

# Ordinance No. 7943

## AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO APPLY FOR A GRANT OF STATE CAPITAL IMPROVEMENT AND LOCAL TRANSPORTATION IMPROVEMENT PROGRAM FUNDS TO ASSIST THE MUNICIPALITY WITH THE COST TO IMPROVE THE INTERSECTION OF JEFFERSON AVENUE (STATE ROUTE 66) AND PALMER DRIVE AND DECLARING AN EMERGENCY

WHEREAS, A traffic impact study commissioned by the Board of Education in anticipation of the construction of Defiance High School concluded that the intersection of Palmer Drive and Jefferson Avenue cannot accommodate the volume of traffic reasonably expected to be generated by the consolidation of all Defiance City School District facilities on a single K through 12 campus; and,

WHEREAS, A feasibility study commissioned by the City of Defiance concluded that reconfiguration of the Jefferson Avenue-Palmer Drive intersection by installation of a single lane roundabout would provide the most cost effective solution to the capacity limitations identified by the traffic impact study; and,

WHEREAS, Resolution 2482 authorized the City Administrator to submit an application to the Ohio Department of Transportation for a Small Cities Program Grant to assist the municipality with the costs to install the intersection improvements proposed by the feasibility study; and,

WHEREAS, The application authorized by Resolution 2482 was not selected for funding by the Department of Transportation; and,

WHEREAS, A proposal to develop lands immediately adjacent to the Jefferson Avenue-Palmer Drive intersection for commercial purposes has recently been announced that will generate additional traffic and exacerbate the capacity limitations identified by the traffic impact study; and,

WHEREAS, The commercial developer has commissioned an independent traffic impact study that confirmed the findings of the previous traffic impact study and further concluded that installation of a traffic signal will not achieve the minimum traffic volume capacity needed to support the consolidated school facilities and commercial development; and,

WHEREAS, The commercial developer has offered to donate all right-of-way reasonably required to reconfigure the intersection as a single lane roundabout and to waive all claims for damages or other compensation to which the developer might otherwise be entitled as a consequence of the dedication of such lands to public use; and,

WHEREAS, the estimated cost to construct the proposed intersection improvements is \$816,800; and,

WHEREAS, the municipality requires financial assistance to complete the necessary work; and,

WHEREAS, the proposed improvements are eligible for funding under guidelines established for the State Capital Improvement and Local Transportation Improvement Programs administered by the Ohio Public Works Commission;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized to make application to the Ohio Public Works Commission for a grant of State Capital Improvement Program funds and/or Local Transportation Improvement Program funds to offset \$325,000 of the estimated \$816,800 cost to be incurred to improve the intersection of Jefferson Avenue (State Route 66) and Palmer Drive by reconfiguration of the intersection as a roundabout conforming to all applicable standards promulgated by the Ohio Department of Transportation.

Section 2: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 3: This Ordinance is declared to be an emergency measure necessary to preserve the health, safety and welfare of the community for the reason that the

application authorized by this Ordinance must be submitted by September 8, 2017, to receive consideration by the Ohio Public Works Commission. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: August 22 \_\_\_\_\_, 2017

Peter Lundberg \_\_\_\_\_  
President Pro -Tem of Council

Votes in Favor of Adoption: 5 \_\_\_\_\_

Votes Opposed to Adoption: 1 \_\_\_\_\_

Attest: Lisa Elders \_\_\_\_\_, Clerk

Approved: August 22 \_\_\_\_\_, 2017

Michael McCann \_\_\_\_\_  
Mayor

# ORDINANCE NO. 7944

## AN ORDINANCE AUTHORIZING IMMEDIATE REPAIR OF A TRANSMISSION ESSENTIAL TO OPERATION OF THE WATER POLLUTION CONTROL TREATMENT WORKS AND DECLARING AN EMERGENCY

WHEREAS, The transmission that imparts motive force to the scrapper arms installed within the Southeast Final Clarifier Tank at the Water Pollution Control Works failed; and,

WHEREAS, The Water Pollution Control Superintendent properly directed municipal personnel to remove the transmission from the clarifier tank and transport it to Aurora, Illinois, for inspection and repair by the manufacturer; and,

WHEREAS, Walker Process Equipment disassembled the transmission and determined that a brass worm gear and gear shaft were worn beyond repair; and,

WHEREAS, Walker Process Equipment fabricated the replacement parts required to repair the transmission in good faith reliance on representations that the company will be paid for its services; and,

WHEREAS, Walker Process Equipment has informed the Superintendent that the total cost of the services rendered to date and services required to assemble the transmission and deliver it to the treatment works for installation by municipal personnel will be \$16,680.00; and,

WHEREAS, The total amount of costs incurred and to be incurred exceeds the spending authority delegated to the Board of Control;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized to contract with the Walker Process Equipment Division of McNish Corporation for the performance of all services reasonably required to repair the transmission delivered to Walker Process Equipment for inspection and arrange for transportation of the reconditioned unit from Aurora, Illinois, to the Water Pollution Control Treatment Works.

Section 2: The Finance Director is authorized to pay all costs incurred pursuant to the authority of Section 1, not to exceed \$20,000.00, from Line 590-540-5-2-935-030 of the 2017 annual budget.

