

COMMISSIONERS MEETING, MONDAY, JULY 31, 2006

Stephen D. Hambley called the meeting to order at 9:00 a.m. with Sharon A. Ray and Patricia G. Geissman present. Ms. Ray moved to go into Executive Session for the purpose of discussing property acquisition. Mrs. Geissman seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

The meeting recessed to go into the Hearing Room for the regular meeting at 9:30 a.m. on a motion by Ms. Ray and a second by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

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

At the beginning of the meeting, the oral reading of the minutes of July 24 was dispensed with. Each Commissioner has read them personally. The minutes from July 24 were tabled for further review. Ms. Ray moved to approve the July 3, July 10 and July 17 minutes; the motion was seconded Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Doug King, Administrative Assistant in the County Engineer's Office, presented and reviewed the following resolutions: (1) authorizing advertising for bids for the replacement of Bridge No. 33 on Station Road in Liverpool Township; (2) amending the June 2006 contract with Tri Mor Corporation for the improvement of Ryan Road; (3) authorizing the advertisement for bids for the rehabilitation of the "S" curve on East Smith Road in Montville Township; and, (4) determining the necessity to close Granger Road between Ridge and Coddington Roads for culvert repair. Ms. Ray moved to approve the four resolutions; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed the weekly permits list for July 20 through July 26, 2006.

Scott Miller, Assistant Finance Director, presented and reviewed the following resolutions: (1) amending the Annual Appropriation Resolution; (2) amending the 2006 Annual Appropriations Resolution by transferring appropriations; (3) authorizing the annual cash transfer from the General Fund for the Medina County Port Authority in the amount of \$33,000; (4) expenditure adjustments for the 2003 and 2004 Drug Task Force Grant Funds to adjust personnel costs; (5) creating a Family First Council Help Me Grow FY06 Grant Program Fund for the \$461,343 received from the Ohio Department of Health; (6) authorizing the change orders for Thomarios for the Administration Building exterior renovation; (7) amending the travel reimbursement policy resolution to allow reimbursement for travel and training expenses for Board members of the Family First Council; (8) approval of a contract with GovDeals, Inc. to use their internet auction site to dispose of obsolete County property as recommended by the County Commissioners Association of Ohio (CCAO); and, (9) accepting and awarding the bids for roof repairs for the Administration and Human Services Buildings to Moisture-Guard Corp. in the amount of \$58,000. Mr. Miller requested payment of the weekly bills in the amount of \$392,668.00. Ms. Ray moved to approve the nine finance resolutions and payment of the weekly bills; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

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

Mr. Berkowitz presented a resolution amending the Table of Organization for the Office for Older Adults to modify the title of an Outreach Worker to an Outreach Specialist and increasing the hours for this individual at an increased rate of pay. Ms. Ray moved to approve

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the amendment and Mrs. Geissman seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken Hotz, Sanitary Engineer, presented and reviewed two resolutions authorizing easements for various sanitary sewer improvement projects: one for the Brunswick Sanitary Sewer Replacement Project 2006 and the Mallet Creek Sewer Project, and the other one for the Hinckley Waterline Phase II Project. Ms. Ray moved to approve both resolutions; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

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

The meeting was opened for public comment. There was none.

Mr. Hambley read the notice from the Ohio Division of Liquor Control regarding a liquor license transfer to Erhardt Bell, 2173 Pearl Road, Brunswick Hills Township, from Sleepy Hollow Market, Inc. at the same address. There were no comments.

The meeting recessed at 9:45 a.m. for the Commissioners to move to the Conference Room for the discussion session at 9:47 a.m.

Discussion Session

Ms. Ray said they are looking for a Board of Building Appeals member to represent organized labor because advertising has been ineffective. She asked if they would agree to her contacting the Homebuilders Association to see if they could give her the name of someone that might want the position. Mr. Hambley said most trade unions are multi-county so he suggested that she call a trade union's office, such as the masons' union in Akron or Cleveland, and Ms. Ray agreed.

