

COUNCIL AGENDA

February 7, 2022

Committee and Council Meetings can be viewed by accessing YouTube

*** Due to COVID the meeting location is subject to change based on the current situation*

Council Chambers
7:00 P.M.

ROLL CALL

INVOCATION – Michael Houser

PLEDGE OF ALLEGIANCE – Kaitlyn Stevens – Par Excellence Academy

CAUCUS

MINUTES of January 18, 2022

APPOINTMENTS

REPORTS OF STANDING COMMITTEES

Finance
Service

REPORTS FROM CITY OFFICIALS

COMMUNICATIONS

Ohio Division of Liquor Control –New Liquor permit application for Ohio Springs Inc. dba Sheetz, 815 N. 21st Street, Newark, oh 43055

Ohio Department of Agriculture – Gypsy Moth Program

PUBLIC HEARING

22-06 A RESOLUTION APPROVING THE ESTABLISHMENT OF A NEW COMMUNITY AUTHORITY PURSUANT TO OHIO REVISED CODE CHAPTER 349; DETERMINING THE METHOD OF SELECTING THE BOARD OF TRUSTEES OF THE NEW COMMUNITY AUTHORITY; MAKING THE CITY'S APPPOINTMENTS TO THE BOARD OF TRUSTEES; AND MAKING RELATED AUTHORIZATIONS AND DECLARING AN EMERGENCY.

COMMENTS FROM CITIZENS

ORDINANCES ON SECOND READING

22-01 AN ORDINANCE VACATING A PORTION OF A SIXTEEN (16) FOOT WIDE ALLEY AS SHOWN ON THE PLAT OF CHARLES G. PENNEY'S 1st ADDITION, AS RECORDED IN PLAT BOOK 2, PAGE 454 OF THE LICKING COUNTY PLAT RECORDS, AND ON THE PLAT OF CHARLES G. PENNEY'S 2nd ADDITION, AS RECORDED IN PLAT BOOK 3, PAGE 263 OF THE LICKING COUNTY PLAT RECORDS; SAID ALLEY IS LOCATED EAST OF NORTH CEDAR STREET, BETWEEN EAST MAIN STREET AND TUSCARAWAS STREET.

ORDINANCES ON FIRST READING

There are none this meeting

RESOLUTIONS ON SECOND READING

22-03 West Main Street Bridge over State Route 79 - Replace superstructure (Box beams with new box beams), composite deck, replace sidewalks, expansion joints, clean and seal backwalls and beam seats. Consider transverse post-tensioning box beams. Replace fence on bridge. Consider using half-width construction.

22-04 Resurfacing and related work. Mill / Fill on LIC State Route 16 and State Route 79 including all associated ramps. Mill under all overhead bridges to maintain the vertical clearance.

RESOLUTIONS ON FIRST READING

22-05 Expedite A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$14,000 -Payout of Comp Time for Ivica Brnjic promoted to Deputy Chief) (\$7,000.00 -Termination Payout for Roger Ferrell resigning 12.22.21 from Cemetery/Parks) (\$13,500.00 -OPT) (\$13,500.00 -Temporary Services) (\$23,000.00 -Payout for retiring Firefighter Michael McNamara)
(\$20,000 – Unemployment) (\$103,290.00 – Humane Agent Services for 2020)

22-07 A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$4,241.00 - Insurance money from stolen tractor) (\$3,000 – Refund of City Cremations)

COMMENTS FROM CITIZENS

MISCELLANEOUS

ADJOURNMENT

Resolution No. 22-06

A RESOLUTION APPROVING THE ESTABLISHMENT OF A NEW COMMUNITY AUTHORITY PURSUANT TO OHIO REVISED CODE CHAPTER 349; DETERMINING THE METHOD OF SELECTING THE BOARD OF TRUSTEES OF THE NEW COMMUNITY AUTHORITY; MAKING THE CITY'S APPOINTMENTS TO THE BOARD OF TRUSTEES; AND MAKING RELATED AUTHORIZATIONS AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code ("R.C.") Chapter 349 (the "Act") provides that "developers" (as defined in the Act) may petition for the establishment of a New Community Authority ("NCA"); and

WHEREAS, on January 3, 2022, Stephen T. Layman, Trustee, James R. Havens and Maureen K. Havens (collectively, the "Developer") filed with the City of Newark, Ohio (the "City") a petition under R.C. Section 349.03 (the "Petition") for the establishment of an NCA named the "Cherry Valley New Community Authority" (the "Cherry Valley NCA") inclusive of approximately 26.56 acres of real property located in the City and owned by the Developer (the "Property," as depicted on Exhibit A attached hereto and incorporated herein by this reference) to provide for the construction of certain "community facilities"; and

