

COMMISSIONERS MEETING – MONDAY, FEBRUARY 3, 2003

Stephen D. Hambley called the meeting to order at 9:00 a.m. with Sharon A. Ray and Patricia G. Geissman present.

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

At the beginning of the meeting the oral reading of the minutes of December 30, January 3, January 21 and January 27 was dispensed with. Each Commissioner has read them personally. Mrs. Geissman moved to approve the minutes. Seconded by Ms. Ray. There was no discussion. Roll Call showed Mr. Hambley and Mrs. Geissman voting AYE on the December 30 minutes with Ms. Ray abstaining, and all Commissioners voting AYE on the January 3, January 21 and January 27 minutes.

Doug King, Administrative Assistant in the County Engineer's Office, presented a resolution requesting ODOT to grant a temporary construction speed limit reduction for Foote Road. The temporary speed limit requested is 25MPH and is requested for the duration of the construction. The normal speed limit is 40 MPH. Mrs. Geissman moved to approve the request. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Doug presented 2 resolutions granting a variance to ODOT for the right-of-way width of the proposed transportation court in Montville Township, and authorizing the advertisement for bids for various traffic signs, sign posts, reflectorized sheeting, electronic cuttable films and preformed pavement markings. Mrs. Geissman moved to approve the 2 resolutions. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed the weekly permits list.

Chris Jakab, Finance Director, presented and reviewed 5 resolutions involving transfer of funds, renewal lease agreement for office space for the Family First Council Resource Center, approving the public official bonds for John Lohn, Juvenile/Probate Judge, and the weekly bills in the amount of \$806,054.61. The renewal lease for Family First is for their facility in Lodi. This is a 2-year agreement that starts January 1, 2003. There is an out-clause in case funding disappears for this program. John Lohn has to provide separate bonds as judge for Juvenile Court and Probate Court. Each bond is \$10,000 and starts with his term of office on February 9. Mrs. Geissman moved to approve the 5 resolutions. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Gary Berkowitz, Human Resources Director, presented and reviewed the personnel resolution. Mrs. Geissman moved to approve the personnel changes. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

John Stricker, County Administrator, had no resolutions today.

Ken Hotz, Sanitary Engineer, presented a resolution authorizing change order #1 for the Chatham Water Tower Project with Caldwell Tank. This is to purchase a generator. They have a contract with LMRE that allows them to curtail power. During high usage periods they will be able to take the tower off LMRE and use the generator in order to keep the tower in service. Mrs. Geissman moved to approve the change order. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken presented a resolution authorizing participation in a real time pricing program with Ohio Edison Company for electricity to the Liverpool Wastewater Treatment Plant. The generator is sufficient to power the entire plant and was used 2 weeks last year for a savings of around \$10,000. The original contract stipulated that the generator only be used when the Ohio Edison pricing went to 9 cents per kilowatt, and the current contract dropped that stipulation. However, it costs 7 cents per kilowatt to use the generator and it will still only be used when the price gets up to 9 cents. Mrs. Geissman moved to approve the pricing program. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken presented a resolution authorizing the release of the escrow account of Caldwell Tank for the Granger elevated storage tank. The tank has been completed and running since last

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fall. Mrs. Geissman moved to authorize the release. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Joyce Farnsworth, County Home Administrator, stated that there is nothing new at the Home. They are taking in 2 new residents later this week, which will bring the residency up to 56. They have had no new cases of the flu as of Friday.

Dr. Ross Santamaria, Diversion & Forensic Services Director, stated that they are back up to full speeds and fees are near projections. He has been setting up interviews with high school and college students that are doing career explorations. Things are pretty quiet.

Mr. Hambley noted that the District Library Board passed a resolution requesting Commissioners to place a bond issue on the May ballot. For the next 2 meetings there will be a resolution before Commissioners and Mike Harris, Director, is attending the meeting this week to review their program and needs.

Mike Harris stated that they are trying to affect a building program that had its genesis about 2 ½ years ago. The library works from facilities that are providing award-winning services but are unsustainable. The Medina branch has been cobbled together with the administrative offices in the back, and although they have money for some positions they desire there is nowhere to place them. The Brunswick facility was passed with a local bond issue and in 1980 was expected to house 70,000 items. They currently house in excess of 140,000 items. An old funeral home with 2,000 square feet is being used in Lodi and they do the same amount of business as 12,000 square feet buildings in Summit County. A 150-year-old home in Hinckley and an old building in Seville are being used as libraries. They hope to create a plan that will grow the library services with the growing community over the next 5 years. This is an outstanding library program that is enjoyed in Medina County and they hope to continue that and be able to position libraries in locations where they can grow in the future. They want to put together a program that makes sense and places libraries in logical locations by schools and in downtown areas where the library services can continue to grow. A proposed resolution and information was presented to Commissioners for review in the next week. Over the last few years a parcel of land was purchased in Lodi for a new facility and a donation of 5 acres adjacent to the Buckeye Schools was made for a new facility. They plan to remodel and expand the Brunswick branch, plan to remain on the square in Medina, and are looking for an appropriate parcel near Highland Schools for a library facility.

