

IN THE SUPREME COURT OF OHIO

STATE EX REL. LES CARRIER, et al., :
: Case No. 2015-2061
Relators, :
: ORIGINAL ACTION IN MANDAMUS
v. :
: EXPEDITED ELECTIONS MATTER
HILLIARD CITY COUNCIL, :
: PURSUANT TO S. CT. R. PRAC. 12.08
Respondent. :

**EVIDENCE OF RESPONDENT
HILLIARD CITY COUNCIL**

VOLUME II

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EVIDENCE OF RESPONDENT

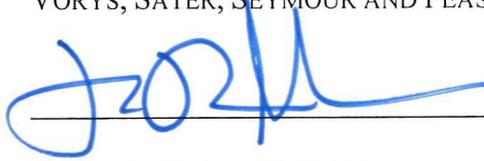
Pursuant to Supreme Court Practice Rule 12.06, Respondent submits the following evidence in this original action:

VOLUME II

RESPONDENT'S EXHIBITS	DESCRIPTION
12.	E-mail correspondence regarding the Petition that was submitted to Lynne Fasone, Clerk of the Hilliard City Council, for the December 14, 2015 Hilliard City Council meeting
13.	December 20 - 21, 2015 e-mail correspondence between Relators' counsel and Tracy Bradford, Hilliard City Law Director
14.	Relevant excerpts from transcript of December 7, 2015 Hilliard City Council meeting
15.	Relevant excerpts from transcript of December 14, 2015 Hilliard City Council meeting
16.	Ordinance 14-32, without exhibits
17.	Ordinance 14-23, without exhibits
18.	Ordinance 14-29, without exhibits
19.	Affidavit of Lynne Fasone, Clerk of the Hilliard City Council
20.	Affidavit of Tracy Bradford, Hilliard City Law Director

Respectfully submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Evidence of Respondent Hilliard City Council: Volume II* was served via e-mail pursuant to S.Ct.Prac.R. 12.08(C) on this 28th day of December 2015, upon the following:

Donald J. McTigue
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Counsel for Relators



Joseph R. Miller (0068463)

From: [Bob Koenig](#)
To: [Lynne Fasone](#)
Subject: Amendment
Date: Monday, December 14, 2015 1:40:49 PM

I have taken some time since signing the petition for the charter amendment to better understand the ramifications the amendment would have on our community. Knowing what I know now, I would not have signed the petition and will not support its passage.

Sent from my iPhone

From: Mark McGinnis <mmcginnis@electionlawgroup.com>
Sent: Monday, December 21, 2015 4:09 PM
To: Tracy Bradford
Cc: Don McTigue
Subject: Re: Request to institute mandamus action

Ms. Bradford:

We appreciate your getting back to us. We have conferred with our clients and will hold off filing until 4:00 p.m. tomorrow. Hopefully this will provide you sufficient time to undertake your legal analysis and make a determination on your end.

Best -

Mark

On Mon, Dec 21, 2015 at 3:31 PM, Tracy Bradford <tbradford@hilliardohio.gov> wrote:

Mr. McTigue,

I received the email that you sent to me yesterday (Sunday, December 20, 2015), demanding that I institute a suit in mandamus by 4 p.m. today regarding action taken by Hilliard City Council on December 14, 2015 when it voted on Ordinance No. 15-61 (which pertained to the Petition proposing to amend the City's Charter). I am reviewing your request; however, providing me with less than one business day to respond to such a request is simply not reasonable. Understand that I am reviewing the request and will respond once I have had sufficient time to undertake my legal analysis of the same.

Cordially,

Tracy L. Bradford

Tracy L. Bradford

Law Director

3800 Municipal Way

Hilliard, Ohio 43026

[\(614\) 334-2445](tel:(614)334-2445)

[\(614\) 529-6038](tel:(614)529-6038) fax

From: Don McTigue [mailto:dmctigue@electionlawgroup.com]
Sent: Sunday, December 20, 2015 10:44 AM
To: Tracy Bradford
Cc: Mark McGinnis
Subject: Request to institute mandamus action

Ms. Bradford,

My firm represents the committee known as Keep Hilliard Beautiful and the five committee members and Hilliard City taxpayers (Les Carrier, Andrew Teater, Paul Lambert, Tracy Kovalchik and Larry Earman) that filed the initiative petition with the City of Hilliard proposing to amend the City Charter by adding Sections 12.09 and 12.10. As you are aware, the Franklin County Board of Elections has determined that there are more than sufficient signatures to meet the requirement for submission to the voters. As you are also aware, on 12/14/15, City Council voted not to submit the proposal to the voters based on three alleged defects. Each of those alleged defects are without merit as a matter of law.

My understanding is that there is not a written legal opinion from the special counsel hired by the City regarding his opinion as to the validity or invalidity of the petition. Apparently, there were only oral communications so as not to have a document that would be provided to council members and might become public. However, from prepared talking points used at the 12/14/15 council meeting, it appears that the city council is alleging three defects. 1) The two sections proposed to be added to the Charter have titles following the section numbers and thus are clearly different from the facts in the State ex rel Becker v. City of Eastlake case, which I presume is what the city is relying upon. 2) There is no legal requirement that the petition specify that the proposed amendments are entirely new provisions and no authority is cited in the talking points. The full text of the proposed amendments are on the petition which is what is required. Therefore signers had the full text proposed to be added to the charter. 3) Typing the committee name "Keep Hilliard Beautiful" immediately above where the names of the 5 committee members appear is not an alteration of the petition form. First, there is no legal requirement to use the form. Second there is no law that prohibits this and again the talking points do not cite to any authority.

I am hereby requesting on behalf of my clients that you immediately institute a mandamus action in court pursuant to R. C. 733.58 seeking an order ordering City Council to perform its duty under Art. XVIII, section 9 of the Ohio Constitution and submit the proposed amendment to the Franklin County Board of Elections for placement on the ballot. I also request that you include my five individual clients as parties pursuant to R. C. 733.581. Please advise me no later than 4:00 pm, Monday, December 21, 2015 if you will or will not do so. Thank you for your consideration.

Donald J. McTigue

Donald J. McTigue
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--
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Election, Campaign Finance,
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HILLIARD, OHIO, CITY COUNCIL SPECIAL MEETING

- - -

- - -
TRANSCRIPT OF PROCEEDINGS
- - -

- - -
NATHAN PAINTER,

PRESIDENT
- - -

Monday, December 7, 2015
- - -

SHANA GRAVES
PROFESSIONAL REPORTER
- - -

ARMSTRONG & OKEY
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481
FAX (614) 224-5724
- - -

1 ***AUDIO OF EXCERPT BEGINS***

2 - - -

3 PRESIDENT PAINTER: Thank you.

4 Next up is legislation not referred from
5 committee. We have one matter up for hearing. It is
6 Ordinance 15-61. This is a public hearing. Any
7 citizen wishing to address Council are asked to sign
8 the speaker sign-in form so the clerk will have
9 accurate information. Each speaker will contain
10 their comments to three minutes and conduct yourself
11 in a professional matter.

12 Will the clerk please read the ordinance
13 by title only.

14 THE CLERK: To provide for the submission
15 of a proposed charter amendment to the electors of
16 the city of Hilliard, Ohio, pursuant to Section 12.06
17 of the city's charter and declaring an emergency.

18 PRESIDENT PAINTER: Thank you. Is anybody
19 here -- I don't have the sign-in sheet. Is anybody
20 here? Mr. Lambert?

21 THE CLERK: Oh, I'm sorry.

22 MR. LAMBERT: Thank you, Council, Mayor,
23 for the opportunity to address you.

24 As a member of the School Board, I'm often

1 asked why property taxes in Hilliard are more than
2 than in Upper Arlington. That is true, by the way.
3 A homeowner in the City of Hilliard pays 2.9 percent
4 of the market value of their home each year in
5 property taxes, while in Upper Arlington, a homeowner
6 pays 2.3 percent.

7 On a home valued at \$200,000, a UA
8 homeowner would pay \$1,100 less per year than a
9 Hilliard homeowner. Part of the reason for this is
10 that the Upper Arlington Fire Department is an agency
11 of the City and funded substantially with income
12 taxes, while here in Hilliard, the Fire Department is
13 operated by Norwich Township and funded primarily by
14 property taxes.

15 Many believe school levies are the reason
16 for this difference. Indeed, a Hilliard homeowner
17 pays 1. percent -- 1.7 percent of their property
18 value in tax each year, while UA homeowners pay
19 two-tenths of a percent less.

20 But that's not because we spend more per
21 student to fund our schools. Upper Arlington spends
22 nearly \$3,000 more per student than we do. It's not
23 because Upper Arlington gets more funding from the
24 State of Ohio. In fact, they get \$1,400 less.

1 The key statistic, and one I think should
2 be the focus of the City Council, is the assessed
3 value per student. Simply stated, the more the
4 assessed value per student, the lower the school tax
5 ratings would be.

6 In our school district, the assessed value
7 per student is \$151,000. In UA, it's \$279,000,
8 85 percent higher. That means to increase funding by
9 \$1,000 per student, Hilliard schools would need a
10 levy of 6.6 mills, while UA would need one of
11 3.6 mils.

