

COMMISSIONERS MEETING, MONDAY, AUGUST 7, 2006

Stephen D. Hambley called the meeting to order at 9:30 a.m. with Sharon A. Ray and Patricia G. Geissman present.

The meeting opened with the Pledge of Allegiance and a prayer.

Ms. Ray moved to table the minutes from July 24 for further review; the motion was seconded by Mrs. Geissman. There was no discussion. Roll Call showed all commissioners voting AYE.

County Engineer Mike Salay presented and reviewed the following resolutions: (1) resolution authorizing the Medina County Engineer to advertise for bids for the improvement of various county roads by the use of microsurfacing; (2) resolution accepting and awarding the 2006 striping bid for the Medina County Highway Department; and, (3) resolution accepting and awarding the bid for the replacement of bridge number 25 on Wolff Road (T.H. 94) in York Township, Medina County for the Medina County Engineer. Ms. Ray moved to approve the three resolutions; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed the weekly permits list for July 27 through August 2, 2006.

Assistant Finance Director Scott Miller presented and reviewed the following resolutions: (1) resolution amending the 2006 Appropriations Resolution by transferring appropriations; (2) resolution amending the annual Appropriation Resolution; (3) transfer of County General Funds to the County Diversion Program; (4) authorizing the transfer of ending fund cash balances to the MCDAC-Tobacco Use Prevention Fund 05; (5) resolution authorizing the County Auditor to transfer funds from the General Fund and the Child Support Enforcement Agency Fund to the Title IV-D Juvenile Fund for Juvenile Court Services; (6) resolution authorizing the County Auditor to transfer funds from various County department accounts to the Gasoline Rotary Fund; (7) resolution authorizing the purchase of 7,800 gallons of regular unleaded gasoline for the Engineering Center; (8) resolution declaring Medina County property as excess property; (9) resolution approving an agreement for a Service Coordinator and Health & Development Specialist for the Medina County Family First Council Help Me Grow Program; (10) resolution approving a memorandum of understanding between Medina County, Ohio and Faith in Action, Medina County Caregivers; (11) resolution accepting and awarding bids for Medina County 2006 building tuckpointing; and (12) resolution approving the submission of the FY 2007 Felony Delinquent Care/Reclaim Grant application. Mr. Miller requested payment of the weekly bills in the amount of \$1,185,547.81. Ms. Ray moved to approve the 12 finance resolutions and payment of the weekly bills; seconded by Mrs. Geissman. There was no discussion. Mr. Hambley stated that he was abstaining on the resolution approving a memorandum of understanding with Faith in Action because he serves on the Board of United Way. Otherwise, Roll Call showed all Commissioners voting AYE.

Human Resources Director Gary Berkowitz presented a resolution approving personnel changes for the employees under the jurisdiction of the Medina County Commissioners. Ms. Ray moved to approve the resolution; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Sanitary Engineer Ken Hotz presented and reviewed the resolution authorizing the Sanitary Engineer to obtain easements for various sanitary sewer and water improvement projects. Ms. Ray moved to approve the resolution; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

County Home Superintendent Lynn Remington reported that there were five inquiries and one release (to independent living). The July end count was 51 residents. There is paperwork being processed for one new admission. The Adult Daycare program is going well;

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there is one client. The fire alarm system was inspected, a State fire inspection was made (required upgrades are being completed), and elevator and whirlpool repairs have been made. There have been many activities including the Sawmill Explorer Ride in Lake Erie (sponsored by Friends of the County Home) and attending Wadsworth summer concerts. They will hold the Medina Rotary picnic on August 10, Sharon Women's Club on August 16, visiting the Brown's training camp August 21, a band concert in the backyard, and a picnic and fishing at Sue and Jack Isaac. The residents' garden has already produced radishes and peppers. Donations were from the Crosspoint Church, Medina Moose, lunch at the Fair sponsored by First Merit Bank, Litchfield Church, and Lisa Ottabacher. The Junior Leaders gave the residents tickets for the milkshake booth. Christmas in July was held; through Kids Care, the residents received whatever they requested. Kids Care also gave them a popcorn popper. Four window air conditioning units were donated. There were 54 volunteers who worked 294 hours in July. Sunday, September 10, is Swine and Dine; there will be stagecoach rides, an antique car show, civil war information, face painting, sidewalk chalk drawing, and auction items.

Diversion and Forensic Services Director Dr. Ross Santamaria reported that fees go up and down. They've been seeing some young people involved in drugs; he stated that it's good to have MCDAC services in place. They are working closely with Solutions, an agency that combined ADDS and Northland; there is good rapport. The last couple of weeks, they have helped them with some difficult cases. Dr. Waddell, filling in for Karl Cetina, is doing a great job.

