

COMMISSIONERS MEETING – MONDAY, JANUARY 27, 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.

Mr. Hambley presented the December 30 and January 6 minutes, and requested that the January 6 minutes be tabled at this time for further review.

Mrs. Geissman asked that the December 30 minutes be tabled as well.

Commissioners agreed to table the December 30 and January 6 minutes at this time.

Doug King, Administrative Assistant in the County Engineer's Office, presented 2 resolutions approving annual assessments and establishing a public watercourse, and approving the final plat for Creekside Chase Subdivision in Sharon Township. Mrs. Geissman moved to approve both 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 amending the temporary appropriations, fund transfer to Soil & Water Conservations, purchasing fuel for the Engineering Center from Weaver Oil, purchasing fuel for the Highway Maintenance Facility from Petroleum Traders, approving agreements providing services pursuant to Title IV-D requirements of the Social Security Act, and the weekly bills in the amount of \$821,361.69. The IV-D agreements are for the Child Support Enforcement Agency with Domestic Relations Court, Juvenile Court and the Prosecutor's Office. These are renewals for a total of \$1,302,000. 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, presented a resolution authorizing a change order for Roetzel Construction for Transit Garage improvements. They are in the process of the construction work and a need for a grease trap was determined at a cost of \$2,400. This brings the total construction cost to \$21,944. Mrs. Geissman moved to approve the change order. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken Hotz, Sanitary Engineer, has no resolutions today.

Mead Wilkins, Job & Family Services Director, presented a resolution amending the Prevention, Retention & Contingency (PRC) Plan for Job & Family Services. The PRC is used to determine the TANF funds for the county. Basically the funds are used for car and home repairs to keep people employed and in their homes. A committee reviews this regularly and most of the changes are clarifications to the plan. One change involves deleting use of the money for mortgage reimbursement as this has caused some confusion among clients. PRC funds were used to assist clients with a mortgage payment, but it was only to be used in the event the clients could continue making the payments to keep their homes. This is being removed as a category for PRC, however, there are other funding sources that can be used to cover this. Mead noted that PRC is about a quarter million dollar program, not including Wellness and Help Me Grow. With budget cuts many counties have knocked their PRC down to zero. Mrs. Geissman moved to approve the PRC amendments. Seconded by Ms. Ray.

Mr. Hambley asked if Mead anticipates changes in their programs with what is happening at the state level and their designation of eligibility at 185% poverty level.

Mead stated he does. We are still at 185%, and if the State makes changes, which it is believed they will, we will change ours to whatever the State changes to.

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There was no further discussion.

Roll Call on the motion and second to approve the PRC amendments showed all Commissioners voting AYE.

Mead presented a resolution authorizing a fingerprinting agreement with Integrity Verifications Inc. Under the cash assistance program clients have to work a minimum of 30 hours a week. There is a contract with Medina Assembly & Packaging, which is a sheltered workshop with the MRDD system, so the clients can work in a program in Wadsworth to keep them eligible. Some of the parents have expressed concern for their children's safety with the clients being sent there unscreened. The agreement is to have them fingerprinted for a background check before sending the clients into the program. Mrs. Geissman moved to approve the agreement. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

John Shultz, Dog Warden, noted that this is the last week for dog license sales. A reminder has been sent to the Gazette that the cost will go up for licenses after this week. The newest Dog Warden has received certification for euthanization, which means all of the Dog Wardens are now certified. He presented the Animal Shelter statistics for 2002. Their adoption rate is 83.3%, and he attributes this to working with a lot of rescue groups and the drop in picking up animals to the spay & neuter program. He did a survey of other counties and Jackson County of 34.5% adoption rate was the closest to Medina County's. A lot of people think the Dog Wardens only run the kennels, but they also patrolled 26,337 miles last year, responded to many misdemeanor calls, and reviewed 24 livestock claims, of which only a couple went through. Animal claims are not processed through the county if the dog's owner is found. License sales at this point have increased over last year.