WHEREAS, this Council constitutes the "organizational board of commissioners" for the proposed Cherry Valley NCA, as that term is defined in R.C. Section 349.01(F); and

WHEREAS, the Petition provides that the establishment of the Cherry Valley NCA will be conducive to the public health, safety, convenience and welfare, and that such land to be included within the Cherry Valley NCA is owned by or is under the control of the Developer within the meaning of R.C. Section 349.01(E); and

WHEREAS, on January 3, 2022, City Council passed Resolution No. 21-89 finding that the Petition met the requirements of the Act, and fixing the date of a public hearing; and

WHEREAS, on February 7, 2022, City Council held the required public hearing for the establishment of the Cherry Valley NCA; and

WHEREAS, after the public hearing, the Act requires City Council to pass a resolution determining whether the establishment of the NCA will be conducive to the public health, safety, convenience and welfare, and is intended to result in the development of a new community; and

WHEREAS, pursuant to the Act and the Petition, City Council is required to provide the method of selecting members of the board of trustees of the NCA (the "Board") and to select three citizen members and one representative of local government to serve on the Board;

NOW, THEREFORE, BE IT RESOLVED by City Council for the City of Newark, Ohio, that:

Section 1. This Council finds and determines that the establishment of the Cherry Valley NCA as described in the Petition will be conducive to the public health, safety, convenience and welfare, and is intended to result in the development of a new community. Thus, this Council hereby declares the Cherry Valley NCA to be organized and a body politic and corporate. The boundaries of the NCA shall be inclusive of the entirety of the Property, as shown on Exhibit A.

Section 2. The corporate name of the NCA shall be the "Cherry Valley New Community Authority."

Section 3. The Board will be comprised of seven (7) members as specified in the Petition. The method of selecting members of the Board shall be as described in this Section 3. The Board shall consist of (i) three citizen members appointed by City Council, (ii) one representative of local government appointed by City Council, and (iii) three members appointed by the Developer. Each Board member shall serve two-year overlapping terms, with two of each of the initial citizen and developer members appointed to serve initial one-year terms. So long as any obligations issued to finance community facilities within the Cherry Valley NCA are outstanding, (i) City Council shall continue to appoint replacement citizen members and the representative of local government upon the expiration of that member's term or resignation by that member unless the City determines, by ordinance or resolution of City Council, that such citizen members of the Board and the representative of local government shall be elected in the manner prescribed by R.C. Sections 349.04(A) and (C), and (ii) the Developer shall continue to appoint replacement representatives of the Developer to the Board upon the expiration of that member's term or resignation by that member unless the Developer determines, by delivering notice to the City, that such members of the Board shall be elected in the manner prescribed by R.C. Section 349.04(B).

City Council hereby appoints Tanner Marmie, Andrew Guanciale and Mark Mauter to serve as the three citizen members of the Board, and Jeff Rath to serve as the representative of local government. City Council requests that the Developer provide its appointments to the City in writing as soon as practicable after the passage of this Resolution.

Section 4. Pursuant to R.C. Section 349.04, there will be posted for each member of the Board a bond in the amount of \$10,000.00 for the faithful performance of his or her duties. The bond will be with a company authorized to conduct business within the State of Ohio as a surety.

Section 5. The Mayor and other appropriate officers of the City are authorized and directed to take such actions and make such arrangements that are consistent with the purpose of this Resolution and necessary for the establishment, operation and future growth of the Cherry Valley NCA.

Section 6. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution, and that all deliberations of this

Council and of any committees that resulted in those formal actions, were taken in meetings open to the public in compliance with the law.

Section 7. This Resolution shall take effect and be in force from and after the earliest period permitted by law.

Don Ellington, President of Council

Passed/Adopted: _____

Jeff Hall, Mayor

Date Filed with Mayor: _____

Attest:

Janine Paul, Clerk of Council

I certify that this
Resolution is correct as to form.

Tricia M. Moore, Director of Law

EXHIBIT A
DEPICTION OF THE CHERRY VALLEY NCA
(attached hereto)

EXHIBIT A

Map and Description of District Boundaries

The District is comprised of the property identified and described below.



