

THE CITY OF SOUTH EUCLID
SCHEDULE OF MEETING
FEBRUARY 28, 2022
8:00 PM

Meeting Conducted Via WebEx Meeting Platform

PUBLIC ACCESS FOR RESIDENTS:

**Please go to the City's Homepage at www.cityofsoutheuclid.com
and click the "Join City Council Meeting Link"
at the top of the webpage.**

The Password to Join the Meeting is:

75Muxd2x8Qy (75689329 from phones and video systems)

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES January 10, 2022 & January 24, 2022
4. REPORT OF MAYOR & DEPARTMENT HEADS
5. REPORT OF LAW DIRECTOR
6. REPORT OF SCHOOL DISTRICT
7. PUBLIC HEARINGS (OPEN MEETING) RELATED TO AGENDA ITEMS
8. REPORT OF COUNCIL COMMITTEES

Public Utilities Committee

Resolution 04-22

Approving the City of South Euclid's Notice to the Northeast Ohio Public Energy Council ("NOPEC") To elect NOPEC's Green Community Choice Program for the City's Electricity Aggregation Program starting January 2023. **Second Reading.**

9. LEGISLATION REQUESTED BY CITY COUNCIL

1. Ordinance 01-22

Amending Chapter 1540 "Fireworks" of Part Fifteen "Fire Prevention Code," of the Codified Ordinances of The City of South Euclid, Ohio. First Reading.

10. LEGISLATION REQUESTED BY THE MAYOR & ADMINISTRATION

1. Resolution 10-22

Authorizing the Mayor to enter into an agreement with Trax Construction Company for the Oakmount Road Infrastructure Improvement Project, Phase 2. First Reading.

2. Resolution 11-22

Authorizing the appropriation of unappropriated funds in the following fund: "Flood Control Fund #426" for expenditures related to the Oakmount Road Infrastructure Improvement Project, Phase 2. First Reading.

3. Resolution 12-22

Authorizing the appropriation of unappropriated funds in the following fund: "Water Distribution Infrastructure #424" for expenditures related to the Oakmount Road Infrastructure Improvement Project, Phase 2. First Reading.

11. PUBLIC HEARINGS (OPEN MEETING) RELATED TO OPEN BUSINESS

12. COMMUNICATIONS OF CITY COUNCIL

13. ADJOURN TO EXECUTIVE SESSION for the purposes of discussing pending litigation.

14. ADJOURN

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 04-22
INTRODUCED BY: Gray
REQUESTED BY: Mayor

January 10, 2022

A RESOLUTION

APPROVING THE CITY OF SOUTH EUCLID'S NOTICE TO THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL ("NOPEC") TO ELECT NOPEC'S GREEN COMMUNITY CHOICE PROGRAM FOR THE CITY'S ELECTRICITY AGGREGATION PROGRAM STARTING JANUARY 2023.

WHEREAS, the City of South Euclid, Ohio ("City") is a member of the Northeast Ohio Public Energy Council ("NOPEC") and participates in NOPEC's electricity aggregation program ("Aggregation Program"); and

WHEREAS, the City has adopted or may be considering adopting a sustainability plan, a part of which includes or may include increasing the renewable content of the electricity consumed in the City; and

WHEREAS, NOPEC has developed a new green program offering for its member communities with a 100% renewable energy content standard default electricity aggregation product, that includes Renewable Energy Credits ("RECs") for 100% of the customer's energy usage, to any current or new NOPEC member community that selects this program for the upcoming three (3) year NOPEC electric aggregation term (from the January 2023 until January 2026 utility meter reads) ("Green Community Choice Program"); and

WHEREAS, the Green Community Choice Program will include the additional cost of 100% RECs for 100% of the City's eligible customers' energy usage; and

WHEREAS, the additional cost for the REC content included in the Green Community Choice Program price will be no higher than .425 cents/kWh or about \$3.55/month for the average residential household over the term of program; and

WHEREAS, the City's eligible customers will have the option to opt-in to the standard NOPEC default product not containing additional RECs at the lower Standard Program price or choose another NOPEC product offering; and

WHEREAS, the NOPEC Green Community Choice Program offering requires that a member community notify NOPEC in writing of its election to choose the Green Community Choice Program (100% REC standard default electricity aggregation product) for the upcoming three (3) year NOPEC Aggregation Program term with legislation adopted by the legislative authority of the community making the election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: This Council hereby approves the City's election to participate in NOPEC's Green Community Choice Program for the upcoming three (3) year NOPEC Aggregation Program term (from the January 2023 through January 2026 utility meter reads). This Council hereby authorizes and ratifies all actions of the Mayor in connection with execution of the City's election to notify NOPEC to participate in NOPEC's Green Community Choice Program.