12 I recommend that the Mayor and City
13 Council make increasing the assessed value per
14 student one of your primary goals. The best way to
15 do that is to make the total assessed value increase
16 faster than the number of students, and the best way
17 to do that is to promote new tax-paying commercial
18 development while limiting the growth of housing that
19 brings new students to the school district.

20 These changes proposed to the City Charter
21 don't in any way impair your ability to achieve that
22 goal. You will continue to have the TIF in your bag
23 of tools that can be used to recruit new commercial
24 development to the city. Nor will these changes

1 prohibit the development of new housing. Let them
2 make the developers and not the tax payers bear the
3 cost of the infrastructure they require to make their
4 profit.

5 I reject the notion that we need to --
6 first need to encourage the development of high-end
7 apartment housing to attract employers to the city.
8 I retired as an executive of CompuServe. We brought
9 over 1,000 high-tech workers and sufficient payroll
10 to Hilliard and created the space now housing
11 Verizon, another major employer.

12 The tax incentives offered to us by
13 Mayor Reynolds and the Council were indeed important,
14 but we didn't have any concern about whether our
15 associates could find housing in Hilliard. Neither
16 does Verizon. The market will take care of that
17 demand without taxpayer subsidy.

18 As pointed out by Judge Barrows at a prior
19 Council meeting, it's actually economically
20 advantageous to have the employers in Hilliard, but
21 their employees living somewhere else. We get the
22 income tax revenue while other cities get the burden
23 of providing schools and services.

24 These changes ensure that those wishing to

1 profit from the sale and development of land for
2 residential purposes bear the costs associated with
3 that profit opportunity, and they preserve the
4 economic development tools that allow you to
5 successfully recruit new commercial development.

6 Thank you.

7 PRESIDENT PAINTER: Mr. Lambert, I have
8 just one clarification. Are you here speaking on
9 behalf of the School Board?

10 MR. LAMBERT: No. I'm speaking as a
11 member of a charter change committee.

12 PRESIDENT PAINTER: And are you trying to
13 inform us that, also, the school is going for a levy
14 this coming year?

15 MR. LAMBERT: It is likely, but it has not
16 come up.

17 PRESIDENT PAINTER: Okay. Thank you.

18 VICE PRESIDENT MCGIVERN: I had a question
19 about --

20 Oh. President Painter, can I ask a
21 question?

22 PRESIDENT PAINTER: Yes, absolutely.

23 VICE PRESIDENT MCGIVERN: Okay. I just
24 had a question about what's the name of the

1 organization that you are part of that are pushing
2 the changes?

3 MR. LAMBERT: It's to enact these changes
4 to the City Charter.

5 VICE PRESIDENT MCGIVERN: Do you have a
6 committee name?

7 MR. LAMBERT: I don't think it's been
8 formally established yet.

9 VICE PRESIDENT MCGIVERN: Oh, okay. I
10 thought it was something like Keep Hilliard Beautiful
11 or something like that. I can't remember.

12 MR. LAMBERT: Yes. That was the working
13 title petition, I believe.

14 VICE PRESIDENT MCGIVERN: Okay. Okay. I
15 just -- I had seen that somewhere, and I was a little
16 concerned about the -- the -- I guess the -- the lack
17 of accuracy of about what your committee would
18 actually be; because when I saw that name, I thought,
19 "Oh, is someone working on a beautification effort,
20 like such as landscaping or things like that?"

21 And, certainly, we pride ourselves on
22 trying to be transparent and accurate with the
23 information that we provide to our residents; so I
24 would certainly encourage your committee to be as

1 accurate and transparent with what you are proposing
2 as well instead of a Keep Hilliard Beautiful name.

3 MR. LAMBERT: I know the that name doesn't
4 say Make Hilliard Beautiful. It says Keep Hilliard
5 Beautiful as it is.

6 MR. UTTLEY: President Painter?

7 PRESIDENT PAINTER: Yes.

8 MR. UTTLEY: I just had a question for
9 Ms. Lambert.

10 You mentioned about the assessed
11 valuations --

12 MR. LAMBERT: Yes.

13 MR. UTTLEY: -- and the difference between
14 Upper Arlington and Hilliard.

15 Are you referring to the fact that, you
16 know, in Upper Arlington, you know, the same house --
17 as a real estate appraiser, I know this -- the same
18 house in Hilliard probably would cost 30, 40 percent
19 more in Upper Arlington?

20 And that has to do with the lack of their
21 development land. They -- you know, their -- the
22 demand for their housing is much more intense because
23 they're stuck. They can't go anywhere. They can
24 build -- they can build high-rise condos, which they

1 are doing around the Kingsdale area; but they don't
2 have any, you know, available development land.

3 In fact, Hilliard is quickly reaching that
4 point too. We're -- we don't have a lot of land left
5 in Hilliard to develop as much as we did 20 years ago
6 when Mr. Bryner saw a lot of the development coming
7 in.

8 So, you know, I wasn't quite sure of your
9 analogy, what you were trying to say, that -- that,
10 you know, Hilliard's assessed valuation is so much
11 less than Upper Arlington's. That's true, but that's
12 a market -- that's a -- that's a market demand
13 function.

14 MR. LAMBERT: There's many dimensions to
15 that, Council, of course, in Hill -- Upper Arlington
16 is a city that is going through a -- a crazy
17 generation cycle, in that there's many empty nesters
18 in Upper Arlington right now, so there's no
19 (inaudible). And by the way, Compuserve, the company
20 I retire from, was a major employer in
21 Upper Arlington as well and (inaudible)...assessed
22 value as high as it can.

23 So driving that assessed value per
24 student, no matter where the starting point is,

1 driving it higher will (inaudible) tax burden on the
2 residents of the community.

3 MR. UTTLEY: I would just say that it is
4 very difficult to compare -- it doesn't matter if
5 we're trying to compare Hilliard to Grove City or
6 Upper Arlington or whatever it is, you are going to
7 have those differences that are dictated by the
8 market and by the local -- locational influences.

9 And, you know, to say that a house in
10 Hilliard that's -- let's say it's right over here on
11 Scioto Darby Road, a modest home; and you have an
12 identical house over in Upper Arlington in the
13 River Ridge area that is virtually identical,
14 1,200 square foot, and that house in Upper Arlington
15 is pushing 200,000, and this one is 130. That is a
16 locational thing that, you know, I don't care -- you
17 know, it's not -- it's the market that dictates that,
18 not City Council, not the School Board, you know,
19 so --

20 MR. LAMBERT: You know, it's a mix of
21 residential and commercial and the number of kids. I
22 mean, again, there's a number of factors that go into
23 this; but one we can control is, perhaps, is the mix
24 of commercial and residential. It's probably the

1 number one thing I'm asking is why are our property
2 taxes higher than other places, specifically
3 Upper Arlington?

4 MR. UTTLEY: We've had -- Mr. Meeks is not
5 here; but in the last 10 years, our commercial
6 development has far outpaced our residential
7 development in Hilliard, as far as total tax dollars.

8 MR. LAMBERT: We're asking you to review
9 those numbers, but, of course, apartments (inaudible)
10 so that's more residential development that counts as
11 commercial.

12 MR. UTTLEY: Well, we may have to disagree
13 on that. Thank you.

14 VICE PRESIDENT MCGIVERN: I just have one
15 more question, Mr. Painter.

16 PRESIDENT PAINTER: Sure.

17 VICE PRESIDENT MCGIVERN: Can you just
18 remind me, Ms. Lambert, what's the percentage of
19 students from the actual City of Hilliard that make
20 up the Hilliard school district?

21 MR. LAMBERT: It's little less than half.
22 I don't know. Three quarters -- it's a little less
23 than half.

24 MR. ERB: There's about 30 percent.

1 MR. IOSUE: 30 to 31, I thought it was.

2 MR. UTTLEY: About 40.

3 VICE PRESIDENT MCGIVERN: Okay. I was
4 just wondering what the percentage was, and -- I
5 don't know. Maybe we can look at these numbers,
6 but -- what the percentage is for your increase in
7 students, Hilliard versus Columbus.

8 MR. LAMBERT: Although we have just been
9 presented by our Operations Department a listing of
10 new developments that are going on inside the school
11 district, and I believe (inaudible).

12 VICE PRESIDENT MCGIVERN: Oh, that would
13 be really helpful to see, because that's not the
14 information that I think we've seen.

15 MR. LAMBERT: We'll get that to you.

16 VICE PRESIDENT MCGIVERN: Okay. Great.
17 Thank you.

18 PRESIDENT PAINTER: Anybody else? Thank
19 you. I will also note though, that apartments that
20 are commercial are taxed at a higher subsidy as well.
21 With that being said, Ordinance 15-61 will be held
22 over for a third and final reading on December 14.

