Legislation Details (With Text)

File #:	R-467-18	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Approved
File created:	10/26/2018			**In control:**	City Council
On agenda:	11/7/2018			**Final action:**	11/7/2018
Title:	Accepting the petition of Dorothy Nelms for special assessments for various special energy improvement projects in accordance with Chapters 1710 and 727 of the Ohio Revised Code; declaring the necessity of proceeding with the special energy improvement projects and approving the plans and specifications therefor; stating the method for making the special assessments against the benefitted properties and the amount of such special assessments; and declaring an emergency.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Exhibit A, B & C, 2. Petition, 3. Agreement				

Date	Ver.	Action By	Action	Result
11/7/2018	1	City Council	Dispense with the rules of Council requiring...	Pass
11/7/2018	1	City Council	declare emergency	Pass
11/7/2018	1	City Council	adopted	Pass

All Council Members

Accepting the petition of Dorothy Nelms for special assessments for various special energy improvement projects in accordance with Chapters 1710 and 727 of the Ohio Revised Code; declaring the necessity of proceeding with the special energy improvement projects and approving the plans and specifications therefor; stating the method for making the special assessments against the benefitted properties and the amount of such special assessments; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo, City of Oregon, City of Maumee, City of Northwood, Township of Monclova, Township of Springfield, Township of Swanton, Township of Sylvania, Ohio and the Toledo-Lucas County Port Authority ("Port Authority") have partnered to create an Energy Special Improvement District ("District") under Ohio Revised Code Chapter 1710 and a non-profit corporation, known as the Northwest Ohio Advanced Energy Improvement District ("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.

Dorothy Nelms, (the "Petitioner") is the owner of 100% of the property described on **Exhibit A** attached hereto (the "Property"). The Petitioner has executed an Agreement to Impose Special Assessments (the "Agreement") with the Corporation. A copy of the Agreement to Impose Special Assessments is attached to

powered by Legistar™

Petitioner's Petition for Special Assessments for Special Energy Improvement Project (the "Petition") as **Exhibit C**.

Pursuant to the Agreement, and upon Application to the Corporation for membership and financing of special energy improvement projects to the Property; Corporation, Petitioner have caused an energy audit to the Property to be completed.

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 Petitioner has determined to proceed with implementation, and to pay by way of special assessments.

Petitioner has submitted to this Council the Petition seeking (i) the addition of 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 3146 Sherbrooke Road, Toledo, OH 43606 Special Energy Improvement Project (the "Special Energy Improvement Project") and requesting that the Project be undertaken by the District and that the costs thereof be specially assessed against the Property specially benefited thereby.

A complete list and description of the Special Energy Improvement Project is on file with the Clerk of Toledo City Council and is attached as Exhibit B to this Resolution. Exhibit B provides the following information for the Special Energy Improvement Project:

1. Identification of the parcel number and name of the Property/building to be improved;
2. A description of the nature of the Special Energy Improvement Project for the particular parcel;
3. The estimated amount of the special assessment to be levied against the Property (the "Special Assessment) 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).

The total dollar cost of the Special Energy Improvement Project, including accrued interest and the associated costs of issuance of the Corporation's revolving loan fund, is estimated to be Nine Thousand Seven Hundred Fifty-One Dollars and Forty-Nine Cents ($9,751.49). Each semi-annual payment represents the payment of a portion of the principal of and interest, the program administration fee, and the Lucas County, Ohio special assessment collection fee due with respect to each semi-annual payment.

The District will fund the cost of the Project through the Residential PACE Loan Fund. Ultimately, the loan will be repaid over time from the amounts Petitioner pays as loan payments and the Special Assessment. Petitioner, in turn, is expected to be able to pay the Special Assessment from the energy savings estimated to be achieved as a result of the Special Energy Improvement Project.

The annual Special Assessment for the Special Energy Improvement Project is to be paid in semi-annual payments over ten (10) years. The plans and specifications for the Special Energy Improvement Project are on file with the Clerk of Council. The Petitioner 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 Toledo City Charter and the Toledo Municipal Code. Petitioner consents to the immediate imposition of the Special Assessment upon the Property specially benefited by Special Energy Improvement Project.

This special assessment process is a voluntary process with one hundred percent of the cost of the Special Energy Improvement Project being assigned to the specially benefited Property. This resolution accepts and approves the petition from Petitioner, to begin that special assessment process, and is accompanied by an ordinance to proceed with Petitioner. When the Special Energy Improvement Project is complete and the final

powered by Legistar™

costs known, an assessing ordinance directing that the necessary Special Assessment be made against the benefited Property will be presented to the Council. NOW, THEREFORE,

Be it resolved by the Council of the City of Toledo:

SECTION 1. That this Council accepts and approves the Petition of Dorothy Nelms for the Special Energy Improvement Project described herein and in Exhibit B to this Resolution, which is on file with the Clerk of Council. All of the findings and determinations contained in the preceding Summary and Background section are incorporated herein and adopted as substantive findings and determinations of this Council.