Section 3: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 4: This Ordinance is declared to be an emergency measure necessary to preserve the health, safety and welfare of the community for the reason that prompt payment of charges incurred to effect administratively authorized emergency repairs is necessary to assure the continued availability of goods and services in the event of future emergencies and for the further reason that immediate completion of the authorized repairs is essential to assure continued operation of the Water Pollution Control Works in conformity with legal and regulatory requirements. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: August 22, 2017

Peter Lundberg  
President Pro-Tem of Council

Votes in Favor of Adoption: 6

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: August 22, 2016

Michael McCann  
Mayor

# ORDINANCE NO. 7945

## AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT FOR PAINTING OF PAVEMENT MARKINGS, PROJECT NO. 17-07

Whereas, Bids were properly solicited to supply labor, equipment, fuel and materials to refresh center lines, edge lines, lane lines and channel lines on public streets throughout the city in accordance with plans and material specifications on file as Engineering Division Project No. 17-07; and,

Whereas, Oglesby Construction, Inc., of Norwalk, Ohio, submitted the lowest responsive and responsible bid in the amount of \$45,717.32;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

SECTION 1: The City Administrator is authorized to award a contract to Oglesby Construction, Inc., to apply pavement markings conforming to the plans and specifications established by the solicitation at the prices and on terms and conditions of performance established by the accepted bid.

SECTION 2: The Finance Director is directed to pay costs of the contract authorized by Section 1 from line 403-901-5-2-980-882 of the 2017 annual budget.

SECTION 3: It is found and determined that all legislative acts pertaining or relating to the enactment of this Ordinance were taken in public session and that all deliberations of Council, including all deliberations of the committees of Council, that affected or influenced any such legislative act, were conducted in public session duly convened in accordance with law.

SECTION 4: This Ordinance shall be effective on the earliest date permitted by law.

Passed: August 22, 2017

Peter Lundberg  
President Pro-Tem of Council

Votes in Favor of Adoption: 6

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: August 22, 2017

Michael McCann  
Mayor

# Ordinance No. 7946

AN ORDINANCE AMENDING ORDINANCE 7886 CONSENTING TO THE IMPROVEMENT OF STATE ROUTE 15 WITHIN THE MUNICIPALITY, PLEDGING COOPERATION WITH THE DIRECTOR OF TRANSPORTATION IN THE COMPLETION OF THE PROPOSED WORK AND DECLARING AN EMERGENCY

(Preliminary Legislation: DEF SR15-14.77--ODOT Project 96605)

WHEREAS, the Department of Transportation has identified a need to replace the Clinton Street Bridge that carries State Route 15 over the Maumee River in downtown Defiance; and,

WHEREAS, the Department of Transportation proposes to construct a shared use path under the replacement bridge for bicycle and pedestrian traffic that will connect with Defiance County Engineer project DEF CR 424-0.00; and,

WHEREAS, Ordinance 7886, passed January 24, 2017, consented to the improvement of State Route 15 within the municipality and pledged municipal cooperation with the Director of Transportation in the completion of the proposed work; and,

WHEREAS, Ordinance 7886 anticipated that the City would be required to acquire additional right-of-way adjacent to the north end of the proposed Clinton Street Bridge to accommodate construction of the shared use path and aesthetic lookout; and,

WHEREAS, the Department of Transportation has determined that the shared use path and aesthetic lookout can be located on lands presently owned by the municipality;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: Ordinance 7886, passed January 24, 2017, is hereby amended to provide (added text in italics):

Section 1: Consent Statement: The City of Defiance consents to the performance of all work proposed to be undertaken within the municipal corporation by the Director of Transportation as ODOT Project No. 96605.

Section 2: Cooperation Statement: The City will participate in the project in the following manner:

- A. The Department of Transportation and Federal Highway Administration shall assume and bear 100% of the necessary costs to replace the bridge other than aesthetic enhancements. The City of Defiance shall assume and bear 100% of the costs attributed to said aesthetic enhancements.
- B. The City shall assume and pay 100% of the consultant costs for the shared use path and lookouts. The City shall bear 5% and the Department of Transportation and Federal Highway Administration shall bear 95% of the necessary costs to construct the shared use path and lookouts until all available funds from the Transportation Alternatives program have been exhausted. The City shall bear 100% of the cost to construct the shared use path and lookouts that exceed Transportation Alternatives program funding allocated to the project.
- C. The City shall allow the Department of Transportation to construct the shared use path, aesthetic lookout enhancement and all appurtenances to said facilities on municipally-owned lands adjacent to the north end of the proposed Clinton Street Bridge. The City hereby grants the Ohio Department of Transportation and all contractors engaged by the Ohio Department of Transportation an irrevocable right to enter upon municipally-owned lands located on or adjacent to the north bank of the Maumee River for the purpose of constructing improvements described by plans now or hereafter adopted by the Department of Transportation pertaining to ODOT Project #96605. The right of entry is granted without charge in consideration of the benefits to be conferred on the municipality and its inhabitants by construction of the proposed improvements by the State of Ohio and Federal Highway Administration.