23 THE CLERK: President Painter, we have one
24 more speaker.

1 PRESIDENT PAINTER: Oh, I'm sorry, Mel.

2 I -- I totally forgot about you.

3 MR. SIMS: I never liked (inaudible).

4 MR. IOSUE: No. You are good. We don't
5 do that here.

6 PRESIDENT PAINTER: I'm sorry. I will
7 reopen that for Mel.

8 MR. IOSUE: We don't do that. You can
9 come up here and lie all you want. Go right ahead.
10 You don't have to swear on anything.

11 MR. SIMS: I just want to tell you right
12 now, you cannot beat Mr. Lambert's stats. It's
13 amazing how you (inaudible) him rather than
14 (inaudible). Less than 50 percent? Come on. It's
15 more like 30, 35 percent. Anyway, I'm not even going
16 there, because I can't beat him at that (inaudible)
17 in my life right now (inaudible) my wife will kill
18 me.

19 I'm actually not on a rampage about small
20 businesses. (Inaudible) small business and have been
21 (inaudible) 30 years, most of them here in Hilliard.
22 I've had several small businesses, and I kind of
23 understand the forces and practices of things. With
24 that, when there is something that seems to be off

1 and anti-small business, I'm going to start speaking
2 out. I just think somebody has to.

3 I think a lot of small business owners
4 don't speak out because they don't think they will be
5 heard or they are afraid that they are going to be
6 tagged as anti-community or they don't care about the
7 community or whatever. So I'm probably going to put
8 my foot in my mouth here from time to time, which I
9 do a lot of, because I think they should be able to
10 speak out and say what they think.

11 Business owners don't vote. That's the
12 problem. They don't vote, so they get abused and
13 taken advantage of. So -- and they're the ones that
14 provide the goods and the services. They provide the
15 jobs. They -- they're the livelihood of the city,
16 but they get forgotten about.

17 So I think the -- I think it's a bad idea.
18 Bad (inaudible). Bad idea. I think -- let's take a
19 step back toward the Tim Ward days when this city had
20 a reputation of anti-business. During his days,
21 there would be a business (inaudible). If you talk
22 about how Hilliard is anti-business and stuff because
23 he was so confrontational.

24 So -- rooftops, building this apartment

1 complex, I think it's a road to develop and will make
2 it easier and get commercial in here. I think it's
3 accomplishing things. Rooftops are businesses. I
4 mean, it helps businesses. We need to have rooftops
5 to have customers for small and large businesses,
6 from the local coffee shop to the large chain stores,
7 like Target, Home Depot. They're not going to be
8 there if they don't have customers, period. Whether
9 it's apartments or whatever.

10 While the rooftoppers may not actually
11 work in the area, they still support the economy of
12 that area; and we have to have that. I think what
13 you are doing will generate and help small businesses
14 and large businesses; and that attracts, again, big
15 businesses.

16 So -- when I opened my restaurant, I got a
17 guy from Damon's -- one of the founders of Damon's
18 restaurants coming. He helped me. Really nice guy.
19 He helped me. He said, "The problem you got that's
20 going to kill you is that you don't have rooftops
21 during the week. You'll do great on the weekends.
22 You will kill the weekends, but you are going to dive
23 in the week because you don't have rooftops."

24 I couldn't wait to (inaudible). I was

1 begging for it. I've been waiting for that park for
2 10 years, and it finally gets here. So rooftoppers,
3 they -- it's the heart. You got to have them. Okay?
4 You just do. I mean, he's right. It's the heart of
5 the business.

6 Mr. Carrier, I voted for you because, one,
7 I think you are a friend; but we disagree on this big
8 time. But I voted for you to help our citizens of
9 Hilliard, not more people on the School Board and
10 school system. And I think that's going to make a
11 conflict. So that's just my -- my opinion on that.

12 I think it is hypocritical of the School
13 Board that a person is involved in this anti-business
14 recruitment; but it shouldn't surprise me, because
15 what I have learned in 20 years, this School Board
16 and School Boards in the past, this administration --
17 this current administration and administrations in
18 the past use an unethical and anti-business practice.
19 They have used it for years; but when the tables are
20 turned, they get all upset. But I just take it as a
21 slap in the face if they want to do this.

22 So I think what's going to happen over the
23 next year, you might be seeing me more, hearing from
24 me more. If it has to do with a small business, I am

1 going to be there. I have seen so many kicked in the
2 teeth and don't have anyplace to go; and, no, I don't
3 have anyone behind me or anything like that. It's
4 just me and what I have learned. So -- and one of my
5 goals is going to be -- next year when I get around
6 to it -- is to set up a pro-business website so
7 people can understand what we go through as small
8 businesses. And thank you for your time.

9 PRESIDENT PAINTER: Thanks, Mel.

10 MR. CARRIER: Mr. -- Mr. President, may I
11 ask a question?

12 PRESIDENT PAINTER: Sure.

13 MR. CARRIER: Mel, thanks for coming. You
14 and I have had discussions about this charter
15 proposal back and forth, and one of the things I
16 need -- I feel I need to clarify -- and I'm starting
17 to see this coming from the administration as well --
18 there is nothing in the Charter changes that will
19 stop any development, commercial or otherwise. What
20 it will do, Mel, is stop the use of the city
21 incentivizing apartment projects for infrastructure
22 improvements.

23 You have come to the core of what we are
24 discussing; and the core is the issue, do rooftops

1 equal jobs or do businesses equal jobs? Okay? When
2 you bring in rooftops, you bring in the demand for
3 services. Those services cost the entire community.
4 When you divert the property taxes for -- for those
5 apartments, you are asking the community to absorb
6 those services costs.

7 I've been accused of being irresponsible
8 and uninformed. I don't believe that's the case. I
9 believe it's a very good discussion a community
10 should have, and we're going to have it; so I
11 appreciate you coming in, because there is some
12 misinformation out there that this has to do with
13 commercial development. It absolutely does not. It
14 has everything to do with what we are going look like
15 in the future and whether we are going to be
16 beautiful. I don't think anyone would think that
17 they would be beautiful if they had an apartment
18 complex behind their house. Okay?

19 MR. SIMS: Now -- now you're jumping on
20 the bandwagon?

21 MR. CARRIER: No, no. It's the same
22 bandwagon I've been jumped on the whole time. Yeah.
23 So when you come --

24 MR. SIMS: When I say services, I'm

1 talking about the print shop. I'm talking about the
2 sandwich shop. I'm talking about the apartment
3 complexes. If that was your (inaudible) cornfield,
4 you would want to sell it like that and make money.
5 If you want a house backed up against a cornfield in
6 Hilliard on 270, do you think it's going to be a
7 cornfield?

8 MR. CARRIER: No. It was actually zoned
9 to be commercial property. It wasn't zoned to be an
10 apartment complex.

11 MR. SIMS: But zoning changes.

12 MR. CARRIER: Well, it changes in Hilliard
13 by emergency.

14 MR. SIMS: (Inaudible) huge amount of
15 money on (inaudible) when they changed it for office
16 and they put a bar behind my house. So I understand,
17 things change.

18 MR. CARRIER: Well, anyway, I think -- I
19 appreciate you coming, because you bring up a very
20 good point; and I want to make sure that I clarify
21 that this charter amendment, if you read those words,
22 not one word of commercial.

23 MR. SIMS: Without that apartment complex,
24 how long is it going to take to get a road through

1 there that attracts businesses?

2 MR. CARRIER: It depends on the priorities
3 you have as a community and the priorities that you
4 have as a city. We're building roads on Riggins Road
5 right now. We're building roads other places.

6 So this is a great dialogue. I want to
7 have it. As you can tell, I'm aching to have it,
8 because what we continue to focus on is the people;
9 and we need to focus on the issue and what it means
10 to our community. Okay? And it's -- and I respect
11 that you and I disagree. Okay?

12 MR. SIMS: Yeah. But when you talk, you
13 act like -- it sounds like you are working harder for
14 the school system and with the people of Columbus and
15 worried about the people of Columbus' real estate
16 taxes. I think if my taxes go up and I live in
17 Hilliard and I'm getting better services and parks
18 and recs and a downtown park and (inaudible), I'll
19 pay a little more in real estate taxes if I have to.

20 MR. CARRIER: Well, I guess -- and my
21 response to that -- I'm a resident of Norwich
22 Township, sir, a resident of Hilliard City schools
23 and a Hilliard City resident. I was a representative
24 of the Hilliard City Council, but I also have to --

1 look, you will come to me and say, "My taxes are
2 high." Okay? And what I'm saying to you is this
3 incentive is one of the reasons your taxes are so
4 high.

5 Thank you. I -- I -- let's have a beer,
6 and we'll finish it up. But, you know, it is what it
7 is. But it is very good concentrated look at the
8 discussion we have to have as a community.

9 MR. SIMS: We'll need a 12-pack.

10 MR. CARRIER: I'll buy. Thank you.

11 PRESIDENT PAINTER: Thanks, Mel.

12 Anybody else?

13 Hearing and seeing none, Ordinance 15-61
14 will be held over for a third and final reading on
15 December the 14th.

16 MR. CARRIER: So we are having a meeting
17 on the 14th?

18 PRESIDENT PAINTER: That's why we're
19 holding it over.

20 MR. CARRIER: All right. Thank you.

21 ***AUDIO OF EXCERPT ENDS***

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C-E-R-T-I-F-I-C-A-T-E

I do hereby certify that the foregoing is a true, correct and complete written transcript of the recorded proceedings in this matter, taken by me on this day of December 7, 2015, and transcribed from my stenographic notes.

