

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

Commissioners reconvened the meeting at 9:34 a.m. for the annexation public hearing on 91.0765 acres of land from Wadsworth Township to the City of Wadsworth. An attendance sheet is attached as Exhibit A.

Mr. Hambley stated that they received correspondence from Wadsworth Mayor James Renacci that is to be included as part of the public record (Exhibit B). He swore in those wishing to comment and opened the hearing for the presentation from the Prosecutor's Office representing the township.

Trina Devanney, Assistant Prosecutor, questioned Sheriff Neil Hassinger regarding testimony that Wadsworth's Police Department could provide better service to the area proposed for annexation than the Sheriff's Department. Sheriff Hassinger testified that his department provides the protection and patrol services for the townships. The Medina County Sheriff's Department is the only agency in the County that will soon be nationally accredited. His employees are highly trained; they run the SWAT Team for the county and work very closely with the cities. Ms. Devanney showed the Sheriff the area proposing to be annexed on the map (Exhibit C) and asked if his department services that area. He said they have an officer assigned to the Sharon/Wadsworth Township area. They have a goal of having a response time under ten minutes, which is equal to any city department. They don't try to have rapid response time for damaged mailboxes or barking dogs though, since they are not life-threatening issues. The sheriff is the chief law enforcement officer in the county so they do not need a written mutual aid agreement with anyone; they just work together because of the way the law is written. When asked if the Sheriff's Department supplies as good of a service as the City of Wadsworth's Police Department, Sheriff Hassinger stated that Wadsworth has an excellent department. He has an excellent department and the only department in the county that is going for national accreditation, which is very difficult to receive. In his opinion, they are the number one sheriff's department in the State of Ohio.

Amie Bruggeman, attorney with Roetzel and Andress, LPA, and agent for the petitioner, questioned Sheriff Hassinger. He testified that he is familiar with the property since he lives in the area. There is a house and farmland (vacant land) on the property proposed to be annexed. He is not sure how many calls he has had to service in that area.

Ms. Devanney asked Sheriff Hassinger if they would still be able to provide service if the property were developed with houses and still remained in the Township and he said, yes.

Ms. Devanney questioned Melanie Sindelar from the Current Agriculture Use Value (CAUV) Department of the Auditor's Office. Ms. Sindelar testified that she is familiar with the property requesting to be annexed and identified two documents as the property record cards, tax screens showing CAUV taxes being paid, orthos of the property, and ortho photographs. (Exhibit D & E) Ms. Devanney had Ms. Sindelar read a line of an affidavit of Dorothy I. Olmsted (Exhibit F) saying "I do not take care of or farm the land on Parcel 038-17B-16-001". Ms. Sindelar said it is currently being farmed and the taxes being paid are based on the CAUV value. The owners reapplied for CAUV on January 11, 2006 when it was transferred. The Auditor's Office goes out every spring and physically checks every property that is in CAUV.

Ms. Bruggeman questioned Ms. Sindelar. Ms. Sindelar testified that there was a transfer of ownership (not a renewal, because Ms. Olmsted's husband had passed away). She was aware from paperwork that Ms. Olmsted's brother, Donald Vance, farmed her land.

Mr. Hambley asked Ms. Devanney to tie the testimony to the conditions of the annexation. Ms. Devanney said the fact that the affidavit said she does not farm the land, but the land is being farmed, has to do with the petition and the truthfulness of the affidavit. Mr. Hambley asked how that was relevant to the conditions of the annexation that Commissioners

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

are required to evaluate to determining if this land should be annexed or not. CAUV is under the auspices of the Auditor's Office. Ms. Devanney said she had a two-pronged analysis; the petition does not have truthful statements (the affidavit) and that the land did not have a use (prior testimony); it does have a use. Ms. Bruggeman said Mr. Vance spoke of the CAUV designation. Ms. Olmsted lives in Virginia and owns the property with her brother who farms the land. She said she did not see the relevance of this testimony. Mr. Hambley said he did not challenge the land's use; it is being farmed. Ms. Devanney said she was trying to make as clear a record as possible for any potential appeal. Mr. Hambley said the purpose of the hearing for the Commissioners was to evaluate whether the conditions for annexation have been met and asked Ms. Devanney to tie the testimony to one of the conditions of the annexation. Ms. Devanney said the Board has made so many errors in its decisions already and she was attempting to make her appeal. Mr. Hambley said that was her judgment, but this is not a court; it is a quasi-judicial body. Ms. Devanney stated that they are treated as a court in a quasi-judicial form. Mr. Hambley said that counsel has advised them, as well as being her boss, that there are specific conditions of annexation that they are charged to evaluate. He asked that the testimony of the hearing be tied to those conditions. The Commissioners are allowed a lot of latitude; more than a court. Ms. Devanney brought up that they are obligated to determine whether or not the benefits to the land outweigh any detriment to the land and the surrounding half-mile of unincorporated area and Mr. Hambley agreed. Ms. Devanney said there are benefits to the land being farmed and Mr. Hambley agreed and said she probably did not need to involve the young lady (Ms. Sindelar).

