

Proposed

ORDINANCE NO. 20-2017

AN ORDINANCE BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, AUTHORIZING THE MAYOR AND THE FISCAL OFFICER TO ENTER INTO A REAL PROPERTY, LAND EXCHANGE AGREEMENT, WITH NO MONEY TO BE PAID, AND DECLARING AN EMERGENCY.

WHEREAS, the City of New Philadelphia operates a municipal cemetery under the statutory authority of Revised Code Chapter 759; and the cemetery is near capacity and there is an adjacent eight (8) acre +/- parcel of vacant land onto which the City's cemetery may expand; and,

WHEREAS, this expansion will generate a significant public benefit and may generate additional cemetery plot revenue well into the foreseeable future. However, a direct purchase of the eight (8) acre +/- parcel is not within the City's current budget and will entail the need to borrow money to purchase the land; and,

WHEREAS, the City of New Philadelphia owns a thirty-three (33) acre +/- parcel of land that is at the municipal border. This parcel is a former landfill and not economically developable for any feasible purpose. The City's thirty-three (33) acre +/- parcel may be used "surface only" uses that do not involve excavating for foundations, footings or other infrastructure to support any superstructure; and, as such, has no foreseeable, economic use or benefit, and is not suitable for use by the City of New Philadelphia; and,

WHEREAS, the disposal of real estate by a municipality is a proper exercise of the substantive power of local self-government and a city may "barter" or exchange real property owned by it which is unsuitable or unnecessary for municipal purposes and for "an adequate consideration other than money." *City of Cleveland v. Library Board*, 94 OS 311; *State ex rel. Turner, Attorney General*, 93 OS 376; *Green vs. Thomas, Mayor*, 37 O.A. 489 (Franklin Cty.); 1932 OAG 4777.

WHEREAS, the owner of a certain parcel of real property being an eight (8) acre +/- parcel of vacant land, the parcels of land being approximately 8.95 acres, assigned tax parcel nos. 25-01174-000; 25-01175-000; 25-01176-000; and 25-01177-000, and being situated in the Township of Goshen, County of Tuscarawas, State of Ohio, offers to barter and exchange for the City of New Philadelphia owned thirty-three (33) acre +/- parcel of land, the parcel of land being approximately 33.06 acres, assigned tax parcel no. 25-02067-000, and being situated in the Township of Goshen, County of Tuscarawas, State of Ohio, as an even exchange, with no additional money to change hands, now therefore,

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, AS FOLLOWS:

SECTION 1. The City's thirty-three (33) acre +/- parcel described herein has no foreseeable, economic use or benefit, and is not suitable for use by the City of New Philadelphia.

SECTION 2. There is adjacent to the City's municipal cemetery an eight (8) acre +/- parcel of vacant land onto which the City's cemetery may expand. This expansion will generate a

significant public benefit and may generate additional cemetery plot revenue well into the foreseeable future.

SECTION 3. The owners of the eight (8) acre +/- parcel of vacant land as described herein agrees to exchange that real property for the City's thirty-three (33) acre +/- parcel of real property as described herein as an even exchange with no additional monetary compensation to exchange hands.

SECTION 4. The real property exchange is for good and adequate consideration.

SECTION 5. The Mayor and the Fiscal Officer are hereby authorized to enter into an agreement for the even exchange of the eight (8) acre +/- parcel of vacant land, the parcels of land being approximately 8.95 acres, assigned tax parcel nos. 25-01174-000; 25-01175-000; 25-01176-000; and 25-01177-000, and being situated in the Township of Goshen, County of Tuscarawas, State of Ohio, in exchange for the City's thirty-three (33) acre +/- parcel of real property, the parcel of land being approximately 33.06 acres, assigned tax parcel no. 25-02067-000, and being situated in the Township of Goshen, County of Tuscarawas, State of Ohio, as an even exchange with no additional monetary compensation to exchange hands; and, to do all things reasonable and necessary to accomplish the purposes of this Ordinance including the execution of deeds, articles of conveyance, and other related documents.

SECTION 6. This Ordinance is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

SECTION 7. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2017

ATTEST:

SAM R. HITCHCOCK
PRESIDENT OF COUNCIL

JULIE COURTRIGHT
CLERK OF COUNCIL

APPROVED:

MAYOR JOEL B. DAY

SPONSORED BY: PARKS AND CEMETERY COMMITTEE