Mr. Hambley stated that he appreciates their efforts to keep the Medina library in the city. He understands they are looking at expanding their parking.

Mike stated that they've been working with the city schools to try to come to some agreement on the bus garage. The library owns a parcel that currently has a house on it and if they can use that for a footprint for main library in Medina the size of the library will increase from 15,000-20,000 square feet to 45,000 square feet of public space and it will double the parking.

Mr. Hambley also noted the plan includes a new library in Granger Township.

Mike stated that they are looking at a parcel now near the Highland Schools. They believe that the school's building projects have committed to a campus concept, which makes the greatest use of resources from buses to after school opportunities for students. A logical partnership would be to have a public library nearby. A parcel was donated to the library on Columbia Road adjacent to the Buckeye Schools, which is a tremendous opportunity for the library.

Karl Cetina, MCDAC Director, presented a resolution appointing Russell Fisher as the City of Medina's representative with Wally Schaedel as their alternate to MCDAC with their terms expiring December 31, 2005. Mrs. Geissman moved to approve the appointments. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley presented and reviewed a resolution appointing representatives and alternates to the OPWC District 9 Integrating Committee. Mr. Hambley will be the

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Commissioners' representative with Mike Salay as the alternate and David Miller will be the County Engineer representative with Sharon A. Ray as the alternate. The terms expire May 23, 2006. Mrs. Geissman moved to approve the appointments. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley presented a resolution approving the petition for annexation of 331.2142 acres of land known as being part of Wadsworth Township to the City of Wadsworth. He read the sections involving the Board's preference for some type of agreement that could have been reached between Wadsworth Township and the City of Wadsworth instead of going through the regular annexation process and also the sections clarifying the findings of the Board for approval of the annexation petition. Mrs. Geissman moved to approve the petition. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

The Clerk read the resolution to allow expenses of county officials. Mrs. Geissman moved to allow the expenses. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley noted that normally there is latitude for public participation in the discussion of approving a resolution. The annexation that was approved is quite controversial and will probably have some legal ramifications, and the reason he did not take any questions at the time of that approval is that there was a public hearing and the law states the Commissioners have to consider only those comments and evidence presented during that public hearing. Any comments that may have been offered today could not affect the Board's decision. With that in mind he decided to proceed with the vote and ask for comments for the record during the public comment portion of the meeting so as not to mislead anyone to think the comments would influence the decision. The law stipulates that only evidence that is provided to the Board during the public hearing, which was held in early January, can be considered. He then opened the meeting for public comment and asked those speaking to state their name and to try to keep their comments to about 5 minutes.

Dianne Kleinman, 324 Akron Road, stated that she called to find out the meeting time today and talked with the Clerk who said the Board was probably going to approve this annexation because not many people spoke out against it. There are only a couple dozen houses on this stretch of Rt. 261 and of those there are 2 that are vacant. There were 30-40 people that took time off work to show up at the last meeting and many didn't speak out because most people would rather die than speak publicly. She didn't hear any applause when the other side spoke at the last meeting and the other side only had witnesses testifying as to how they can't make any money unless they have water and sewer. According to the previous Baldwin's Ohio Revised Code, Section E, which apparently has been changed to a different section, the map or plat should be accurate, which was found at the last meeting it was not and yet it is still being considered. The second part of that Section says the general good of the territory to be annexed will be served if the petition is granted. If the annexation is approved, the Board is agreeing with the petitioners' definition of what good for the territory means, which is that they will line their pockets with big bucks. If they just wanted to develop their property under the conditions they bought it, we wouldn't be here today. They are astute businessmen who knew the sewer and water limitation when they purchased their property just as she did. The people are not asking them not to develop their property; they are just asking them to follow the rules. By passing this on to the City, Commissioners will lose only a few dozen votes but will gain gratitude of Wadsworth 76 Limited, Morrison & Sours Jr. & Sr. and Kaufman's covering a total of 10 lots and they live in Summit County and can't vote here. This is at least their second attempt to annex this property and they've resorted to manipulating the majority by splitting the property into multiple parcels. If the people that actually live in the area had been polled it would have been clear that a majority does not want the annexation. The annexation request is driven by a few real estate developers who have no vested interest in how it changes the neighborhood. In counting the petitioners, out of 49 property listings there were only 6 couples who actually live in the neighborhood and signed up for this, and of those 6, there will be 2 that gain a monetary benefit by selling their land for more houses. Mrs. Geissman said at the last meeting that the Board is judge and jury on annexations, and if the neighbors are ignored, then the Board is the same old rubber stamp. Her husband felt Commissioners would be intelligent enough to see through the tactics, but they didn't, and she's glad no kids are seeing how the system was subverted.

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Mrs. Geissman stated that it was a very difficult decision, and noted that there were a couple of people at most of the meetings where there was some discussion and she's not sure if Ms. Kleinman was present or not.

Ms. Kleinman stated that she didn't know people were allowed to be in that meeting.