Ms. Ray said the Building Department would like to have their calendar put online with Microsoft Outlook for all of the employees to access through the server. She said Charles Huber from the Engineers Office said it would work with all of the Palm Pilots for scheduling appointments and inspections as opposed to buying individual programs. Mr. Hambley added that is the most common platform and it is what he uses. Microsoft Outlook has a feature for scheduling meetings with multiple attendees. Mrs. Geissman asked the cost and Ms. Ray said she would get the total cost and get back with them. Mrs. Geissman said she feels it would be beneficial to put that information on the server for everyone to utilize and Mr. Hambley agreed. Mr. Hambley asked who would maintain the program and Ms. Ray said the Engineering Office would.

Ms. Ray presented Judge John Lohn to discuss his proposal for use of the New Horizons building. He asked if the County was planning to take over the building for a group home and Ms. Ray said it did not meet Job & Family Services' needs. Judge Lohn said the proposal they have for immediate use of the building is for the Drug Court operation to conduct sessions. They could pay a fair rental value (about \$42,000 per year) through the State grant, although that is probably not the cost of the amortization of the building. The cost of the building was approximately \$420,000 and the bonds were for ten years. Mrs. Geissman said they owe about \$300,000 with seven years left. Judge Lohn said they have not paid the fixed costs for the building. They paid all of the salaries and benefits, consumables, office furniture, and utilities. They did not pay rent.

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Phil Titterington, Juvenile Programming/Drug Court, stated that they have three Drug Court clinicians that they contract with Solutions. They pay rental and support staff with that contract. Eventually, they would like to have those clinicians funded through the grant as employees of the Court and conduct their individual and group sessions at the New Horizons facility. At the present time, sessions are held at the Detention Center next door. There are currently 32 youth in the Drug Court Program. Long term, they would like to expand the Drug Court model into a Family Court.

Judge Lohn distributed information and discussed the Parent Project. He said it is a multi-systemic approach that involves local mental healthcare professionals at Juvenile Court, Probation, and other community-based organizations. The project focuses on a large population of low- to medium-risk children. High-risk cannot be mixed with low-risk because they would become high-risk children. Truancy, drug use, gang activity, and other lower-grade offenses graduate to worse behavior unless dealt with. They have found that they have to deal with the entire family to help the child. They have children in Drug Court and must teach the parents to be parents before they can help children get off drugs. Attorney General Petro had a similar approach to the problem from every influence affecting at-risk children. That is why it is a part of a Family Court model that will ultimately enable them to serve more youth and be more effective. It is 13 years in the making and is approved by the Attorney General. This model is evidenced-based and all reclaim grants will be based on that in the future. It has been copied in other jurisdictions and shown to be highly effective.

Mrs. Geissman asked if the reclaim funds would be used for this and Judge Lohn said yes, because they are dealing with many of the same children. Mr. Hambley asked if the children are ones that fall under his jurisdiction. Judge Lohn said they are all going to be court involved. Mr. Hambley asked how many children needing services are not court involved and what they plan to do with them. The judge said the Commissioners have the opportunity to operate it under the same model that they had before. About 40% of them were placed by their parents without court involvement, JFS jurisdiction, or in foster care. The problem with the original model from 1977 was that none of those children were screened for psychological problems and difficulties. New Horizons was a place a child could go when they ran away from home and they were able to stay for a couple of days. That situation does not exist any longer in the State of Ohio. In terms of liability, that is probably not something they would want to consider. He noted that no one has come forward to operate the home as a private non-profit, including the County.

Mr. Titterington added that they are addressing that population in a couple of other ways. Through the grant, they contract with three police departments with Diversion Programs. They are also proposing to have a compliance officer.

Upon questioning, Nancy Peteya said it would be a daytime facility for programs geared to ages 12-17. The Parent Project is 16 weeks in duration and the parents come once a week for 3 hours. The teen component strictly addresses teens and other children in the house. The third component is a Mentoring Program where, after the 16 weeks, there is follow-up with mentors. Mr. Titterington said they would operate the building as office space, Monday through Friday. Ms. Ray commented that parents do not get a manual how to raise a child when they have a child. Children today seem to be much more strong-willed and much more mature in some of their behaviors. Their class topics sound interesting, working with the entire family to control the behavior. It lets parents know they are not alone in struggling with some of their children's behaviors. Maybe that is why the TV show "Nanny 911" is so popular.