Ms. Devanney questioned Rick Strong, 8206 Wilhite Drive, Wadsworth Township. Mr. Strong testified he lives within a half-mile of the property requesting annexation, in the westernmost part of the Wilhite Subdivision, which is adjacent to a portion of Mr. Vance's property not under consideration today. They have lived there since 1991 and purchased the property a year before that. They moved there specifically because they wanted to live in the township zoning situation, but enjoy the benefits of a small town with all the good points that Wadsworth had. They had lived in the City of Wadsworth since about 1982 and felt integrated into the community and wanted to stay there, but yet wanted to live in a more country setting with the protection of township zoning.

Mr. Strong was asked by Ms. Devanney about the 81-acre annexation hearing of the same land. He was also a witness at that hearing. Mr. Strong said he and his wife were fairly instrumental in getting a referendum and "pounded the pavement" before the December holidays to get the requisite number of signatures; they felt very strongly about it. They found that a huge preponderance of the Wadsworth City residents were upset about the pace of annexation going on in the city and had no trouble getting signatures. It was for the very same property, plus another approximately forty acres on the eastern side of Hartman Road. The referendum passed (ExhibitG), thus negating the city council ordinance that had annexed the property. It was a city resident vote so all of the half-mile surrounding properties that were in the township were only able to voice their opinions on the matter by their many contributions, numerous yard signs, and by lending great moral support. He said, unequivocally, that the overwhelming majority of the people they talked to were strongly against the pace of annexation and wanted the property to remain in the township.

Upon questioning, Mr. Strong discussed the changes to the area (the hundreds of apartments and condominiums and several big box stores) from ten years ago; when the long-range plan (City of Wadsworth Comprehensive Plan Land Use Concept Map [Exhibit H] that was operative) portrayed it as a small town, where a lot of residents valued that small-town atmosphere. He pointed out on the color-coded map, the area "A" proposed to be annexed; which is rural-residential. Proposed park and recreation use were planned for much of the west side of Hartman Road annexation. He recalls that these plans were posted for citizen input when he was on the library board. The plan contains consensus that the citizens of Wadsworth value the small-town atmosphere and he thinks there was a symbiotic relationship between the

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

city and the township. When he saw the plan in the late 90's, he felt they were in good shape in terms of protection of their investment in the township. Mr. Strong discussed the value of parkland and the protection of wildlife. He said Mr. Hambley quoted Ronald Reagan in a piece about parks that when citizens make decisions that are close to home, those are usually the right decisions. Regarding the referendum, it is very upsetting to him and a lot of other people that they have to go through this again.

Mr. Strong (retired attorney) spoke on the issue of res judicata that came up a few weeks ago. He said Mr. Hambley raised the question whether or not it was proper that the city would be closed out if res judicata would apply. Mr. Strong feels that, on the other side of the coin, if the referendum had failed, they would have been closed out and the property would have been in the city forever. Once it's decided – it's decided.