Mrs. Geissman stated that it was during our discussion session last week to go over the criteria, which was not easy to do. She was very concerned about her discretion and the use of the Board's discretion because it will set precedence. It was not an easy decision, and the Board was judge and jury and that bothered her very much. Never once did it enter her mind that she was doing something that would either give her votes or take votes away from a re-election. She was trying to do what is best and it was a very difficult decision and one that she knows will make a difference in decisions in the future as well.

Ms. Kleinman asked what is meant by what's best.

Mr. Hambley stated that in terms of the criteria as applied by the law, Commissioners went through several hours at several meetings and the various criteria that the law addresses. Dave Miller, County Engineer, was in to discuss the maintenance. A work session was held during last week's discussion, which had been scheduled the week before, to go over all of the material, such as the minutes of the hearing, the balance of good test, and what the law defined as the good of the territory criteria, which the courts have applied. The minutes indicate the criteria as to that balance and a copy of those can be obtained. He believes this is something that will be tested through the courts. This is the first time under the new annexation law that allows the definition of what is good for the territory to be applied to the larger area, and the courts will come back with a greater definition with more specificity for Commissioners to use. He shares Mrs. Geissman's comments that this was a very difficult decision. The Board has voted against annexations before. The Board is duty bound to apply the law and consider the evidence that is provided. One annexation that was refused was overturned and is coming back to the Board while another that was refused hasn't. This Board does not rubber-stamp these or we wouldn't have been in court last year over an annexation decision. Different criteria are being applied now and this is new for everyone. The Board is trying their best to balance those interests and it is an unfortunate circumstance. We know it affects the neighborhood and that was taken into consideration and was balanced with other criteria. The law does not provide that the petition goes up for a public vote or that the Board vote for what's most popular. The law provides that it must meet certain criteria and that's what was applied to the best of the Board's ability.

Margaret Wertz, 3504 S. Medina Line Road, stated that she doesn't know why Commissioners didn't throw the petition out because it was bought under false pretenses. People were told they were getting free water and they're not. To the people that signed the petition, she doesn't think they were using their heads because 1) they'll have to pay a city income tax whether they pay one elsewhere or not, 2) real estate taxes will go up, and 3) she lived in the Westgate Allotment when it was annexed and the first thing they did was condemn the wells and septic systems; they had to use city water and weren't allowed to use their wells even to water their lawns; and the streets never got cleaned when it snowed. She has a half-acre easement where the corner of her septic system is on her property and the rest is on the half-acre easement. Todd Sheridan and Wayne Adams are in the same boat as her with their septic systems in that if the land is annexed half of their septic systems will be in the township and half will be in the city. She noted that she is also speaking for Wayne Adams, as he was unable to be at today's meeting. She understands that many of those against this weren't considered because a number of people didn't speak at the hearing, but they didn't because time was getting long and many, as she is, are not very good public speakers. Sharon Township land, country land, was annexed to Wadsworth and she feels that the township got screwed just as they are getting screwed in this area because everybody she talked with doesn't want to be in the city. She feels it's just like her husband always said, "The Great American Way – lie, cheat & steal".

Mr. Hambley stated, in response about the signatures obtained under false pretense, that during the hearing, the Board asked for any challenges to the validity of the petitioner signatures, or if there were challenges by any owner that their signature was obtained from fraud, duress or misrepresentation, including misrepresentation of municipal services or undue influence, and they could have presented that information to the Board. No one presented that testimony.

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Several said that is not true and that Mr. Jebber did.

Mr. Hambley stated that he doesn't believe the records show that any petitioner made that statement. The record shows that he requested his signature be removed. He did not indicate that there was a misrepresentation. The record shows that.

David Lemley, 293 Akron Road, stated that Mr. Jebber said in the minutes that they told him the only way he could get water was to sign the petition, and when he found out there was another way he could get city water other than annexation he wanted his name taken off the petition. That's how they got the signatures, by threatening people with free water if they signed up within a couple weeks.

Mr. Hambley stated that his statement still stands and there is a difference of opinion. He is not going to debate what his intentions were and whether the signature could have been removed. There is an opportunity during the hearing for individuals to indicate that signatures were obtained by false pretenses or misrepresentation.

Susan Lemley, 293 Akron Road, stated that she walked door to door for 5 ½ hours yesterday to talk to people along Medina Line Road, Akron Road and Hartman Road, and found only one person that wants the annexation besides the property owners that want to develop. People feel they've been misrepresented and lied to in order to get signatures, such as the letter about free water. One lady said she never would have signed if she'd known what it would do to the township. People didn't think they could have their names removed because it was made clear at the hearing that they couldn't. The people felt they didn't have a choice. While she was out yesterday several people questioned whether or not some of the property owners changed names and titles to their properties in order to change the number of signatures on the petition. She doesn't have an old map to compare to and she's not a lawyer, but she questions whether this is legal. The biggest thing that bothers her, and she's speaking for a majority of the area, is that their property was carved out as though they don't even county. What goes on in the area around them affects all of them and it's not just affecting the people in the annexation. The people should have the right to vote on this and it's immoral that they don't. The people are requesting an appeal and she has signatures of those that oppose this, and she's not finished obtaining signatures yet. This is just the beginning and they will continue to fight this because it is wrong. The Board talked about the general good of the territory being served and that the benefits will outweigh the detriments, and she questioned how the benefit was determined. She also questioned the criteria that the area is not unreasonably large and how that is determined since this area is not considered unreasonably large. This is all about big property owners making a big buck and they don't care about those in the area. After a meeting that a truck stop was mentioned for the area, she asked Mr. Kaufman if he wanted to buy her house and he said yes. His appraiser offered \$20,000 less than her appraiser did. She will not give her property away to that man.

