

	Yes	No	
Emergency	<u> </u>	<u> </u>	
First Reading	<u> 4 </u>	<u> 0 </u>	
Second Reading	<u> 5 </u>	<u> 0 </u>	
Third Reading	<u> 5 </u>	<u> 0 </u>	Effective: December 19, 2017

ORDINANCE 2017-9

AN ORDINANCE DETERMINING TO PROCEED WITH CERTAIN 435 EAST LINFOOT ENERGY IMPROVEMENT PROJECT BY WAY OF SPECIAL ASSESSMENTS IN ACCORDANCE WITH CHAPTERS 1710 AND 727 OF THE OHIO REVISED CODE

WHEREAS, the City of Wauseon created an Energy Special Improvement District (“District”) under Ohio Revised Code Chapter 1710 and a non-profit corporation, known as the Wauseon Ohio Advanced Energy Improvement Corporation (“Corporation”), to govern the District. Property owners within the District are permitted to make certain “energy efficiency improvements” to their properties, which constitute a “special energy improvement project”, and pay for the cost of the special energy improvement project by way of special assessments in accordance with the process set out in Chapters 727 and 1710 of the Ohio Revised Code. Revised Code Section 1710.01(G) provides that special energy improvement projects (including energy efficiency improvements) constitute public improvements and are therefore subject to special assessments; and

WHEREAS, the City of Toledo and the Toledo-Lucas County Port Authority (“Port Authority”) have partnered to create an Energy Special Improvement District under Ohio Revised Code Chapter 1710 and a non-profit corporation, known as the Northwest Ohio Advanced Energy Improvement District (“NWOAEID”), to govern the District. The Northwest Ohio Advanced Energy Improvement District and Port Authority have provided technical and financial assistance to the District for this project; and

WHEREAS, Marshall Fitness 24/7, LLC (the “Petitioner”) is the owner of 100% of the property described on **Exhibit A** attached hereto (the “Property”). The Petitioner has executed an Energy Project Agreement (the “Agreement”) which appoints the Chairperson of the Corporation, as the attorney-in-fact and agent for the Petitioner with the authority to act on behalf of the Petitioner in the special assessment process. A copy of the Energy Project Agreement is attached to the Petition as Exhibit C; and

WHEREAS, pursuant to the Agreement, and upon Application to the Wauseon Ohio Advanced Energy Improvement Corporation for membership and financing of special energy improvement projects to the Property; the Port Authority, Corporation, and Marshall Fitness 24/7, LLC have caused an energy audit to the property to be completed; and

WHEREAS, the energy audit has identified energy conservation measures, all of which qualify as energy efficiency improvements as defined in Revised Code Section 1710.01(K), which Marshall Fitness 24/7, LLC has determined to proceed with implementation, and to pay by way of special assessments; and

WHEREAS, Marshall Fitness 24/7, LLC, has submitted to this Council a petition (“Petition”) seeking (i) the addition certain of its property to the District and (ii) approval of an amendment to the District’s comprehensive plan for special energy improvement projects to include the 435 East Linfoot Energy Improvement Project (the “Project” or the “435 East Linfoot Energy Improvement Project”) and requesting that the Project be undertaken by the District and that the costs thereof be specially assessed against the Property of the Marshall Fitness 24/7, LLC specially benefited thereby; and

WHEREAS, a complete list and description of the 435 East Linfoot Energy Improvement Project is on file with the Clerk of City of Wauseon City Council and is attached as Exhibit B to this Resolution. Exhibit B provides the following information for the 435 East Linfoot Energy Improvement Project:

1. Identification of the parcels numbers and name of the property/building to be improved;
2. A description of the nature of the special energy improvement project for the particular parcels;
3. The estimated amount of the special assessment to be levied against each parcel of property and the number of years the special assessment will be collected (if not paid in cash within 30 days after the passage of the assessing ordinance as provided by law); and

WHEREAS, the total dollar cost of the 435 East Linfoot Energy Improvement Project, capitalized interest on the Port Authority’s revenue bonds, reserve fund for the Port Authority’s bonds, the cost of issuance of the Port Authority’s revenue bonds, or the associated costs of issuance of the Northwest Ohio Advanced Energy Improvement District’s revolving loan fund (collectively, the “Project”), is estimated to be Fifty Nine Thousand Eight Hundred Seventy Three dollars and Forty Seven cents (\$59,873.47). Each semi-annual payment represents the payment of a portion of the principal of and interest on the Port Authority’s revenue bonds and the scheduled amounts payable as the Port Authority administrative fee, the Port authority program administration fee, the trustee fee and the Fulton County, Ohio special assessment collection fee due with respect to each semi-annual payment; and

WHEREAS, the Port Authority, NWOAEID, and the Corporation will fund the cost of the Project through either the issuance of bonds or the revolving loan fund. Ultimately, the loan will be repaid over time from the amounts Marshall Fitness 24/7, LLC pays as special assessments. Marshall Fitness 24/7, LLC, in turn, is expected to be able to pay the special assessments from the energy savings estimated to be achieved as a result of the Project; and

WHEREAS, the annual special assessments for the Project are to be paid in semi-annual payments over nine (9) years. The plans and specifications for the 435 East Linfoot Energy

Improvement Project are on file with the Clerk of Council. The Marshall Fitness 24/7, LLC petition also waives 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, Chapter 727 of the Revised Code, the Wauseon City Charter and the Wauseon Municipal Code. Marshall Fitness 24/7, LLC consents to the immediate imposition of the special assessments upon the Property specially benefited by the Project; and

WHEREAS, this special assessment process is a voluntary process with one hundred percent of the cost of the special energy improvement projects being assigned to the specially benefited property. This resolution accepts and approves the petition from Marshall Fitness 24/7, LLC to begin that special assessment process, and is accompanied by an ordinance to proceed with the 435 East Linfoot Energy Improvement Project. When the 435 East Linfoot Energy Improvement Project are complete and the final costs known, an assessing ordinance directing that the necessary special assessments be made against the benefited Property will be presented to the Council;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Wauseon, Fulton County, Ohio, as follows:

Section 1.