Mr. Strong stated that the particularity of the traffic problems in the area is special because of the character of the primary roads that are going to be affected by this annexation. Reimer and Hartman Road are two-lane country roads and the character of the roads does not support heavy traffic; particularly Hartman Road does not even go in a straight line. There are many more people coming from the east now, using Reimer Road as a shortcut to Wal-Mart, and there's a lot more speeding. The intersection of Wilhite and Reimer is dangerous due to poor visibility. He said he cannot speak scientifically to the increase in traffic volume, but common sense would dictate a substantial increase. Wadsworth Crossing is not finished yet and there will be 350+ apartments and an additional number of condos that will affect the traffic. The traffic problems are just starting with all the ground being prepared for development north of Wal-Mart. He said he is upset about the fact that, prior to the referendum, the mayor, in his column in the Trading Post, was touting the roads that would be completed from High Street over to Hartman Road as a solution to congestion and to him it defied common sense. When the roads are punched through with high density residential development, it is going to generate more traffic. Now, the freeway is the east/west link between the Wadsworth Crossing area and S. R. 94 and no other east/west egress is necessary. He told how dangerous it is to ride bikes on Reimer and Hartman Roads.

Mr. Strong said they have excellent well water and barely need a water softener. He fears all of the development will change the water table. There will be more lawn chemicals and more runoff from roofs and parking lots. He discussed his concern at what development will do to the coal mines (Defendant's Exhibit A). He said he testified a couple of years ago that he believes they are filled with water and disturbing them would put them in dire straits if they lost their well.

Mr. Strong discussed the erosion of property rights. When they bought their property, they bought into a township zoning scheme. They were imbedded in one of the nicest parts of that corner of Medina County, and it was township. They felt protected because he read the township zoning code, and had confidence in the Trustees that they would do the right thing in terms of zoning decisions. He said he does not have the same confidence in the city and compared this annexation to municipal condemnations where a municipality takes over land by eminent domain to encourage growth. Mrs. Bruggeman objected.

Mr. Strong pointed out that the land, in terms of benefit, does not have to go to the city. There are developments selling two-acre lots for close to \$200,000. But yet, the detriments to the township, which would be eroded and shrunk, are huge and tremendously outweigh it. He asked that the Commissions look at the big picture. He speculated that if the annexation is passed again, this time the voters would not get to vote on it because the city would not allow it. Mrs. Bruggeman objected. Mr. Strong said he thinks the petitioner will be back within a few months requesting annexation of the other forty acres.

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

Mrs. Bruggeman questioned Mr. Strong. Mr. Strong testified that he “pounded the pavement” to get the measure on the ballot. The vote was close because many of the voters are new people who have not been in Wadsworth as long as those who feel more strongly about the issue. It was done with little money for signs, no campaigning and no platform; the Mayor had a weekly column in the Trading Post. He had a platform and had the ability to give his side without a debate platform.

Mr. Strong said the area they are talking about that is proposed to be annexed does not border his property since they peeled off the forty acres, but it is a “stone’s throw” (Exhibit J). The house is set back from the road and the lot has many trees. He did hear Mr. Benjamin discuss the fact that he was willing to develop within the township and leave the trees and have a two hundred-foot buffer, but he does not have any belief that that’s in any sense close to effectuation. He asked if Mr. Benjamin was willing to put that in writing. Nobody is questioning the right of the owner of the property to develop it. The question is whether or not it’s developed under township zoning or city zoning. Under either zoning the traffic will increase in his opinion; he is not an engineer. He agreed that there have already been properties that have been developed with coal mines underneath them and annexation is a property right of someone who lives in a township. He also agreed that they could not get anything other than well water if the property stays in the township, and he prefers well water.

Ms. Devanney questioned Mr. Strong. Mr. Strong testified that Heritage was willing to leave a buffer, but they were not talking about township zoning. He would like to see both the city and township come up with cluster zoning to preserve open spaces, but the city scheme was abandoned. Mr. Strong discussed the close vote and benefits of well water over “angry water” that is in the City of Wadsworth. Ms. Bruggeman objected.

Mr. Hambley swore in Mrs. Linda Strong, who Ms. Devanney asked to be a witness. Mrs. Strong testified that Rick Strong was her husband. She was advised by the Board of Elections that they needed to form a pact to proceed with the referendum. She was by herself, so she became the treasurer and her name was on the signs that were printed. She was told they needed to obtain a certain percentage of signatures based on the off-year election of the preceding year, which was somewhat over six thousand voters. They needed about 627 signatures and they obtained over 900 signatures; some were disqualified, but they had well over the amount needed. Mrs. Bruggeman objected.

Mrs. Strong said she was aware that the original annexation petition was for 139 acres and that was on the referendum petition. In her opinion, this annexation is the same land being broken up into two parts, rather than all at the same time. She assumes they will eventually want to annex the part that buffers her property on the other side of Hartman Road. Mrs. Bruggeman objected. She discussed some letters to the editor that she and her neighbors wrote (Exhibit I).