Peggy Meince, 321 Akron Road stated that there's a controversial school levy in the Wadsworth School District and after listening to Mr. Palecek and the developers about all the money that will be generated from this annexation, she presumes they can cancel the school election and that no one needs to vote on a levy. Mr. Palecek said there's going to be so much money for the schools. Also, if they need more libraries she is not going to vote for them. If you listen to the developers and big shot attorneys, we don't need to pay any more for the schools because that's all taken care of.

Mr. Hambley pointed out that the request for a levy this morning was for the Medina County District Library, which does not cover Wadsworth Township or the Wadsworth School District. Wadsworth has a separate library system.

Mary Rayburn, 313 Akron Road, stated that she has lived on Akron Road for 35 years and loves it out there. The reasons they bought property there include because it was in the Township of Wadsworth and their children were able to go to Wadsworth Schools. She doesn't want to see her backyard turned into a truck stop. She gets up in the morning to look out, noting that she has deer that she feeds, and that's going to be gone if they develop that property. She doesn't understand how it can be said that it was a majority vote when they didn't include their property and others their vote. If they had included those properties they never would have had their 51% so they just left them out. They did give people a letter saying they could get free

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water and that's what enticed most of them to sign the petition. A copy of the letter was left for the Commissioners. It is all money; that's all it comes down to.

Virgil Mochel, Wadsworth Township Trustee, stated that he didn't give Commissioners a list at the hearing, but there are 13 people that live inside the annexation territory that are in favor of annexation and 20 that live inside the territory that don't want it. Therefore, people who own property in the territory but don't live there outvoted the majority of 20. If you include count the people on the other side of the road and those that were cut out by the jerry-meandering, there are 31 additional people living along Akron Road that are against the annexation, making a total of 51 that are against it. If people are included that live on Medina Line Road, the total against it would be 75-80 versus 13 for it. He understands why these people want to have water and sewer, but if they go into the city, the city isn't going to pay for the sewers. Water is a little different because the city can provide water, but there's well water available at this point in the area. The resolution mentions that the annexation doesn't divide a road, and yet it does divide a road between the township and the city and this is a problem. There are 2 houses that will be in the city and those on the other side will not be, plus the south side up to the major property of annexation will be in Wadsworth Township. It will be 50 MPH going one direction and 35 MPH going the other, plus maintenance, etc. The annexation does divide the roads and he doesn't understand why this was included as part of the resolution stating it does not divide a road and that there is no problem. His main concern is for the people who live in the territory that were sucked in and those that live in the area. To him the greater good is for the people who live there and not for the development. The township wants the land to develop, noting it's a highway interchange zoning area, and questioned why it can't develop in the township through a JEDD or something else. The sewer is a county sewer and they will have to furnish their own sewer, so he doesn't understand why it's necessary for the land to go into the city.

Mr. Hambley stated that Commissioners did spent time discussing the division of the road and the question came down to whether it created a maintenance problem. There was no demonstration that the division was going to create a problem and in looking over the evidence it was the Board's consensus that there was no evidence presented indicating there was going to be a problem when there are other sections where annexation does divide city and township properties. On 261 there are 3 sections that go from the city to the township and back to the city and there are a number of sections throughout the county where roads are divided between municipalities and townships with no maintenance problem. It was the Board's judgment that there was no evidence presented indicating there would be problems. If this goes to court it will be determined if that is sufficient for making that judgment. That's all that can be done based upon the understanding of facts in front of the Board and the instructions of the Assistant Prosecutor in the interpretation of the law.

Mr. Lemley asked if there is anywhere in the township where there is literally city, then for 1 house its township, then city and then 2 houses in the township. He's never seen that happen anywhere before. The way the boundaries were divided it is blatant obvious that it was set up so they could pass it. If you have any intelligence you can see what they have done to get their vote. He questioned what will happen with the owner in the township calls for the Sheriff and there's an argument over whether it is in the city or township. He had lived on the corner of Akron, Norton and Barberton and had that problem because he lived on the edge of the line. When he had an issue and called the City of Barberton they said he was in Norton or Akron and he had to argue with them over the phone. In this case there will be 5 houses in the city, a house in the township, a couple more in the city and then 8 in the township. This is ridiculous and doesn't make any sense to allow the road to be cut up like this between the township and the city. It's obvious what they've done to get their vote and it should have been thrown out just because of that.