Mr. Hambley presented the resolution approving David Manley as the Commissioners' appointee to serve on the Hinckley Township Community Reinvestment Area Housing Council. Ms. Ray moved to approve the resolution; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley presented a resolution approving the petition for annexation of 8.7465 acres of land known as being part of Brunswick Hills Township to the City of Brunswick. Ms. Ray moved to approve the resolution; seconded by Mrs. Geissman. Mr. Hambley stated that he asked the County Prosecutor to provide the Commissioners with his opinion regarding public officials and employees misusing their official position for their own personal benefit or the benefit of family members or business associates. (Mr. Hambley noted that this regarded his wife, a City of Brunswick Council member, and himself.) A letter from William Thorne was received and is included as Exhibit A for the record. In short, public employment is not held to be a business enterprise and Mr. Hambley and his wife are able to vote on annexation issues because they don't have any pecuniary interest in these situations. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley presented a resolution for a replacement levy for the County Home. It will be for two-tenths of a mill for a period of five years, and will be placed on the November 7, 2006 ballot. Ms. Ray moved to approve the resolution; seconded by Mrs. Geissman. Mrs. Geissman stated that she couldn't support a replacement levy that increases taxes when this Board has chosen not to collect all possible funds available from the residents who have the ability to pay the true costs of living at the County Home which has been determined by the Finance Director to be \$1859 a month for 2006. By using available grant funds, a renewal levy would cover projected budgets for the next five years with some excess; she would have supported the renewal levy. The voting atmosphere for increased taxes is at an all-time negative high. As an example, voters continually defeat local school levies. She stated that she believed that they could sufficiently operate the County Home with a renewal levy without asking voters to increase taxes at a time when voters feel they are "taxed out" and cannot support continued increases in taxes and voters are asking local governments to be more conservative with spending. The levy should be a simple renewal and everyone should live within the budget it provides.

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Ms. Ray stated that she understands that no one is questioning the operational expenses of the County Home; they operate within a very lean financial budget. She stated that it is financially irresponsible to go to the taxpayers to ask for a renewal levy that will be, or is strongly believed to be, inadequate. The difference between a replacement and renewal levy is about \$33,368 a year, which is about 50¢ per \$100,000 valuation on a home. The County Home Advisory Council has taken great strides to be financially responsible; to ask them to take less money than what is needed is improper. The Finance Director has said that his projections (although they would be covered during the five-year levy) are based on minimal capital improvement costs and are based on several assumptions that we don't know to be true. One assumption is that CDBG funds will be continued at the current funding level, that there will be no subsequent state tax changes, and that revenue projections are accurate. The Finance Director has indicated that the Auditor's office is reviewing some of their own figures. Ms. Ray stated that she feels very confident that a replacement levy will be adequate to fund the County Home for the next five years.

Mr. Hambley stated that he doesn't feel that a renewal levy and the block grant will be sufficient. The finance director has said that it could be sufficient, but that there is not a significant amount of leeway in the budget to allow for unanticipated costs in areas such as utilities and capital improvements – two major items of the budget. The County Home Advisory Council was formed with several purposes – to provide advice to the Commissioners and the County Home Superintendent regarding expenditures, staffing, capital improvement programs, and policies – and they have been doing so, admirably, for the last four years. Likewise, they were charged to prepare, recommend and monitor a plan for the County Home which includes identification of other sources of revenue; that has been seen with the Adult Daycare Program and other various options. Their purpose was to make recommendations to the Commissioners regarding future property tax levies in support of the County Home. They've been diligent in all areas and they've been asked several times (as late as last week) to look at supporting other options. Again, they've reported that the budget is very conservative, to the point where there is little carryover. He will vote for the replacement levy with due respect to the County Home Advisory Council and will personally support the replacement issue on the ballot. He stated that he has a duty to put the best possible proposal to the people and that is what he is going to do. Likewise, as an individual, he will support the replacement levy as a voter. Even though it's an increase, it's the only one that makes responsible budget assessments so that the County Home isn't at risk in the future. The funding for the County Home needs to be guaranteed.

Mrs. Geissman stated that she appreciated the work of the County Home Advisory Board, but they were not aware of the CDBG funds being available for capital improvements. Somehow, the capital improvements went from \$25,000 a year, which would be \$125,000, up to \$152,000, since she had received the last statement. She respectfully disagrees with her two colleagues; in five years, the Board will see that they could have done this with a renewal levy. When funds are available, they will be spent, and she didn't feel that there should be more than what was needed.

Mr. Hambley pointed out that the Board controls the spending at the County Home. The Advisory Council makes projections along with the Superintendent. The Superintendent has said that a renewal levy would be insufficient, the County Home Advisory Council has said it would be insufficient, and when the information from the Finance Director is examined, a renewal is still insufficient. The Advisory Council looked at the CDBG funds, most recently two weeks ago, and they still contend that more funds will be needed. The Finance Director has indicated that a renewal assumes that the block grant will continue; it has been a diminishing funding source to the County, is threatened at the Federal level, and block grants have been targeted to be reduced or eliminated. There is a difference of opinion on the Board, and the voters should make the determination.

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There was no further discussion. Roll Call showed Ms. Ray and Mr. Hambley voting AYE and Mrs. Geissman voting NAY.

Clerk Pam Vereb read the resolution to allow expenses of County officials. Ms. Ray moved to allow the expenses; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

The meeting was opened for public comment.