Parcels:

054-216630-00.000

054-216642-00.002

054-216720-00.000

054-216702-00.000 (Portion)

ORDINANCE NO: 22-01

BY: _____

AN ORDINANCE VACATING A PORTION OF A SIXTEEN (16) FOOT WIDE ALLEY AS SHOWN ON THE PLAT OF CHARLES G. PENNEY'S 1ST ADDITION, AS RECORDED IN PLAT BOOK 2, PAGE 454 OF THE LICKING COUNTY PLAT RECORDS, AND ON THE PLAT OF CHARLES G. PENNEY'S 2ND ADDITION, AS RECORDED IN PLAT BOOK 3, PAGE 263 OF THE LICKING COUNTY PLAT RECORDS; SAID ALLEY IS LOCATED EAST OF NORTH CEDAR STREET, BETWEEN EAST MAIN STREET AND TUSCARAWAS STREET.

WHEREAS, Newark City Council received a petition from owners of real estate in the City of Newark praying for the herein described alley vacation; and,

WHEREAS, the Street Committee of the City of Newark met on January 3, 2022, and considered the procedure as outlined in Section 723.06 of The Ohio Revised Code whereby notice of the intention to vacate is not required, and approved the preparation and submittal of this legislation for Council consideration, in accordance with Section 723.06 of The Ohio Revised Code; and,

WHEREAS, this Council finds there is good cause for such vacation and that such vacation will not be detrimental to the general interest.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, AND STATE OF OHIO; THAT:

Section 1: The following described alley is hereby vacated, reserving, however, unto the City of Newark, Ohio, its successors and assigns, easements for construction, maintenance, and operation of various utilities, publicly owned and otherwise, to wit:

Being in the State of Ohio, County of Licking, City of Newark, and being a portion of a sixteen (16') foot wide alley lying between East Main Street and Tuscarawas Street as shown on the Plat of Charles G. Penney's 1st Addition as recorded in Plat Book 2 at Page 454, and the Plat of Charles G. Penney's 2nd Addition as recorded in Plat Book 3 at Page 263 of the Licking County Plat Records, and being more particularly described as follows:

Beginning for a point of reference at the northwest corner of Lot 5385 of said Penney's 2nd Addition, said point being on the south line of Tuscarawas Street and the east line of the subject alley;

Thence, south along the west line of Lot 5385 a distance of 38.0 feet to a point marking the True Place of Beginning of the alley to be vacated;

Thence from the True Place of Beginning, south along the west line of Lot 5385 to the southwest corner of said Lot 5385;

Thence south along the extension of the west line of Lot 5385 to the north line of Lot 2787 of Penney's 2nd Addition, said point being on the south line of the subject alley;

Thence, west along the north lines of Lots 2787, 2786, 2785 and 2784 to the northwest corner of Lot 2784, said point being on the east line of North Cedar Street and the south line of the subject alley;

Thence, north crossing said alley, to the southwest corner of Lot 5384 of said Penney's 2nd Addition;

Thence, east along the south line of Lot 5384 to the southeast corner of Lot 5384;

Thence, north along the east lines of Lots 5384, 5383 and 5382 to a point, said point being at the northeast corner of Auditor's Parcel 054-186392-00.000 currently owned by the Diocese of Columbus;

Thence, east crossing the subject alley, to The Place of Beginning.

This description was written based on information provided in existing plat and tax records, without the benefit of a field survey.

Section 2: The Division of Engineering of the City of Newark is hereby instructed to prepare a vacation plat of said vacated alley and the Clerk of Council is instructed to endorse upon such plat the action of this Council, and to cause such plat to be recorded in the Office of the Recorder of Licking County, Ohio.

Section 3: This Ordinance shall become effective at the earliest time permitted by law after passage by Council and signature of the Mayor.

Adopted this _____ day of _____, 2022.

President of Council

Attest: _____

Date Filed with Mayor: _____

Date Approved by Mayor: _____

Mayor

Form Approved by: _____
Law Director

Prepared by the Division of Engineering.

BY:

PRELIMINARY LEGISLATION

Consent

Rev. 6/26/00

Resolution # : 22-03

PID No. : 98279

County/Route/Section : LIC-SR79-13.30

The following is a Resolution enacted by the City of Newark of Licking County, Ohio, hereinafter referred to as the Local Public Agency (LPA), in the matter of the stated described project.

SECTION I – Project Description

WHEREAS, the (LPA) has determined the need for the described project:

West Main Street Bridge over State Route 79 - Replace superstructure (Box beams with new box beams), composite deck, replace sidewalks, expansion joints, clean and seal backwalls and beam seats. Consider transverse post-tensioning box beams. Replace fence on bridge. Consider using half-width construction.

NOW THEREFORE, be it ordained by the City of Newark of Licking County, Ohio: (LPA)

SECTION II – Consent Statement

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project.