Mr. Hambley asked when the contract ends for the Drug Court clinicians. Judge Lohn said they plan to make the transition in the next fiscal year. They are going to enter into a contract because the fiscal year started July 1, 2006 and they are not sure where they want to go. Mr. Hambley said he is unsure of the value of making them court employees versus continuing

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to contract out. They could still provide office space to the clinicians even though they are contracting for their services and Judge Lohn said that is a possibility. The General Fund should not have to pay for any of the reclaimed people and they will be there as long as the reclaim grant exists. Mrs. Geissman asked if he would be able to retain some or all of the employees from New Horizons. Judge Lohn said he is not sure if they can absorb all of them under the current program; they have not done more hiring and have had attrition. They came up with a list of social service agencies and made specific references for those people to ease that transition.

Ms. Ray said Beechbrook is sending a written proposal to the Commissioners for review. Judge Lohn said he is very cognizant that this is the Commissioners' building and it is their decision regarding its use. If the mission of Beechbrook is to deal with the mental health issues of young children, that is a good mission and he would not want to undercut what they are doing in the community. If it is a facility that fits, he would do that. They are always willing to partner with community-based agencies. Mrs. Geissman said she wanted to know what his plan was before they even considered anything else. Judge Lohn said he needed to know that it was not going to remain a residential group home so he could let the remaining employees know.

Mr. Hambley discussed the annexation of 7.8465 acres in Brunswick Hills Township to the City of Brunswick. He said the minutes from July 10, 2006 were in their packets and there was a portion regarding his eligibility to vote and conduct the annexation hearing because there were only two Commissioners present. Since then, a gentleman from Brunswick Hills has warned him of potential litigation on this issue. This person has gone to public meetings with the Township and public cable television to challenge Mr. Hambley's ability to sit objectively because his wife is on Brunswick City Council. Mr. Hambley asked Assistant Prosecutor Bill Thorne to provide guidance before Monday on the conflict of interest allegation. Mr. Hambley said they needed to make a decision on Monday, August 7, and asked if there was approval to have a resolution prepared. Ms. Ray approved and said she believes it eliminated an island that is a goal of annexation. Mrs. Geissman said she reviewed the file and approved the resolution preparation.

Scott Miller, Assistant Finance Director, stated that he sent a memo to the Treasurer and Auditor regarding the Audit Review Committee. He asked them each to have someone appointed by the end of September. Also, each Commissioner will be appointing one member and he will need that information. The Clerk stated that the ad starts in the Gazette tomorrow and it will be on the web page. The Committee will be meeting with the State Auditors prior to the audit (in October or November), during the audit to get updates regarding its progress, and also at the end of the audit to review various recommendations. There will be about five meetings per year.

Mr. Thorne said they needed to hold an Executive Session for the purpose of discussing pending litigation. Ms. Ray moved to approve the Executive Session; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Clifford Gregoire, 6220 Buffham Road, Westfield Township, and owner of the sod farm near the I-71/I-76 Interchange Project said he keeps raising a question and he is not getting answers. He is for the improvement project, but expressed concern for this flood plain area if 800,000 cubic yards were to be placed there by the State. He said he spoke with FEMA, Debbie Reynolds, and ODOT and nobody has answers. Mr. Hambley said the State would need a permit for their project. Mr. Gregoire claimed that some minor things could be done to help relieve the runoff from the pavement. Mr. Hambley said, as Commissioner liaison to the County Engineers Office, he would talk to the stormwater permit people at the Highway Engineers Office and ODOT to see what the issues might be and call Mr. Gregoire later.

Commissioners recessed the meeting at 10:17 a.m. for the Executive Session.

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The meeting was reconvened at 10:18 a.m. for the Executive Session for the purpose of discussing pending litigation that was voted on earlier. The Executive Session ended at 10:25 a.m. to return to the Hearing Room for the Annexation Hearing.

Annexation Hearing

Commissioners reconvened the meeting at 10:28 a.m. for the annexation public hearing on 26.120 now 26.1199 acres of land from Wadsworth Township to the City of Wadsworth. An attendance sheet is attached as Exhibit A.