Clifford Gregoire, 6220 Buffham Road, Westfield Township, and owner of the sod farm near the I-71/I-76 Interchange Project inquired about the fill material. He said he talked to most of the agencies and there will be a meeting later in August. He had recently gone through the permit process to fill in an area and was cautioned that the elevation has to remain the same. He is concerned that approximately one million yards of fill will be installed. Mr. Hambley stated that Mike Salay would be able to provide the correct information; however, Mr. Hambley believed that the County isn't issuing a permit to ODOT to do anything. The EPA or the Army of Corps of Engineers (in the case of wetlands) would grant the permit. The County may have received notifications. He also believed that ODOT is exempt from the County's stormwater regulations and that ODOT is requesting bids this month for the project. Mr. Hambley will check with Mike Salay and Dan Willhoite who administers the program to inquire if the County issued a permit. The County may have received drawings. Mr. Gregoire asked if all concerned property owners should attend the meeting; Mr. Hambley said that is when ODOT will address issues of run-off and the quality of the water.

Mr. Hambley noted that regular annexation hearings are scheduled for: (1) 10:30 regarding 41.0702 acres from Brunswick Hills Township to Brunswick City; (2) 11:30 (continuance) regarding 26.1199 acres from Wadsworth Township to Wadsworth City; and (3) 2:00 (continuance) regarding 91.0765 acres from Wadsworth Township to Wadsworth City.

The meeting recessed at 10:00 a.m. for the Commissioners to move to the Conference Room for the discussion session at 10:04 a.m.

Discussion Session

Members from the Board of Public Affairs for the Village of Lodi introduced themselves; Don Eaken, Superintendent, Rob Geissman, and Ted Lesiak (Solicitor from Lodi). Mr. Hambley stated that they would be reviewing well water management. One of the reasons the County is focused on developing and managing water resources to the south is because of the Lake Erie drainage basin to the north, the Continental Divide and the Ohio River drainage basin. In 1996, there was a three-party agreement with Lodi, Medina County, and Harrisville Township regarding utility services involving the Prime Retail Outlet Mall Project. The County assumed, as part of that agreement, the construction oversight, the management, the inspections, and the financial responsibility for the project. If Prime Retail had "gone under" in the intervening period while the OWDA loan was active, the County would have been liable for the dollars. The County is obligated to turn over the water lines to the Village of Lodi without appraisal of value after reimbursement of County expenses. The estimated OWDA loan payoff from special assessments is 2008.

Mr. Hambley reported that in 1997, John Baker, Baker Sand and Gravel, approached the County and requested protection from Burbank eminent domain proceedings. That motivated the County's involvement because they recognized the resource that many entities wanted to own. The County created a sewer district (an expansion) in order to develop and implement a plan for public water services and the Southern Medina County Water Management Consortium was created to prevent destructive competition. The aquifer (a limited resource that must be managed) involves Lodi, Harrisville Township, Westfield, and part of Seville. In the future, they

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hope to work with Wayne County to protect the quantity and quality of the aquifer. Recognition must be given that aquifer is a limited resource and that it must be managed cooperatively.

Mr. Hambley reviewed the mission statement, operating principles of the Well Development Plan, and consortium members. The wells have been protected with the purchase of a re-charge area, a planning loan in 1995, and construction loan for the first part of next year. The County recently acquired Westfield's water treatment plant and system. The aquifer must be protected from overdevelopment for the benefit of Medina County residents. The Park District acquired about 350 acres from Baker Sand and Gravel in 2004.

The Supreme Court ruled unanimously in 2005 that land owners have a property right to the groundwater under their land and that government interference with that right constitutes the taking of property and the owner is entitled to compensation. The ruling opened the door for individuals to file claims against municipal governments whose activities in any way diminish the quantity or quality of water that is held or flows beneath the land owner's real estate.

Long-term plans include providing potable water to customers south of the Continental Divide. There are County wells in two locations; they have rights to one and ownership of property. The Park District and County have also acquired property next door to the area.

The point of contention is the area of expansion south of I-71 and providing water long-term. The Board has met several times to discuss this and has confirmed with the Sanitary Engineer that the County has a long-term interest in providing water to this area. The potential area and customers are important for the overall development in the southern portion of Westfield. Without the customer base, it makes providing water problematic in that part because of the lack of density. The only likely density will be along the corridor of S.R.83 and in Burbank. The County maintains that they must have the option for the benefit for the overall well development plan and managing diversion and dealing with groundwater. The County has invested much time, money, efforts, public meetings, etc., to develop the plan reasonably and responsibly and it's important to have the option long-term.

Rob Geissman stated that in mid 2005, Lodi saw an extension of its 1996 S.R.83/I-71 Corridor Water and Sewer Agreement serving south of I-71 to the Medina/Wayne County border. A contract was presented to the Village of Lodi by the Medina County Sanitary Engineers office and was passed by Village Council at its August 15, 2005 meeting. After proper signatures were obtained by the Village, it was assumed that the document was returned to the Engineers office; in January, it was discovered that the document was not returned. In the meantime, the Village (thinking that an agreement had been made with the County) entered into a contract on October 3, 2005, with Love's Travel and Country Stores for the construction of water and sewer lines under Interstate 71. Incentives and discounts (waived tap-in fee, reduced rates) were provided to the developer to assist in getting the project completed with the thought that their cost would be recouped by opening the service area to development and, therefore, bring additional customers to the Village. In early 2006, the Village then learned that an agreement with the County didn't exist and that the agreement that was passed in August 2005 was no longer agreeable to the County. Since that time, several agreement addendums have gone back and forth between the Village and the County without consensus. The Village does not seek to extend water and sewer services past Love's Travel as this service area has the potential to be turned over to another entity (unless the cost of the infrastructure is reimbursed to the Village).