Mrs. Geissman noted that the adoption rate is very impressive.

John noted that euthanization is usually done on mean dogs that are unadoptable.

Art Verdoorn, Building Official, reviewed their statistics for the year-end. There were increases over the previous year in all categories. There were 901 new homes built and there was an increase of 10% in commercial. One indicator of their activities is that there were over 26,000 inspections in the year.

Mrs. Geissman stated that at some point the residential growth will slow down, noting that it is amazing with the economy that it grew as it did last year.

Art stated that the forecasts are basically that things will stay about the same for the next 2 years with an emphasis on denser population development to decrease the cost of land. Medina County is at the high end of costs for land and construction. Palde Homes is expecting to build 10-15 new homes in the Brunswick Hills area this year. He also noted that they held a meeting with the Homebuilders Association and opened the meeting up for various topics. There were 100 members present from the Association, and there were only a couple of complaints on inspections, which he believes were straightened out. These meetings have helped increase communication with builders and contractors, and they plan to hold an open house regularly every year.

Mr. Hambley presented a resolution commending Steven Charles Porter on earning the Eagle Scout Award. Mrs. Geissman moved to approve the commendation. 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.

The meeting was opened for public comment and there was no one present wishing to comment.

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Mr. Hambley noted that the discussion session would be held at 1:30 p.m. followed by a work session regarding the proposed Wadsworth annexation. There is also a County Home Advisory Committee meeting this Wednesday.

Commissioners recessed the meeting at 9:30 a.m.

Commissioners reconvened the meeting at 1:30 p.m. for the discussion session.

Mr. Hambley noted that a letter was received from the Brunswick City Engineer regarding improvements to Laurel Road and requesting the Commissioners to assess 2 parcels that are in the township for those improvements.

John stated that a request was made for a map to be generated of the area. There are 2 parcels in the township and it appears there is pretty substantial acreage owned by Laurel Road Ltd. and Knight Development Corporation, and that the reason for reconstructing the road is so those lands can be developed. The 2 parcels in the township, which are privately owned, are 1.433 acres and 1.48 acres. One has a house valued at \$10,000 on it. The assessment proposed by the City is \$29,928.97 for each property. The property records shows one as valued at \$29,000 and the other is valued at \$39,000. There is a strong question as to whether you can assess \$29,000 against a \$29,000 property.

Bill Thorne, Assistant Prosecutor, stated that the assessment for benefit cannot be made greater than the property value.

Mrs. Geissman stated that if the developer wants that improvement they should pay the costs.

Ken stated that when this started the intention was that the developers would pay the costs, but one of the developers went to the City Engineer to see if these 2 parcels could be assessed.

Mr. Hambley noted that this is a paper street and there is some adjoining City park property that they want to improve. They also have long-term planning for a neighborhood park. He asked what the options are.

Dave Miller, County Engineer, stated that when the City improved Laurel Road the County did assess in Brunswick Hills Township at \$19/lineal foot.

It was noted that the City wants \$100/lineal foot for this assessment.

Mr. Hambley asked if the Commissioners have the latitude to say no.

Bill stated that they do.

All Commissioners agreed that they are not interested in assessing the 2 parcels in Brunswick Hills Township, and John was asked to draft a letter to the City Engineer.

Dave asked Bill if he had a chance to review the law on whether the township has to agree to the improvement itself.

Bill stated that he hasn't checked, but the last time it was researched the township is not required to approve a road improvement project.

Mr. Hambley asked if with the 1977 Journal Entry it is still okay for the Commissioners to say no to this improvement.

Bill stated that the Journal Entry was to correct a problem and doesn't have anything to do with improvement to the road.

Mrs. Geissman noted that a notice was received that Bee Inspectors are invited to a training meeting in Wooster. She feels they should go and the county should pick up the cost.

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Through discussion it was noted that the notice should have been sent to the bee inspectors, and she suggested that a call be made to inspectors about this.

