

**AGENDA  
EUCLID CITY COUNCIL MEETING  
MONDAY, FEBRUARY 4, 2019 AT 7:00 PM  
EUCLID MUNICIPAL CENTER COUNCIL CHAMBER**

**PERMISSIBLE PRELIMINARIES:**

FIRST GAVEL

PLEDGE OF ALLEGIANCE

**EUCLID CITY COUNCIL MEETING BUSINESS:**

SECOND GAVEL

ROLL CALL OF MEMBERS

**COMMUNICATIONS:**

- GO 4 EVER ENTERPRISE, LLC: 1550 East 191<sup>st</sup> Street, Euclid, Ohio 44117

**COUNCIL MINUTES:**

- November 5, 2018 and November 19<sup>th</sup>, 2018

**ADMINISTRATION REPORTS & COMMUNICATIONS:**

**COMMITTEE DOCUMENTATION:**

- Board of Control dated January 14, 22 and 28<sup>th</sup>, 2019
- Executive and Finance Committee meeting dated January 28, 2019

**COMMITTEE OF THE WHOLE FOR LEGISLATIVE MATTERS ONLY**

**LEGISLATION**

**ACTION**

**PROPOSED**

**Second  
Reading**

1. An ordinance authorizing the Mayor of the City of Euclid to enter into an agreement with a Regional Council of Governments with Regional Income Tax Agency for the administration of the income tax laws of the City of Euclid and for the collections of said taxes. (Sponsored by Mayor Holzheimer Gail and Councilperson Mancuso) (Referred to Council by Executive and Finance Committee with recommendation for passage)

**Comment: This would allow the city to contract with RITA for tax administration and collections.**

2. An ordinance authorizing the Chief of Police of the City of Euclid to enter into contract with Statewide Ford Lincoln Mercury, 1108 W. Main Street, Van Wert, OH 45891, for the purchase of three (3) 2019 Ford Utility Interceptors, in an amount not to exceed \$116,500.00, for use in the Euclid Police Department. (Sponsored by Council President Mancuso by request of the Chief of Police)

**Comment: This would allow for the purchase of (3) three police vehicles.**

Ord.  
(158-18)

Ord.  
(013-19)

3. An emergency ordinance authorizing the Mayor's Office of the City of Euclid to advertise for bids and enter into a contract for the Grass Cutting/Yard Clean-Up Program within the City of Euclid. (Sponsored by Mayor Holzheimer Gail and Councilperson Gorshe) Ord. (014-19)

**Comment: This would allow for the advertisement for bids and subsequent contracting of landscapers for the city's grass cutting program.**

**First Reading**

4. An ordinance enacting Section 763.09 "Retaliatory Action by Landlord Prohibited" of Chapter 763 "Real Estate Practices" of the Business Regulation Code of the Codified Ordinances of the City of Euclid to prohibit landlords from acting in a retaliatory manner against tenants with good faith complaints. (Sponsored by Councilperson Langman) Ord. (015-19)

**Comment: This would create a program to review complaints by tenants of retaliatory actions by landlords and determine if criminal charges are appropriate.**

**COMMITTEE OF THE WHOLE – PUBLIC PORTION**

**COUNCIL MEMBERS' COMMENTS**

**ADJOURNMENT**

**STATE OF THE CITY ADDRESS MAYOR HOLZHEIMER GAIL**

Ordinance No.

By – Mayor Holzheimer Gail and Council President Mancuso

An ordinance authorizing the Mayor of the City of Euclid to enter into an agreement with a Regional Council of Governments with Regional Income Tax Agency for the administration of the income tax laws of the City of Euclid and for the collections of said taxes.