Mr. Hambley stated that the Board can only follow what the law allows.

Todd Sheridan, 3514 S. Medina Line Road stated that several years ago these same people came to the township and wanted the land changed and were told no. A year or so later they went to the City of Wadsworth and were told no. Now they've come to the Commissioners and were told yes. It doesn't make any difference what the people in the area said or what Wadsworth said.

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Mr. Hambley stated that the City of Wadsworth has to provide a resolution of extension of services before the hearing by this Board. In the other case they did not provide that and they didn't agree with extending services. For this particular petition they did agree and they did comply with the law by approving a resolution for the extension of services. After the Board's decision it is still up to the City of Wadsworth to make the final decision as to whether they accept the annexation. He asked Bill Thorne, Assistant Prosecutor, if this is correct.

Bill agreed that it is.

Mr. Sheridan asked about the time frame for this.

Mr. Hambley stated that at this point there's 30 days for an appeal that can occur from any of the interested parties, such as the township, city or residents. If no appeal is filed within the 30 days then this resolution of approval goes out certified and the City has the opportunity to act on it. He asked Bill if the City has a time frame for their action.

Bill stated that they do but he's not sure what that is.

Mr. Hambley stated that if somebody sues it goes to court as to the criteria that was used and whether the law was applied in a reasonable fashion.

Mr. Mochel stated that at the hearing Mr. Palecek misrepresented some facts by implying that the township was unfriendly to those people around the interchange, mentioning specifically the Marathon station and sports complex that was proposed. He checked into this and found that out of 7 requests to the Zoning Board of Appeals 6 were approved or no action was taken, and only 1 was turned down. They were provided with a number of questions about the proposed sports complex or indoor soccer fields, and they never came back to the Zoning Board of Appeals, which means it was withdrawn by default. He was on the board at that time and remembers that one. The Marathon station was not turned down either. The only thing that was turned down was because the legal department, Mr. Thorne, said the use was not under any of the conditional permits. Mr. Palecek implied that the township wasn't friendly to them and the facts show that what he implied was not the case.

Mrs. Geissman stated that this was a very difficult decision for the Board and she hopes that those people against the annexation will appeal it. She is sorry they will have to go through the expense and trouble, but the Board did everything that they could based on the law and the advice of their legal counsel. One of the things that bothered her was the personal property rights. She could see both sides and if she were a property owner being forced into annexation she'd be mad as well. There was one gentleman at the hearing that wanted his name removed and he did not want to be part of this, but legally he could not since he had already signed. She knew when this petition came in that any decision made was going to be wrong. Perhaps the best way to settle this and to help Commissioners in the future in making some of these decisions is to go through the courts to get some clear cut law based on the new law. The Commissioners interpreted the law and felt that the best decision was made that could be. It was not easy. People have the right to develop their property the way they want and people also have the right to keep their property the way they want without someone forcing something on them. Perhaps only the courts, a higher court than the Board of Commissioners, can determine what the discretion is to be used in the future.

Mr. Hambley stated that this Board dislikes forced annexation. A gentleman did speak up and want to be removed as a petitioner, but could not under the criteria and advice of the County Prosecutor. However, the ability to remove them was explored. He had met with Bill Thorne to see if there was some legitimate way to approve the annexation and still pull those people out that were being forced. The advice of the Prosecutor was that we could not pull anyone out based on the information provided at the public hearing. He believes there was some confusion as to there not being enough people speaking out against the annexation at the hearing. Commissioners needed to hear more from those property owners that originally signed the petition. That may have made a difference. At this point the Board has to follow the advice of their attorney and see where the law had to be applied. The law doesn't allow for the Board to pull those people out that are being forced, it doesn't allow for the decision to be put up for a vote, nor the only ones that should be listened to are those that reside there. Under the law every property owner has the right to ask for annexation, and those are the petitioners, and those are the

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ones the Board has to take into consideration. He understands that the majority of the people that live there are probably not in favor of the annexation; however, that isn't what the law provides for the Board to consider.

Mr. Sheridan asked if it makes any difference that things might have been represented.

Mr. Hambley stated that it had to be presented at the hearing that there was a misrepresentation and the signatures were obtained on that basis.

Mr. Sheridan stated that he's not talking about the signatures but that maybe Mr. Palecek misrepresented a few things including what they said about the schools.

Mr. Hambley stated that it can be challenged during the testimony at the hearing and then Commissioners can evaluate that with probative evidence as to whether the other side had misrepresented some statements made at the hearing.

Mr. Sheridan questioned how anyone would know when he's making the statement at the hearing until it's been checked into and found that he's misrepresented it? He can say whatever he wants, and when its checked it out its too late.

Mr. Hambley stated that he understands the feelings on that, but that is the way the law is set up. Commissioners have to take into consideration what is said at the hearing.

Mrs. Geissman stated that we wouldn't know, but if this is appealed, and she hopes it is, that is a time to bring that up.

Mrs. Lemley asked how exactly they would go about appealing this and where they take it.