Section 2: This Council hereby acknowledges that the City's election to participate in NOPEC's Green Community Choice Program for the upcoming three (3) year NOPEC Aggregation Program term (from the January 2023 until the January 2026 utility meter read(s) is binding and irrevocable for such three (3) year Aggregation Program term.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution shall take effect and be in full force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2022.

Ruth I. Gray, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

ORDINANCE NO.: 01-22
INTRODUCED BY: Gray
REQUESTED BY: Elston

February 28, 2022

AN ORDINANCE

AMENDING CHAPTER 1540 "FIREWORKS" OF PART FIFTEEN "FIRE PREVENTION CODE," OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

NOW THEREFORE BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Chapter 1540 "Fireworks" of Part Fifteen "Fire Prevention Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

CHAPTER 1540

Fireworks

- 1540.01 Definitions.
- 1540.02 Manufacturing.
- 1540.03 Wholesaling.
- 1540.04 Purchasing and transporting.
- 1540.05 Exhibitions.
- 1540.06 Possession, sale, discharge and advertising; falsification.
- 1540.07 Transporting and shipping.
- 1540.08 Exceptions.
- 1540.09 Forfeiture and disposal.
- 1540.99 Penalty.

CROSS REFERENCES

See sectional histories for similar state law.

Ohio Fire Code - see Ohio R.C. 3737.82 et seq.; OAC

Ch. 1301:7-1 et seq.; FIRE PREV. 1510.01

Fireworks - see Ohio R.C. Ch. 3743

Weapons and explosives - see GEN. OFF. Ch. 549

Fire and explosive hazards - see BUS. REG. 745.09, 748.16 et seq.

Manufacturers to comply with building and zoning ordinances – see Ohio R.C. 3743.06(F).

Wholesalers to comply with building and zoning ordinances – see Ohio R.C. 3743.19(G).

Arrests, seizure of fireworks by certified fire safety inspector – see Ohio R.C. 3743.68.

Exceptions – see Ohio R.C. 3743.80.

Conflict of Fire Marshal's rules of Ohio Board of Building Standards – see Ohio R.C. 3781.11(D).

1540.01 DEFINITIONS.

As used in this chapter, unless otherwise provided:

(a) "Beer" and "intoxicating liquor" have the same meanings given in Section 529.01 of the General Offenses Code.

(b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(d) "Classes of fireworks" are defined as follows:

(1) "1.3G fireworks" means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49, Code of Federal Regulations.

(e) "Controlled substance" has the same meaning given in Section 513.01 of the General Offenses Code.

(f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Section 1540.08.

(g) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(h) "Highway" means any public street, road, alley, way, lane or other public thoroughfare.

(i) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 through 3743.55.

(j) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 through 3743.08.

(k) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 through 3743.21.

(l) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.

(m) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(n) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(o) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(p) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.

(q) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(r) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(s) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(t) "Storage location." A single parcel or contiguous parcels of real estate approved by the Fire Marshal pursuant to Ohio R.C. 3743.04(I) or Ohio R.C. 3743.17(G) that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

(u) "Trick match." A kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(v) "Wholesale sale" or "sell at wholesale." A sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

(w) "Wire sparkler." A sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than 100 grams of this mixture.

(ORC 3743.01)

1540.02 MANUFACTURING.

(a) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.05 or the requirements of Ohio R.C. 3743.06.

(b) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale and retail records, as required by Ohio R.C. 3743.07, or fail to permit inspection of these records or the premises of a fireworks plant pursuant to Ohio R.C. 3743.08.

(c) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(1), within the specified period of time.

(d) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or until the seventy-two hour period specified in that paragraph has expired, whichever first occurs.

(e) No person shall smoke or carry a pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to Ohio R.C. 3743.06(C).

(f) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance, while on the premises of a fireworks plant.

(ORC 3743.60)

1540.03 WHOLESALING.

(a) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.18 or the requirements of Ohio R.C. 3743.19.

(b) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records, as required by Ohio R.C. 3743.20, or fail to permit inspection of these records or the premises of the wholesaler pursuant to Ohio R.C. 3743.21.

(c) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.21(B)(1), within the specified period of time.

(d) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied, or until the seventy-two hour period specified in that paragraph has expired, whichever first occurs.