SECTION 2. That this Council (i) accepts and confirms the inclusion of the properties listed in Exhibit A in the District, which, pursuant to Chapter 1710 of the Ohio Revised Code, is governed by the Corporation, and (ii) declares the necessity of the acquisition, installation and construction of the Special Energy Improvement Project, which shall be constructed on the Property of the Special Energy Improvement Project identified in Exhibit A.

SECTION 3. That this Council hereby confirms its approval of the plan for the District, including (and as supplemented and amended by and to include) the plans for the Special Energy Improvement Project, and the Corporation is authorized and directed to cause the Special Energy Improvement Project to be constructed under such contracts as it determines to be appropriate under law and in accordance with the plan for the District, including (and as supplemented and amended by and to include) the plans for the Special Energy Improvement Project.

SECTION 4. That the plans, specifications, estimates of costs, and profiles of the proposed Special Energy Improvement Project identified in Exhibit B on file with the Clerk of Council and open to inspection are hereby approved, and the Special Energy Improvement Project shall be acquired, installed and constructed in accordance with those plans and specifications.

SECTION 5. That this Council hereby finds and determines that (i) the Special Energy Improvement Project is conducive to the public health, convenience and welfare of the City and its inhabitants and (ii) the Property of Petitioner, identified in Exhibit A is specially benefited by the Special Energy Improvement Project.

SECTION 6. This Council hereby 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, Chapter 727 of the Revised Code, the Toledo City Charter and the Toledo Municipal Code, and consents to the immediate imposition of the Special Assessment upon the Property as identified in Exhibit A. This waiver encompasses but is not limited to waivers of the following rights under the Revised Sections referred to below:

- The right to notice of the adoption of the Resolution of Necessity under Sections 727.13 and 727.14;
- The right to limit the amount of the special assessment under Sections 727.03 and 727.06;
- The right to file an objection to the special assessment under Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Sections 727.16 and 727.17;
- The right to file any claim for damages under Sections 727.18 through 727.22 and Section 727.43;
- The right to notice that bids or quotations for the Special Energy Improvement Project may exceed estimates by 15%;
- The right to seek a deferral of payments of the Special Assessments under Section 727.251; and

powered by Legistar™

- The right to notice of the passage of the assessing ordinance under Section 727.26.
- Any and all procedural defects, errors or omissions in the special assessment process.

SECTION 7. That the total cost of the Special Energy Improvement Project shall be assessed against the Property of Petitioner identified in Exhibit A in proportion to the benefits resulting from the Special Energy Improvement Project.

SECTION 8. That the total cost of the Special Energy Improvement Project shall include any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs, the amount of any damages resulting from the Special Energy Improvement Project and the interest thereon, 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 therein, expenses of legal services, costs of labor and material, trustee fees and other financing costs incurred in connection with the issuance, sale and servicing of securities issued by the Port Authority to provide a loan to the Corporation to pay costs of those Special Energy Improvement Project in anticipation of its receipt of the Special Assessment, capitalized interest on, and financing reserve funds for, such securities issued by the Port Authority, the administrative fee, together with all other necessary expenditures.

SECTION 9. That the estimated Special Assessment heretofore prepared and now on file with the Clerk of Council and amounting in the aggregate to $12,484.00 be and is hereby adopted. The Special Assessment to be levied shall be paid according to the following schedule: in ten (10) annual (twenty (20) semi-annual) installments, with interest thereon at the same rate or rates as shall be borne by the securities to be issued by the Port Authority and loaned to the Corporation for the Special Energy Improvement Project in anticipation of its receipt of the Special Assessments. Each semi-annual payment represents the payment of a portion of the principal of and interest on the Corporation's Residential PACE Loan Fund and the administrative fee, and the Lucas County, Ohio special assessment collection fee due with respect to each semi-annual payment.

SECTION 10. That the City does not intend to issue its own securities in anticipation of the levy or collection of the special assessments for the Special Energy Improvement Project, which instead shall be paid for initially from proceeds of the securities issued by the Port Authority for that purpose, and repaid through the special assessment process described herein.

SECTION 11. That this Council finds and determines that all formal actions of this Council and any of its Committees concerning and relating to the adoption of this Resolution were taken, and all deliberations of this Council or any of its Committees that resulted in such formal actions were held in meetings open to the public, in compliance with all legal requirements including those of Section 121.22 of the Revised Code.

SECTION 12. That this Resolution is declared to be an emergency measure and shall take effect and be in force from and after its adoption. The reason for the emergency lies in the fact that this Resolution is necessary for the immediate preservation of the public peace, health, safety and property; and for the further reason that immediate action is necessary in order to conserve energy, protect the environment of the City, and undertake construction of necessary public improvements, as well as, provide and enable the timely levying, certification and collection of the special assessments for the Special Energy Improvement Project.

Vote on emergency clause: yeas _____, nays _____.

Adopted: _____, as an emergency measure: yeas _____, nays _____.

powered by Legistar™

Attest: _____ _____
Clerk of Council President of Council

Approved: _____ _____
Mayor

I hereby certify that the above is a true and correct copy of a Resolution adopted by Council _____.

Attest: _____
Clerk of Council