Shana Graves

Shana Graves, Notary Public
in and for the State of Ohio
and Professional Reporter



My Commission expires May 22, 2019.

IN THE SUPREME COURT OF OHIO

STATE EX REL. LES CARRIER, et al.,	:	
	:	Case No. 2015-2061
Relators,	:	
	:	ORIGINAL ACTION IN MANDAMUS
v.	:	
	:	EXPEDITED ELECTIONS MATTER
HILLIARD CITY COUNCIL,	:	PURSUANT TO S. CT. R. PRAC. 12.08
	:	
Respondent.	:	

RESPONDENT’S EXHIBIT 15:

Relevant excerpts from transcript of December 14, 2015 Hilliard City Council meeting

CITY COUNCIL REGULAR MEETING

HILLIARD, OHIO

- - -

- - -

TRANSCRIPT OF PROCEEDINGS

- - -

NATHAN PAINTER,

PRESIDENT

- - -

Monday, December 14, 2015
6:00 p.m.
City Hall Council Chambers
3800 Municipal Way
Hilliard, Ohio 43206

- - -

SHANA GRAVES
PROFESSIONAL REPORTER

- - -

ARMSTRONG & OKEY
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481
FAX (614) 224-5724

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P R O C E E D I N G S

- - -

PRESIDENT PAINTER: Call to order the regular meeting of Hilliard City Council on December 14, 2015. I'll start with the invocation myself. I see everybody is here, and Councilman Baker will lead us in the pledge.

(Pledge said.)

PRESIDENT PAINTER: Please call the roll.

THE CLERK: President Painter.

PRESIDENT PAINTER: Present.

THE CLERK: Vice President McGivern.

VICE PRESIDENT MCGIVERN: Here.

THE CLERK: Mr. Carrier.

MR. CARRIER: Here.

THE CLERK: Mr. Baker.

MR. BAKER: Here.

THE CLERK: Mr. Iosue. Mr. Iosue.

MR. IOSUE: Present.

THE CLERK: Mr. Erb.

MR. ERB: Here.

THE CLERK: Mr. Uttley.

MR. UTTLEY: Here.

THE CLERK: Quorum present.

1 PRESIDENT PAINTER: Thank you. Quorum
2 present.

3 First up is Commission and Board Reports.
4 I do not have any -- anything with respect to the
5 Board of Zoning Appeals, although --

6 THE CLERK: They meet this Thursday in
7 these chambers in the agenda that is online.

8 PRESIDENT PAINTER: Thank you. But
9 Brian --

10 THE CLERK: Katz.

11 PRESIDENT PAINTER: I called him Katz.

12 THE CLERK: Katz.

13 PRESIDENT PAINTER: It's Brian Katz. He
14 resigned, so there will be an opening; and we need to
15 advertise that for next year. So, if we can, get
16 that in the paper.

17 Mr. Baker with Destination Hilliard.

18 MR. BAKER: No report.

19 PRESIDENT PAINTER: Mr. Iosue.

20 MR. IOSUE: Thank you, Mr. President.

21 I have two reports for the Environmental
22 Sustainability Commission. First off, they have been
23 working very hard on the Old Hilliard recycling
24 program that we're working hard to implement. Also

1 looking towards applying for a grant from the Ohio
2 EPA for that.

3 Last week, over the course of
4 50 man-hours, they completed 58 door-to-door visits
5 to businesses in Old Hilliard to ask for
6 participation in the program. They have completed
7 all of their phone calls and follow-ups to 23 of
8 those businesses, and it appears we will have about
9 27 participating businesses in the recycling program
10 if we get approved for the grant for it. They have
11 put forth great effort. They have gone out
12 door-to-door to -- to explain to people what the
13 program will be for and how it will be beneficial to
14 our city, so they have been doing an excellent job
15 with that.

16 And then, secondly, they are working on
17 preparing a request for proposals for the
18 environmental energy sustainability initiative that
19 we talked about and to kind of walk us through some
20 of the things we can do to track our energy usage and
21 reduce energy in the city. They are hoping to get
22 that proposal out very soon and be able to work out a
23 contract. I know they are going to be working with
24 legal counsel, Ms. Bradford, if they are not already

1 doing that with the RP and hoping to get that out so
2 they can award it in 2016. That's our report. Thank
3 you.

4 PRESIDENT PAINTER: They were in my
5 building the other day and --

6 MR. IOSUE: Excellent.

7 PRESIDENT PAINTER: Mayor, anything with
8 MORPC?

9 MAYOR SCHONHARDT: No report.

10 PRESIDENT PAINTER: Mr. Uttley, P and Z.

11 MR. UTTLEY: Thank you.

12 Planning and Zoning met Thursday,
13 December 10th. There was a number of items on the
14 agenda. Excuse me. Case 1, at Charleston Meadows
15 out on Elliott Road was postponed until
16 February 11th, I believe. Otie's was in with a
17 presentation that received a lot of favorable
18 comments and also some feedback. They want to make
19 significant changes in a lot of outdoor dining
20 additions, so to speak, that would take advantage of
21 the new park. That was -- well, they were -- they
22 will be back on the agenda on January 14th. And
23 there were several cases that were approved as far as
24 the veterinary hospital that is right out here at

1 5125 Cemetery Road. They got an approval for a
2 967-square-foot building addition.

3 And another case of note was Case 5, which
4 was Hickory Chase and the approval of 492
5 multi-family units. That was postponed until
6 January 14th. The primary concern was a discrepancy
7 as to what the park manning fee would be -- the fee
8 would be in lieu of land dedication, what the amount
9 should be. So that's -- I believe they are still
10 negotiating the administration on that, and that's my
11 report.

12 PRESIDENT PAINTER: Thank you.

13 Ms. Fasone, anything with Recs and Park or
14 Shade Tree?

15 THE CLERK: No report on either.

16 PRESIDENT PAINTER: Thank you. I have
17 nothing else.

18 Ms. McGivern.

19 VICE PRESIDENT MCGIVERN: I have none.

20 PRESIDENT PAINTER: Okay. We will be
21 moving on. Next up is CPPS legislation, and I will
22 turn it over to Mr. Iosue.

23 MR. IOSUE: Mr. President, don't go
24 anywhere. I'm going to turn it right back over to

1 you, as everything on our agenda has been held over
2 to January 11th.

3 PRESIDENT PAINTER: With that, I will turn
4 it over to Ms. McGivern --

5 VICE PRESIDENT MCGIVERN: Thank you.

6 PRESIDENT PAINTER: -- with Finance. It's
7 been a long day.

8 VICE PRESIDENT MCGIVERN: We have one more
9 that was tabled last week to -- to this evening.
10 Would the Clerk please read Ordinance 15-57 by title
11 only.

12 THE CLERK: Amending Section 185.02 of the
13 City's codified ordinances pertaining to the
14 allocation of the hotel/motel excise tax.

15 VICE PRESIDENT MCGIVERN: Thank you.

16 I know there was some questions at the
17 last meeting that President Painter and I met with
18 Destination Hilliard for today. It was a great
19 meeting. We think that they are going to be off to a
20 great start for 2016, and we both support moving
21 forward with the ordinance at this time. Any
22 questions? Any further comments from the
23 administration?

24 Will the Clerk please call the roll.

1 THE CLERK: President Painter.

2 PRESIDENT PAINTER: Yes.

3 THE CLERK: Mr. Uttley.

4 MR. UTTLEY: Yes.

5 THE CLERK: Vice President McGivern.

6 VICE PRESIDENT MCGIVERN: Yes.

7 THE CLERK: Mr. Erb.

8 MR. ERB: Yes.

9 THE CLERK: Mr. Carrier.

10 MR. CARRIER: Yes.

11 THE CLERK: Mr. Baker.

12 MR. BAKER: Yes.

13 THE CLERK: Mr. Iosue.

14 MR. IOSUE: Yes.

15 THE CLERK: 7-0.

16 VICE PRESIDENT MCGIVERN: I'll turn it
 17 back to you. I'm sorry. President Painter, I will
 18 turn it back over to you.

19 PRESIDENT PAINTER: Thank you. Just for
 20 the record, Ordinance 15-57 has passed and will take
 21 effect as provided for by law.

22 VICE PRESIDENT MCGIVERN: Thank you.

23 PRESIDENT PAINTER: Next up is Legislation
 24 Not Referred From Committee. Will the Clerk please

1 read that by title only.

2 THE CLERK: To provide for the submission
3 of a proposed charter amendment to the electors of
4 the City of Hilliard, Ohio, pursuant to Section 12.06
5 of the City's charter and declaring an emergency.