WHEREAS, Chapters 791 and 792 of the Codified Ordinances of the City of Euclid provide for the collection of Municipal Income Tax; and

WHEREAS, Council of the City of Euclid deems it necessary to provide an expedient and efficient means for collection of said Municipal Income Tax; and

WHEREAS, the City of Euclid desires to contract with an outside agency, the Regional Income Tax Agency, to administer the income tax laws of Euclid and to act as its agent in the collection of said taxes; and

WHEREAS, the City of Euclid is in receipt of a proposal from a Regional Council of Governments for the Regional Income Tax Agency for the administration of these services; and

WHEREAS, Council of the City of Euclid desires to authorize the Mayor to enter into an agreement with a Regional Council of Governments for the administration of the income tax laws of the City of Euclid and for the collections of said taxes.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Mayor be and is hereby authorized to enter into an agreement with a Regional Council of Governments with Regional Income Tax Agency for the administration of the income tax laws of the City of Euclid and for the collections of said taxes. The contract shall be in a form approved by the Director of Law and as on file in the office of Clerk of Council.

Section 2: That funds to pay for this expenditure are to be derived from the General Fund.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Passed:

Approved:

Effective:

\_\_\_\_\_  
Mayor

Ordinance No.

By – Councilperson Mancuso (by request)

An ordinance authorizing the Chief of Police of the City of Euclid to enter into contract with Statewide Ford Lincoln Mercury, 1108 W. Main Street, Van Wert, OH 45891, for the purchase of three (3) 2019 Ford Utility Interceptors, in an amount not to exceed \$116,500.00, for use in the Euclid Police Department.

WHEREAS, three (3) Euclid Police Department vehicles will be taken out of commission as they have reached the end of their useful life; and

WHEREAS, the EPD would like to purchase three (3) 2019 Ford Utility Interceptors to add to their fleet of vehicles;

WHEREAS, funds are available in the Law Enforcement Trust Fund (County) for the purchase of these vehicles; and

WHEREAS, the vehicle prices are from the State of Ohio, Department of Transportation cooperative pricing schedule and competitive bidding is therefore waived; and

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Chief of Police of the City of Euclid to enter into contract with Statewide Ford Lincoln Mercury, 1108 W. Main Street, Van Wert, OH 45891, for the purchase of three (3) 2019 Ford Utility Interceptors, in an amount not to exceed \$116,500.00, for use in the Euclid Police Department.

Section 2: That this purchase is made at pricing available through the State of Ohio Cooperative Purchasing Program and competitive bidding is therefore waived.

Section 3: Funds to pay for this expenditure are to be derived from the Law Enforcement Trust Fund (County).

Section 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: That this ordinance shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

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Clerk of Council

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President of Council

Passed:

Effective:

\_\_\_\_\_  
Mayor

By – Mayor Holzheimer Gail and Councilperson Gorshe

An emergency ordinance authorizing the Mayor's Office of the City of Euclid to advertise for bids and enter into a contract for the Grass Cutting/Yard Clean-Up Program within the City of Euclid.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Mayor's office be, and she is hereby authorized, empowered and directed to advertise for bids and enter into a contract for Grass Cutting/Yard Clean-Up program to be in accordance with specifications on file in the office of the Mayor. Said contract shall be entered into after advertising for not less than two consecutive weeks in a newspaper of general circulation in the City of Euclid and awarded by the Board of Control to the lowest and best bidder. The specifications on file in the office of the Mayor are hereby approved. The contract shall be in form approved by the Director of Law and shall be in conformance with such specifications. It shall be executed by the Mayor's Office. The Board of Control is hereby authorized to waive any minor or technical irregularities that may occur during the bid process.

Section 2: Funds to pay for this expenditure are to be derived from the 2019 Nuisance Abatement Funds.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and provided it receives the two-thirds vote of all members of Council elected thereto, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

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Clerk of Council

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President of Council

Passed:

Approved:

\_\_\_\_\_  
Mayor

Ordinance No.

By – Councilperson Langman

An ordinance enacting Section 763.09 "Retaliatory Action by Landlord Prohibited" of Chapter 763 "Real Estate Practices" of the Business Regulation Code of the Codified Ordinances of the City of Euclid to prohibit landlords from acting in a retaliatory manner against tenants with good faith complaints.