Mrs. Geissman noted that in reference to discussion last week about the Medina General Hospital morgue, she and John Stricker will be looking at this so as not to be in violation of the Sunshine Law on Thursday morning and they will report back.

Mr. Hambley noted that the hospital felt that due to the sensitivity of families, they did not want a public meeting being held in the morgue or having pictures taken by the press.

Mrs. Geissman noted that the statistics were received involving our self-insurance program and complimented Chris Jakab on his work with this. This is a very serious problem for many counties, and CORSA will be offering health insurance for county employees statewide.

Mrs. Geissman noted that a letter was received from Governor Bob Taft that there is a need for more people to be appointed to the selective service boards. Evelyn Czyz and Jim Hendrick are currently on the board. These are 20-year commitments. The State is looking at establishing the local draft boards and are asking for possible appointments. She asked the press to put in something about this.

Mrs. Geissman stated that she received a phone call from a lady upset about her tax bill showing an assessment for the Muskingham Watershed. The lady has been calling everyone and most elected officials know nothing about this. She was unaware that assessments were being done for this. She asked Ken to explain this.

Ken stated that in the 1950's the watershed was established and they did some massive improvements. Now they want money to maintain their system and they went to the Probate Courts of Wayne and Medina Counties for hearings on the assessments.

Mr. Hambley stated that he was aware of this and that he thought an individual from the Watershed District met with each Commissioner individually to discuss their needed improvements, etc.

Mrs. Geissman stated that the public is very upset by this, noting that most people don't read the legal notice sections in the newspaper.

Ken added that the only notice was in the newspaper and even then, 90% of people don't know what watershed district they're in. He noted that when the county did assessments in the past notices were also sent to each property owner notifying them of a public hearing.

Mrs. Geissman stated that she wanted the other Commissioners to be aware that some calls may come in about this. There is nothing the county can do. The assessments have occurred and the judges voted on them.

Ms. Ray noted that an official complaint by Steven Boziak was received regarding the Sheriff. She asked how this is to be responded to.

Mr. Hambley and Mrs. Geissman stated that no action is necessary by Commissioners.

Bill Thorne added that even if the complaint is true, this is nothing for county commissioners to review.

Mrs. Geissman stated she talked with Sheriff Neil Hassinger this morning and due to the number of foreclosures and Sheriff's sales, he needs a bigger place to bring people in. They hold the sales on the third or fourth Monday of each month at 9:00 a.m. He has requested use of the Community Center. They have 75-100 people attending the sales.

Commissioners agreed to the use of the Community Center.

John noted that they need to contact Dianne Ranftl, Administrative Assistant, to be sure there are no conflicts with the dates they need the Center.

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Ken stated that the plans for Medina City's Recreation Center were completed and dropped off at the school today.

The Clerk noted that there are questions with the Greenhaven annexation from Sharon Township to the City of Wadsworth. The first question involved the notice of hearing and whether the date and time are set as they were before, which is 60-90 days out. It was noted that setting a hearing for a regular annexation (new law) hasn't changed.

Mr. Hambley stated the new hearing is under the old law and is to allow for additional information.

Bill agreed. The hearing can be set up as it was before to allow them time to put their case together. Through questioning, only a legal notice needs to be filed and that notification to adjoining property owners is under the new law. This has been remanded by the court for a complete hearing and opened it for new evidence that they can bring in.

John asked if it makes sense to hire a court reporter since that's how we got this back.

Mrs. Geissman stated that we should have one and they should have pay for it.

John asked if we can charge the petitioners if the hearing is under the old law.

Bill stated that we cannot. We've had not a problem in the past, but in this hearing the tape didn't work.

Mrs. Geissman stated that the hearings are so much work and it's more than the Clerk can handle.

Mr. Hambley noted that the recent Wadsworth annexation was a regular annexation under the new law. The Greenhaven annexation was under the old law.

Bill noted that he reviewed the transcript from the recent one and noted that there are some areas of the tape that the Clerk couldn't pick up. Some of those things just can't be picked up on a tape. In terms of protecting yourself and limiting them to what they review it's better to have a court reporter.