Ms. Devanney stated that she had a document that is a Certificate of Result of Election on Question of Issue. It was submitted with a prior brief. It was certified by the Board of Elections and she would like to stipulate to that being on record. Mrs. Strong read the result as 5,800 people voted in the election out of just over 6,000 registered voters in the City of Wadsworth. That was a large portion of people that voted on that issue so there was a lot of interest. Mrs. Bruggeman objected.

When asked what the detriments would be to her property, Mrs. Strong said there would be traffic issues, the beauty of the area, and runoff issues.

Ms. Devanney questioned Shawn Bouscher, 652 Reimer Road, Wadsworth Township. Mr. Bouscher testified that he lives within one-half mile of the property proposed to be annexed. He purchased the property ten years ago for the water flow and the size of it because he wanted

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

ponds. He searched approximately 3,000 square miles of possible places to live and this met his criteria.

Mr. Bouscher said he opposed the annexation because he had concern about the water quality coming from the developed lands. His property is now in timber. He discussed growing Asian Tiger Prawns, which are similar to big shrimp. With the loss of farmland and dairy farms, the United State government is trying to keep land agricultural based, so they are researching the raising of Asian Tiger Prawns. He is personally doing experimentation to see how viable it would be for his property. They are fairly hardy creatures, but they would not be able to handle foamy water. Mr. Funk objected. Mr. Bouscher said he is concerned with heavy metal seepage due to the mines. If the Vance property were developed under city zoning he thinks his water quality would be polluted from surface water on roadways that increases algae growth, automobile runoff, and oil, tar and asphalt residuals.

Mr. Bouscher presented pictures of his property (Exhibit J) showing the changes it has experienced since the Wal-Mart subdivision. He told about the “foaming” water flow of turbid water that looks like tea in his creek bed. He presented a map showing the abandoned mines (Exhibit K). He also discussed the mines where Home Depot was built and showed pictures of the area (Exhibit L). He said there are four-to six-foot deep sink holes from subsidence through his property and onto the Vance property and the majority of it is on top of a mine (Exhibit M). The State of Ohio Department of Natural Resources told him that people build on mines at their own risk. They confirmed that there was mine seepage on his property. Mr. Funk objected. He said asked his township trustees who would be responsible for cleaning up the heavy metal because the Vance’s do not have the \$42 million that was estimated to clean up the resulting environmental hazard resulting. He asked if it would be the responsibility of the county to clean up a hazard that was created 130 years ago.

Mr. Bouscher described how traffic has changed in the area since he was a child. He said there was congestion and that it was a detriment. He also discussed zoning code and the comprehensive plan and how all the development under city zoning would increase traffic even more.

Mr. Funk questioned Mr. Bouscher. Mr. Bouscher testified that he works for Daimler Chrysler as a maintenance supervisor and has a degree in welding engineering. Now his skills are used with robotics and welding of automobile frames and the automating of equipment. He does not have experience in civil engineering, stormwater management, and is not familiar with the City of Wadsworth’s site plan review process. They discussed the development of the property and he agreed that it is possible that the property could be developed without any storm water being drained off onto the surrounding property. Although he said it could be a detriment if the city keeps all of the water, he said he has no reason to believe that the city would not be diligent in reviewing a storm water management plan for the property proposing to be annexed.

Mr. Bouscher said he does not have Asian Tiger Prawns on his property at this time and he has not received any guarantees or promises that he would be granted a permit this year.

Mr. Bouscher said he is concerned about building on the annexation site over the mines and the water supply coming on his property; not with building on his own property. He said they can expect the columns to start to collapse without water movement. Mr. Funk said he wanted to understand the nature of his concern and Ms. Devanney objected, saying that was already answered. Mr. Funk concluded as long as the commissioners understand the answer and Mr. Hambley said they did. Mr. Bouscher said his property is adjacent to the forty acres of the original annexation and not the current site. The direction of the water from the mine comes onto his property from south to north and it is all interconnected. He said he does not have any expertise whether or not construction can occur on this site in a safe manner or not.

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

Mr. Bouscher said he is not a traffic engineer, but based on what Chris Easton said, each new home generates ten trips a day. Mr. Dickinson objected and Mr. Bouscher said it was just his subjective opinion that the traffic would be more congested with city zoning development.