(e) No person shall smoke or carry a pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame on, or shall carry a concealed source of ignition into, the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to Ohio R.C. 3743.19(D).

(f) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance, while on the premises of a wholesaler of fireworks.

(ORC 3743.61)

1540.04 PURCHASING AND TRANSPORTING.

(a) No person who resides in another state and purchases fireworks in this State shall obtain possession of the fireworks in this State unless the person complies with Ohio R.C. 3743.44.

(b) No person who resides in another state and who purchases fireworks in this State shall obtain possession of fireworks in this State other than from a licensed manufacturer or wholesaler, or fail, when transporting 1.3G fireworks, to transport them directly out of

this State within seventy-two hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.

(c) No person who resides in this State and purchases fireworks in this State shall obtain possession of the fireworks in this State unless the person complies with Ohio R.C. 3743.45.

(d) No person who resides in this State and who purchases fireworks in this State under Ohio R.C. 3743.45 shall obtain possession of fireworks in this State other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within forty-eight hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.

(ORC 3743.63)

1540.05 EXHIBITIONS.

(a) An exhibitor of fireworks licensed under Ohio R.C. 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(b) The approval required by division (a) of this section shall be evidenced by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the State Fire Marshal or, if available, from the Fire Chief, a fire prevention officer, the Police Chief or other similar chief law enforcement officer, or a designee of the Police Chief or other similar chief law enforcement officer.

(c) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his or her license as an exhibitor of fireworks to the Fire Chief or fire prevention officer.

(d) The Fire Chief or fire prevention officer and the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer or with the designee of the Police Chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(e) If the Council has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.

(f) Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars with surety satisfactory to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to person or property emanating from the fireworks exhibitor, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss of persons or property emanating from the fireworks exhibition. The Council may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until

the exhibitor provides the bond or proof of the insurance coverage required by this division or by the Council.

(g) Each permit for a fireworks exhibition issued by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipality, and identify the certified fire safety inspector, Fire Chief, or fire prevention officer who will be present before, during and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, issuing it to the State Fire Marshal. A permit is not transferable or assignable.

(h) The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, fire prevention officer, Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall list the name of the exhibitor, his or her license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(i) The Council shall require that a certified fire safety inspector, Fire Chief or fire prevention officer be present before, during and after the exhibition, and shall require the certified fire safety inspector, Fire Chief or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this section and Ohio R.C. Chapter 3743.

(ORC 3743.54)

(j) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Ohio R.C. 3743.53(C) and (D).

(k) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Ohio R.C. 3743.54 or a substantially similar municipal ordinance, or if a permit so secured is revoked by a Fire Chief or fire prevention officer, in consultation with a Police Chief or other similar chief law enforcement officer, or with a designee of a Police Chief or other similar chief law enforcement officer, pursuant to those sections.

(l) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55, or a substantially similar municipal ordinance.

(m) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(n) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the State Fire Marshal under Ohio R.C. 3743.56.

(ORC 3743.64)

~~1540.06 POSSESSION, SALE, DISCHARGE AND ADVERTISING; FALSIFICATION.~~
POSSESSION, SALE OR DISCHARGE OF FIREWORKS PROHIBITED

(a) No person shall possess, possess for sale or sell fireworks in the Municipality, except a licensed manufacturer of fireworks, as authorized by Ohio R.C. 3743.02 through 3743.08, a licensed wholesaler of fireworks, as authorized by Ohio R.C. 3743.15 through 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident, as authorized by Ohio R.C. 3743.44, a resident of this State, as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks, as authorized by Ohio R.C. 3743.50 through 3743.55, and except as provided in Section 1540.08, **or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, except as provided in Ohio R.C. 3743.55, no person shall discharge, ignite or explode any fireworks in the Municipality.**

(b) Except as provided in Section 1540.08, **except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance**, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55, no person shall discharge, ignite or explode any fireworks in the Municipality.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks of any kind to a person under 18 years of age. No person under 18 years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian or other responsible adult. No person under 18 years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(e) Except as otherwise provided in R.C. § 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor or shipping permit holder, shall possess 1.3G fireworks in the Municipality.

(f) Except as otherwise provided in Ohio R.C. 3743.06(K) and Ohio R.C. 3743.19(L), no person shall knowingly disable a fire suppression system, as defined in Ohio R.C. 3781.108, on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

(ORC 3743.65)

1540.07 TRANSPORTING AND SHIPPING.

(a) No person shall transport fireworks in the Municipality except in accordance with rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.58.