Mr. Hambley noted that for this one we cannot charge the petitioner for the court reporter.

Bill agreed.

Mrs. Geissman asked the Clerk if she has looked into whether a court reporter that the judges use can be used for these hearings.

The Clerk noted that she would have to check the files. When the resolution was done for fees and deposits getting a court reporter was something that had to be checked into. She did look into the fees earlier today and noted that the cost for a court reporter is \$45/hour and then \$3.10 per page, if the transcript is ordered.

John noted that if they want the transcript they can order it and pay it.

Bill added that if the Commissioners want it prepared we can ask that it be assessed as a court cost if it is appealed.

Mr. Hambley noted the Clerk will still be in attendance to take regular minutes, and if they aren't adequate for a court case, then the court reporter's transcript will be requested.

Bill noted that under the old law adjoining property owners weren't notified and it was just a legal advertisement.

The Clerk agreed, noting that the Agent for the Petitioner is required to do that.

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The Clerk was asked to set up the new hearing.

Karl Cetina, MCDAC Director, stated that he is still getting acclimated to the office and the county.

Mrs. Geissman asked about the Executive Session for next week.

John stated that Bill Thorne is checking into rescheduling it to the following Monday.

There was no further business before the Board for the regular discussion session. Commissioners turned to the review of the annexation petition of 331.2142 acres from Wadsworth Township to the City of Wadsworth.

Mr. Hambley noted that the list of items from the Clerk's folder was prepared because he noticed in the minutes that there was reference to correspondence he hadn't seen. He asked the Clerk to prepare the list to make sure Commissioners are aware of everything in the file. He suggested going down the list of items required to see if everything is in compliance. The list used was provided by the Agent for the Petitioner in the form of a proposed resolution of finding and the instructions from the office manual.

Ken Darmour and Joe Burns were present for this workshop.

Mr. Hambley read that the petition meets all of the requirements provided in ORC 709.02, which was determined at the hearing.

Commissioners agreed that the following requirements were met: that the petition was signed by a majority of landowners in the territory to be annexed. It was verified that the signatures were obtained no more than 180 days before filing the petition. The legal description and map as amended are accurate; there were some small amendments and these have been approved by Tax Maps. The Agent for the Petitioner was named in the petition and was heard at the hearing. The petition did include a list of adjacent property owners, including name, mailing address and permanent parcel number. The persons signing the petition are owners of real estate within the territory proposed to be annexed and the number of signatures constitutes a majority of the owners within the territory.

There was discussion regarding the municipality compliance with 709.03(D), which is the requirement that the City adopt and file with the Commissioners' Office, an ordinance/resolution stating what services they will provide and an approximate date they will provide those services upon annexation.

Mr. Hambley noted that at the hearing there were 2 arguments regarding the City's ordinance, Amended Resolution 02-16. Commissioners reviewed the ordinance and arguments from the hearing.

Mr. Hambley stated that the question is whether the approximate date of 2 years and an indication of the process they will use in the extension of water and sewer is adequate to meet the requirement of the code.

Bill noted that there is no legal guidance on this.

Mr. Hambley stated that in his view it does meet the requirement. This is the way we extend our water and sewer services.

Ken stated that before they only had to say they would provide service and now they have to give an approximate time. He feels the City will make the developers install those lines.

Mr. Hambley noted that it will be up to the property owners to pay for the extension.

Ms. Ray noted that the western most part of the annexation will be able to tie in immediately. The 2 years is for balance of the proposed annexation territory.

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Bill stated that is the way he understood it because the western part is right next to the line that is already there along Hartman Road. It will take development to get the line to the rest of the territory.

Ken noted they will have to put a pump station in on the east side to pump it back to the main trunk line. He's sure the developer will have to pay for that.

The large map that was displayed at the hearing was brought in to review.

Ken pointed out the area that will need the pump station.