SECTION III – Cooperation Statement

The LPA shall cooperate with the Director of Transportation in the development and construction of the above described project as follows:

1. The LPA gives consent for the above improvement, and
2. The LPA further agrees to pay 100% of the cost for those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

SECTION IV – Utilities and Right-of-Way Statement

If City owned utilities, within a corporation limit or in a private easement outside corporation limits, need to be relocated due to this ODOT project, the City will be reimbursed for any relocation work; ODOT will perform the coordination, relocation, and reimbursement which shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

If other public and private utilities need to be relocated due to this ODOT project, they will not be reimbursed for relocation; with exceptions due to an easement, etc.

SECTION V – Maintenance

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable state and federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the project; (3) maintain right-of-way, keeping it free of obstructions ,and (4) hold said right-of-way inviolate for public highway purposes.

SECTION VI - Authority to Sign

David Rhodes, Service Director of said City of Newark, Ohio is hereby empowered on behalf of the City of Newark to enter into agreements with the Director of Transportation necessary to complete the above described project.

SECTION VII – Emergency Measure

If required, is hereby declared to be an emergency measure to expedite the highway project and to promote highway safety. Following appropriate legislative action, **as an emergency measure**, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2022.
(Date)

President of Council: _____

Attested: _____
(Clerk of Council)

Date filed with Mayor: _____

Date Approved by Mayor: _____

Mayor: _____

Approved as to form – Director of Law: _____

Contracting Agent – Service Director: _____

**CERTIFICATE OF COPY
STATE OF OHIO**

City of Newark of Licking County, Ohio

I, _____, as Clerk of Council of the City of Newark of Licking County, Ohio,
do hereby certify that the foregoing is a true and correct copy of

_____ adopted by the legislative Authority of the said
(Resolution)
City of Newark on the _____ day of _____, 2_____.

That the publication of such _____ has been made and certified of record according to
(Resolution)
law; that no proceedings looking to a referendum upon such _____ have been taken;
(Resolution)
and that such _____ and certificate of publication thereof are of record in _____,
(Resolution) (Resolution)

Page _____.
(Record No.)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, if applicable,
this _____ day of _____ 2022.

(Clerk)

(CITY SEAL)

City of Newark of Licking County, Ohio

The foregoing is accepted as a basis for proceeding with the project herein described.
For the City of Newark of Licking County, Ohio.

Attested: _____ Date _____
(Contractual Agent)



For the State of Ohio

Attested: _____ Date _____
(Director, Ohio Department of Transportation)

BY:

PRELIMINARY LEGISLATION

Consent

Rev. 6/26/00

Resolution # : 22-04

PID No. : 110414

County/Route/Section : LIC-SR16/79-20.27/12.46

The following is a Resolution enacted by the City of Newark of Licking County, Ohio, hereinafter referred to as the Local Public Agency (LPA), in the matter of the stated described project.

SECTION I – Project Description

WHEREAS, the (LPA) has determined the need for the described project:

Resurfacing and related work. Mill / Fill on LIC State Route 16 and State Route 79 including all associated ramps. Mill under all overhead bridges to maintain the vertical clearance.

NOW THEREFORE, be it ordained by the City of Newark of Licking County, Ohio: (LPA)

SECTION II – Consent Statement

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project.

SECTION III – Cooperation Statement

The LPA shall cooperate with the Director of Transportation in the development and construction of the above described project as follows:

1. The LPA gives consent for the above improvement, and
2. The LPA further agrees to pay 100% of the cost for those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

SECTION IV – Utilities and Right-of-Way Statement

If City owned utilities, within a corporation limit or in a private easement outside corporation limits, need to be relocated due to this ODOT project, the City will be reimbursed for any relocation work; ODOT will perform the coordination, relocation, and reimbursement which shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

If other public and private utilities need to be relocated due to this ODOT project, they will not be reimbursed for relocation; with exceptions due to an easement, etc.

SECTION V – Maintenance

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable state and federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the project; (3) maintain right-of-way, keeping it free of obstructions ,and (4) hold said right-of-way inviolate for public highway purposes.

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David Rhodes, Service Director of said City of Newark, Ohio is hereby empowered on behalf of the City of Newark to enter into agreements with the Director of Transportation necessary to complete the above described project.