6 PRESIDENT PAINTER: Thank you.

7 And before we proceed any further, I just
8 want to make some comments with respect to Council.
9 As I understand our rules, City Council's review of
10 the petition circulated among our residents is to
11 determine that the form of the petition meets Ohio's
12 election laws. In making this decision, City Council
13 must not look into the substantive merits of what is
14 being proposed, rather our charge tonight is to
15 evaluate whether the form of the petition strictly
16 complies with Ohio law.

17 Having said that, for our third reading,
18 any final comments or questions from the
19 administration?

20 MS. BRADFORD: I believe there was some
21 correspondence sent to Ms. Fasone that she wanted to
22 read into the record and share with Council members.

23 THE CLERK: There's one e-mail in the drop
24 box from Mr. Bob Coenig, C-O-E-N-I-G:

1 "I have taken some time since signing the
2 petition for the charter amendment to better
3 understand the ramifications the amendment would have
4 on our community. Knowing what I know now, I would
5 not have signed the petition; and I will not support
6 its passage."

7 That is the only e-mail I received.

8 PRESIDENT PAINTER: Thank you.

9 MS. BRADFORD: In our review of the
10 petition, because it's of such a technical nature and
11 there's variance -- variance of the law that you will
12 need to look at pertaining to the Ohio Constitution
13 and the Ohio Revised Code, we have retained an
14 outside law firm to guide us in this matter.

15 There are a couple attorneys here.
16 Joe Miller and Chris Ingram from Vorys, Sater,
17 Seymour and Pease law firm will be helping you to
18 speak to this matter and answering questions that you
19 may have.

20 PRESIDENT PAINTER: Thank you.

21 Mr. Miller, will you state your full name
22 and address for the record.

23 MR. MILLER: Thank you. I'm
24 Joseph R. Miller with Vorys, Sater, Seymour, Pease,

1 52 East Gay Street, Columbus. Thank you for your
2 time tonight, members of Council.

3 President Painter, I'm here with my
4 colleague, Chris Ingram. We have indeed done what
5 Ms. Bradford charged us with, that is to review the
6 form of the petitions and advise Council here tonight
7 on their content as far as the requirements of this
8 Council and Ohio law.

9 Namely, as President Painter alluded to at
10 the outset, this City Council has an affirmative duty
11 under law to determine whether these petitions are
12 valid. The petitions came in to Ms. Fasone. She
13 sent them on, as she was allowed to do by Ohio law,
14 to the Board of Elections. The Board of Elections
15 has acted upon the sufficiency of the signatures,
16 reviewed the signatures, as is their charge under
17 law, and provided those petitions, along with the
18 signature count, back to this Council to now
19 determine if these petitions are valid on their face.

20 We are not, as President Painter alluded
21 to, evaluating the substance of the charter
22 amendment, whether it's a sound policy. That's not
23 the Council's job here tonight at all. Instead, it
24 is to look at the form of the petition to determine

1 whether they meet Ohio's Election Law requirements.

2 However, it is very important, and I can't
3 stress enough to Council tonight, to remember that
4 these petitions must strictly comply with Ohio's
5 Election Law requirements. The Supreme Court of Ohio
6 has repeatedly found that election laws are mandatory
7 and require strict compliance, so substantial
8 compliance is not acceptable. It is only acceptable
9 when the Election Provision says that it is.

10 Instead, the standard that has to guide you in your
11 review is strict compliance with each of the
12 requirements in the Ohio Constitution and the Ohio
13 Revised Code.

14 We have undertaken a review of the form of
15 these petitions and have identified three distinct
16 defects. First, the petition fails to identify a
17 title for the proposed measure. Ohio Revised Code
18 731.31 expressly requires petitions to include a
19 title for the proposal. The measure is required to
20 have a title under State election law, and this would
21 be one of those provisions where strict compliance is
22 required.

23 That is not simply my advice to you. That
24 is the law of the Supreme Court of Ohio, which has

1 been asked to determine whether that provision, the
2 title requirement, requires strict compliance. In
3 the Ash case, the Supreme Court found that, indeed,
4 it did. It was argued that omitting the title was
5 simply a technical defect; and the Supreme Court
6 rejected that argument and said, "No. Strict
7 compliance is required."

8 In that case, the Supreme Court held that,
9 quote, "More so than the text, the title immediately
10 alerts the signers to the nature of the proposed
11 legislation." Without that here, that is very
12 problematic. This requirement from the Revised Code
13 applies equally to this City's charter amendments,
14 because your charter does nothing to displace those
15 requirements.

16 In fact, the petitioners themselves
17 incorporated Revised Code 731.28 through 41 and all
18 of its requirements in the face of the petition
19 itself; and, likewise, the Hilliard City Charter is
20 very spare on this topic. It does nothing to
21 displace Ohio law, so that title requirement applies
22 fully. Strict compliance with it is necessary, and
23 it has not been met. There is no title on this
24 petition. The petition only includes text that the

1 circulators hope to include two new sections to the
2 charter's content.

3 Instead, looking at the heart of the
4 petition, you will see there was clearly room to
5 include a title to describe these two amendments
6 proposed to the charter. They could have said -- for
7 example, you could expect in here the petition
8 saying, "An amendment to add two new charters" --
9 "two new amendments to the City charter," addressing
10 and then describing the topics set forth in these two
11 sections. That doesn't exist here at all.

12 Meanwhile, these headings here cannot
13 satisfy Ohio's title requirement because the title
14 should cover the -- excuse me -- entire measure. The
15 section heading only addresses each separate section.
16 And, in any event, at least one of these headings
17 does nothing to, as the Supreme Court has asked,
18 alert the signer to the substance of the proposed
19 measure.

20 Referendum and effective date on some of
21 the ordinances, for instance. What that means to the
22 signer, I don't know. Instead, if the circulators
23 had followed the clear requirement under Ohio law to
24 describe these measures in one title, that would have

1 been satisfied. This would pass go.

2 Failure to identify a title leads to a
3 second defect in the petition. The petition fails to
4 specify how this proposal is even existing -- is even
5 revising or modifying existing law. The language of
6 the petition only suggests that it is, quote, "A
7 proposed amendment to the charter." But looking at
8 the text of the petition, it looks as though it is
9 existing law.

10 An amendment could mean different things:
11 existing law could be deleted, it could be replaced,
12 it could be modified. Here, the signer would have no
13 way to know that this is entirely a new law without
14 taking it and comparing it side by side to the
15 existing charter. There's no indication anywhere --
16 which probably could have been satisfied with a
17 title -- that this is, in fact, adding two entirely
18 new sections to the City's Charter.

19 And, third, the petitioners intentionally
20 modify the prescribed petition from the Secretary of
21 State in a way that is not permitted by the form or
22 contemplated by the law. If you look at each of
23 these petitions at the top of Page 2, it's been
24 inserted the name "Keep Hilliard Beautiful

1 Committee." At the top of Page 2 of the petition
2 form circulated by the Secretary of State, it says,
3 quote, "We hereby designate the following persons as
4 a committee to represent the petitioners in all
5 matters relating to the petition or its circulators,"
6 end quote.

7 And then the form, as well as Ohio Revised
8 Code 731.34, only addresses committee members' names
9 and residential addresses. That's filled in, but the
10 circulators took the extra step of adding in "Keep
11 Hilliard Beautiful Committee" to every single
12 petition. This is significant for a couple of
13 reasons. First, the form of the petition has been
14 materially altered, and this alteration was made
15 directly above where the signers were asked to place
16 their names in support of this.

17 Now, the name of the committee seemingly
18 has nothing to do with the actual proposal. It is
19 not a beautification project, for instance; and I
20 submit to you, who doesn't want to keep Hilliard
21 beautiful? And a key tenet in Ohio Election Law and
22 a big reason why these requirements exist under the
23 Ohio Revised Code is the goal that the electorate not
24 be mislead; so all of these requirements that have

1 not been met, individually or collectively, are
2 significant.

3 It may very well go to whether the
4 petitions themselves are misleading, which what was
5 read into the record earlier may indicate, or fails
6 to inform the voters on the actual substance on which
7 they are voting. Were these requirements met, we
8 likely have much to talk about tonight; but since
9 these requirements have not been met, these petitions
10 may be found by this Council not to be valid.

11 PRESIDENT PAINTER: Thank you. Any
12 questions or comments from administration or for
13 anybody else?

14 MR. CARRIER: I have a question.

15 PRESIDENT PAINTER: Sure. Mr. Carrier.

16 MR. CARRIER: Thank you.

17 Mr. Miller, one of the questions I have
18 is, you had said there right at the end, "Modifying
19 of the existing petition by using the heading Keep
20 Hilliard Beautiful." All three of your tenets -- or
21 all three of your arguments go to the nature of the
22 form itself, but is there anything in the petition
23 itself and the language of the petition if a person
24 reads it that's misleading?

1 MR. MILLER: The -- the text of the
2 amendment, Councilman Carrier, is set forth; however,
3 what wasn't met was the absolute requirement in the
4 Ohio Revised Code that entitled it so that the voters
5 could be informed.