Mr. Hambley stated that more likely they will install the utilities down 261 to service the area.

There was a consensus of the Board that the City's ordinance meets the requirement of stating what services will be provided and in giving an approximate date.

It was confirmed that the City's resolution of services was filed 20 days prior to the annexation hearing. Commissioners agreed that the following conditions were also met: the territory is located in Medina County, it is contiguous to the City, and it is not located in more than one county.

Under the issue of unreasonably large, Mr. Hambley read that the factor should include the geographic character, shape and size of the territory to be annexed in relation to the territory to which it will be annexed and in relation to the territory remaining in the township after the annexation is complete. Other factors include the ability of the municipality to provide services to the territory, and that the loss of tax base through the annexation will not render the township unable to support itself.

Mrs. Geissman asked if there is any case history with the courts on what acreage constitutes unreasonably large.

Bill stated that acreages larger than this have not been found to be unreasonably large and that's why there is more to consider than just the acreage.

Ken asked if there was some testimony at the hearing about what this land generates in taxes for the township.

Mr. Hambley noted it was about \$3800 because the land is under CAUV. The argument was that most of the township's commercial land is proposed to be annexed. Another way of looking at it is the full potential of the commercial land developing is not likely without water and sewer.

Ms. Ray noted that in the testimony, this is 95% of their C2 commercial land.

There was a discussion about the commercial zoning. The C2 is highway interchange commercial. They have one other at Route 57 and I-76, which is a gas station. They do have C1 property as well as some industrial, light and heavy.

Mr. Hambley noted that it would be hard to say that this will destroy the township's tax base.

Commissioners agreed that the land is not unreasonably large.

Mr. Hambley stated that the remaining items for review are 1) on balance the general good of the proposed annexation territory will be served, and 2) the benefits will outweigh the detriments to the territory proposed to be annexed and the surrounding area. In giving guidance, the CCAO said there are 2 approaches, which have been reviewed with Bill, and they have to do with interpretation. One view is to separate the 2 items and first look at on balance will the general good of the proposed annexation territory be served? This has been used historically. The second item, which has been added, is on balance will the benefits outweigh the detriments of the proposed annexation territory and surrounding area? Basically this is balancing inside the

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annexation area and outside the annexation area. One contention is that yes has to be answered to both items in order to approve the annexation; a no on either would allow a no vote on the annexation. The other view is that you look at the general good of the proposed annexation territory, then look at the balance on the inside and outside of the area, and then balance between the two. The CCAO has said this is the area that likely will involve litigation and it is up to the Commissioners which to use. Mr. Hambley felt the questions have to be asked individually anyway, and asked if the general good of the territory proposed for annexation will be served if the petition is granted. This was asked in the past under the old law and allows us to look at economic factors, the desires & wishes of the property owners, and testimony.

Mrs. Geissman stated that the majority of the property owners felt annexation would be in their best interest.

Mr. Hambley stated there is no doubt a number of property owners of large parcels testified that it would benefit their property and that was due to the water and sewer services. There were some individuals that did not sign the petition, have indicated they do not want to annex, and at least 2 indicated it will not benefit their properties. He asked if those 2 individual parcels can be excluded provided it does not offset the majority or make the land non-contiguous.

Bill noted that all of the property owners testified only as to their own property. Unless there is an agreement with the petitioners, properties cannot be removed. Commissioners have to go by the testimony given on balancing this. You have to consider whether there was testimony that annexation is a benefit of the territory. There was testimony that it was beneficial to certain properties and unbeneficial to certain properties. Commissioners have to rule on what that says about the whole territory. You only heard from about half of the property owners.

Mr. Hambley agreed, noting that the signed petition doesn't necessarily indicate they want to annex and without them actually saying it won't benefit we don't know.

Bill said its assumed they do, but then there were people who signed indicating they aren't in favor at this point. Commissioners have to rule on the evidence before them on whether the annexation is of the best interest of the territory as a whole. If you only had to look at the signatures you wouldn't need any evidence. He believes the balancing test assumes that it will benefit some more than others, and maybe some not at all.