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

Trina Devanney, Assistant Prosecutor and counsel for Wadsworth Township, said there was a request for a continuance sent to the Commissioners Office last Friday. She has not had enough time to review the case because the attorney that usually represents Wadsworth Township has been out of the office due to health concerns.

Andy McIlvaine, Agent for the petitioner Burns Investments, said that although he sympathizes with Ms. Devanney, they petitioned months ago, have subpoenaed a witness, and prefer that the hearing proceeds today.

Mr. Hambley said the Township and Prosecutor's Office were aware that the attorney was not going to be available. He asked why the Prosecutor's Office did not inform the Commissioners at least a week ago because there would be expenses and inconvenience to the petitioner. Ms. Ray said she was not inclined to grant a continuance at the "12th hour". Mrs. Geissman pointed out that there was a continuance granted for another annexation. Ms. Devanney said they requested a two-week continuance on the other annexation when they should have asked for a month because they needed that much time. That made it impossible to prepare for this annexation and she is asking for fairness in this matter. Mr. Hambley said he is not discounting or challenging her ability and her quality. He said it is the Prosecutor's Office that has chosen to represent in this matter so Mr. Holman needs to make sure he has the resources and more than one individual available to meet their needs if he is going to lend that expertise to the Townships. The Prosecutor's Office has from time to time found those resources when people were not available to represent the Townships, well in advance of last Friday. He understood her dilemma, but it would be a detriment to the petitioner. Ms. Ray said she is not willing to postpone it at this point. Mrs. Geissman said she felt that the Township needed good representation. She understood the dilemma because there were several people in attendance to testify. She said she felt the Wadsworth Township residents and the trustees should be represented fairly and she suggested a postponement.

Mr. Hambley offered that they not close the public hearing, but proceed with the individuals in attendance and continue next week. Ms. Devanney was agreeable to that, but Mr. McIlvaine pointed out that having two hearings would be even more costly. He said State law says that the townships have the ability to hire counsel to represent themselves; they are not, and are using the same Prosecutors that generally advise the County Commissioners. Generally, they object to that relationship. Mr. Hambley said State law says that Prosecutors have the ability to represent both parties and that many of the hearings do not proceed to conclusion in one day. Commissioners agreed that the hearing go forward and continue next week, Monday, August 7, 2006, at 11:30 a.m. and they proceeded with opening statements.

Mr. McIlvaine introduced the President of Burns Investments Ltd., Mark Burns and Chris Easton, Wadsworth Service Director. The property involves 26.199 acres of land immediately adjacent to the City of Wadsworth near the intersection of Hartman Road and Akron Road on the southeast corner. The petitioners represent 100% of the owners of that

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property that is currently an undeveloped and unproductive parcel of land. The City is currently undertaking a significant investment to try to improve the intersection that is a major artery. As it stands now, it is in the Township and he cannot develop his land because it does not have City water. Annexation would provide him with all the blessings of City residents (City services, police, fire, utilities, etc.) that would help make his land productive. His goal for the parcel is to have commercial development on the corner and the sales tax dollars would help benefit the area. The remainder of the land would be zoned residential and developed under the supervision of the City of Wadsworth. City utilities such as water are directly across the street and ready to be provided. The investment to develop the land would be the property owners' responsibility. The petition has met all the requirements and he asked the Commissioners to approve this annexation.

Ms. Devanney said this is another issue where every single one of the services that are deemed to be of benefit to the property are already available. This property already receives electricity, cable, telephone, sanitation pickup, and water in the area. If a person who develops this property would bear the expense of obtaining water from the City, they would also bear the expense of obtaining water through a well system that is presently available. There is nothing on this property that would inhibit it from staying in the Township and there is no benefit to this property by going into the City. It is on a very heavily-congested road and by putting another commercial development in this spot under City zoning would increase the traffic significantly. The City does not have the capability or has chosen not to deal with the congestion. This is another example of unchecked growth and for this reason the detriments outweigh the benefits.

Mr. Hambley reviewed with the Clerk the validity of the petition and the disposition of procedural matters, which she said were all in order.