Mr. Geissman stated that other rights of the Village would also need to be preserved – water storage, water meter data, etc. It is the Village's understanding that the issue of reclaiming the area south of I-71 is, if the need should arise, that the County would need to supply water to the Village. The Board of Public Affairs of the Village of Lodi is the only real option for water supply for the Village of Burbank. They have discussed with ODNR and EPA

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the possibility of serving water to Burbank and have been told that nothing is stopping Lodi from serving up to 100,000 gallons of water per day. If more than 100,000 gallons would be needed, the Village of Lodi would then need to accept Burbank's sewage and return it to the Lake Erie Basin or develop a well in the Ohio River Basin and serve River Basin water to Burbank. Their understanding is that if any new national agreements are passed in the future, present services across the Continental Divide would be grandfathered to the capacity of the systems that are built.

Lodi also believes that with the opening of Area B to water and sewer service, that the area will develop quickly and that the water main will be very close to the Medina/Wayne County border very shortly, making the cost for Burbank to hook to water service much more cost-effective than the Medina County supply alternative. Both Lodi and Burbank will need water tower capacity in the area and will be mutually beneficial for the two villages to share construction costs of a single tower. Lodi's water is available today and the County can provide water in the future. If the County's concern is control of the water being pumped from Medina County to Wayne County, the Village invites the County Engineer's office to work with Lodi and Burbank mutually to come to a service agreement that would benefit all three parties.

There are some issues with turning the service area over at a later date. The Village of Lodi has no desire to service sewer beyond their own customers. The water and sewer rates have been developed as a "bundled" service over the years. Without having control of water, they have no way of stopping sewer service to a customer for non-payment or violating allowable content and quantity rules. They would also have issues without billing sewer-only customers (something not done presently). The Village began upgrading their water facility shortly after signing the agreement with Love's Travel. They installed a new 50-ton salt storage facility, doubling the salt capacity, at a cost of under \$150,000. They need to continue making upgrades to the water facilities to service the expected capacity that is projected to be double in Area B. Current filters and softeners will need to be rebuilt (\$175,000), an additional filtering softener added for increased capacity (\$160,000), as well as a water tower (\$750,000). These are not upgrades they wish to make if the revenue generated by additional customers would be taken from the Village.

Currently, the Village of Lodi is considered a small water system. The extra service area would push them into a medium-sized water system and create more reporting, testing, meeting EPA requirements, and personnel (perhaps adding another position to the two-person water department). The EPA would not let the Village return to a small water system so the increased costs would continue even though they lost revenue that created the costs. It is important to the Village to keep water rates as low as possible, while maintaining the healthiest system for users. Lodi has one of the lowest income averages for its citizens in the County, and even small fluctuations in rates have large effects on the higher-than-average large numbers of elderly and fixed-income residents that they have. Having a large percentage of commercial customers taken away from the Village in the future would have an impact on their rate structure and would require them to charge a large increase to the remaining customers.

When the Village seeks funding from projects, the current infrastructure is appraised, as well as their revenue streams. Taking away the service area from the Village would lower revenue, but also reduce the value of the appraised system providing proof to the Village that the system has value to the Village no matter who paid the initial construction costs.

He concluded that there have been several meetings regarding this situation. The Village of Lodi does not seek to extend water and sewer services past Love's Travel. This area has the potential to be turned over to another entity unless the construction costs are reimbursed to the Village. The Village has a contract with Love's Travel and the Village intends to honor the contract. If it's not in the interest of the County to allow the Village to have the area, the Village would prefer to serve only Love's Travel at the present time and go no further.

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Commissioner Hambley asked if it was the Village of Lodi's contention that it would be sufficient to recoup the costs of going under I-71 if the line was extended to Love's Travel and stopped there. Ted Lesiak stated that they would have other issues because one of the reasons they needed to extend there was because of the water tower. Mr. Geissman stated that all of the issues before Love's Travel are still there. Mr. Hambley stated that the Commissioners were not aware of the agreement and never approved the extension. The issues are much more than supply and water to Burbank and they must look at developing a system that serves the southern part of Harrisville Township, as well as the southern part of Westfield Township. Currently, a facility is being sited south of I-71 for a second water plant. Westfield affords the County the opportunity to develop the well system to the north. If the potential customers are diminished, that puts the development at risk, as well as the investments already made.

County Sanitary Engineer Ken Hotz stated that the agreement sent to the Village of Lodi last August was only a draft for discussion. It was never seen by the Commissioners or the Prosecutor. Another issue is that there was an agreement to extend the sewer and water to the mall, Harrisville Township insisted that since this was in their township, that they would be part of the agreement to protect their residents. There was an agreement that the Village of Lodi would not annex and that there would be a surcharge for water usage in the area of A. In area B, the surcharge will make their water rates higher than County rates and Township trustees aren't aware of this.