Mr. Hambley stated that if its interpreted that way it would be on balance and the idea of general good would basically prevent pulling out parcels that didn't sign.

Bill believes that case law says if the petitioners would agree the petition could be amended.

There was discussion that the petitioners indicated they would not agree to this. There was a review of the attendance sign-in sheets to see if a majority of the people showed up for the hearing.

Mr. Hambley stated that it might have helped their case and the balance test if those being forced to annex had spoken up and said it wouldn't help their property.

Bill added that on the other hand, people testifying in favor could have indicated they were testifying on behalf of the entire territory instead of just their own properties.

No one recalled anyone testifying for anything but their own property. It was noted that they probably didn't realize they should because this is all new and everyone is learning.

Ms. Ray stated that in looking at the balance test she took into consideration that Wadsworth Township's own development policy plan acknowledged that centralized water extensions for future residential use and sanitation services for commercial development can only occur with annexation. Also, the City of Wadsworth's plan talks about this being an area where the city would grow for residential and commercial development. Due to CAUV in the area, the township currently receives about \$3820 a year, which is far less than 1% of their total operating budget, and the potential of the 12-year pay off if the land develops is going to be

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substantial. There are 52 property owners and 30 of those are petitioners, which is a majority at 57.69%. The tax dollars paid to the city versus the township are basically a wash.

Mr. Hambley noted that they will have a city income tax added. With nothing against the Sheriff's Department, the City of Wadsworth spends more per capita for police coverage than the county, and the county can't provide the same level of coverage. It is a question of judgment whether that higher level of coverage is needed; however, there may be other services available as municipal residents.

There was a discussion regarding whether the water and/or sewer connections are voluntary. The Health Department can require connection to the sewer once it is accessible, whether there is a problem or not with septic systems in the area, but that has not been their policy. However, under the water quality laws, this is a phase 2 community and they will have to tap in if its available. There was testimony that the city would allow connections in the township to the sewer, but not the water. The water is not a forcible issue. Ken noted that the sewer is within the county sewer district and Wadsworth agreed to allow those sewer connects as part of an agreement to expand their plant and run the trunk line into Sharon.

Mrs. Geissman noted that the sewer can be a pro or con, depending on whether a property owner wants the connection or is forced to connect when they don't want to.

Commissioners agreed to look at the issue of road maintenance at this time and return to the discussion of the balancing test.

Mr. Hambley noted that Al Schrader argued at the hearing that the division of the road creates a maintenance problem and that Tom Palecek argued there is no evidence of a problem. The Commissioners also reviewed this with Dave Miller, County Engineer.

Commissioners agreed there is not sufficient proof that the road division or lack of a written agreement will create a road maintenance problem.

Commissioners went back to the question of whether the general good of the territory to be annexed will be served if granted.

Mr. Hambley stated that if we use the wishes of the majority of property owners in general it will benefit the overall majority of the property.

Mrs. Geissman feels that any time there is property near an interstate eventually it will get developed, and water and sewer are the 2 things that allow that development. Possibly if the industrial parks had been located by expressways 50 years ago we wouldn't have the problems today of losing industries. Other considerations would be the heavier traffic and crowded schools if there is more residential development in this area.

There was a discussion on the affect to the schools not being something for consideration under general good of the territory to be annexed and that it would fall more under balancing the benefits and detriments to the annexing territory as well as the surrounding area. It was noted that commercial development would be more of a positive regarding the schools.

Mrs. Geissman stated that the amount of taxes the township gets back will be much higher if the land is annexed, and yet losing this land would be negative.

Ms. Ray agreed losing the land would be negative, but the township said they will never be able to provide water to the territory.

There was a brief discussion about the township not being able to supply water without setting up a separate water district. The land was zoned commercial because it is next to the interchange and it was set up for low economic use such as gas stations and quickie marts. It was zoned commercial years ago and they probably hoped that water would come to the area some day from the county or another source. There are no plans for county water to be extended to this area.