Bill stated that they go to the Common Pleas Court and file a notice of appeal as set out in the statute. He suggested they find an attorney.

Mrs. Lemley stated that she had people tell her that if an attorney was hired that they'd pay their part. That is how strong a log of property owners feel.

Mr. Hambley suggested talking to the township trustees, noting that one is in attendance, to see what their plans are regarding this, and then certainly the resources could be pooled in that regard. He asked if the township has a legal right to spend public money for appealing.

Bill stated they do.

Ms. Kleinman stated that personal property rights were brought up and the residents here aren't telling them they can't develop their property as it is. They bought their property zoned this way with the same water that everyone else there has. She's had to put in water equipment, drill a well and had the same problems they've had and taken care of them. They could put something there with the zoning they have but everything they've tried to do they also try to subvert the zoning. They want to go around it and try to put something there that's not allowed. They've got a small amount of commercial and they put 2 ugly tire places in and they've painted themselves into a corner. They tried to get more commercial zoning, and she was at that hearing, and she believes they were turned down for that. The people are not trying to tell them not to develop it, but to do as the others have done in the area, which is not going outside the rules. She's glad to hear it was difficult to make the decision because she has lost sleep and had a terrible weekend from worrying about this. The Clerk had given her hope when she was told the Board hadn't voted yes on this, and she'd thought they could come in today and talk before the vote in hopes to changing the Board's minds.

Mr. Hambley noted that, as pointed out earlier, the law says the Board has to take into consideration the evidence provided during the public hearing.

Ms. Kleinman noted that Mr. Hambley had said the minutes will explain what general good means. She doesn't understand what Commissioners consider general good. She's read

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Baldwin's Revised Code. Obviously the residents here don't feel it's for the general good of the territory.

Mr. Hambley stated that there are a number of documents that he can refer her to such as the CCAO Handbook where there are court cases that indicate previous court interpretations. This was discussed as well as a Benjamin Franklin plus or minus list in terms of balancing that. That should all be in the minutes as well as the Commissioners having their own notes. If this goes to court, everything that was ever written down on this will be there.

A gentleman asked if the Board doesn't interpret what the general good statement is. If everyone reads that about general good, then everyone can interpret it differently.

Mrs. Geissman stated that's where discretion comes in and that's the difficult part.

Ms. Ray stated that, being from Wadsworth City and being familiar with the area, it was a very difficult discussion for her. She spent a lot of time going back and looking things over. She wanted the people to know a few things as they pursue this further. Both the Wadsworth City Comprehensive Plan of 1996 and the Wadsworth Township Development Policy Plan of 1996 acknowledged that this commercial land would most likely annex to the City and the Township Plan recommended more efficient land use when annexation is likely to occur and where sewer services may be or are available. The other thing that disturbed her was the JEDD agreement that was presented at the hearing. The agreement specifies that the JEDD would consist of commercial, industrial or used properties only and that no residential users may exist in the JEDD. There is residential property in this area that will stay residential if it is annexed. If there is a JEDD agreement that entire territory should be zoned commercial or industrial. Those were 2 things that haven't been mentioned that she was concerned about.

Mrs. Lemley questioned what determines unreasonably large, and stated she would like an answer to that.

Ms. Ray stated that this annexation represents less than 3% of Wadsworth Township land. There was some previous case law that indicates when that figure gets up to 10% that's when the court said it was unreasonably large. A copy of that can be made available also.

Mr. Hambley read from the minutes that the factors regarding unreasonably large should include geographic character, shape and size of the territory and not just the size as well as the relation to the territory to which it will be annexed and the relation to the territory remaining in the township after the annexation occurs. There are other factors such as looking at the tax base and the shape in general character. There's considerable latitude. The consensus was that in looking at previous court cases their decision was not just based on acreage.

There was no further public comment.

Mr. Hambley noted that there is a public hearing this evening at 7:00 regarding Transit and the Medina "L". The discussion session will be held at 1:30 p.m.

Commissioners recessed the meeting at 10:05 a.m.

Commissioners reconvened the meeting at 1:30 for the discussion session with Mr. Hambley and Ms. Ray present. Mrs. Geissman had a prior commitment.

Susan Reid, First Energy, presented a proposal for electric for the county buildings. It has been 2 years since the service was bid and it is time to renew or re-bid. She noted they were the only bidder at the time. The pricing from before was 4% and they will stay with that 4% if it is not re-bid. She noted that this is not for the transmission or distribution portion of the bill, but for the generation portion and it is a guaranteed savings. The written information included an analysis of all of the accounts. Before there was a fixed price and in this proposal the county will get a credit every month and their pricing will be 4% of whatever the credit is. This is guaranteed savings as with the fixed price some months there would be more savings than others. Through questioning, she stated that those facilities listed at 3.8%, such as the Hinckley Plant, are at those percentages because they have interval meters. She's unsure on the one listed at 3.4% and she agreed to all of those that are not listed at 4% to make sure of the reason and report

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back to John Stricker. She reviewed the difference on what the county will pay with Ohio Edison and what will be paid if the county shops. For a 24-month period the savings will be \$45,700. The information is not a contract but information so the Board sees where things are in case they go to bid. A decision is needed by April as the renewal date is in May. She pointed out that because they're doing a percent off they have to rely on Ohio Edison to compute the generation cost. Ohio Edison will computer First Energy's costs and they will have everything on one bill for each account instead of 2 separate bills for each.