Mr. Bouscher said he has been involved in zoning, but not with land use planning. The goal of transition in land use planning is important to him. There was a short discussion about Wadsworth's plans for the site.

Mr. Hambley called for a recess at 11:25 a.m. The hearing resumed at 12:00 p.m.

Ms. Devanney questioned Mr. Bouscher. Mr. Bouscher testified that he is on the township zoning steering committee and they are now reviewing the comprehensive plans. Ms. Devanney asked him to discuss the Wadsworth Township Development Policy Plan 1994 through 1995 (Chris Easton was on the steering committee). They discussed the mines, traffic, and stormwater management. He feels that the City of Wadsworth would not look out for his property or protect his rights, since he's in the township. They discussed the Asian Tiger Prawns and he said he sees no reason to expect a denial on a permit.

Mr. Funk questioned Mr. Bouscher. Mr. Bouscher testified that Mr. Crowell, geologist from the ODNR, came to his property, but did not do an analysis of the property to be annexed. He did say that people build at their own risk. He would have concern about the quantity of homes being built and the land subsiding. His initial intent was to let the public know that and that it would take millions of dollars to pay for any damages.

Ms. Devanney questioned Mr. Bouscher. Mr. Bouscher testified that he would not be concerned if the property were developed R-1 township zoning. He would be concerned if it were developed with city zoning and the amount of water from roofs, driveways, road structures, and any kind of commercial development.

Ms. Ray asked what portion of the City of Wadsworth and other residential developments were built over old mines. Mr. Bouscher said he did not know what percentage and he knows there are abandoned coal mines that are not on the maps. Ms. Ray said there were maps he could have gotten through the City of Wadsworth and a significant portion of the north end of Wadsworth has been built over mines. She asked if he asked the city if they required geological surveys to be done before any building commences. He said he did not because he was not dealing with the city, but based on what he has seen and read in the paper, there was significant concern during the building of the Wal-Mart. Ms. Ray said Wadsworth City did geological studies in those areas because of the mines. Mr. Bouscher said the other mines, outside the one mine that has water running out of it in Cherry Hill, raised his concern when ODNR said they would not build there; the erosion effect on the structures of the mine underneath would be significant. They told him to do core samples based on their instructions. Ms. Ray said that would be helpful to see that submitted as evidence. Mr. Bouscher said he could not find it. He would call Mr. Timberman to see if he could get a copy.

Ms. Devanney questioned Dennis Kreider, Wadsworth Township Trustee. Mr. Kreider testified that he has been a trustee for 28 years. He described the services that are available to the Township: fire, EMS, police, electric, cable (Warner and Wadsworth City), sewer, natural gas, telephone, and well water. He has lived in the area for 55 years and described the increase in traffic over the years. He said the developer puts in roads, whether it is in the City or Township. The developer puts in the waterlines in the City and the wells in the Township or whoever purchases the land. He has a well and does not have to pay a monthly bill. He pays very little for salt for the water conditioner, has never had to re-dig his well, and never had a watering ban. The City has had water bans and that is because they are running close to capacity and for conservation purposes. Mrs. Bruggeman objected. Mr. Hambley permitted his opinion.

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

Ms. Devanney asked Mr. Kreider if he had seen any reports and he said there was a document that was submitted to the Commissioners from the Mayor. Commissioner Hambley requested a copy and one was provided (Exhibit B). Mr. Kreider said he received a copy of the letter in the mail and at the township. He explained that a Cooperative Economic Development Agreement (CEDA) is a comprehensive development plan between a city and a township or two townships. Ms. Bruggeman objected, saying she wished they had a CEDA agreement or a Joint Economic Development District (JEDD) agreement in this matter, but it is a regular annexation because the township and the municipality have not reached such an agreement. Ms. Devanney said there was a letter put into the record from the mayor, discussing the township not complying with discussions to go into a CEDA agreement and she believes those statements to be false. She would like Mr. Kreider to counteract the statement for the record. Ms. Bruggeman objected because the petitioners were not involved in those discussions. The discussions going back and forth between the township and city have nothing to do with this annexation. Mr. Hambley said, at this point, it is a matter of record. The mayor introduced this and asked that it be a part of this annexation, representing the municipality's case. The municipality, township and petitioner all have a legitimate right to counter any statement made in the record. Ms. Bruggeman can indicate that the property owner had no knowledge and no involvement. Mr. Kreider further testified that he discussed the JEDD agreement pertaining to Wadsworth Crossing and the City of Wadsworth was not interested in discussing it. He agrees that the Vance family was not there, but Mr. Benjamin was there. The document is in connection with that meeting. Mr. Hambley asked to be directed to the section of the letter that referred to a JEDD or CEDA because, as he reads it, it says the discussion is regarding a comprehensive plan and agreement between communities regarding annexation and a comprehensive plan. Ms. Devanney said that is required as part of a CEDA agreement and the document she referred to is the letter.