Ted Lesiak stated that they have proceeded with Love's Travel. The issue with the 1996 agreement was that Lodi wouldn't annex that area. Mr. Hotz stated that the Township insisted on that and rate protection (they are charged a percentage of the current rate).

Mr. Hambley stated that the issue, as last communicated to the Commissioners, was the matter of market value. The last offer was that the Commissioners would permit the extension of the entire area and the County would reimburse for actual expenses for the infrastructure for that area (this is more than what was done for the mall). What is being said now is that Lodi wouldn't even make that investment if they can't go to the other area. Mr. Lesiak said that at this point, they would need to change the official policy of the Village. At the current time, the policy is that a developer pays for the cost of the infrastructure in order for them to supply outside of the Village and they would have to change the policy that the Village would be the entity obtaining the financing for the infrastructure; the Board has not done that at this point.

Mr. Hambley asked what the difference (in terms of investment) is to the Village if the cost was to the developer. Mr. Lesiak said that, for instance, they gave Love's Travel discounts on the rates. Because of Lodi's size, it's an issue of finance – it's not as easy for Lodi to borrow the money as compared to the County. Mr. Geissman said that nor is it advantageous for Lodi to install and pay for the infrastructure because it would cost more to put it in than it does a private entity. Mr. Hambley said that the matter will be investigated and discussed again next week.

Sharon Ray wanted to make sure that everyone had copies of the Board of Zoning Appeals applications for the City of Medina – one for the Fairgrounds and the other for the Library. Bill Thorne stated that the Fair Board has legal control of their property.

Bill Thorne reported that the County was sued last week by a disgruntled prisoner claiming that when the Sheriff confiscated material from his computer, the computer was damaged. He is demanding judgment in the amount of \$3600. The deductible is \$2500; the County will probably pay it themselves.

Commissioners recessed the meeting at 10:30 for the regular Annexation Hearing of 41.0702 acres Brunswick Hills Township to Brunswick City.

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Annexation Hearing

Commissioners reconvened the meeting at 10:45 a.m. for the annexation public hearing on 41.0702 acres of land from Brunswick Hills Township to the City of Brunswick. An attendance sheet is attached as Exhibit A.

Mr. Hambley swore in those wishing to comment during the hearing and opened the hearing for opening statements.

Gregory Happ, attorney/agent for the petitioner, stated that they complied with all of the requirements of the Ohio Revised Code for annexations. He provided the notices to Brunswick Hills Township, the City of Brunswick, the current landowners, adjacent landowners, and newspapers ads. All of the current majority of the landowners of the property, Dr. Tirri, Mr. and Mrs. Liogky, and Steve Stokol on behalf of Sokol Development, are on the petition. The municipal corporation (the City of Brunswick) passed a resolution on June 12, 2006, saying they would be responsible for the streets and all the amenities if it was annexed. No streets would be intersected by this annexation. He added an Exhibit B entitled "Parcel Airphoto and Contours Flip Map 2004" for the record. He said the photo starts with the northern parcel and works to the southern parcel. The property on the north is bounded by the City of Brunswick and on the south it is bounded by the City of Brunswick. I-71 is to the east and Brunswick is on the east side of I-71. It is on the west side of Carpenter Road. This is truly an island and it is vacant land except for two houses. The aerial shows completely where the two subdivisions on the north and the south intersect and this would be consistent. It would allow the City of Brunswick to have consistent development, making sure that it complies with their ordinance and their desires instead of having another island in the middle of their City. They ask that you approve this annexation.

Trina Devanney, Assistant Prosecutor and counsel for Brunswick Hills Township, stated that Brunswick Hills Township opposes this annexation. This property is a relatively decent-sized property and instead of removing an island, it is connected to a number of other parcels that are in a larger island within the City. It would also create two very small parcels that are connected into its own separate isolated islands. The Township opposes the annexation for that reason, as well as others.

Mr. Hambley reviewed with the Clerk the validity of the petition and the disposition of procedural matters, which were all in order. The hearing was opened for the presentation of the case.

Mr. Happ said he would like to add, on behalf of the potential developer, the fact that they want to mirror what is to the south and to the north. This would be cohesive development for the County and would add to that area as indicated. The aerial photo shows that there is only one wooded section to the south and the other sections are already cleared. Development would not be tearing up a lot of woodland parkland and they would save as much woods as possible. It would be consistent with the other developments that are in the area. It would not be disadvantageous to any of the surrounding area and that is the major criteria here. It would just blend itself in perfectly.

Ms. Devanney questioned Kathleen Scheutzow, 3926 Foskett Road, Brunswick Hills Township, who is a Brunswick Hills Township Trustee. Ms. Devanney presented Exhibit C, a map of the 1/2 mile radius of the property requesting to be annexed that was prepared by the Department of Planning Services from their report. Ms. Scheutzow testified that the two parcels would become a smaller island than it is presently. The current island consists of four parcels along I-71. At a meeting she did not attend, the Board of Trustees passed a resolution at the request of general residents in the area, that they oppose the annexation, and that they ask legal counsel to oppose the annexation. She also contacted most of the residents within that 1/2 mile radius to let them know about it because they are not all contiguous property owners and would not have been notified with the petitioners' notification process. For the record, there

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was no substantial objection to the area residents who were most immediately affected. The resolution to object was based on general Township resident input, but not the input of the adjacent property owners.