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Commissioners agreed that the general good of the territory to be annexed will be served if the annexation is granted.

The next item is to, on balance, see if the benefits outweigh the detriments to the territory proposed for annexation and surrounding area. The surrounding area is defined as the unincorporated area of the township located ½ mile or less from the territory proposed to be annexed.

Mr. Hambley noted that it was already pointed out that 1 detriment will be increased traffic. Also some people pointed out that part of the area is somewhat rural now and there might be a potential of conflicting land use in the future, such as if a Kmart is built next door it would be hard to go out hunting.

Ms. Ray pointed out that the first land to be developed would probably be the land next to the highway and that already has a commercial flavor and the closer the land is to the city the residential you run into. That area would probably stay residential. Traffic, depending on what goes in, would be a consideration.

Mrs. Geissman noted that there probably has already been an increase to traffic to some of the people as this is a shortcut out of Wadsworth to go to Akron.

Ms. Ray pointed out where some new residential development has gone in and noted that a lot of people go this way instead of going to Route 94. The people have seen a substantial traffic increase in the last 15 years.

Bill pointed out that the zoning will be determined by the city and this area may not stay commercial. The city could allow multi-family. The rezoning by the city would not necessarily involve the cooperation of the property owners. One man testified that he was looking to do a residential type development on his land. Some of the impact is not known because no one has discussed it with the city at this point and so they don't know what kind of density the city will allow.

Mrs. Geissman stated that having sewer & water and that road maintenance will not be a problem would be positives and that loss of the rural flavor, not knowing what type of development is going in, and traffic would be negatives.

There are no guidelines to give Commissioners on whether to each item is weighted or how they determine to consider the pros and cons. If the items are weighted there could be a lawsuit disputing the weight system. Basically Commissioners have to demonstrate a preponderance of the substantial, reliable and probative evidence on the whole record and if there's evidence to support the rations, then the decision cannot be challenged. However, it is felt that no matter what the final decision it will probably get challenged in the courts.

Commissioners reviewed the positives and negatives if the annexation is granted. The negatives would be increased traffic, loss of the rural flavor and not knowing the type of development planned for the area. The positives would be having sewer and water accessible, road maintenance would not be a problem, and Wadsworth Township would have more revenue from development. It was also noted that both the township and city plans anticipated commercial development in this area only if water and sewer were available, and the township plan acknowledges that water extension can only occur with annexation. Commercial use was planned if the infrastructure was available, but under which entity it would happen may not have been planned. The affect would be the same if Wadsworth Township was able to get water. Some of these people have been waiting years to develop their property.

The resolution to be prepared for approval must list all of the items that were considered as a record of the process of decision-making. Mr. Hambley stated that, if there is no legal problem, he would like to add a statement in the resolution indicating that the Board of Commissioners would have preferred that some type of cooperative economic development agreement had been worked out between the township and the city rather than going through the annexation process. That could have spelled out some of the negatives in terms of what residential development would occur, they may have been able to have a lower density, and there could have been agreement between the 2 entities.

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Mrs. Geissman noted that people are always talking personal property rights, and she asked if the fact that a majority of the property owners want the annexation for water purposes is a big factor.

Bill stated that it is. First Commissioners have to find it's beneficial, which means there is at least 51% that feel its beneficial. The question the court may have is whether you really have that majority. Only 3 people testified out of 30. If we just went on signatures, we wouldn't need a hearing.

There was a discussion about the importance of both sides bringing their witnesses in and making sure the Board hears everything. If someone signs a petition they would assume the petition would be taken into consideration, and people wouldn't sign a petition unless they wanted it. If they have reservations after getting more information, then they would be compelled to attend the meeting and testify as such, which did happen at the hearing. If they signed the petition the natural assumption is that they wouldn't have signed if they weren't interested.

It was noted that a couple of letters came in from property owners both for and against the annexation. Nothing was received from Mr. Schrader, and the time to have briefs turned in for consideration was last Monday. A decision has to be made on this annexation next week.