Upon questioning by Ms. Devanney, Mr. Kreider said that at that meeting, Mr. Benjamin brought up removing the portion on the east side of Hartman Road and changing the way that would be developed. Cluster housing was not in place for zoning and for the density he wanted and they would have to have water service. The city was concerned about public outcry with this annexation so the mayor asked them to hold back. There were three things that were going to be done; (1) reduce the size of the annexation in exchange for leaving the 50 acres and developing it in the township; (2) put zoning in place so that they could have some cluster, with a buffer at the back, because their zoning now (with city water and sewer) allows for building on a 3/4-acre lot; and, (3) the mayor would talk to all of the members of council to see whether they would agree to it. That is as far as it ever got; they never heard from the city. They have no guarantee what is going to be done with the 50 acres. The township's agreement was that the entire CEDA agreement and the comprehensive plan agreement needed to coincide together.

Mr. Kreider said there would be no benefit to the unincorporated area within a half mile of the proposed annexation. Low density and a rural atmosphere is what both township and city people said they wanted. They are in the process of redoing their comprehensive plan now. The detriments are increased traffic and the water issues of storm runoff and well pollution.

Ms. Bruggeman questioned Mr. Kreider. Upon questioning, Mr. Kreider stated that development has increased in Wadsworth Township as well as the City of Wadsworth. He said he was not sure if Park Centre Drive going in depended upon the city agreeing to it being in the township. They have never run into a problem with the city or county in connecting a street. The township does not take care of Hartman Road; it is a county road. They would take care of Park Centre Drive if it went through. They have a mutual aid agreement with the county. Road maintenance usually depends on the traffic count. He based his opinion about increased traffic as a detriment to the area to the ten trips per day per household figure that was mentioned by Chris Easton. He does not know how many homes would be built because the city always makes it unclear and says they can't say anything about that because they don't know how

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

the city would zone it. The drawings that he saw show 294 houses and that was before the Wilcare Development that will have approximately 200 apartments. He has no reason to believe that it would not be that high of density because, if it wasn't going to be that high of density, there was not a reason why it would have to be annexed. Regardless of whether it is going to be developed in the township or the city, it is going to increase traffic and runoff.

Mr. Kreider guessed that the property, being farmland, brings in taxes to the township of about \$400 per year; however, money is not the issue. The township would receive a certain portion of taxes for a period of 12 years, but they haven't seen that happen. Ms. Bruggeman said that is in the Ohio Revised Code. The increase in taxes would not outweigh the detriment to the township. He agreed that the city has a policy that they will not run water to a property unless it is annexed. He thought their position might change after the meeting.

Ms. Bruggeman said the day after the annexation petition was amended to reduce the property, the township filed a motion to dismiss the petition on the basis of res judicata. Mr. Kreider said the Prosecutor's Office told them if they didn't file something on that day, they would not be able to. They were also told they could withdraw it. Unfortunately, they were never able to work anything out.

Ms. Ray questioned Mr. Kreider. Mr. Kreider testified that the township has 22 miles of roads and they plow them faster than the city.

There was a discussion about working out the township's property tax portion of the taxes on an annexation that they would receive for 12 years. Ms. Ray said as soon as they get the legal agreement settled, the checks will start. Ms. Devanney asked Mr. Kreider how long the township would receive tax benefits if the property were to be developed under township zoning. Mr. Kreider said that could be eternally.

Mr. Kreider said Mr. Benjamin is the representative for Heritage Development who would be developing for the Vance family.