Chris stated that he needs to look this over more, noting that the consolidated bill was helpful if there was one billing location and they received one bill with all services on it. The Sanitary Engineer, for example, gets 40 different bills a month. This will force the county to work fairly harder to get everyone's encumbered funds together to pay one bill.

In response to questioning, Sue stated that grouping bills would have to be done by Ohio Edison. Another thing that's being done in some communities is that they keep their smaller accounts out of the shopping since there wasn't much savings and put them on Ohio Edison and ask them to do summary billing. She can check with Ron Rowe at Ohio Edison about doing summary billing. Sue also discussed aggregation, which was attempted 2 ½ years ago and didn't pass. Summit County went to their township trustees and had them spearhead aggregation and then the trustees asked the county to run the program when it passed. She included some information in the packets for the Commissioners about this incase they would like to look into something like this again.

Mr. Hambley noted that at the time we attempted a program we were looking countywide and Brunswick was looking at, and is participating in, the NOPEC. Bill Thorne had made the judgment that our option was either to do countywide or let each jurisdiction deal with it themselves. There was a lot of confusion in those areas that have electric co-ops.

Chris Jakab and John agreed to review the proposal and get back with the Commissioners in the next couple of weeks.

Jim Douth and Jim Boyes were present with drawings of the proposed Medina County University Center. They met with University of Akron officials on Friday and received the preliminary drawings. They reviewed the buildings, which will have about 100,000 square feet and will be built into the land and tiered so it won't have a high elevation as you drive down Lake Road. The proposal is to have a long boulevard back and have lots of trees. Due to the way the money will come in, they will construct the buildings in phases and connect the first and second buildings with a bridge and connect the second and third buildings with a tower and skylights. The completion of the 3 buildings may take 20 years. The 100,000 square feet will be for usable classrooms and office space. At a Lafayette Township Trustees meeting a question was raised as to what would be happening to the land to the east. At this time it's speculation, but Akron University had a drawing prepared with more buildings in the campus and parking. Those 67 acres are not part of this initial project and if it develops they want to insulate the surrounding community. There is no planned access to Lake Road at this point, and it was noted by Mr. Hambley that safety services might require a second access. The first combination of money received will be used to do the full blown architectural drawings and perhaps some dirt moving. They have not received the costs at this time for running utilities down Wedgewood Road. The drawings presented today are conceptual. It was noted that this is a workforce development center but it is also a personal educational enrichment center that residents of the county will be able to access for classes and to work on their degrees.

Ms. Ray and John reported that they went to the morgue at Medina General Hospital and met with a couple of administrators. There is a need at the morgue and they are going to look at a unit cost. There were autopsies done by the county coroner at Medina General last year and those cases are usually there for 2-3 days; however, most are done in Cuyahoga County. The hospital basically moves someone to the morgue if the person passes away while being a patient and they're usually taken to a funeral home within hours. They billed the county \$31,000 to \$32,000. The morgue has a capacity of 4 and they are looking at expanding that area. They will look at their numbers and see when the county is using the facility versus the hospital's use and get back with Commissioners with a proposal on fees.

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Ms. Ray noted that a request was received from Hinckley Township about Buzzard Day and asked about the process on this.

Mr. Hambley stated that the Clerk forwards this to the County Engineer and he will make the arrangements for the roadways on that day.

Ms. Ray noted that a letter was received from Brunswick City regarding splashguards.

Mr. Hambley stated that it is up to the City of Brunswick to adopt the use of splashguards as a permissible standard to reduce the flow of water into the sewers and decrease flooding in some areas. He believes they've discovered that they have more problems with storm water drainage problems than we do with sanitary. He suggested talking with Jim Troike, Assistant Sanitary Engineer.

Chris stated that the budget hearing for Juvenile and Probate Courts was skipped over due to a new judge coming on board. John Lohn will take over as Judge on the 9th and he suggested setting up the budget hearings in the next couple of weeks. Commissioners agreed to have the budget hearings set up either in the morning or afternoon of the 18th.

Bill Thorne stated that another lawsuit was filed against the Health Department.

Mr. Hambley stated that an interim appointment is needed to the Transportation Improvement District (TID) representing the municipalities. If Brunswick and Wadsworth agree, it is recommended that Pam Miller finish out Mike Morse's term, which expires at the end of this year.

Mr. Hambley noted that the Soil & Water Conservation District met last week with township and county officials regarding the NPDES (storm water) Phase 2 requirements. The county's plan has to be submitted by March 10. Mike Salay and Dan Wilhoute are working on the county portion. A memorandum of understanding is needed with the townships and Health Department, who all need to partner in this.

