

**CITY OF STRUTHERS**  
**Resolution**

NO. 20-013

**A RESOLUTION RESCHEDULING THE PUBLIC HEARING  
ON THE APPLICATION OF EDWARD J. BARONE TO  
PLACE CERTAIN LAND LOCATED IN THE CITY OF  
STRUTHERS, OHIO IN AN AGRICULTURAL DISTRICT  
FROM MARCH 25, 2020 TO THE DATE ON WHICH  
COUNCIL CONDUCTS ITS FIRST REGULAR MEETING  
THAT COUNCIL IS PHYSICALLY PRESENT FOLLOWING  
THE CONCLUSION OF THE PRESENT STATE OF  
EMERGENCY AND DECLARING AN EMERGENCY.**

**WHEREAS**, § 929.02(A) of the Ohio Revised Code provides that “[a]ny person who owns agricultural land may file an application with the county auditor to place the land in an agricultural district for five years \* \* \*” if certain conditions are satisfied;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code provides that “[i]f the land \* \* \* is within a municipal corporation \* \* \*, the owner also shall file a copy of the application \* \* \* with the clerk of the legislative body of the municipal corporation”;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code further provides that “[n]o later than thirty days after the filing of an application \* \* \*, the legislative body shall conduct a public hearing on the application”;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code further provides that “[t]he clerk of the legislative body shall cause notice containing the substance of the application and the time and place where it will be heard to be published \* \* \* no later than seven days prior to the time fixed for the hearing”;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code further provides that “[t]he clerk of legislative body also shall notify the applicant of the time and place of the hearing by certified mail sent no later than ten days prior to the hearing”;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code further provides that “[a]ny interested person or representative of an interested person may appear in support of or to contest the granting of the application [and] [a]ffidavits presented in support of or against the application shall be considered by the legislative body”;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code further provides that “[w]ithin thirty days of the hearing, the legislative body may approve the application, modify the application and approve the application as modified, or reject the application”;

**WHEREAS**, § 929.02(B) of the Ohio Revised Code further provides that “[a]n application that is not modified or rejected by \* \* \* the legislative body shall be deemed approved”;

**WHEREAS**, on February 24, 2020, Edward J. Barone filed an Application for Placement of Farmland in an Agricultural District (the “Application”) with the Mahoning County Auditor (the “Auditor”) to place four (4) lots, two (2) of which are located in the City of Struthers, Ohio (the “City”), in an agricultural district;

**WHEREAS**, the Clerk of this Council (the “Clerk”) received a copy of the Application, set March 25, 2020 as the date on which this Council would conduct a public hearing on the Application (the “Hearing Date”), caused notice of the Hearing Date to be published at least seven days prior to Hearing Date, and notified Mr. Barone of the Hearing Date by certified mail no later than ten days prior to the Hearing Date;

**WHEREAS**, Governor Mike DeWine issued Executive Order 2020-01D on March 9, 2020 declaring a state of emergency for the entire the State to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19 and to assist in protecting the lives, safety, and health of the citizens of Ohio;

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**WHEREAS**, on March 11, 2020, the World Health Organization officially declared COVID-19 to be a global “pandemic” requiring “urgent and aggressive action” to control the spread of the virus;

**WHEREAS**, President Donald Trump issued a proclamation on March 13, 2020 declaring a national state of emergency due to the COVID-19 pandemic;

**WHEREAS**, the Director of Ohio Department of Health issued an amended order on March 17, 2020 limiting and/or prohibiting mass gatherings and the closure of venues in the State;

**WHEREAS**, despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed;

**WHEREAS**, this Council, in collaboration with the State and Federal government, continue sustained efforts to minimize the spread and mitigate the effects of COVID-19;

**WHEREAS**, this Council may cancel public assemblies, conferences, or other mass events as it deems necessary to protect the public from force majeure events, and finds that the COVID-19 pandemic constitutes a force majeure event;

**WHEREAS**, this Council has substantial, legitimate interests in continuing governmental services to the fullest extent necessary throughout the current national and state emergency;

**WHEREAS**, in an effort to protect the public from COVID-19, this Council previously passed Resolution No. 20-011 establishing the use of GoToMeeting to meet during the course of the state of emergency;

**WHEREAS**, this Council will only use GoToMeeting to transact necessary and essential business of the City during the present state of emergency, and all other business will be transacted at the conclusion of the state of emergency when Council resumes in-person meetings; and

**WHEREAS**, this Council finds that (i) the use of GoToMeeting to consider the Application is insufficient to allow any interested person to appear in support of or to contest the granting of the Application and/or to present affidavits in support of or against the Application and (ii) it is in the best interest of the residents of the City to conduct the hearing when Council resumes meetings at which Council and the public are physically present in order to allow interested persons to appear in support of or to contest the granting of the Application and/or to present affidavits in support of or against the Application.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Struthers, Ohio,  $\frac{3}{4}$ 's of all members elected thereto concurring:

**SECTION 1:** The Hearing Date is hereby cancelled and will be rescheduled for the date on which Council conducts its first regular meeting that Council is physically present following the conclusion of the present state of emergency (the “First Meeting”).

**SECTION 2:** Because of the present state of emergency, the Application shall not be deemed approved as a result of Council’s inability to conduct a public hearing with Council and the public physically present unless Council does not consider the Application at the First Meeting.

**SECTION 3:** The Clerk shall cause notice containing the substance of the Application and the time and place where it will be heard to be published no later than seven days prior to the date fixed for the First Hearing. Additionally, the Clerk shall notify Mr. Barone of the time and place of the First Hearing by certified mail no later than ten days prior to the First Hearing.

**SECTION 4:** The Clerk shall cause a certified copy of this Resolution to be immediately sent to the Auditor and Mr. Barone.

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**SECTION 5:** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including § 121.22 of the Ohio Revised Code.

**SECTION 6:** A delay in the effective date of this Resolution will result in detriment to the health, safety and welfare of the Struthers community at large. Accordingly, this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon its passage and approval by the Mayor.

PASSED IN COUNCIL THIS 25<sup>th</sup> DAY OF March, 2020.

7 Yeas                      0 Nays

Megan R. Shorthouse  
CLERK OF COUNCIL

Joseph N. Rudzik  
PRESIDENT OF COUNCIL

FILED WITH THE MAYOR THIS 26<sup>th</sup> DAY OF March, 2020.

Megan R. Shorthouse  
CLERK OF COUNCIL

APPROVED BY THE MAYOR THIS 26<sup>th</sup> DAY OF March, 2020.

Catherine Cercone Miller  
MAYOR

PUBLISHED IN THE HOMETOWN JOURNAL

DATE: 04/02/2020-04/09/2020

Megan R. Shorthouse  
CLERK OF COUNCIL