Commissioner Hambley requested a copy of the Brunswick Hills Township resolution opposing the annexation. Ms. Scheutzow said it was a motion and Ms. Devaney said she would get Commissioners a copy of the minutes. Mr. Hambley asked her to clarify the part of that resolution about having legal counsel oppose the annexation. Ms. Scheutzow read that another annexation petition has been filed for 41.0702 acres on North Carpenter and the County Commissioners' public hearing is set for August 7. A motion was made by Esper that they have the Prosecutor's Office write a formal objection to the annexation; seconded by Kusnerak. Voting yes were Esper and Kusnerak and the motion carried. Mr. Hambley said he wanted to clarify that it was not a motion to litigate and Ms. Scheutzow said it was not.

There was no cross examination, no one representing the City of Brunswick, and no other testimony. Mr. Hambley opened the floor for closing statements.

Mr. Happ said he would like to reiterate that the fact they think all of the requirements for the annexation have been met and they have shown that it is consistent with the area.

Ms. Devaney said she wanted to point out that a very small island would be created by this annexation and there has been no evidence before this Board that there will be a benefit to the property proposed for annexation by the property owners.

Mr. Hambley asked the legal counsel present, at what point in time a corridor along I-71 that remains within the Township would become included within a municipality. He asked if the State of Ohio has to take an affirmative action. Mr. Happ said it is very unique; some are just easements for right-of-way and some owned by the State. If it is not owned by the State, it is usually taken in by that annexation. If it is a right-of-way, it remains in the Township because those people are not involved in an annexation. They will end up with inconsistency throughout Medina County, which is very common in Montville Township. Mr. Hambley said when the State owns the land, it would then require the State to take that action for annexation regardless what adjoining property owners do. Bill Thorne, Assistant Prosecutor, stated that as a party to it, they would either sign or not sign. Mr. Hambley asked if it was an option of a petitioner to, likewise, also include the State of Ohio. Mr. Thorne said they do not have to include them in with their property. Mr. Hambley pointed out that, without that, they would be creating smaller islands, and Mr. Thorne said, yes, along the interstates and it can be a problem.

There was no further testimony. At 10:58 a.m., Ms. Ray moved to adjourn the public hearing and Mrs. Geissman seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE. Mr. Hambley said the Commissioners have 30 days to make their decision.

Annexation Hearing

Commissioners reconvened the meeting at 11:30 a.m. for the annexation public hearing on 26.1199 acres of land from Wadsworth Township to the City of Wadsworth. An attendance sheet is attached as Exhibit A.

Mr. Hambley swore in those wishing to comment during the hearing and opened the hearing for the Township's case.

Andy McIlvaine, Agent for the petitioner Burns Investments, said for the record, he wanted to mention his renewal of the objection to the Medina County Prosecutor's Office representing both the County Commissioners and the Township. He said it looks terrible and places the Prosecutors in an enviable position giving the appearance of conflict. Mr. Hambley

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said they were not going to do anything regarding the objection and will proceed with the presentation by the Township.

Trina Devanney, Assistant Prosecutor and counsel for Wadsworth Township, questioned Dennis Banfield, Zoning Inspector for Wadsworth Township. Mr. Banfield said he has been the Zoning Inspector since 1999. The map was redone in 1998. The property owner never came to him to ask any information regarding zoning or development on this property. He had contact with the property owner last spring when it was for sale because they had an illegal-sized sign that they removed. The property is zoned R-2 Residential and they never applied for any zoning change. There is Township C-1 Commercial zoning to the north, R-3 Residential is on the southwest, and R-2 Residential is to the south and east. The Township has a contract with Wadsworth City for fire and EMA protection. The Sheriff's Department provides police protection. The trunk line for the sanitary sewer is on the property just north of it that is connected to it. There is well water and there is City water in the area. Mr. Crawley has had his horses on the property for many years. It could have been developed if he applied for a zoning change. The Township lost a lot of land when Wadsworth Crossing went into the City so he is sure they would have worked with him with open arms to change the zoning to Commercial. With R-3 Residential across the street, they would get a smaller density and it would not have created an island. Mr. Banfield described the commercial Township property to the north of the property.

Mr. McIlvaine questioned Mr. Banfield. Mr. Banfield testified that the Township does not own any waterline in the Township and no water utility service is provided; there are no water reserves and no water treatment plants. It has been Wadsworth City's philosophy to only provide water service to the City of Wadsworth. The Township has no fire trucks. He was not aware that the fire and EMA contracts were terminable with the City of Wadsworth with six months notice. The Township does not have their own police department and the Sheriff's Department is located more in the center of the County. The Township does not have its own cable service. He was not sure if Township residents paid a higher fee to use recreational facilities than those outside the City.