WHEREAS, the City's Ordinances requiring annual inspections of rental properties has been curtailed by the ruling in the Portsmouth Case; and

WHEREAS, given that property owners can refuse annual interior inspections based on the 4<sup>th</sup> Amendment Constitutional protections against unreasonable searches, tenants with potential housing code violations have little government recourse; and

WHEREAS, this "anti-retaliation" law would give tenants with good faith complaints some protection from predatory and retaliatory practices by their landlord; and

WHEREAS, such retaliatory practices include evictions, rent increases, service reductions or increased obligations under any lease, refusal to renew lease agreement, or refusal to collect rent; and

WHEREAS, however, landlords should also be heard and given the opportunity to demonstrate that any action taken was not retaliatory.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Section 763.09 "Retaliatory Action by Landlord Prohibited" of Chapter 763 "Real Estate Practices" of the Business Regulation Code of the Codified Ordinances of the City of Euclid be and the same is hereby enacted to read as follows:

**763.09 RETALIATORY ACTION BY LANDLORD PROHIBITED**

(a) No owner, or person having control, of any premises regulated by this code shall institute or threaten to institute any action to recover possession of the premises or otherwise cause a tenant to quit a habitation involuntarily, demand an increase in rent from a tenant, decrease services to which a tenant has been entitled, increase the obligations of a tenant, or refuse to renew the tenant's lease agreement in retaliation against:

(1) A tenant's good faith complaint or report of conditions in, or affecting his or her dwelling unit, which might reasonably be believed to constitute a violation of a housing, building, health, or other code or ordinance made to a governmental authority or to the owner or person having control of the premises; or

(2) The tenant joining with other tenants for the purpose of negotiating or dealing collectively with the owner or person having control of the premises on any of the terms and conditions of a rental agreement.

(b) The City of Euclid bears the initial burden of establishing a prima facie case of retaliatory action. In order to establish a prima facie case, the City must demonstrate the following:

(1) The victim is a "tenant" as defined by the Codified Ordinances of the City of Euclid Section 743.01(a).

(2) The tenant has engaged in one of the protected activities in the City of Euclid Codified Ordinances Section 763.09(a).

(3) The owner or person having control of the premises has engaged in at least one of the following prohibited actions:

(i) Increasing rent or any other obligations of the tenant;

(ii) A reduction of any services to the tenant;

(iii) A warning or a threat of eviction, formal or informal;

(iv) Filing of an eviction proceeding in close temporal proximity to the occurrence of any event referred to in the Codified Ordinances of the City of Euclid Section 763.09 (a);

(v) Termination or non-renewal of a lease agreement in close temporal proximity to the occurrence of any event referred to in the Codified Ordinances of the City of Euclid Section 763.09(a);

(vi) Landlord trespassing on the property or forcing entry;

(vii) Shutting off utilities or water services;

(viii) Not accepting rent payment;

(ix) Interfering with the tenant's quiet use and enjoyment of the property; or,

(x) Prohibiting the right of access to any part of the premises that the tenant is lawfully entitled to use or occupy.

(c) Once the City has established a prima facie case, a rebuttable presumption shifts the burden to the owner, or person having control of the premises, to articulate a legitimate, non-retaliatory reason for taking action against the tenant. To rebut the presumption to any prosecution brought under the Codified Ordinances of the City of Euclid Section 763.09 that the actions taken by the owner, or person having control of the premises were retaliatory, the accused must demonstrate by preponderance of the evidence either of the following:

(1) A tenant's violation of the lease agreement between the tenant and the accused; or

(2) A reason not related to the tenant's good faith complaint or report to the accused or a governmental authority.

If the accused articulates such a reason, the presumption ceases and the City bears the burden of proving the proffered reason is merely a pretext for unlawful retaliation.

(d) Any provision of any lease that conflicts with this section of the code is void and unenforceable.

(e) The Codified Ordinances of the City of Euclid 763.09 is not intended to serve as a basis for a civil claim, a counterclaim, or a defense in an eviction proceeding under O.R.C. Chapter 5321 or O.R.C. Chapter 1923.

(f) Penalty. A person who violates 763.09 is guilty of a misdemeanor of the first degree, punishable by a fine not to exceed \$1,000 and a maximum of 180 days in jail.

Section 2: That Section 763.09 "Retaliatory Action by Landlord Prohibited" of Chapter 763 "Real Estate Practices" of the Business Regulation Code of the Codified Ordinances of the City of Euclid is hereby enacted.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Passed:

Approved:

Effective:

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Mayor