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If required, is hereby declared to be an emergency measure to expedite the highway project and to promote highway safety. Following appropriate legislative action, **as an emergency measure**, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2022.
(Date)

President of Council: _____

Attested: _____
(Clerk of Council)

Date filed with Mayor: _____

Date Approved by Mayor: _____

Mayor: _____

Approved as to form – Director of Law: _____

Contracting Agent – Service Director: _____

**CERTIFICATE OF COPY
STATE OF OHIO**

City of Newark of Licking County, Ohio

I, _____, as Clerk of Council of the City of Newark of Licking County, Ohio,
do hereby certify that the foregoing is a true and correct copy of

_____ adopted by the legislative Authority of the said
(Resolution)
City of Newark on the _____ day of _____, 2_____.

That the publication of such _____ has been made and certified of record according to
(Resolution)
law; that no proceedings looking to a referendum upon such _____ have been taken;
(Resolution)
and that such _____ and certificate of publication thereof are of record in _____,
(Resolution) (Resolution)

Page _____.
(Record No.)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, if applicable,
this _____ day of _____ 2022.

(Clerk)

(CITY SEAL)

City of Newark of Licking County, Ohio

The foregoing is accepted as a basis for proceeding with the project herein described.
For the City of Newark of Licking County, Ohio.

Attested: _____ Date _____
(Contractual Agent)



For the State of Ohio

Attested: _____ Date _____
(Director, Ohio Department of Transportation)

Resolution No. 22-05 Expedite

BY: _____

A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION

WHEREAS, to properly, efficiently and expeditiously conduct business of the City of Newark in the best interest of its citizens, there is an immediate requirement for a certain financial transaction as indicated.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, STATE OF OHIO.

Section 1. There is hereby an appropriation of the unappropriated balance of the 153 Comp Abs Fund, in the amount of \$14,000 (Payout of Comp Time for Ivica Brnjic promoted to Deputy Chief)

153.202.5145	Termination Comp	14,000.00
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Section 2. There is hereby an appropriation of the unappropriated balance of the 153 Comp Abs Fund, in the amount of \$7,000.00 (Termination Payout for Roger Ferrell resigning 12.22.21 from Cemetery/Parks)

153.432.5144	Termination Vacation	1,500.00
153.432.5145	Termination Comp	5,500.00

Section 3. There is hereby an appropriation of the unappropriated balance of the 100 General Fund, in the amount of \$13,500.00 (OPT)

100.111.5901221	OPT	13,500.00
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Section 4. There is hereby an appropriation of the unappropriated balance of the 221 Street Fund, in the amount of \$13,500.00 (Temporary Services)

221.302.5230	Temporary Services	13,500.00
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Section 5. There is hereby an appropriation of the unappropriated balance of the 153 Comp Abs Fund, in the amount of \$23,000.00 (Payout for retiring Firefighter Michael McNamara)

153.205.5143	Termination Sick	17,500.00
153.205.5144	Termination Vacation	5,000.00
153.205.5145	Termination Comp	500.00

Section 6. There is hereby an appropriation of the unappropriated balance of the 100 General Fund, in the amount of \$20,000 (Unemployment)

100.114.5125	Unemployment	20,000.00
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Section 7. There is hereby an appropriation of the unappropriated balance of the 100 General Fund, in the amount of \$103,290.00 (Humane Agent Services for 2020)

100.115.5238	Services General	103,290.00
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This resolution is a measure providing for an appropriation for current expenses of the municipal corporation; it shall go into effect pursuant to Section 4.07 of the Charter of the City of Newark, Ohio.

Adopted this _____ day of _____, 2022.

President of Council _____

Attest Clerk of Council _____

Date filed with Mayor _____

Date approved by Mayor _____

Mayor _____

Aroved as to form Director of Law _____

Resolution No. 22-07

BY: _____

A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION

WHEREAS, to properly, efficiently and expeditiously conduct business of the City of Newark in the best interest of its citizens, there is an immediate requirement for a certain financial transaction as indicated.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, STATE OF OHIO.

Section 1. There is hereby an appropriation of the unappropriated balance of the 100 General Fund, in the amount of \$4,241.00 (Monies from refund of stolen tractor)

100.432.5331	Machinery/Equip	4,241.00
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Section 2. There is hereby an appropriation of the unappropriated balance of the 100 General Fund, in the amount of \$3,000.00 (Monies from refund of City cases)

100.432.5238.4	Indigents	3000.00
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This resolution is a measure providing for an appropriation for current expenses of the municipal corporation; it shall go into effect pursuant to Section 4.07 of the Charter of the City of Newark, Ohio.

Adopted this _____ day of _____, 2022.

President of Council _____

Attest Clerk of Council _____

Date filed with Mayor _____

Date approved by Mayor _____

Mayor _____

Aroved as to form Director of Law _____