(b) As used in this section, "fireworks" includes only 1.3G and 1.4G fireworks.

(c) No person shall ship fireworks into the Municipality by mail, parcel post or common carrier, unless the person possesses a valid shipping permit issued under Ohio R.C. 3743.40 and the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.

~~(d) No person shall ship fireworks within the Municipality by mail, parcel post or common carrier, unless the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.~~

(ORC 3743.66)

1540.08 EXCEPTIONS.

This chapter does not prohibit or apply to the following:

(a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(b) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes or other signals necessary for the safe operation of railroads;

(c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(d) The manufacture for, the transportation, storage, possession or use by, or sale to, the Armed Forces of the United States and the militia of this State of pyrotechnic devices;

(e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or the manufacture, sale, possession, transportation, storage or use of those caps;

(e) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models; or

(f) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(g) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of the following:

(1) No explosive aerial display is conducted in the exhibition.

(2) The exhibition is separated from spectators by not less than 200 feet.

(3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

(ORC 3743.80)

1540.09 FORFEITURE AND DISPOSAL.

Fireworks manufactured, sold, possessed, transported or used in violation of this chapter shall be forfeited by the violator. The Municipal Fire Safety Inspector or the Police Department shall dispose of seized fireworks pursuant to the procedures specified in Section 501.13 of the General Offenses Code for the disposal of forfeited property by law enforcement agencies and the Inspector or the Department is not liable for claims for the loss of or damage to the seized fireworks.

(ORC 3743.68(B))

1540.10 LIMITING USE OF FIREWORKS.

No otherwise authorized and legal public display of fireworks shall utilize shells greater than six inches in diameter in the City of South Euclid.

1540.99 PENALTY.

(a) Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.

(b) If the violation results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked.

(EDITOR'S NOTE: See Section 1510.99 for general Fire Prevention Code penalty if no specific penalty is provided.)



STEPHEN HOVANCSEK & ASSOCIATES, INC.

Consulting Engineers & Planners

TWO MERIT DRIVE • RICHMOND HEIGHTS, OHIO 44143

(216) 731-6255

FAX NO: (216) 731-4483

MEMORANDUM

To: Michael LoGrasso, Director of Law

From: Andrew Blackley

Date: February 21, 2022

Cc: Mayor Welo, Keith Benjamin, Jim Anderson, Brenda Wendt

RE: PROPOSED LEGISLATION – Request Additional Funding Authorization to Award the Contract for the Oakmount Road Infrastructure Improvement Project, Phase 2

1. On February 11, 2022 bids were opened for the subject project and duly tabulated. The lowest and best bidder for the project was found to be the TRAX Construction Company. Please refer to the attached letter dated February 14, 2022 recommending award of the contract to that firm.
2. As noted in the letter the lowest and best bid is higher than the amount authorized by Council, which was \$ 2,270,830.00. On behalf of the Service Director we request legislation authorizing additional funds for the subject project in the amount of \$ **2,558,158.00** which will allow the City to enter into a contract with the lowest and best bidder TRAX Construction for the Oakmount Road Infrastructure Improvement Project, Phase 2. A detailed breakdown of the project costs is attached.
3. It is critical to award this project at the earliest date possible as material prices are continually increasing.
4. The Cleveland Water Department has reviewed the bids and has agreed to pay for the additional cost of the eligible water work, which is estimated to be \$ 53,283.00.
5. We have also requested additional funds from the NEORSD Member Community Infrastructure Program (MCIP) in the amount of \$92,207.00. This request is currently under review.



STEPHEN HOVANCSEK & ASSOCIATES, INC.
Consulting Engineers & Planners
TWO MERIT DRIVE • RICHMOND HEIGHTS, OHIO 44143
(216) 731-6255 FAX No: (216) 731-4483

February 14, 2022

City of South Euclid
1349 South Green Road
South Euclid, Ohio 44121
Attention: Mayor Georgine Welo

Re: **OAKMOUNT ROAD INFRASTRUCTURE IMPROVEMENT PROJECT, PH.2**

Dear Mayor Welo:

The City of South Euclid received and opened bids on Friday, February 11, 2022 at 10:00AM for the above referenced project. Four (4) bids were received and duly checked by the City Engineer. The bid results, less Construction Observation, were as follows:

