

EMERGENCY RESOLUTION NO. 53-2019

A RESOLUTION APPROVING A PETITION FOR THE CREATION OF ENERGY SPECIAL IMPROVEMENT DISTRICT SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS AND A PLAN FOR PUBLIC IMPROVEMENTS; APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF MONROE, OHIO IN COOPERATION WITH THE MONROE, LIBERTY ENERGY SPECIAL IMPROVEMENT DISTRICT; AND DECLARING AN EMERGENCY

WHEREAS, as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (ESIDs) upon a petition to a municipal corporation or township, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and

WHEREAS, the City of Monroe, Ohio (the Owner), as the owner of certain real property located within the City of Monroe, Ohio (the City), has identified certain real property located at 233 South Main Street (the Property), as an appropriate property for special energy improvement projects pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, the Owner has submitted to the Council of the City (the Council) a *Petition for Creation of Energy Special Improvement District and For Special Assessments for Special Energy Improvement Projects* (the Petition), together with the Articles of Incorporation of the Monroe, Liberty Energy Special Improvement District, Inc. (the Articles of Incorporation) and the *Monroe, Liberty Energy Special Improvement District Program Plan* (the Plan), all in accordance with Ohio Revised Code Section 1701.02; and

WHEREAS, the Petition, which is on file with the Clerk of Council of the City, has been signed by the Owner, as the owner of 100% of the real property affected by the Petition (as further described in Exhibit A to the Petition), which is the Property; and,

WHEREAS, the Council, as required by Ohio Revised Code Section 1710.02, must approve or disapprove of the Petition within 60 days of the submission of the Petition; and

WHEREAS, the Petition is also for the purpose of creating developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 20 of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Petition identifies the amount and length of the special assessments to be imposed with respect to the Project; and

WHEREAS, this Council has determined to approve the Petition, together with the Plan, and cause the Monroe, Liberty Energy Special Improvement District (the District) to be created; and

WHEREAS, the Petition and Plan propose the necessity of acquiring, constructing, equipping, and improving the Project and financing the Project through the cooperation of the District; and,

WHEREAS, in the Petition, the Owner requests that the Project be paid for by special assessments assessed upon the Property (the Special Assessments) in an amount sufficient to pay the cost of the Project, which is estimated to be \$100.00, and which includes other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City, the District, and such other parties as the City may deem necessary or appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: That this Council approves the Petition and the Plan in substantially the form now on file with the Council.

SECTION 2: That this Council approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or any township which is contiguous to the municipal corporations or townships in which a portion of the territory the District is located; (ii) the addition of the municipal corporation or township in which such real property is located as a "participating political subdivision," as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize and effect such addition.

SECTION 3: That this Council declares necessary, and a vital and essential public purpose of the City, as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I), to improve the Property by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition, and providing for the payment of the costs of the Project, including any and all: architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses; together with all other necessary expenditures, all as more fully described in the Petition and profiles, specifications, and estimates of cost of the Project, all of which are on file with the

Administrator of the City and open to the inspection of all persons interested. In order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Petition. This Council determines and declares that the Project is conducive to the public peace, health, safety, and welfare of the City and the inhabitants of the City.

SECTION 4: That this Council determines that the Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner; and that the Project's elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project's elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

SECTION 5: That the plans and specifications and total cost of the Project now on file in the office of the Administrator of the City are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project.

SECTION 6: That pursuant to and subject to the provisions of the valid Petition signed by the owners of 100% of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The provisions of the Petition are ratified, adopted, approved, and incorporated into this Resolution as if set forth in full in this Resolution. The portion of the costs of the Project allocable to the City, in its capacity as the Owner, will be 100%. The City does not intend to issue securities in anticipation of the levy or collection of the Special Assessments.

SECTION 7: That the method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Property as set forth in the Petition.

SECTION 8: That the lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit A to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

SECTION 9: That the Special Assessments shall be levied and paid in 1 annual installment pursuant to the list of estimated Special Assessments set forth in the Petition, and the Owner has waived its option to pay the Special Assessment in cash within 30 days after the passage of the assessing ordinance. The period over which the services and improvements provided pursuant to the Plan are useful is determined to be 15 years.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$100.00. Each annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project

and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the Auditor of Butler County, Ohio may impose a special assessment collection fee with respect to each annual payment, which amount will be added to the Special Assessments by the Auditor of Butler County, Ohio.

SECTION 10: That the Director of Finance of the City or the Director of Finance's designee is authorized and directed to prepare and file in the office of the Director of Finance the estimated Special Assessments for the cost of the Project in accordance with the method of assessment set forth in the Petition and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed. The Director of Finance of the City or the Director of Finance's designee is authorized and directed to prepare and file in the office of the Director of Finance the estimated Assessments for the cost of the Project in accordance with the method of assessment set forth in the Petition and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

SECTION 11: That pursuant to the Petition, the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments, as provided in Ohio Revised Code Section 727.13, and the City hereby accepts that waiver.

SECTION 12: That the Director of Finance of the City or the Director of Finance's designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

SECTION 13: That this Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal, and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, and Ohio Revised Code Chapter 1710, and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner of the following rights:

- (i) The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Section 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;

- (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- (vi) The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- (viii) The right to notice of the passage of the Assessing Resolution under Ohio Revised Code Section 727.26.

SECTION 14: That the City is authorized to enter into agreements by and among the City, the District, and such other parties as the City may deem necessary or appropriate in order to provide the Project, and that the Mayor, the City Manager, or either of them individually, is authorized to execute, on the City's behalf, such agreements.

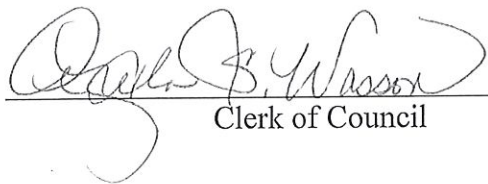
SECTION 15: That it is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that the deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION 16: That this Resolution provides for improvements petitioned for by the owners of the requisite majority of the front footage or of the area of the property benefited and to be especially assessed therefor. Under Section 7.08(B)(3) of the Charter of the City, this Resolution shall therefore take effect immediately upon its passage.

PASSED: January 14, 2020

ATTEST:

APPROVED:



 Clerk of Council



 Mayor

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Constitution Law, Section 121.22 of the Ohio Revised Code.

CERTIFICATION

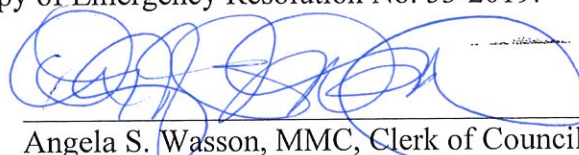
"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.

I, Angela S. Wasson, the duly appointed Clerk of Council of the City of Monroe, do hereby attest and certify that this is a true and correct copy of Emergency Resolution No. 53-2019.



 Clerk of Council
 City of Monroe, Ohio

January 15, 2020



 Angela S. Wasson, MMC, Clerk of Council