Ms. Devanney questioned Dennis Kreider, Wadsworth Township Trustee. Mr. Kreider testified that he has been a trustee for 28 years. The most recent fire and EMA contract with the City of Wadsworth has been in existence for one year, but they have had contracts with the City for at least 28 years. They are not required to contract solely with the City and could sign with any other fire department. They did not go with another entity because once they started talking with other people, the City of Wadsworth was much more interested in discussing it with the Township. The City does not want the contract terminated because it is a money-maker for them. They do not need extra equipment or people to service the Township. EMA is not a free service such as a fire call, so that is really a money-maker. They have a good relationship with the City and no one has any intention of canceling the contract. They have good service. They have contracted with the Sheriff's Department for as long as they have been a township. There have been no problems at all with the service. There is mutual aid with the City if needed and they cover for each other. The Township has contracts for cable and internet with both Warner Cable and Wadsworth City.

Mr. Kreider said he thinks that the detriment to the property if it was annexed would be the increased traffic, especially at the intersection. If they build city-zoned high-density there could be 750 cars coming from there (75 houses at 10 trips per day). The City also just issued permits for 235 apartments at Wadsworth Crossing which will add more traffic. The property could be developed under Township zoning with a planned type of development with a limit as to how fast the area would grow. In his opinion, that would be more reasonable for traffic. The road could be equalized and reconfigured even if the property was not annexed. The west side of the road would be a County road anyway. The Commercial property to be taken by eminent domain across the street from this property is in the Township. The developer pays the cost of water hookup in the City and in the Township so there is no benefit.

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Mr. McIlvaine questioned Mr. Kreider. Mr. Kreider testified that it would be excessive to install a waterline in a development. He said Burns Investments could drill a well for each house they put on the property at their own expense for installation, maintenance, replacement, treatment, etc. It would be a reliable source of water. The Township cannot provide potable, piped-in treated water services. Mr. McIlvaine asked Mr. Kreider to calculate the Township's budget by \$400 (the amount of taxes produced annually under CAUV to the Township's budget per Mr. Burns' testimony last week). He said one of the issues as to annexation is the effect on a Township when a property leaves. Case law says that if a parcel denies that township the ability to pay for its own services; that is something to be considered. Another issue is if annexation does not have a detrimental financial affect on the township budget. Ms. Devanney objected. Mr. Kreider's calculation was less than 1/10 of 1%. The land is owned by Burns Investment, not the Township. He is aware that the fire and EMS contract with Wadsworth City is terminable by either party. Developed under Township zoning would increase traffic, but not as much as if it was under City zoning.

Ms. Devanney questioned Mr. Kreider. Mr. Kreider testified that the Township provides well water for any person to tap into. There is a cost associated with digging a well, treating the well water, maintaining the lines, but no monthly bill. There is a bill for a waterline through the City and sometimes lawn watering restrictions. There is a hookup charge to the homeowner to tap into the waterlines. He feels it equals out, having lived in the Township and previously in the City. The developers' costs for tapping into a waterline are passed on in the City. Traffic generated under Township zoning would be something the roads could absorb.

Mr. Hambley opened the hearing for any other testimony and Mr. Banfield asked to make a comment. Dennis Banfield, 483 Woodlawn Avenue, Wadsworth City, discussed the problems his wife had with traffic when she worked at Sharon Country Club and when he plows snow. He pointed out that there are hundreds of homes that are not being sold in the area. He suggested they work on a Joint Economic Development (JED) Agreement or a Community Economic Development Agreement (CEDA) and work together to control growth. He feels the City provides inadequate services and the schools cannot keep up with the growth.

Mr. Hambley opened the hearing for closing statements. Mr. McIlvaine stated that he had the pleasure of being involved with annexations before and knows the Commissioners take their job very seriously. When case law looks at the benefit outweighing the detriment, there is a weight that goes on the scale in the interest of the property owner, particularly when it is a 100% owner-applicant. The landowner knows what is best in their land's own interest. In this case, Mark Burns of Burns Investments testified that annexation is best for his property to have City water service. That water service is only available to the City of Wadsworth. The Township simply has no water facilities. He reviewed the issues (the other services, contracts that can be broken, traffic because it is a major artery) and 26 acres is not going to be a dramatic alteration of that area. They heard no testimony to support that. The City of Wadsworth is embarking on an effort to redesign that intersection and annexation makes sense. Their objection to annexation because the Township wants to retain control is not a legitimate reason to deny an annexation. The land is undeveloped and the land owner and annexation is what serves his land's best interest. He has asked for approval so he can begin the next step at the City of Wadsworth.

Ms. Devanney said when the property owner listed four benefits when asked what benefits he expected to receive from the City if he were to annex, he said he did not have police protection, sanitary, fire protection and water. They have heard testimony that there is a contract and mutual aid with the Sheriff's Office for police protection, sanitary sewer lines available now, fire protection between the City and the Township that has been going on for over 28 years and will never go away, and plenty of well water to tap into now. The property owner never came forward to ask for any type of development or zoning changes. These would be granted

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because it is in an appropriate area to do so. There are no benefits to annex into the City. The detriments in the area would be unchecked growth, increased traffic that probably could not be absorbed, and uncontrolled growth. The detriments far outweigh any benefits.

There was no further testimony. At 12:10 p.m., Ms. Ray moved to adjourn the public hearing and Mrs. Geissman seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE. Mr. Hambley stated that Commissioners have 30 days to make a decision.