Ms. Devanney objected. She said there was an amendment to the legal description and it was done without leave of this Board. The statute states that in order to amend the petition they have to do it 15 days prior to the hearing with leave from the Board. The amendments were not completed with leave from this Board. Mr. McIlvaine said in the past, specific leave was not requested or required by this Board when the Medina County Engineers Tax Maps Office requested the corrections. The formal notices of the changes were filed appropriately by his office. This is a technical request and no land was added or detracted; the numbers were simply changed. Annexation changes are based on instruction from this County and he met those requests. If this Board seeks formal request, he will make a motion now to accept the amended map and amended legal description. There is certainly no impact, no prejudice and no grounds to impede anyone's rights in these proceedings.

The Board of Commissioners and the Clerk conferred with their legal counsel. Mr. Hambley returned and overruled the objection based on it being a technical correction on the acreage based on correspondence from the Tax Maps Department to provide a sufficient legal description for recording purposes. It meets the intent of the statute and is not a substantive change. The hearing was opened for the presentation of the case by the parties.

Mr. McIlvaine questioned Mark Burns. Mr. Burns testified that Burns Investments owns the land seeking annexation to the City of Wadsworth. He has owned the property since 1988 and their goal is to develop the land that currently has neighbor's horses grazing on it. There is no access to City water or City police now. Both parcels are currently undeveloped and annexation would be beneficial because they need City water, sanitary sewer, police protection, and fire protection. The current police protection is the Medina County Sheriff and Wadsworth Police protection would be closer. City water is not available unless they annex. Five hundred sixty (560) feet of his property touches the City of Wadsworth along Akron Road. His vision is to put a small commercial strip center on the corner of the property with perhaps a pizza shop, bank, and an anchor tenant, but they could not do that without City water. There is potential for

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the City to use some of his land for a water tower. Approximately \$400 per year in tax revenue goes to Wadsworth Township. Annexation would serve the best interest of this property.

Ms. Devanney questioned Mr. Burns. Ms. Devanney said (regarding Mr. Burns' statement that he does not receive City fire protection) that there is a mutual aid agreement between the Township and the City of Wadsworth for fire and EMS protection on that property. Regarding his comment that he does not have any sanitary sewer on this property, he could, in fact, have sanitary sewer on this property in the Township from the County. Regarding his comment that he does not have City water on this property, he could have water on this property by installing a well. Therefore, the four things he stated as benefits to going into the City – water, police, sanitary sewer, and fire protection – are all things that he already has under Township zoning.

Mr. Burns said well water would not be feasible for a housing development or a strip center for the volume of water that would be used. He said he did not check with the Township, but he is a general contractor and it is not feasible. Ms. Devanney pointed out that the property is zoned R-2 and there is a commercial development across the street. She asked if he attempted to have the property rezoned by the Township and developed under Township regulations, and he said he did not. Ms. Devanney said in actuality, Mr. Burns does not know that going into the City would be any type of benefit at all. Mr. Burns said they could not, hypothetically, have 50 to 75 homes with a commercial strip center there, which would take at least a 12-inch waterline with a well. If the electricity would go down on the well, they would require a backup generator and it is not feasible. Ms. Devanney asked if he envisioned putting in 75 homes and a strip mall and he said it was hypothetical. She asked if those people would be able to get out on the road with all the traffic congestion. Mr. Burns said there would be a minimum of three entranceways.

Mr. McIlvaine questioned Mr. Burns. Mr. Burns testified that one of the benefits for people that live on land within the City limits was to receive better rates for services than those living outside the City limits. He needs City water to be able to develop the land like he wants to and it would benefit his property greatly. City police protection would be closer than the County level. In his experience as a developer, it would be a problem developing his land using well water.

Mr. McIlvaine questioned John Christopher Easton. Mr. Easton said he is the Director of Public Service for the City of Wadsworth and he has been with the City for about 23 years. He is responsible for the delivery of water, sewer, sanitation, electric, communication, streets, parks, development, building, zoning, and engineering. Mr. McIlvaine presented the Wadsworth City resolution listing the services the City would provide when annexed. Mr. Easton said he had no doubt that Wadsworth City would be able to provide City water services to the property proposed for annexation. He stated that, currently, there is a City water main line on the north side of Akron Road and, with the City's supervision, the property owner would be able to tap into that main water line. The City would be able to provide police protection; fire protection is currently provided by a mutual aid contract. Electric, telecommunications and sanitary collections would also be provided by the City of Wadsworth; the City could also provide emergency medical services, sanitary sewer and water services. Mr. Easton noted that, currently, sanitary sewer is on the west side of the parcel and it is currently available to the property today.

