

**VILLAGE OF NEW LEBANON
OF
MONTGOMERY COUNTY, OHIO**

**RESOLUTION NO: 2024-13
BY
MAYOR DAVID NICKERSON**

A RESOLUTION: RECOGNIZING THE SELF-EXECUTING FORFEITURE OF COUNCIL MEMBER LOCH'S POSITION ON VILLAGE COUNCIL AND SETTING FORTH THE PROCEDURE TO FILL SAID VACANCY.

WHEREAS, it has come to this Council's attention that Council Member Loch income tax is in arrears for tax year 2023 in an amount totaling \$414.58, which includes penalties and interest; and

WHEREAS, Village Charter Section 2.01 sets forth in its relevant part:

All legislative power shall be vested in a Mayor and six (6) council members. For the purposes of this Charter, all references to "council" shall refer to the Mayor and six council members. The Mayor and all council members shall be elected for a four (4) year term. The Mayor shall be elected in November 1995. Three (3) council members shall be elected in November 1993. Three (3) council members shall be elected in November 1995. The Council member shall be a qualified elector of the Municipality, and shall have been, prior to the date of filing a declaration of candidacy, a continuous resident of the Municipality or any territory annexed thereto, for one (1) year, and any qualifying electorate shall be in good standing on all New Lebanon Municipal income taxes prior to filing a declaration of candidacy. **During their term of office, they shall continue to be a resident, a qualified elector, and must remain in good standing on all Municipal income taxes throughout their elected term. No council member shall be an employee of the Municipality. If any Council member shall cease to possess any of the qualifications for such office, they shall forthwith forfeit their office.**

WHEREAS, Village Charter Section 2.01 is self-executing and the Charter is devoid of any savings clause or available remedy; and

WHEREAS, Council Member Loch has forfeited her position on this Council pursuant to Village Charter Section 2.01; and

WHEREAS, there is presently a vacancy on this Council as a result of Council Member Loch's failure to timely pay her income tax pursuant to Village Charter Section 2.01; and

WHEREAS, Village Charter Section 2.08 provides for the process by which a Council Member vacancy is filled, namely:

If the office of Mayor becomes vacant, the Vice Mayor shall serve as Mayor. A vacancy in the office of the Vice Mayor shall be filled by the appointment of a Council member made by majority vote of the remaining Council members.

Vacancies in Council shall be filled by appointment of a qualified person, by majority vote of remaining Council members within thirty (30) days of the occurrence of the vacancy. The appointee shall serve until a successor is nominated and elected, subject to the provisions of Section 7.07 herein; and

WHEREAS, Section 7.07 sets forth:

If a vacancy occurs within the Council at any time prior to the ninetieth (90) day before any general election to occur when the unexpired term of such office is more than one (1) year, an election to fill such vacancy shall be held at such general election. Candidates to fill such vacancy shall be nominated by petition in the manner provided by general law, except that such petition shall be filed not later than the sixtieth (60) day before the election. The candidate receiving the largest number of votes at such election shall assume the office on the first day of January next following the election, and shall serve for the balance of the unexpired term. Within thirty (30) days after any such vacancy occurs, Council shall by majority vote of the remaining members appoint a qualified person to fill the vacancy on a temporary basis until a successor is elected and qualified.

If a vacancy occurs within the Council at any time after the date specified in the preceding paragraph, the vacancy shall be filled until the general election of the following year.

In the event the Council fails to fill any vacancy within thirty (30) days as provided in this section, the Mayor shall make such appointment; and

WHEREAS, Council Member Loch's term was not set to expire until November 2025 and therefore it is the duty of this Council pursuant to Sections 2.08 and 7.07 to vote for a qualified person within 30 days of the passage of this Resolution.

WHEREAS, should Council fail to appoint a qualified person via majority vote within 30 days, the Mayor shall make such appointment.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of New Lebanon, Ohio, that:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF NEW LEBANON, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:

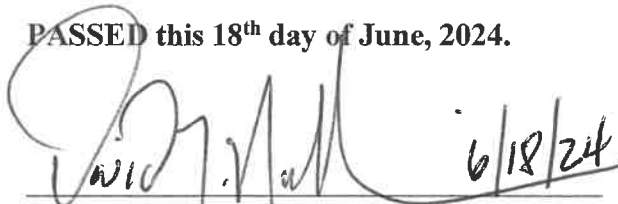
SECTION I The Village Council hereby recognizes pursuant to the Village Charter that Council Member Loch has forfeited her position as Village Council Member.

SECTION II The Village Council will hereby use its best efforts to fill the Council vacancy within 30 days of the passage of this Resolution.

SECTION III It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and 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, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION IV That this Resolution shall take effect immediately upon adoption.

PASSED this 18th day of June, 2024.


David Nickerson, Mayor


Attest:


Rob Anderson
Acting Village Manager/Acting Clerk of Council


Date

CERTIFICATION

I, Robert Anderson, II, Acting Clerk of Council for the Municipality of New Lebanon, Ohio do hereby certify that the foregoing is a true and correct copy of the Resolution 2024-13 as passed by Council and approved by the Mayor and that the same has been published as required by Section 2.17 of the Charter of the Municipality of New Lebanon.


Robert Anderson, II Date: June 18, 2024
Acting Village Manager/Acting Clerk of Council