Annexation Hearing

Commissioners reconvened the meeting at 2:43 p.m. for the continuation of the annexation public hearing on 139.6205 now 91.0765 acres of land from Wadsworth Township to the City of Wadsworth. An attendance sheet is attached as Exhibit A. Mr. Hambley said they had a long discussion with counsel regarding the briefs that were submitted, but at this time the Board is not prepared to make a decision on this so they are going to do further legal research. They will continue the hearing next week, August 14, at 10:30 a.m. Commissioners are meeting with separate outside legal counsel at 8:00 a.m. that morning. He pointed out to the petitioners that there is always the latitude to dismiss the petition and refile. He apologized for not being able to make a quick decision, but this is somewhat problematic and difficult. There is very little guidance when it comes to case law. Mr. Hambley consulted with the parties involved and subpoenas would be continued for next Monday's hearing as requested.

Ms. Ray made a motion to recess the annexation hearing and continue the public hearing on August 14, 2006, at 10:30 a.m. Mrs. Geissman seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

At 2:47 p.m. Ms. Ray made a motion to adjourn the meeting and Mrs. Geissman seconded the motion. Roll Call showed all Commissioners voting AYE.

RESOLUTIONS PASSED 8/7/06:

NUMBER	RESOLUTION TITLE
06-0743	RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS
06-0744	RESOLUTION AUTHORIZING THE MEDINA COUNTY ENGINEER TO ADVERTISE FOR BIDS FOR THE IMPROVEMENT OF VARIOUS COUNTY ROADS BY THE USE OF MICROSURFACING
06-0745	RESOLUTION ACCEPTING AND AWARDING THE 2006 STRIPING BID FOR THE MEDINA COUNTY HIGHWAY DEPARTMENT
06-0746	RESOLUTION ACCEPTING AND AWARDING THE BID FOR THE REPLACEMENT OF BRIDGE NO.25, ON WOLFF ROAD (T.H. 94) IN YORK TOWNSHIP MEDINA COUNTY FOR THE MEDINA COUNTY ENGINEER
06-0747	RESOLUTION AMENDING THE 2006 APPROPRIATIONS RESOLUTION BY TRANSFERRING APPROPRIATIONS
06-0748	RESOLUTION AMENDING THE ANNUAL APPROPRIATION RESOLUTION
06-0749	TRANSFER OF COUNTY GENERAL FUNDS TO THE COUNTY DIVERSION PROGRAM

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- 06-0750 AUTHORIZING THE TRANSFER OF ENDING FUND CASH BALANCES TO THE MCDAC-TOBACCO USE PREVENTION FUND 05
- 06-0751 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM THE GENERAL FUND AND THE CHILD SUPPORT ENFORCEMENT AGENCY FUND TO THE TITLE IV-D JUVENILE FUND FOR JUVENILE COURT SERVICES
- 06-0752 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM VARIOUS COUNTY DEPARTMENT ACCOUNTS TO THE GASOLINE ROTARY FUND
- 06-0753 AUTHORIZING THE PURCHASE OF 7,800 GALLONS OF REGULAR UNLEADED GASOLINE FOR THE ENGINEER CENTER
- 6.754 RESOLUTION DECLARING MEDINA COUNTY PROPERTY AS EXCESS PROPERTY
- 06-0755 APPROVAL OF AN AGREEMENT FOR A SERVICE COORDINATOR AND HEALTH & DEVELOPMENT SPECIALIST FOR THE MEDINA COUNTY FAMILY FIRST COUNCIL HELP ME GROW PROGRAM
- 06-0756 RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN MEDINA COUNTY OHIO AND FAITH IN ACTION MEDINA COUNTY CAREGIVERS
- 06-0757 RESOLUTION ACCEPTING AND AWARDED BIDS FOR MEDINA COUNTY 2006 BUILDING TUCKPOINTING
- 06-0758 APPROVING THE SUBMISSION OF THE FY 2007 FELONY DELINQUENT CARE/RECLAIM GRANT APPLICATION
- 06-0759 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS
- 06-0760 AUTHORIZING THE SANITARY ENGINEER TO OBTAIN EASEMENTS FOR VARIOUS SANITARY SEWER AND WATER IMPROVEMENT PROJECTS
- 06-0761 APPROVING DAVID MANLEY AS THE COMMISSIONERS' APPOINTEE TO SERVICE ON THE HINCKLEY TOWNSHIP COMMUNITY REINVESTMENT AREA HOUSING COUNCIL
- 06-0762 RESOLUTION APPROVING THE PETITION FOR ANNEXATION OF 7.8465 ACRES OF LAND KNOWN AS BEING PART OF BRUNSWICK HILLS TOWNSHIP TO THE CITY OF BRUNSWICK, MEDINA COUNTY, OHIO
- 06-0763 RESOLUTION DECLARING IT NECESSARY TO LEVY A TAX IN EXCESS OF THE TEN MILL LIMITATION
- 06-0764 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

All deliberations concerning official business and formal actions by this Board of Commissioners were conducted in an open public meeting this seventh day of August 2006.

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Respectfully submitted,

Pam Vereb, Clerk

COMMISSIONERS _____

Stephen D. Hambley

OF

Sharon A. Ray

MEDINA COUNTY _____

Patricia G. Geissman