The Clerk was asked to prepare a resolution approving the annexation, identifying all of the items that were in compliance, and in the Commissioners' judgment using the whole record of the evidence the annexation is approved. The Clerk will then follow the procedures under the law for notification of the approval. It was noted that the transcript is held for 30 days in case an appeal is filed.

There was a discussion that the state legislature didn't give any guidance on the balancing test, but that the language gives Commissioners more discretion in making a decision. Whatever is decided will help determine future annexation petitions based on the discretions used here. Any challenges in the court will either limit or expand that discretion, and there will be some guidance then.

Through questioning, Bill stated that the courts will over-rule a decision if its arbitrary or capricious, but if they disagree with the decision and the rational used to make that decision makes sense, then they are required to agree with the decision.

Overall 99% of the questions were answered yes with very little problem, but the 2 big issues are the balance of good test. The road maintenance may be an item that is contested in the future. Bill noted that if the mere splitting of the road was the test then the language would have been written differently. The language is that when a rod split causes a problem, so obviously there can be a road split without a problem.

There was no further discussion.

Mrs. Geissman moved to adjourn the meeting at 2:58 p.m. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

RESOLUTIONS PASSED:

03-0059 RESOLUTION COMMENDING STEVEN CHARLES PORTER ON EARNING THE EAGLE SCOUT AWARD

03-0060 RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS

03-0061 RESOLUTION APPROVING ANNUAL ASSESSMENT ON IMPROVEMENTS...81.0657 ACRES OF LAND IN LOT 59 OF SHARON TOWNSHIP AND KNOWN AS CREEKSIDE CHASE SUBDIVISION & ESTABLISHING THEREBY SAID IMPROVEMENTS AS A PUBLIC WATERCOURSE

COMMISSIONERS MEETING – MONDAY, JANUARY 27, 2003

03-0062 RESOLUTION APPROVING THE FINAL PLAT FOR CREEKSIDE CHASE SUBDIVISION LOCATED IN LOT 59 OF SHARON TOWNSHIP

03-0063 RESOLUTION AMENDING THE TEMPORARY APPROPRIATION RESOLUTION

03-0064 TRANSFER OF COUNTY GENERAL FUNDS TO THE MEDINA COUNTY SOIL & WATER CONSERVATION DISTRICT

03-0065 RESOLUTION AUTHORIZING THE PURCHASE OF 2,800 GALLONS OF PREMIUM UNLEADED AND 4,200 GALLONS OF REGULAR UNLEADED GASOLINE FOR THE ENGINEERING CENTER

03-0066 RESOLUTION AUTHORIZING THE PURCHASE OF 7,000 GALLONS OF LOW-SULFUR DIESEL FUEL AND 1,000 GALLONS OF REGULAR UNLEADED GASOLINE FOR THE HIGHWAY MAINTENANCE FACILITY

03-0067 RESOLUTION APPROVING AGREEMENTS PROVIDING SERVICES PURSUANT TO THE REQUIREMENTS OF TITLE IV-D OF THE SOCIAL SECURITY ACT

03-0068 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS

03-0069 RESOLUTION AUTHORIZING A CHANGE ORDER FOR ROETZEL CONSTRUCTION FOR MEDINA COUNTY TRANSIT GARAGE IMPROVEMENTS

03-0070 RESOLUTION AMENDING THE PREVENTION, RETENTION & CONTINGENCY (PRC) PLAN FOR MEDINA COUNTY JOB & FAMILY SERVICES

03-0071 RESOLUTION AUTHORIZING AGREEMENT WITH INTEGRITY VERIFICATIONS INC. FOR THE DEPARTMENT OF JOB AND FAMILY SERVICES

03-0072 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

MEDINA COUNTY COMMISSIONERS:

Stephen D. Hambley

Respectfully submitted,

Sharon A. Ray

Pamela J. Terrill, Clerk

Patricia G. Geissman