6 MR. CARRIER: And what section of the Code
7 are you referencing?

8 MR. MILLER: I believe that's 731.31, but
9 I'll find it here in a moment and give that to you
10 where a title is required. And then, likewise, as it
11 relates to Keep Hilliard Beautiful, your other
12 question there, 731.34 addresses what should be on
13 the form. It's the names and addresses of the
14 members. There was no need, no requirement, in fact,
15 no allowance under Ohio law to modify the petition to
16 add a title, such as Keep Hilliard Beautiful, right
17 above where a person signed.

18 MR. CARRIER: So by --

19 MR. MILLER: And I apologize for
20 interrupting, but just to finish that thought, it is
21 731.31 which contains the title requirement.

22 MR. CARRIER: The title requirement. So
23 the title Keep Hilliard Beautiful, while it was
24 added, what's -- that alteration to the form is what

1 you are saying is the defect?

2 MR. MILLER: Yes. That is a defect, and
3 that's material; because it could very well mislead
4 those who signed below.

5 MR. CARRIER: Wouldn't you want full
6 disclosure of your petition circulators to let them
7 know their affiliation with the group that is
8 circulating the petition?

9 MR. MILLER: That is already provided.
10 The circulator has to identify themselves and sign
11 attesting to each of the signatures, but there is no
12 need to insert a title characterizing what the
13 initiative is, "Keep Hilliard Beautiful."

14 MR. CARRIER: But if they were to say that
15 verbally, it wouldn't be a problem, correct?

16 MR. MILLER: Well -- no. Actually, it
17 could be a problem; because 731.36 requires that you
18 cannot directly or indirectly misrepresent contents
19 of a position -- of a petition. Whatever the
20 circulator said orally is also to remain as to
21 whether this was obtained validly. I am simply
22 commenting for Council tonight; but on the face of
23 this petition on this form, there are three distinct
24 defects that advises this Council it is not valid.

1 MR. CARRIER: Thank you.

2 PRESIDENT PAINTER: Anybody else?

3 Mr. Uttley.

4 MR. UTTLEY: I just want to express that
5 I'm concerned about what you have -- what you have
6 said as far as if we were to -- to pass this that
7 we're -- I mean, I'm not qualified to judge whether
8 this petition is valid or not. It would make sense
9 to me that -- that -- that we not pass this and allow
10 the -- the appropriate bodies or authorities of the
11 State of Ohio, or whatever that would be, to -- to
12 rule on the validity of this -- of this petition and
13 not put something forward that may be defective.

14 Thank you.

15 PRESIDENT PAINTER: Anybody else?

16 Mr. Iosue.

17 MR. IOSUE: Thank you, Mr. President.

18 Thank you very much for being here. From
19 what I have heard this evening from legal counsel, I
20 have heard that there are three defects that are
21 evident from the face of the petition; and from what
22 you have told us, those are that the petition fails
23 to include a title for the proposed measure even
24 though the Revised Code 731.31 expressly requires

1 one.

2 MR. MILLER: Correct.

3 MR. IOSUE: Secondly, is that there is no
4 indication anywhere on the petition that the text
5 specified in the petition would be entirely new
6 provisions to our charter. Anyone who signs the
7 petition would need to have a copy of our current
8 charter in order to know that the petition is
9 proposing to add two new section to the City Charter.

10 MR. MILLER: Right.

11 MR. IOSUE: And then, third, the
12 petitioners altered the prescribed petition form and
13 added a reference to Keep Hilliard Beautiful
14 Committee where no committee name is permitted on the
15 form. It is also concerning that the alteration was
16 made on the form just above where people were asked
17 to sign it.

18 And worse, last week, we heard right here
19 in Council chambers, I think, Vice President McGivern
20 asked the question that Keep Hilliard Beautiful
21 Committee was not even a formal committee name, nor
22 is the proposed amendment a beautification project,
23 as the committee name implies.

24 I think these defects tell us two things:

1 One is that, as you have already stated, that the
2 petition fails to comply with Ohio Election Law; and,
3 two, people were misled when they were asked to sign
4 the petition. With those two concerns of mine, I
5 personally cannot, in good conscious, vote to approve
6 this petition as being valid under Ohio; and I would
7 urge my fellow Council members to vote no tonight on
8 Ordinance 15-61. Thank you.

9 PRESIDENT PAINTER: Anybody else?

10 Please call the roll.

11 THE CLERK: Vice President McGivern.

12 VICE PRESIDENT MCGIVERN: No.

13 THE CLERK: President Painter.

14 PRESIDENT PAINTER: No.

15 THE CLERK: Mr. Iosue.

16 MR. IOSUE: No.

17 THE CLERK: Mr. Uttley.

18 MR. UTTLEY: No.

19 THE CLERK: Mr. Erb.

20 MR. ERB: No.

21 THE CLERK: Mr. Baker.

22 MR. BAKER: Yes.

23 THE CLERK: Mr. Carrier.

24 MR. CARRIER: Yes.

1 THE CLERK: Two yeas and five nays.

2 PRESIDENT PAINTER: Thank you.

3 Ordinance 15-61 has -- has been voted
4 down -- has failed. Thank you. And it -- we will
5 move on.

6 Next up is Postponed Legislation. That is
7 the one hanging over January 11th, 2016. Anybody
8 signed in?

9 THE CLERK: I have no one signed in.

10 PRESIDENT PAINTER: Thank you.

11 President's Communications: I hope you all
12 have a very, very, very merry Christmas. I really
13 do. It has been a long couple of months. Enjoy this
14 break, and we will see you back here on January 4th.

15 Mayor, anything?

16 MAYOR SCHONHARDT: I wish to all of you
17 the merriest of Christmas. Have a safe holiday, and
18 we will see you in the new year. Thank you.

19 PRESIDENT PAINTER: David.

20 MR. DELANDE: Happy holidays.

21 PRESIDENT PAINTER: Tracy.

22 MS. BRADFORD: Merry Christmas.

23 PRESIDENT PAINTER: And happy birthday to
24 you.

1 MS. BRADFORD: Yeah.

2 PRESIDENT PAINTER: And thank you very
3 much.

4 MR. CARRIER: December birthdays get
5 robbed.

6 PRESIDENT PAINTER: Mr. Mazer.

7 MR. MAZER: No report. Just have -- just
8 have a merry Christmas.

9 PRESIDENT PAINTER: Butch.

10 MR. SEIDLE: I want to let Council know
11 that we can pick up this week, and we start doing the
12 curbing work before close up; and then we will be on
13 an as-needed basis. If somebody still needs
14 something, we will be able to call and dispatch them
15 as needed.

16 PRESIDENT PAINTER: Doug.

17 MR. FRANCIS: I have no report. Have a
18 good holiday.

19 PRESIDENT PAINTER: Mr. Meeks.

20 MR. MEEKS: Merry Christmas, and I will
21 make sure to send you all pictures from the ballgame.

22 PRESIDENT PAINTER: I take back my merry
23 Christmas. Enjoy it.

24 MR. EDWARDS: No report.

1 PRESIDENT PAINTER: Thank you,
2 Mr. Edwards.

3 Chief.

4 CHIEF FISHER: No report. Merry Christmas
5 to you.

6 PRESIDENT PAINTER: And while we're here,
7 thank you very much to your office. That was
8 wonderful and positive feedback, and thank you to all
9 your officers for taking their time out. That was
10 great, I'm sure, for those kids.

11 Mr. Iosue.

12 MR. IOSUE: Chief, can I ask you to give
13 us a 15-second summary of that, how many children
14 went to Target and how many officers participated?
15 It's a wonderful program, and I'm glad we did it.

16 CHIEF FISHER: I was actually hoping to
17 wait until I had some photos to share with you.

18 MR. IOSUE: You can sit back down.

19 CHIEF FISHER: No, no. I would be happy
20 to share a little bit today. You know, it was
21 extremely rewarding to those of us that participated
22 in addition to the kids. Sergeant Morocco, just as
23 an example, said that the little girl that she had
24 with her Saturday morning made a statement very early

1 in the day that this was the best day of her life.
2 And just to see the -- the joy on the faces of the
3 kids was extremely rewarding to us, just a fantastic
4 day.

5 We even had one of the shoppers -- I had a
6 number of the shoppers at Target that thanked us, but
7 we had one lady that came up and wanted to buy an
8 extra gift for one of the kids as well that she had
9 been kind of watching in the aisle; so it is very
10 neat to see, and very, very, very humbling to be a
11 part of. Had a great time.

12 And I -- we do have a number of photos
13 that we would like to share with you. We -- they're
14 all right now on a -- on a flash drive. Heidi was
15 out today, had some family issues; and so when she
16 gets back, I'll have some -- some photos I can share
17 with you so you can see what we actually got to do.
18 A great day, very great, great day.

19 I think next year we are going to try to
20 make it even a little bit bigger and try to do a
21 little bit more, but I think Saturday was very --
22 very good for us.

23 MR. IOSUE: Well, again, thank you; and
24 thanks to all of your staff for doing that. It's a

1 great thing to do for your community. Thank you,
2 very much.

3 CHIEF FISHER: I appreciate, again, all
4 the support from you; because that really helped us
5 in reaching that goal we needed to be able to sponsor
6 the 11 children.