Upon questioning, Mr. Easton stated that Hartman Road intersects by Akron Road; there is an intersection in about 300 feet. The County Engineer had performed a study years ago about the potential realignment, noting (at that time) that signal warrants did exist at the intersection; however, the County Engineer deferred to the City of Wadsworth to take action. The City of Wadsworth has been engaged in determining the best solution for the traffic movement and has acquired property north of the intersection to realign and is also engaged in

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the appropriation proceeding with the property owner. The City of Wadsworth has taken on the responsibility and expense for the project. The County Engineer has indicated, potentially, some degree of participation since a portion of the intersection is in the Township. Wadsworth City feels that this is an appropriate step since the signal was warranted for many years and there has been at least one fatality. It would be appropriate for the land to be in the City to facilitate the acquisition of additional right-of-way, road alignment, and any development of the property.

Mr. McIlvaine asked Mr. Easton if the City considered this area for a potential water tower or water supply reservation. Mr. Easton answered that there had been previous conversations with a number of property owners in Akron Road corridor about the potential for acquisition of property. The City Engineers have recommended this general area for a water storage facility; however, there have not been extensive conversations with homeowners or Mr. Burns.

Mr. Easton confirmed that Akron Road is a state road and Hartman Road is a county road and that neither of the roads are maintained by the Township. The City of Wadsworth has a visiting road maintenance agreement for both of the roads. The agreement with the State for Akron Road is for minor maintenance and stone removal. The agreement for Hartman Road is with the County. There would be no road maintenance problem if the annexation is granted. Mr. McIlvaine asked if Akron Road has major traffic; Mr. Easton answered yes, as an arterial street. Mr. Easton confirmed that it has been a major artery that exists at the present time, before and after this annexation hearing. Hartman Road is an arterial collector, depending on its location; Mr. Easton stated that traffic volume has increased over the years, more significantly than Akron Road.

Ms. Devanney asked Mr. Easton if the City had done a traffic impact study. Mr. Easton stated that City rules require that if dwellings are proposed, a traffic analysis must be done; a traffic engineer is on retainer. In the recent past, some traffic studies have been completed in the area in recognition that they wanted to acquire property. At this point, the City has a plan to not only realign the road, but add turning lanes on Akron and Hartman Roads due to the results of the traffic studies of the interchange. If development would be proposed on the adjoining property resulting in 75 homes, another traffic study would be completed. Historically, each house generates about ten trip ends; therefore 75 homes would result in 750 trip ends. Current development regulations require that developers maintain the same level of service that exists before construction. The City would require any developer of this property to consider all intersections within a half mile. The Planning Commission would require an impact study.

Mr. Hambley asked that since Akron Road is a state highway, who will be responsible for the maintenance of the road; Mr. Easton answered that the City of Wadsworth has an agreement with the State of Ohio for minor maintenance. Mr. Hambley inquired about pavement replacement and reconstruction; Mr. Easton stated that the State of Ohio is responsible and there would probably be a joint discussion with the City and the State of Ohio since different portions of the roadway are in the City and outside of the City. Mr. Easton confirmed that it would most likely be a joint cost on the basis of lineal feet. If the property remained in the Township, the State of Ohio would be paying for that portion of construction and this would also be true for Hartman Road.

Mr. Hambley stated that if those in attendance would not be able to attend next week's reconvening of this annexation hearing, they could make a statement. There was no one who wanted to present testimony.

Mr. McIlvaine asked, for the purposes of ascertaining time and expense, if the Township was going to bring in additional persons next week. Ms. Devanney stated that she had no idea at this point. However, she would provide a witness list to Counsel and the Board. Mr. Hambley asked that the list be provided by Wednesday to both parties.

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Ms. Ray moved to recess and reconvene the public hearing on Monday, August 7, at 11:30 a.m; the motion was seconded by Mrs. Geissman. Roll call showed all voting AYE. The meeting was recessed at 11:25 a.m.

