

TEMPORARY RESOLUTION NO. 107-14

PERMANENT RESOLUTION NO. 107-14

A RESOLUTION OPPOSING CONSTRUCTION OF THE NEW FAIRFIELD COUNTY PUBLIC SAFETY FACILITY/JAIL ON A SITE LOCATED WITHIN WELLHEAD PROTECTION ZONE 1 (WHPZ1) OF THE CITY OF LANCASTER'S WELLHEAD PROTECTION PROGRAM AS ESTABLISHED BY CHAPTER 1335, WELLHEAD PROTECTION PLAN, PURSUANT TO PERMANENT ORDINANCE 61-97, PASSED ON OCTOBER 13, 1997.

WHEREAS, Lancaster City Council has the Statutory Authorization - Ohio Constitution, Article XVIII, Section 3 grants municipalities the legal authority to control measures for promoting the public health, safety and general welfare of its residents; and

WHEREAS, Lancaster City Council having sworn to support the Constitution of the State of Ohio, and the Ordinances of the City of Lancaster, and that those Ordinances ordain the provisions to protect against those which adversely affect the public health, safety, and welfare; and

WHEREAS, the site currently selected by the Fairfield County Commissioners, bordered by Lincoln Avenue on the south, Memorial Drive on the east, Wheeling Street on the north, and the Hocking River on the west, hereafter known as the Downtown Site, is located within Wellhead Protection Zone 1 (WHPZ1), meaning an area within the critical one-year time-of-travel contour for water flowing toward the City's production wells; and

WHEREAS, Wellhead Protection Zone 1 (WHPZ1) has been established for the stipulated purpose: "to safeguard the health, safety, and general welfare of the residents of the City of Lancaster, and all those who receive, or will receive, the benefits of the municipal water system" (Section 1335.02 Purpose); and

WHEREAS, Wellhead Protection Zone 1 (WHPZ1) contains the most restrictive land use practices, including prohibitions against certain stipulated uses, to ensure that purpose (Section 1335.05 (a) Prohibited Uses); and

WHEREAS, multiple environmental and geotechnical studies have been completed for the proposed Downtown Site that demonstrate many of the prohibited uses have historically occurred on the Downtown Site; and

WHEREAS, multiple environmental and geotechnical studies and analysis have been performed at the Downtown Site that did find evidence of contaminants and regulated substances as defined by the Wellhead Protection Plan (Section 1335.03 (e) and (t)); and

WHEREAS, the limited Phase II Environmental Site Assessment performed for the County Commissioners did identify the presence of elevated concentrations of toxic metals (arsenic, lead, chromium, and mercury) along with the presence of other regulated substances, and that the concentrations of these leachable contaminants exhibited a significant increase with depth in all borings in which more than one sample was analyzed (note: the scope of the work

“limited” to only the shallow subsurface soils immediately underlying a portion of the proposed building footprint and, despite the fact that previous investigations had confirmed the Downtown Site was underlain by as much as 18.5 feet of fill materials of variable composition, the Commissioner’s assessment consisted of only 10 borings in areas where only 7.5 to 11 feet of fill materials were present and at 7 of the 10 borings samples for the analysis of toxic metals were not even taken at the base of the fill materials); and

WHEREAS, a full and complete Phase II analysis of the Downtown Site should be performed for the protection, health and safety of the community to address all environmental concerns and in accordance with recognized environmental due diligence standards before any construction take place; and

WHEREAS, there are no existing monitoring wells between the proposed Downtown Site and the City of Lancaster’s Miller Park Wellfield, in which the closest production well is less than 60 feet from the Downtown Site, and that an expanded monitoring well network would need to be installed and extensive sampling and analyses initiated and conducted on a monthly basis for the useful life of the wellfield (note: due to the close proximity and the resultant short time-of-travel, expanded monitoring may not allow adequate warning time to mitigate potential contamination of the city water supply and perhaps could, therefore, require the city to shut down wells for the protection, health, and safety of its residents); and

WHEREAS, to add monitoring wells, institute and maintain an expanded monitoring program, and/or to abandon production wells in the future at this site would be a great expense to the City of Lancaster and its residents; and

WHEREAS, Lancaster City Council, as per its Ordinances, is responsible to guard against the impairment of the tax base, and any extraordinary public expenditures; and

WHEREAS, while City Council recognizes the need for a new Fairfield County Jail, our support is for the Liberty Center Site, based on environmental conditions and concerns, potential cost to the community, and economic development considerations; and

BE IT RESOLVED BY COUNCIL OF THE CITY OF LANCASTER, OHIO

SECTION 1. That City Council hereby opposes the construction of a New Fairfield County Public Safety Facility/Jail within Wellhead Protection Zone 1 (WHPZ1) in order: to protect the City of Lancaster’s water supply and the health and well-being of its residents and all those who receive, or will receive, the benefits of the municipal water system; to avoid extraordinary public expenditures associated with an expanded monitoring program necessary to monitor potential environmental impacts of construction activities; to prevent erosion of Lancaster’s tax base that may result from the construction at that location; and to preserve future economic development opportunities within the City of Lancaster.

SECTION 2. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: 9/8/14 after 3<sup>rd</sup> reading. Vote: Yeas 5 Nays 3

Date Approved: \_\_\_\_\_ Abstention 1

Clerk: Jeressa Lee Sandy

Christy J. Fitter  
President of Council

Offered by: M. B. Haddad

Veto (see below) JSS  
Mayor

Second by: [Signature]

Requested by Water/WPC Committee and the Code Enforcement & Zoning Committee

**Mayoral Veto of Temporary Resolution 107-14:**

Pursuant to my veto power outlined in R.C. 731.27 and my verbal declaration on September 8, 2014 following the vote, I disapprove of the above-referenced legislation *in its entirety* and return it to the legislative authority of the City of Lancaster with the following objection(s):

This legislation was put up for vote, within 30 days of being introduced, absent appropriate and necessary dialogue with our Fairfield County Commissioners regarding the proposed location of the new Fairfield County Jail. It is my opinion that this resolution is not only non-binding but premature.

[Signature] 9-16-14  
MAYOR (Date)