7 PRESIDENT PAINTER: Was it four
8 originally, or was it 11?

9 CHIEF FISHER: No. We originally had
10 sought at least to do four, and we were fortunate
11 enough to have enough funds to do 11. One of the
12 things we did as well for those that needed coats or
13 gloves or boots or something like that, we spoke with
14 the parents in advance and, you know, did some
15 shopping for clothing as well while we were there.
16 So a number of the kids came out with a nice new
17 winter coat, and so they were very proud of that. A
18 few of them had some new shoes too, so a great day.

19 PRESIDENT PAINTER: One last thing. We
20 have a couple new officers?

21 CHIEF FISHER: We do. We do. I know a
22 number of you were able to join us today, but welcome
23 to our HPD family. Johnathan Kitching is here today,
24 so they will be with us this week and start the

1 Academy next week. A fun-filled six months for them.

2 PRESIDENT PAINTER: I apologize some of us
3 didn't get there. I know we were tied up, but please
4 welcome them on our behalf.

5 CHIEF FISHER: Absolutely. Thank you.

6 PRESIDENT PAINTER: Thank you very much.

7 We have one last issue, and that is the
8 adoption of the 2016 City Council meeting dates. Has
9 anybody had an opportunity to look at that?

10 VICE PRESIDENT MCGIVERN: I move for the
11 approval of the meeting dates.

12 MR. IOSUE: Second.

13 PRESIDENT PAINTER: All in favor, say aye.

14 (Multiple speakers say "Aye.")

15 PRESIDENT PAINTER: The meeting dates are
16 approved. And I will note for the record, our
17 organizational meeting is January 4th at 6:30.

18 THE CLERK: Correct.

19 PRESIDENT PAINTER: I remembered that.

20 So, with that --

21 MR. EDWARDS: Sorry. President Painter, I
22 forgot to mention, tomorrow is our office Christmas
23 party. Council members are invited. Starts at
24 11:30, goes to 2, with the exception of Dave Delande,

1 who it's all day long up to 5 o'clock.

2 PRESIDENT PAINTER: Well, merry Christmas,
3 everybody. Happy New Year. Is there a motion to
4 adjourn?

5 MR. IOSUE: So moved.

6 PRESIDENT PAINTER: Is there a second?

7 VICE PRESIDENT MCGIVERN: Second.

8 PRESIDENT PAINTER: Thank you,
9 Ms. McGivern. All in favor?

10 (Multiple speakers say "Aye.")

11 PRESIDENT PAINTER: Thank you.

12 - - -

13 And, thereupon, the meeting was concluded
14 at approximately 6:58 p.m.

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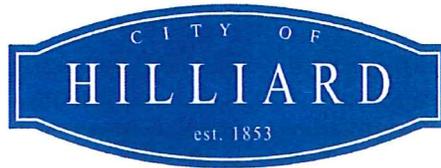
C-E-R-T-I-F-I-C-A-T-E

I do hereby certify that the foregoing is a true, correct and complete written transcript of the proceedings in this matter, taken by me on this day of December 14, 2015, and transcribed from my stenographic notes.

Shana Graves
Shana Graves, Notary Public
in and for the State of Ohio
and Professional Reporter



My Commission expires May 22, 2019.



Ordinance: 14-32
Page: 1 of 2

Passed: November 10, 2014
Effective: December 10, 2014

**ENACTING CHAPTER 753 OF THE CITY'S CODIFIED
ORDINANCES TO REGULATE AND PERMIT MOBILE FOOD
VENDING UNITS IN THE CITY.**

WHEREAS, opportunities exist at recreational and sporting events taking place in the City's parks and at special events in various areas of the City where it would be a benefit to the public to permit mobile food vending units (often called "food trucks") to sell food and refreshments to the public; and

WHEREAS, while Chapter 750 regulates pushcart operations in the City, there is a need to permit mobile food vending units in the City and to establish specific mobile food vending regulations to preserve the public's health, safety and welfare; and

WHEREAS, the City desires to enact Chapter 753 of the City's Codified Ordinances, attached hereto as Exhibit "A" and incorporated herein, that permits the City's Safety Director to issue mobile food vending permits to qualifying applicants that satisfy the requirements of that Chapter; and

WHEREAS, these regulations will require that all food trucks be licensed and inspected by the county and/or state department of health as required by law, and that the owner and operator have successfully completed a criminal background check; and

WHEREAS, upon application for a mobile food vending permit from the City, the City will recognize the validity of an applicant's current mobile food vending permit and/or license from an Ohio political subdivision whose requirements mirror that of Chapter 753 and will issue a permit on that basis; and

WHEREAS, mobile food vending units must meet all dimension and constructability requirements of the code, must at all times operate in a safe manner, and mobile food vending units may only vend at designated locations during specific times as defined in a Hilliard issued mobile food vending permit.

NOW, THEREFORE, BE IT ORDAINED by the Council of Hilliard, Ohio, that:

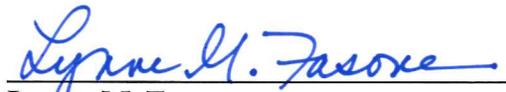
SECTION 1. Chapter 753, **attached** hereto as Exhibit “A” and incorporated as if fully rewritten herein, is adopted by Council and shall hereafter be included in the City’s Codified Ordinances.

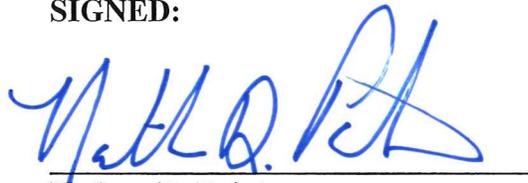
SECTION 2. The City’s Director of Safety is authorized to adopt rules and regulations and to draft and use any and all forms and applications necessary to implement Chapter 753. The City shall charge an application fee of \$100 for an applicant that does not have a valid and existing permit or license issued by an Ohio political subdivision; a fee of \$75 for an applicant that already has a valid and existing transient vendor’s permit issued by the City of Hilliard; and a fee of \$50 for an applicant that already has a valid and existing permit or license with an Ohio political subdivision, if that applicant has successfully passed a criminal background check by that political subdivision as part of its mobile food vending permitting and/or licensing process. If not, then the fee is \$75. These fees shall be included in Chapter 190 of the City’s Codified Ordinances and may be modified by Resolution of Council.

SECTION 3. This Ordinance shall be in effect from and after at the earliest time provided by law.

ATTEST:

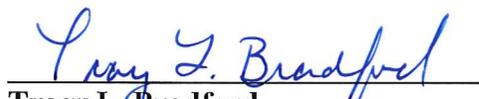
SIGNED:

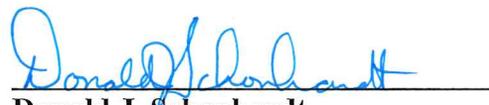

 Lynne M. Fasone
 Clerk of Council


 Nathan D. Painter
 President of Council

APPROVED AS TO FORM:

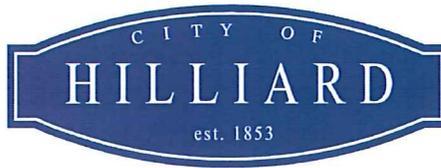
APPROVED:


 Tracy L. Bradford
 Director of Law


 Donald J. Schonhardt
 Mayor

Ordinance 14-32

VOTE	Yea	Nay	Abstain
Baker	✓		
Carrier	✓		
Erb	✓		
Iosue	✓		
McGivern	✓		
Painter	✓		
Uttley	✓		
TALLY	7	0	0



Ordinance: 14-23
Page: 1 of 1

Passed: July 14, 2014
Effective: August 14, 2014

AMENDING CHAPTER 917 WEEDS OF THE CITY'S CODIFIED ORDINANCES TO ESTABLISH DEFINITIONS AND TO MODIFY NOTICE REQUIREMENTS.

WHEREAS, the City desires to establish a more definite code that contains the minimum standards and requirements for the application, enforcement and administration of Chapter 917 Weeds of the City's Codified Ordinances; and

WHEREAS, the City desires to amend Chapter 917 to establish a definitions section and to provide the City's Zoning Inspector, or designee, with additional options by which to notify property owners of Chapter 917 code violations for the overgrowth of weeds and grass; and

WHEREAS, providing additional methods by which to serve property owners with Chapter 917 violations will decrease the time by which the City must wait to abate the nuisance often-times caused by absentee landlords who do not sign for certified mail or do not live in the City for which personal service may be made; and

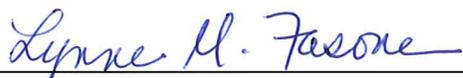
WHEREAS, amending Chapter 917 per Exhibit "A", attached hereto and incorporated herein, is in the best interest of the City and is necessary for the general health, welfare and safety of its citizens.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, that:

SECTION 1. Council finds that based on the information contained in the preamble hereof, Chapter 917 shall be amended as provided in Exhibit "A", **attached** hereto and incorporated herein. New language for Chapter 917 is underlined and deleted language is stricken.

SECTION 2. This Ordinance is effective from and after the earliest period provided by law.