<u>Bidder</u>	<u>Construction Base Bid Total</u>	<u>Bid Alternate 1</u>
TRAX Construction Co.	\$ 2,335,858.00	\$ 24,000.00
DiGioia Suburban Excavating	\$ 2,360,999.00	\$ 36,000.00
CATTS Construction	\$ 2,436,253.00	\$ 840.00
Fabrizi Trucking and Paving	\$ 2,729,708.00	\$ 12,000.00

The bid tabulation sheets are attached for your reference. Note that all the Bidders bid the same amount for Construction Observation at \$ 47,300.00, which was the minimum set forth on the Bid Form

The City Engineer finds therefore that the bid received of the **TRAX Construction Company**, in the Base Bid amount of \$ 2,335,858.00, plus Bid Alternate 1 in the amount of \$24,000, for a total of \$ 2,359,858.00 is the best and lowest bid received, and therefore recommends that they be awarded the contract in that amount. The construction contract amount that was authorized by Council was \$2,073,630.00. The low bid submitted by TRAX for construction is \$ 286,228.00 greater than the authorization. Please refer to the attached analysis. Before the project can be awarded we will need an additional authorization from Council.

If you have any questions please feel free to call.

Very truly yours,

Andrew K. Blackley, P.E.
City Engineer

AKB/ab

Enclosures as stated

cc: Brenda Wendt – w/encl.
Jim Anderson – w/encl.
TRAX Construction

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 10-22
INTRODUCED BY: Gray
REQUESTED BY: Mayor

February 28, 2022

A RESOLUTION

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH TRAX CONSTRUCTION COMPANY FOR THE OAKMOUNT ROAD INFRASTRUCTURE IMPROVEMENT PROJECT, PHASE 2.

WHEREAS, on October 25, 2021, City Council authorized the City Engineer to prepare specifications and advertise for bids for the 2022 Oakmount Road Phase 2 Infrastructure Improvement Project; and

WHEREAS, on October 25, 2021, City Council authorized the Mayor to enter into an agreement with the Northeast Ohio Regional Sewer District Community Infrastructure Grant Program; and

WHEREAS, The City of South Euclid has been awarded \$460,714 in funding from the Northeast Ohio Regional Sewer District Member Community Infrastructure Grant Program and \$518,260 from the Cleveland Water Department for the 2022 Oakmount Road Phase 2 Infrastructure Improvement Project; and

WHEREAS, on February 11, 2022, bids were opened for the subject project and the lowest and best bidder of the project was found to be the Trax Construction Company at a total cost of \$2,558,158.00; and

WHEREAS, there are funds available in the City's Flood Control Fund and Water Fund to fund the City's share of the project.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of South Euclid, Ohio:

Section 1: That the Mayor be and she is hereby authorized to enter into an agreement with Trax Construction Company for the Oakmount Road Phase 2 Infrastructure Improvement Project.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Resolution shall take effect and be in full force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2022.

Ruth I. Gray, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 11-22
INTRODUCED BY: Gray
REQUESTED BY: Mayor

February 28, 2022

A RESOLUTION

AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "FLOOD CONTROL FUND #426" FOR EXPENDITURES RELATED TO THE OAKMOUNT ROAD INFRASTRUCTURE IMPROVEMENT PROJECT, PHASE 2.

WHEREAS, City Council passed Resolution 50-21 authorizing bids for the 2022 Oakmount Road Infrastructure Project, Phase 2; and

WHEREAS, there are funds available in the Flood Control Fund for expenditures not to exceed \$1,983,615 for the subject project.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "Water Distribution Infrastructure Fund #424" Account in the amount not to exceed \$1,983,615 for the purpose of completing the Oakmount Road Infrastructure Project, Phase 2.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2022.

Ruth I. Gray, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 12-22
INTRODUCED BY: Gray
REQUESTED BY: Mayor

February 28, 2022

A RESOLUTION

AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "WATER DISTRIBUTION INFRASTRUCTURE #424" FOR EXPENDITURES RELATED TO THE OAKMOUNT ROAD INFRASTRUCTURE IMPROVEMENT PROJECT, PHASE 2.

WHEREAS, City Council passed Resolution 50-21 authorizing bids for the 2022 Oakmount Road Infrastructure Project, Phase 2; and

WHEREAS, there are funds available in the Water Distribution Infrastructure Fund for expenditures not to exceed \$571,543 for the subject project.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "Water Distribution Infrastructure Fund #424" Account in the amount not to exceed \$571,543 for the purpose of completing the Oakmount Road Infrastructure Project, Phase 2

These costs will be reimbursed by the Cleveland Water Department.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2022.

Ruth I. Gray, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law