

ORDINANCE NO. 2016-5
INTRODUCED BY: ADMINISTRATION AND COUNCIL

AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO REIMBURSE THE CITY OF BRECKSVILLE, OHIO, FOR LEGAL FEES ADVANCED IN DEFENDING THE CASE CAPTIONED NORTHEAST OHIO REGIONAL SEWER DISTRICT VS. BATH TOWNSHIP, OHIO, ET AL., OHIO SUPREME COURT CASE NO. 2013-1770, AND DECLARING AN EMERGENCY.

WHEREAS, in 2010 the Northeast Ohio Regional Sewer District filed a lawsuit against the City of Lyndhurst and numerous other communities, Northeast Ohio Regional Sewer District v. Bath Township, Ohio, et al., Cuyahoga County Common Pleas Court Case No. 714945, seeking to have its proposed stormwater management program (Title V) determined to be within the scope of its legal authority; and

WHEREAS, the City was required to retain legal representation to defend the lawsuit in Cuyahoga County Common Pleas Court; and

WHEREAS, after a trial in Common Pleas Court, that Court determined Title V was within the authority granted to the Northeast Ohio Regional Sewer District; and

WHEREAS, the City and other communities determined to appeal that judgment to the Eighth District Court of Appeals; and

WHEREAS, in order to pursue such appeal, the City was required to retain legal counsel; and

WHEREAS, after briefing and oral argument, the Court of Appeals determined the trial court had erred, and the Sewer District did not have the authority under either State law or its Charter to implement Title V; and

WHEREAS, the Sewer District appealed that decision to the Ohio Supreme Court, Case No. 13-1770; and

WHEREAS, the City was required to retain legal representation to defend the appeal in the Ohio Supreme Court; and

WHEREAS, by Opinion dated September 15, 2015, the Ohio Supreme Court determined the Sewer District had the authority to implement Title V; and

WHEREAS, upon recommendation of the Law Director, the City joined with the City of Brecksville and others to request reconsideration of that Opinion, which request was filed and was denied; and

WHEREAS, it is necessary to reimburse the City of Brecksville for legal fees paid. Now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYN DHURST, CUYAHOGA COUNTY, STATE OF OHIO, THAT:

SECTION 1. The Director of Finance is hereby authorized to reimburse the City of Brecksville, Ohio, its share of legal fees advanced in defending the case captioned Northeast Ohio Regional Sewer District vs. Bath Township, Ohio, et al., Ohio Supreme Court Case No. 2013-1770.

SECTION 2. The amount to be reimbursed shall be One Thousand One Hundred Forty-Eight and 72/100 (\$1,148.72).

SECTION 3. This Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council, and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of the City of Lyndhurst for the reason that the retention of such special legal services is necessary in order to defend the legal interests of the City and other municipalities with common interests in this significant pending litigation. Therefore, this Ordinance shall take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and signature by the Mayor or otherwise at the earliest time allowed by law.

PASSED: January 18, 2016

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Resolution by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on January 29, 2016 and February 4, 2016.

Clerk of Council

First Reading: January 18, 2016

Second Reading: Suspended

Third Reading: Suspended