Section 3: Utilities and Right-of-Way Statement: The City agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The City understands that right-of-way costs include eligible utility costs and agrees that all utility accommodations, relocations and reimbursements will comply with 23 CFR 65 and the ODOT Utilities Manual as presently adopted.

Section 4: Maintenance Statement: Upon completion of the project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance for the project in accordance with all applicable State and Federal law including, without limitation, Title 23, U.S.C. §116; (2) provide ample financial provisions, as necessary, for the maintenance of the project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 5: Authority to Sign: The City Administrator is hereby empowered to enter into and execute such agreements with the Director of Transportation as may be necessary or appropriate to complete the above described project.

Section 2: Except as expressly amended by the addition of Paragraph C to Section 2, Ordinance 7886 is ratified, confirmed and shall remain in full force and effect.

Section 3: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 4: This Ordinance is declared to be an Emergency Measure necessary to preserve public safety for the reason that municipal consent to proceed with ODOT Project No. 96605 on the terms established by Ordinance 7886 as amended by this Ordinance must be promptly filed with the Director of Transportation to assure that replacement of the Clinton Street Bridge will occur at the time presently scheduled and before deterioration of the bridge endangers public safety. As such, this Ordinance shall take immediate effect upon passage with the concurrence of not less than 5 Members of Council and approval by the Mayor.

Passed: August 22, 2017

Peter Lundberg  
President Pro-Tem of Council

Votes in Favor of Adoption: 6

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: August 22, 2017

Michael McCann  
Mayor

RESOLUTION No. 2496

**A RESOLUTION ACCEPTING THE DEFIANCE COUNTY BUDGET COMMISSION'S ALTERNATE PLAN OF APPORTIONMENT OF THE UNDIVIDED LOCAL GOVERNMENT FUNDS.**

**WHEREAS**, the Defiance County Budget Commission has proposed an alternate plan of apportionment of the undivided local government funds, and

**WHEREAS**, an alternate plan requires the consent of each affected local governmental entity in order to be adopted and implemented,

**Now, therefore**, be it Resolved by the Council of the Municipality of Defiance, Defiance County, Ohio, that:

**Section 1:** Any hearings before the Defiance County Budget Commission regarding apportionment of the undivided local government fund pursuant to Section 5747, Ohio Revised Code are hereby waived. This Council agrees to the Defiance County Budget Commission alternate plan of apportionment of the local government funds on the basis of need and the amount received in past years and agrees to accept the sum of One-hundred sixty-two-thousand eight-hundred nineteen and 31/100 dollars (\$162,819.31) as its share of the undivided local government fund.

**Section 2:** It is found and determined that all legislative actions pertaining to the adoption of this Resolution were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

**Section 3:** This Resolution shall be in full force and effect from and after the earliest date permitted by law.

Passed: August 22, 2017

Peter Lundberg  
President Pro-Tem of Council

Votes Approving Adoption: 6

Votes Opposing Adoption: 0

Attest: Lisa Elders, Clerk

Approved: August 22, 2017

Michael McCann  
Mayor

RESOLUTION NO. 2497

**RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY  
THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX  
LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR**

(City Council)  
Revised Code, Secs. 5705.34, -.35.

The Council of the City of Defiance, Defiance County, Ohio met in

Regular session on the 22 day of August, 2017  
(Regular or Special) Year

at the office of Defiance Council Chambers with the following members present:

Peter Lundberg

Jared Orzolek

John Hancock

Jill Krutsch

Benjamin Pierce

Chris Engel

Chris Engel moved the adoption of the following Resolution:

WHEREAS, This Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1<sup>st</sup>, 2018; and  
Year

WHEREAS, The Budget Commission of Defiance County, Ohio, has certified its action thereon to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within, the ten mill tax limitation; therefore, be it

RESOLVED, By the Council of the City of Defiance, Defiance County, Ohio, that the amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted; and be it further

RESOLVED, That there be and is hereby levied on the tax duplicate of said County the rate of each tax necessary to be levied within and without the ten mill limitation as follows:



SCHEDULE A SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES				
FUND	Amount to Be Derived From Levies Outside 10 Mill Limitation	Amount Approved by Budget Commission Inside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to Be Levied	
			Inside 10 Mill Limit	Outside 10 Mill Limit
General Fund		640,000	.50 2.40 1.00 1.50	
Police Pension		92,700	0.30	
Fire Pension		92,700	0.30	
TOTAL	0.00	825,400.00	1.10 3.00 1.60 2.10	0.00

and be it further

RESOLVED, That the Clerk of this Council be and he is hereby directed to certify a copy of this Resolution to the County Auditor of said County.

Jared Orzolek seconded the Resolution and the roll being called upon

its adoption the vote resulted as follows:

- Benjamin Pierce , yes
- John Hancock , yes
- Chris Engel , yes
- Jill Krutsch , yes
- Jared Orzolek , yes
- Peter Lundberg , yes

Adopted the 22 day of August, 2017 Year

Attest:

Peter Lundberg  
President Pro-Tem of Council

Lisa Elders  
Clerk of Council

Michael McCann  
Mayor