Ms. Devanney questioned Gail Maimone, 7826 Hartman Road, Wadsworth Township. Ms. Maimone testified that she lives within 1/2 mile of the property proposed to be annexed and has lived there since August 2004. She moved there from Cleveland to have open space, green space, countryside, small town, the old square, and less density, less people, traffic and crime, but mostly because of the aesthetics and countryside. Since she has moved in, they have been hearing earth movers, dump trucks and constant noise behind them from Britestone, Cornerstone, and Timmeron developments. At night, they hear the forklift beepers from Home Depot and cannot sleep with their windows open any longer.

Ms. Maimone said there is an increase in traffic and biking has now become dangerous. She described the traffic congestion as a nightmare. She said the traffic is a detriment to her property because it takes away from their quality of life and peace of mind. They have well water that has never been a problem and there has never been a water-ban. They spend about twenty dollars a year on salt for their conditioner and no monthly water bill. She participated in the referendum petition and her husband sent a letter to the editor. They are very disappointed in this annexation request.

Ms. Bruggeman questioned Ms. Maimone. Ms. Maimon testified that her views and the letter to the editor were based on her opinion.

Ms. Devanney questioned Virgil Mochel, Wadsworth Township Trustee, 1804 Wall Road, Wadsworth Township. He said he has been a trustee for over nine years. He opposed the previous annexation at the proceedings and he does not see a benefit to the annexation of this property either. They have some beautiful developments in the township that do not have city

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

water. They all have beautiful homes and nice roads so there is no big advantage to annex into the city. The only reason they do it is for the water. The detriment to the surrounding properties if it were annexed is the higher density. Eighty-seven percent of the residents said they preferred lower density housing, two-acre lots, or 1-1/2 acres with sewer. The township pays for lighting in the developments now also. The property could be developed in the township very nicely. Ms. Devanney asked him about a letter to the editor and Ms. Bruggeman objected because she said it related to another annexation. Ms. Devanney said it was the same parcel that was subject to an earlier referendum. Ms. Ray said this board ruled on the res judicata and it is consistent from that standpoint. Ms. Devanney said they have a standing objection to that. Mr. Dickinson stated that he disagreed with the ruling on res judicata and that will be an issue on appeal. Given this board's obvious and legitimate concern with thoroughness, these letters would be reviewed at that level. This board may want to consider, in being thorough in reviewing this issue now, that they have the opportunity to look at the same evidence that will later be reviewed. Ms. Ray said they should probably call their legal counsel again. Mr. Hambley said that, at this point, it is a matter of personal opinion regarding an issue that involves development issues that reflect how local citizens feel about this type of development, which they can entertain. If Mr. Mochel's letter just addresses his letter that would be fine. Ms. Devanney said she has a number of articles that she would like to get regarding this annexation and the previous one. Ms. Ray said they needed a legal opinion. Mr. Hambley said they normally take letters that are addressed to them and that has been standard procedure. Counsel has not given them letters to the editor being printed ad infinitum about various issues involving zoning and annexation.

Ms. Devanney questioned Thomas Baldwin, Wadsworth Township. Mr. Baldwin testified that he has been a Wadsworth Township Trustee for twelve to fourteen years and has lived in the township for 76 years. He discussed the referendum and said the people that were really concerned were the township residents who did get to have a voice in it. The vote was not close and wouldn't have been nearly as close if the township had gotten to vote for it.

He said he would like to see the Vances be able to do what they want to do at this point in their lives and hopes the township and city could work together. He expressed concern with the aquifer's quantity and quality of water in the area if there were 100 wells added. He said the area has expressed their opinion months back about what they wanted to see in the way of growth. Now that things are slowing down building-wise perhaps this is the time to let them work it out and "see you this day whom you would serve".

Ms. Ray asked Mr. Baldwin if he was okay with the annexation, removing 50 acres, if Wadsworth had put city water to those 50 acres. Mr. Baldwin said no, he is not okay with the annexation because the 50 acres was just a "bone thrown at them". Ms. Ray said she is trying to figure out how far apart Wadsworth Township and Wadsworth City are in working this out. Trustee Kreider has been very adamant that if the 50 acres were removed and the city agreed to put city water there and agreed never to annex it, that he would be okay with this annexation. Mr. Baldwin said that is a three-part question and that part is not particularly attractive to him; the rest sounds good, putting water to it.

