, site, locality, ODOT Permit, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing the work.
2. Bidder has studied carefully all drawings and physical conditions of the project site which are identified in the General Conditions, and accepts the determination of the extent of the technical data contained in such reports and drawings upon which Bidder is entitled to rely.
3. Bidder has reviewed and checked all information and data shown or indicated in the contract documents with respect to existing underground facilities at or contiguous to the site and assumes responsibility for the accurate location of said underground facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said underground facilities are or will be required by Bidder in order to perform and furnish the work at the contract price, within the contract time and in accordance with the other terms and conditions of the contract documents.
4. Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms & conditions of the contract documents.
5. Bidder has given Engineer written notice of all conflicts, errors or discrepancies that it has discovered in the contract documents and the written resolution thereof by Engineer is acceptable to Bidder.
6. This bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other bidder or over owner.
7. In case of discrepancy, the price written in words will govern.

The Bidder proposes to complete the work for:

() General Contract for

\$ TWENTY-SEVEN THOUSAND, FOUR HUNDRED EIGHTY-FIVE
DOLLARS AND ZERO CENTS; \$ 27,485.00
(Written in Words) (Figures)
KIRILA CONTRACTORS, INC. By William Kirila, Jr.
(Contractor)

Contractor Contact Name: William Kirila, Jr.
Email: bill@kirila.com
Phone: (330) 448-4055

SCOPE OF WORK: Project consists of installation of 3" HDPE DR 9 sanitary forcemain from existing sanitary manhole located at the SW corner of the intersection of SR 5 and SR 534 to service properties on the SE and NE corners of the intersection and is to be in accordance with contract drawings and ODOT permit.

MAJOR WORK COMPONENTS: Coring existing manhole and installing watertight connection, 120 LF of 3" forcemain by open cut, 245 LF of 3" forcemain by HDD, all necessary pipe fittings, clearing & grubbing, all required tree removal, installation of two (2) end marking posts. 10 CY of Item 304, and seeding restoration.

Forcemain to be air pressure tested prior to acceptance. Shop drawings to be furnished upon request.

ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS

WE. Ronald Ferraro and Union Insurance Company DO HEREBY
(Name of Insurance Agent and Insurance Company)

ACKNOWLEDGE THAT KIRILA CONTRACTORS INC.

WILL MEET THE NECESSARY INSURANCE REQUIREMENTS IN THE
AMOUNTS AS SET FORTH IN THESE CONTRACT DOCUMENTS AND
SPECIFICATIONS.

SIGNATURE OF AGENT



SWORN TO AND SUBSCRIBED BEFORE ME THIS 12th DAY
OF September, 2023.

Kimberly A. Trobok
NOTARY PUBLIC

Kimberly A. Trobok
Notary Public - State of Ohio
My commission expires October 2025

BIDDER SHALL INSERT INSURANCE AFFIDAVIT

INSURANCE REQUIREMENTS

Kirila Contractors, Inc. Contractor shall indemnify and save harmless Newton Falls and its agents and employees from all suits or actions for personal injuries including death or property damages caused by negligent acts, errors or admissions of or its agents or employees arising out of the work of this contract.

Additionally, all Contractors must be required to add the following language to their own insurance policies:

Additional insured, ATIMA (as their interest may appear): Newton Falls

NON-COLLUSION AFFIDAVIT

(This Affidavit is part of the Proposal)

STATE OF OHIO)

COUNTY OF TRUMBULL)

William Kirila, Jr.

being first duly sworn, deposes and says that he is Vice-President

(President, Secretary, etc.)

of KIRILA CONTRACTORS, INC.

the part who made the foregoing proposal or bid; that such bid was genuine and not collusive; that said bidder did not collude, conspire, connive, or agree, directly or indirectly, with any bidder or person, that such other person should refrain from bidding, or submit a sham bid and did not in any manner, directly or indirectly seek by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against Newton Falls, any person interested in the proposed Contract; and that all statements contained in said Proposal of bid are true and further, that such bidder did not directly or indirectly submit this bid, or the contents thereof, or divulge information, or data relative thereto any association or to any member or agent thereof.

William Kirila, Jr.

AFFIANT William Kirila, Jr.

Sworn to and subscribed before me this 12th day of September, 20 23.

Kimberly A. Trobek

Kimberly A. Trobek
Notary Public - State of Ohio

NOTARY PUBLIC IN AND FOR commission expires Oct 30, 20 23

Trumbull County, Ohio

My Commission Expires October 30, 2023
(SEAL)

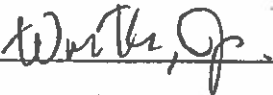
FILL IN AND RETURN WITH BID.

CERTIFICATION

SITE AND CONTRACT DOCUMENT INSPECTION

The undersigned bidder certifies that he has thoroughly examined the site and informed himself fully regarding the conditions under which he will be obligated to operate and that in any way affect the Work, and knows, understands and accepts the existing conditions.

The undersigned bidder further certifies that he has thoroughly reviewed the Contract Documents and has had the opportunity, as provided in the Instructions to Bidders, to ask questions of the Engineer concerning the Contract Documents. Failure to submit this certification with the bid shall result in the rejection of that bid.

BIDDER KIRILA CONTRACTORS, INC.
BY 
NAME AND TITLE William Kirila, Jr. - Vice-President

BIDDER'S AFFIDAVIT
PERSONAL PROPERTY TAX DELINQUENCY *

Newton Falls
612 W. Broad Street
Newton Falls, OH 44444

Reference: SR 5 and SR 534 Sanitary Forcemain Lateral Service

Dear Sir:

(A) The undersigned hereby certifies that the party to whom contract award is being considered was not charged with any delinquent personal property tax on the general tax list of personal property for Trumbull County, Ohio at the time of the bid opening for the above referenced project.