ATTEST:


Lynne M. Fasone
Clerk of Council

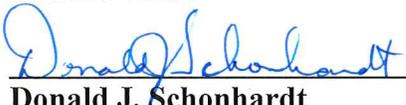
SIGNED:


Nathan D. Painter
President of Council

APPROVED AS TO FORM:


Tracy L. Bradford
Director of Law

APPROVED:


Donald J. Schonhardt
Mayor

VOTE	Yea	Nay	Abstain
Baker	✓		
Carrier	✓		
Erb	- Excused -		
Iosue	✓		
McGivern	✓		
Painter	✓		
Uttley	✓		
Results:	6	0	0



Ordinance: 14-29
Page: 1 of 3

Passed: October 27, 2014
Effective: November 27, 2014

REPEALING ALL CHAPTERS CONTAINED IN PART ELEVEN – “PLANNING AND ZONING CODE” OF THE CITY’S CODIFIED ORDINANCES AND ENACTING A NEW PART ELEVEN - “PLANNING AND ZONING CODE”, AND ALL CHAPTERS CONTAINED THEREIN, WHICH SHALL BECOME A PART OF THE CITY’S CODIFIED ORDINANCES; AND ADOPTING A NEW OFFICIAL ZONING MAP FOR THE CITY; AND ADOPTING A DEVELOPMENT HANDBOOK.

WHEREAS, by the passage of Ordinance No. 11-36, City Council adopted a new Comprehensive Plan (the “Plan”) that provided the City with updated land use, transportation and public spaces plans for the City upon which to guide the City’s growth and redevelopment strategies; and

WHEREAS, the Plan included revising land-use and planning regulations of the City’s Codified Ordinances, including revisions to the City’s zoning code and subdivision and development standards; and

WHEREAS, on December 20, 2012, the City issued a Request for Proposals (“RFP”) to qualified firms, which RFP outlined the work to be performed, proposal criteria and evaluation process in order to provide the requested services, which RFP identified the requested services as Priority No. 2 of CIP AP-7 (the “Services”); and

WHEREAS, OHM Advisors (“OHM”) submitted a proposal, which the City evaluated and determined that the firm, and its sub-consultant LSL Planning Inc., was qualified by knowledge, experience and leadership to provide the requested Services; and

WHEREAS, during 2013-14 OHM has worked diligently with City staff to rewrite the City’s zoning code contained in Part Eleven of the City’s Codified Ordinances (the “New Planning and Zoning Code”) so that chapters contained therein effectuate the types and quality of development contemplated in various zoning districts that are consistent with the City’s Comprehensive Plan ; and

WHEREAS, OHM has briefed City Council on a regular basis as to their progress and have provided memos detailing the new chapters, their significance and the changes made compared to the City’s current zoning code chapters; and

WHEREAS, on July 10, 2014, at its regularly scheduled meeting, the City’s Planning and Zoning Commission voted to recommend to City Council that it repeal Part Eleven of the City’s Codified Ordinances and that it enact the New Planning and Zoning Code as presented by OHM; and

WHEREAS, the Administration believes that the New Planning and Zoning Code, attached hereto as “Exhibit A” and incorporated as if fully rewritten herein, will make a significant impact on development in the City and recommends its adoption by City Council; and

WHEREAS, consistent with the newly formed districts contained in the New Planning and Zoning Code, the City needs to adopt the “City of Hilliard Official Zoning Map dated October 27, 2014”, attached hereto as Exhibit “B”; and

WHEREAS, in conjunction with the preparation of the new Planning and Zoning Code, OHM prepared a 2014 Development Handbook that will assist staff and members of public regarding the processes to be followed and requirements to be met for development projects in the City, which the Administration recommends approval by Council.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. City Council finds that repealing all chapters contained in Part Eleven – “Planning and Zoning Code” of the City’s Codified Ordinances, being Chapters 1105 through 1192, is in the City’s best interest. From and after the effective date of this Ordinance, Part Eleven – “Planning and Zoning Code” is repealed in its entirety.

SECTION 2. City Council finds that the enactment and adoption of Part Eleven – “Planning and Zoning Code” in the form **attached** hereto as Exhibit “A” and incorporated as if fully rewritten herein, is in the City’s best interest as those chapters more fully encompasses planning and development uses and standards contemplated in the City’s Master Plan. From and after the effective date of this Ordinance, Part Eleven – Planning and Zoning Code of the City’s Codified Ordinances contained in Exhibit “A” is enacted and shall be in full force and affect.

SECTION 3. City Council finds that consistent with the New Planning and Zoning Code and zoning districts contained therein, Council adopts the “City of Hilliard Official Zoning Map dated October 27, 2014”, **attached** hereto as Exhibit “B”.

SECTION 4. The Development Handbook dated 2014 (“Handbook”), **attached** hereto as Exhibit “C” and incorporated herein, is adopted by the City as a document to development guide for staff and the public. Routine updates and changes to the Handbook are authorized and permitted to be made by the Administration from time to time, which changes will not be inconsistent with the provisions and/or requirements contained in Part Eleven – “Planning and Zoning Code” of the City’s Codified Ordinances. Copies of the Handbook shall be available to the public for inspection at the City Engineer’s Office.

SECTION 5. The Clerk of Council shall forthwith provide copies of the attached documents to the Hilliard Branch of the Franklin County Public Library and the Clerk shall post the new Planning and Zoning Code, as well as the Development Handbook, on the City's website upon the effective date of this Ordinance.

SECTION 6. This Ordinance shall be in full force and effect from and after the earliest time provided for by law.

ATTEST:

SIGNED:



Lynne M. Fasone
Clerk of Council



Nathan D. Painter
President of Council

APPROVED AS TO FORM:

APPROVED:



Tracy L. Bradford
Director of Law



Donald J. Schonhardt
Mayor

Ordinance 14-29

VOTE:	Yea	Nay	Abstain
Baker	✓		
Carrier	✓		
Erb	✓		
Iosue	✓		
McGivern	✓		
Painter	✓		
Uttley	✓		
TALLY	7	0	0

8. Respondent's Exhibit 7 is a true and accurate copy of the notice for the December 7, 2015 Hilliard City Council meeting.

9. Respondent's Exhibit 8 is a true and accurate copy of the agenda for the December 7, 2015 Hilliard City Council meeting.

10. Respondent's Exhibit 9 is a true and accurate copy of Relator Lambert's written comments submitted to Hilliard City Council for the December 7, 2015 Hilliard City Council meeting.

11. Respondent's Exhibit 10 is a true and accurate copy of the notice for the December 14, 2015 Hilliard City Council meeting.

12. Respondent's Exhibit 11 is a true and accurate copy of the agenda for the December 14, 2015 Hilliard City Council meeting.

13. Respondent's Exhibit 12 is a true and accurate copy of e-mail correspondence regarding the Petition that was submitted to me, Clerk of the Hilliard City Council, for the December 14, 2015 Hilliard City Council meeting.

14. Respondent's Exhibit 16 is a true and accurate copy of Ordinance 14-32, without exhibits thereto.

15. Respondent's Exhibit 17 is a true and accurate copy of Ordinance 14-23, without exhibits thereto.

16. Respondent's Exhibit 18 is a true and accurate copy of Ordinance 14-29, without exhibits thereto.

Further Affiant sayeth naught.

Lynne M. Fasone
Lynne Fasone
Clerk of the Hilliard City Council

Subscribed and sworn to me this 28th day of December, 2015.

Shellie A. Sivert
Notary Public

My commission expires on 12-10-2016.



Shellie A. Sivert
Notary Public, State of Ohio
My Commission Expires 12-10-2016

IN THE SUPREME COURT OF OHIO

STATE EX REL. LES CARRIER, et al., :
Relators, :
v. :
HILLIARD CITY COUNCIL, :
Respondent. :

Case No. 2015-2061
ORIGINAL ACTION IN MANDAMUS
EXPEDITED ELECTIONS MATTER
PURSUANT TO S. CT. R. PRAC. 12.08

AFFIDAVIT OF TRACY BRADFORD

STATE OF OHIO :
COUNTY OF FRANKLIN :

I, Tracy Bradford, having been first duly cautioned and sworn, hereby depose and state the following:

- 1. I am the Hilliard City Law Director. I have personal knowledge of the facts set forth herein and am competent to testify to all matters stated herein.
2. Respondent's Exhibit 13 is a true and accurate copy of December 20 - 21, 2015 e-mail correspondence between Relators' counsel and me, Hilliard City Law Director.
3. Respondent's Exhibit 14 is a true and accurate copy of relevant excerpts from the transcript of the December 7, 2015 Hilliard City Council meeting.
4. Respondent's Exhibit 15 is a true and accurate copy of relevant excerpts from the transcript of the December 14, 2015 Hilliard City Council meeting.

Further Affiant sayeth naught.

Tracy J. Bradford
Tracy Bradford
Hilliard City Law Director

Subscribed and sworn to me this 28 day of December, 2015.

Lynne M. Fasone
Notary Public

My commission expires on 05-24-2017



Lynne M. Fasone
Notary Public, State of Ohio
My Commission Expires 05-24-2017