Ms. Ray asked if Trustee Kreider was negotiation with the city with his consent. Mr. Baldwin said they work as a separate entity and most of the time he agrees with the group and some things he does not agree with. He would not stand in the way of their putting in cluster homes. He said if Mr. Mochel and Mr. Kreider agreed with it, he was willing to go along with it if the township was going to develop it and the city would never annex it.

In closing, Mr. Funk stated that there seems to be a political battle going on here and Mr. Vance is caught in the middle. What is before the Commissioners is the 91 acre parcel and whether statutory factors for annexation have been met. Without going through those five factors in great detail, he thinks they have submitted evidence on each one of those points. The

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

one factor that it really boils down to is if it is in the general good of the property that is going to be annexed; it is pretty clear that it is. The city services that will be provided have been established: sewer, water, fire, and police. All of the other general services will be provided to the rest of the city are going to be provided to this property and that is why it's in the general good that it be annexed.

Mr. Funk said once the benefits are established, they weigh that against the detriments. There is no reliable, substantive or prohibitive evidence to establish any detriment will be caused to the surrounding property merely because 91 acres is annexed to Wadsworth City. Subjective opinion is not reliable evidence and there is case law on this. Any development that is going to occur on this site is going to occur in the context of a city site plan review process and that is a process that is fairly detail-oriented. It's not for the Commissioners to decide what the best zoning for this property is. The general good advanced by the annexing is that it is going to be provided with water and sewer. He asked that the Commissioners focus on the law and the facts and do the right thing and to approve this for the benefit of the Vances and for the benefit of the City of Wadsworth and Wadsworth Township.

In closing, Ms. Devanney stated that the Township Trustees are also asking the Commissioners to do the right thing. The issue is that the Board of Commissioners is a quasi judicial board and they are viewed as judges in this matter. They already issued a final appealable order on this very parcel of property and they cannot re-address this issue. That is barred by res judicata. The people have spoken. It went to a referendum and the people voted no; they did not want this property annexed to the City. There has been testimony from people that worked on the referendum petitions and they had zero problems getting signatures and they even got more than needed. The Commissioners have the ability to protect the people of Wadsworth in the exercise of their vote and not disenfranchise voters.

Ms. Devanney said the petition failed on substantial errors. There was no perimeter description and they cannot amend a petition without getting leave from the Board and without having 15 days to file it prior to the hearing date. There was no service agreement because the service agreement that was proposed was for 139 acres. The Clay property was removed and there is no assumption that Wadsworth would give a service agreement or agree to an annexation on that particular property unless the General Clay properties were included.

Ms. Devanney said there are no benefits to this property. All the services are available already: electric, cable, Internet, police, fire, and well water (there are good aquifers). There would be increased noise, light pollution, and unchecked urban sprawl. For all of these reasons, the Township urges the Commissioners to do the right thing and deny the annexation and allow for development to be under Township guidelines.

Mr. Hambley asked if there were any closing statements. Ms. Ray said she has known Mr. Mochel since she was six as well as many other Wadsworth area people. It really hurts her heart that both sides were not able to come to an agreement on this annexation. One of the residents talked about this being an area plan; they are all neighbors and friends and will be in the future. She hopes in future annexations, there can be some kind of agreement made between the city and the township.

Mr. Hambley said that this Board has great respect for the voters. Commissioners are elected officials and their singular presence would be that they are answerable to the voters. They have great respect for the law and have to abide by the law as they understand it, whether there is a personal preference or not. It is fine by him if a judge was to determine whether or not they were in error. They will take everything that is on the record and do due diligence to understand the law, as well as the facts presented. They have 30 days to make a decision.

COMMISSIONERS MEETING – TUESDAY, AUGUST 15, 2006

Ms. Ray said part of the problem is that this annexation law is relatively new and Medina County is one of the few counties that have experienced the growth since the law went into effect. There is no case law on point to guide them when making decisions. Mrs. Geissman said they are setting precedence.

At 3:40 p.m., the annexation hearing was adjourned on a motion by Ms. Ray and a second by Mrs. Geissman. There was no discussion. Roll call showed all Commissioners voting AYE.

Respectfully submitted,

Pam Vereb, Clerk

COMMISSIONERS _____
Stephen D. Hambley

OF _____
Sharon A. Ray

MEDINA COUNTY _____
Patricia G. Geissman