(B) The undersigned hereby certifies that the party to whom contract award is being considered has been charged with a delinquency regarding personal property tax on the general tax list of personal property for Trumbull County, Ohio at the time of bid opening for the SR 5 and SR 534 Sanitary Forcemain Lateral Service project. The amount of the due and unpaid delinquent taxes, including any due and unpaid penalties and interest thereon is Zero.

It is understood that, by law, this statement is to be signed by the party whose bid has been tentatively accepted, and must be affirmed under oath. The law also requires that his statement is to be submitted to the Owner and this statement must be incorporated into the pending contract before any payment can be made under the subject contract.

KIRILA CONTRACTORS, INC.

Name of Corporation



President Ronald Kirila



Secretary Robert J. Kirila

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-39
SPONSOR: Councilperson Spletzer

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS

WHEREAS, as the result of certain occurrences, information, and expenditures, a transfer between Village funds is desired and required.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the transfer up to \$47,737 from the General Fund (100) to the Sewer Operating Fund (502).

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that 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 Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-40
SPONSOR: Councilperson Spletzer

**AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF
FINANCE TO ESTABLISH A COMMUNITY SERVICES AND ACTIVITIES
FUND AS A SPECIAL REVENUE AND EXPENDITURE FUND WITHIN THE
VILLAGE'S FINANCIAL ACCOUNTS AND FUNDS**

WHEREAS, the Village desires to accept and expend donated money and program fees provided for the purpose of conducting community and senior services and holding community events; and

WHEREAS, Council desires for the money needed for such purposes to come from donations and program fees for such purposes and not tax revenues or other traditional municipal revenue sources; and

WHEREAS, such programs, services, and events may be established by the City Manager, and Council hereby provides the City Manager with the authority and discretion to establish program fees, if any, for such services or events, unless such program fees are otherwise established and set by Council; and

WHEREAS, Section 5705.12 of the Ohio Revised Code provides that Council may establish, with the approval of the Auditor of State, such funds as are desirable, and may provide, by ordinance, that monies derived from specified sources other than general property taxes shall be paid directly into such funds; and

WHEREAS, Council desires to authorize and direct the Director of Finance to establish a Community Services and Activities Fund as a special revenue and expenditure fund within the Village's financial accounts and funds; and

WHEREAS, Council desires for the donations and program fees (if any) for the senior kitchen and other community and senior services and events, as designated by the City Manager, to be included among the activities accounted for within this fund.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That the Director of Finance is hereby authorized and directed to establish a special revenue and expenditure fund titled, the Community Services and Activities Fund (213), within the Village's financial accounts and funds. This fund shall be established for the purpose of retaining and accounting for donations and program fees for the purpose of providing community and senior services and holding community events, and expenditures from this fund shall be permitted only for those purposes.

SECTION 2. That upon approval of this Ordinance by Council, the Director of Finance shall forward a copy of this Ordinance to the Auditor of State for approval.

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SECTION 3. That upon approval of the Community Services and Activities Fund (213) by the Auditor of State, the Director of Finance shall reclassify 2023 senior kitchen receipts and expenditures and/or other community or senior services or event donations or program fees to the Community Services and Activities Fund (213), and thereafter, the net reclassified revenue amount shall belong to said fund.

SECTION 4. That Council authorizes, retroactive to January 1, 2023, the deposit and/or expenditure of any senior kitchen and/or other community or senior services or event donations or program fees into and from the General Fund, until the Auditor of State approves the Community Services and Activities Fund (213).

SECTION 5. That the City Manager shall be the Village Officer responsible for all programs, services, and events funded by the Community Services and Activities Fund (213), including the establishment of any program fees associated therewith, unless such program fees are otherwise established and set by Council.

SECTION 6. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-41
SPONSOR: Councilperson Baryak

**AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT
THE BID OF POLLARD LAND SERVICES, INC. FOR THE SCOTT STREET PHASE 2
SANITARY SEWER IMPROVEMENT PROJECT**

WHEREAS, the Village Project Engineers, Thomas Fok & Associates, Inc., prepared bid instructions and specifications for the Scott Street Phase 2 Sanitary Sewer Improvement Project and put the project out for bid; and

WHEREAS, the bid opening for the project was held on September 19, 2023, and five bids were received; and

WHEREAS, Thomas Fok & Associates has reviewed the bids, references, and performance results on similar projects of the bidders and is recommending that the Village accept the September 19, 2023 bid of Pollard Land Services, Inc. as the lowest and best bid for the project.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby authorizes the City Manager to accept the September 19, 2023 bid from Pollard Land Services, Inc. of Girard, Pennsylvania in the amount of \$3,495,987.00 for the Scott Street Phase 2 Sanitary Sewer Improvement Project as the lowest and best bid for the project, and execute any necessary agreements relating to the award of the bid in accordance with the bid specifications, documents, and bid, on the condition that the bid bond and insurance documents submitted by the contractor are deemed proper and the funding sources for the project are identified, verified, and in place.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, and welfare of the residents of the Village of Newton Falls for the reason that the Village needs to move as expeditiously as possible in awarding this bid in order to meet project completion and funding deadlines. Therefore, this Ordinance shall take immediate effect upon its passage pursuant to Newton Falls Charter Article III, Section 21.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

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Acting Mayor John Baryak

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director