That this Council hereby determines to proceed with the 435 East Linfoot Energy Improvement Project as described in the Marshall Fitness 24/7, LLC Petition and in the Resolution of Necessity, including the Exhibit B thereto, and in accordance with the plans, specifications, profiles and estimates of costs previously approved and now on file with the Clerk of Council.

Section 2.

That the Corporation shall cause the 435 East Linfoot Energy Improvement Project to be constructed under such contracts as it determines to be appropriate under law and in accordance with the plans and specifications approved by this Council.

Section 3.

That the total cost of the 435 East Linfoot Energy Improvement Project to be assessed in accordance with the Resolution of Necessity shall be assessed on the property in the manner and pursuant to the payment schedule set forth in the Resolution of Necessity, and the estimated special assessments prepared and filed in the Office of the Clerk of Council are adopted.

Section 4.

That the Clerk of Council is hereby directed to deliver a certified copy of this Ordinance to the County Auditor within fifteen (15) days after its passage, but in no event later than the second Monday in September, 2018 (or by such other date as may be specified in the Ohio Revised Code or acceptable to the County Auditor of Fulton County, Ohio for the certification of assessments in connection with the preparation of the general tax list for tax year 2018).

Section 5.

That this Council finds and determines that all formal actions of this Council and any of its Committees concerning and relating to the passage of this Ordinance were taken, and that all

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Situated in the City of Wauseon, County of Fulton and State of Ohio:

Known as being in the Southeast 1/4 of Section 14, Town 7 North, Range 6 East, more particularly described as follows:

Beginning at a point on the South line of said Southeast 1/4, which is 440 feet North 89 degrees 16 minutes West of the Southeast corner of said Southeast 1/4;

Thence North 89 degrees 16 minutes West along the South line of said Southeast 1/4, a distance of 100 feet;

Thence North 1 degree 54 minutes East, a distance of 190 feet;

Thence South 89 degrees 16 minutes East, a distance of 100 feet;

Thence South 1 degree 54 minutes West, a distance of 190 feet to the point of beginning; containing 0.436 acre, more or less.

Parcel No. 06-015560-00.000

Property Address: 435 East Linfoot Street, Wauseon Ohio 43567

EXHIBIT B

Project Plan for 435 East Linfoot

The real property owned by Marshall Fitness 24/7, LLC at 435 East Linfoot Street, Wauseon Ohio 43567, the legal description of the property is set forth on the attached Exhibit A, will be subject to special assessments for energy improvements in accordance with Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

1. LED Lighting Upgrades
2. HVAC Replacement

Total project cost: \$38,700.00

Total cost including financing and other charges: \$44,649.55

Total loan payments to be collected: \$5,872.19

Total assessment payments to be collected: \$54,001.28

Estimated Annual assessment payment: \$6,000.14

Estimated semi-annual special assessments for 9 years*: *varies – see table below*

Number of semi-annual installments: 18

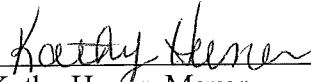
First annual assessment due: January 31, 2019

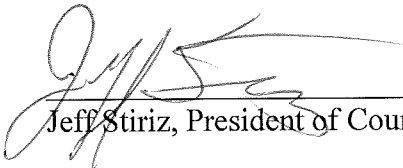
**Note: Fulton County will add 1% processing charge to the annual assessment amount.*

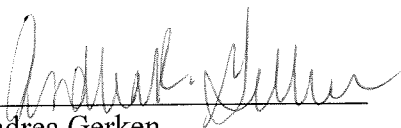
Year Payments Are Due	Loan Payment	Total Annual Assessment Parcel 06-015560-00.000	1st Half (Due 1/31)	2nd Half (Due 7/31)
2018	\$5,872.19			
<i>*Payments due in 2017/2018 will be made directly to NWOAIED</i>				
2019		\$6,000.14	\$3,000.07	\$3,000.07
2020		\$6,000.14	\$3,000.07	\$3,000.07
2021		\$6,000.14	\$3,000.07	\$3,000.07
2022		\$6,000.14	\$3,000.07	\$3,000.07
2023		\$6,000.14	\$3,000.07	\$3,000.07
2024		\$6,000.14	\$3,000.07	\$3,000.07
2025		\$6,000.14	\$3,000.07	\$3,000.07
2026		\$6,000.14	\$3,000.07	\$3,000.07
2027		\$6,000.16	\$3,000.08	\$3,000.08
Total Loan & Assessment		\$59,873.45		

deliberations of this Council or any of its Committees that resulted in such formal action were held in meetings open to the public, in compliance with all legal requirements including those of Section 121.22 of the Ohio Revised Code.

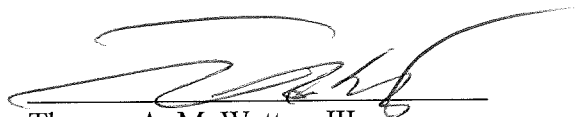
Passed: November 20, 2017


Kathy Huner, Mayor

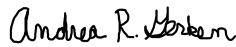

Jeff Stiriz, President of Council

Attest: 
Andrea Gerken
Clerk of Council

Approved as to Form:


Thomas A. McWatters III
City Law Director

I, Andrea R. Gerken, Clerk of Council for the City of Wauseon do hereby certify that this is a true and accurate copy of Ordinance 2017-9 passed November 20, 2017.


Andrea R. Gerken, Clerk of Council