Bill stated that there could be a taxpayer revolt if they are really serious about no offsite discharges from sanitary sewers because most of the old systems are on off sites. If they want to go out and change everybody's septic systems it will be a major task.

Mr. Hambley stated that the requirements aren't that they be eliminated but if they're found not to be functioning then they have to be updated. The townships' remedy, since they're responsible for the township roads and drainage, plan to pass a resolution prohibiting off lot discharge. They say this makes them compliant with NPDES Phase 2 and that will force the county to sue the Health Department. The discussion was that a memorandum of understanding would be developed that outlines the procedures everyone will follow. We might be able to approach it in a reasonable way that the EPA will accept it. There could be some enormous costs for the old systems, and there are a lot of them that are failing. Some areas are already planned for sewer extension in the next 20 years and we might be able to get EPA to accept those instead of forcing the people to fix their septic systems and then have a sewer available in a few years. In the areas already planned for service this might drive us to proceed with extension sooner in those NPDES communities, which include Brunswick Hills, and little bit of Hinckley and Sharon. There is a large area in Hinckley and Granger that sewers would not be extended. When he mentioned to the EPA that the county doesn't have the mechanism to enforce this or do the licensing the response was that the county would have to sue the Health Department. The plan will incorporate the memorandum of understanding and this will need to be looked into for budgeting. The mapping will be done by the County Engineer's Office. They will be coming in soon to go over the costs, etc.

There was no further business before the Board for discussion.

At 2:10 p.m. Ms. Ray moved to adjourn the meeting. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

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RESOLUTIONS PASSED:

03-0073 RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS

03-0074 RESOLUTION REQUESTING THE OHIO DEPARTMENT OF TRANSPORTATION TO GRANT A TEMPORARY CONSTRUCTION SPEED LIMIT REDUCTION FOR FOOTE ROAD (C.H. 191)

03-0075 RESOLUTION GRANTING A VARIANCE TO THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE RIGHT-OF-WAY WIDTH OF THE PROPOSED TRANSPORTATION COURT IN MONTVILLE TOWNSHIP

03-0076 RESOLUTION AUTHORIZING THE MEDINA COUNTY ENGINEER TO ADVERTISE FOR BIDS FOR VARIOUS TYPES OF TRAFFIC SIGNS, SIGN POSTS, REFLECTORIZED SHEETING, ELECTRONIC CUTTABLE FILMS AND PREFORMED PAVEMENT MARKINGS FOR USE BY THE HIGHWAY DEPARTMENT IN 2003

03-0077 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM THE COUNTY GENERAL FUND (0010) TO THE CHILDREN SERVICES FUND (0050) FOR THE BOARD AND CARE OF COUNTY WARDS

03-0078 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM THE COUNTY GENERAL FUND (0010) TO THE PUBLIC ASSISTANCE FUND (0120) FOR COUNTY MANDATED SHARE

03-0079 APPROVING A LEASE RENEWAL AGREEMENT FOR OFFICE SPACE FOR THE FAMILY FIRST COUNCIL RESOURCE CENTER

03-0080 APPROVING PUBLIC OFFICIAL BONDS FOR JOHN LOHN, MEDINA COUNTY JUVENILE/PROBATE JUDGE

03-0081 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS

03-0082 RESOLUTION AUTHORIZING CHANGE ORDER #1 FOR THE CHATHAM WATER TOWER PROJECT CALDWELL TANK INC. MCSE #W500/00-5.1.55.2

03-0083 RESOLUTION AUTHORIZING THE COUNTY SANITARY ENGINEER'S PARTICIPATION IN REAL TIME PRICING PROGRAM WITH OHIO EDISON...ELECTRICITY TO THE LIVERPOOL WASTEWATER TREATMENT FACILITY...EXECUTION OF A SERVICE AGREEMENT WITH OHIO EDISON COMPANY

03-0084 RESOLUTION AUTHORIZING THE COUNTY SANITARY ENGINEER TO RELEASE THE ESCROW ACCOUNT OF CALDWELL TANKS INC. FOR THE GRANGER ELEVATED STORAGE TANK MCSE #W-500/00-7.1.19

03-0085 RESOLUTION APPOINTING REPRESENTATIVE AND ALTERNATE FOR THE CITY OF MEDINA TO THE MEDINA COUNTY DRUG ABUSE COMMISSION (MCDAC)

03-0086 RESOLUTION APPOINTING REPRESENTATIVES AND ALTERNATES TO THE OPWC DISTRICT 9 INTEGRATING COMMITTEE

03-0087 RESOLUTION APPROVING THE PETITION FOR ANNEXATION OF 331.2142 ACRES OF LAND KNOWN AS BEING PART OF WADSWORTH TOWNSHIP TO THE CITY OF WADSWORTH, MEDINA COUNTY, OHIO

03-0088 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

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MEDINA COUNTY COMMISSIONERS:

Stephen D. Hambley

Respectfully submitted,

Sharon A. Ray

Pamela J. Terrill, Clerk

Patricia G. Geissman