Annexation Hearing

Commissioners reconvened the meeting at 11:40 a.m. for the annexation public hearing on 139.6205 now 91.0765 acres of land from Wadsworth Township to the City of Wadsworth. An attendance sheet is attached as Exhibit A.

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

Amie Bruggeman, attorney for the petitioner, moved to disqualify the Prosecutor's Office from representing the Township in the matter because there is a conflict of interest for the Prosecutor's Office to represent both sides at the same time. While there are safeguards in place; however, she believed that when it was a single proceeding and this closely connected, a screen is insufficient. If nothing else, there is an appearance of impropriety. The statutes provide that the townships can hire separate counsel and they have not done that.

Trina Devanney, Assistant Prosecutor, said that this is an issue that has been heard previously by the Board of Commissioners. The townships are able to hire outside counsel if they choose; however, the Prosecutors Office is the statutory counsel for the townships, as well as for the County Commissioners. This is not an adversarial proceeding between the parties; the Board is acting to decide the issues as presented and according to laws. The attorney does not represent the Board of County Commissioners; only advising. The Township's statutory attorney is the Prosecutor's Office, there is no appearance of impropriety, no actual impropriety, no conflict of interest, and there is no law dealing with this issue (that the Prosecutors Office cannot represent the Township and still have a different person, subjected to a "Chinese wall", advising the Board).

Commissioners took a short break to confer with Assistant Prosecutor Bill Thorne.

Mr. Hambley stated that after conferring with the Board of Commissioners' legal counsel, Bill Thorne, the Commissioners feel that the intent and purpose of the "Chinese wall", as has been described, remains intact and Mr. Thorne's advice is that he is not influenced by the other part of the Prosecutor's Office. Therefore, they will proceed with the motions that have been filed.

Ms. Bruggeman stated that both motions should be denied. Res judicata does not apply to this circumstance. The previous annexation request was approved rather than denied. The Township did not appeal the decision. The City accepted the annexation by legislation and then it was subject to referendum and the vote of the people. Res judicata does not apply to either legislation or to votes of the people; it applies to judicial or quasi judicial proceedings. Therefore, res judicata does not have any application under the circumstances. Finally, the application has been changed by decreasing its size by approximately 40 acres; that would also change the complexity of the matter. The motion to dismiss and the res judicata motion should be denied. Further, it was alleged that they did not seek the Board's plea before the amendment was filed. The proper interpretation of the statute is that if they seek to amend without giving notice, permission must be given by the Commissioners. Notice was sent; therefore, this is not a true issue. Likewise, the Commissioners have never required people to seek that leave, and if it is technically required, she moved that it be granted.

Joe Dickinson, Assistant Prosecutor, stated that many of the motions have been briefed in detail and he wanted to comment on the res judicata motion. He has been involved in the

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matter since last Thursday. He stated that there is something inherently wrong with this petition. The Board is already acting in a quasi judicial role. Simply reducing the number of acres does not substantively impact that decision. More importantly, the voters rejected this annexation. Voters are reminded about the value of their vote; this petition seeks for the Board to overrule that vote, thereby telling the voters that their vote did not count if it is contrary to the economic concerns of some other body, or if the outcome of the vote is not the petitioner's opinion. The Board should not nullify the election and the petition should be dismissed.

Ms. Devanney stated that regarding the motion to strike the amendment, the statute very clearly states that in order to have an amendment, the amendment must be done no less than 15 days in advance of the hearing, without notice by leave of the Board. There was no leave from the Board in this matter. If there is an item that is defined in the case amendment in statute, the legislature must then ask for a reading and they expressly left out another way to an amendment. There are no other statutes that allow for an amendment, other than with leave from the Board. She stated that it is no different from a Board of Tax Repeals or Board of Revisions application where amended applications cannot be done without leave from the Board. It is no different from a complaint filed in Common Pleas Court after the answer; a leave is needed to perform amendments. There is also the matter of the date deadline (15 days in advance of the hearing). She stated that the motion should be upheld and the annexation amendment should not be granted. She finds it curious that the easy answer to the res judicata question (that there was a change from 139 acres to 91 acres) is that it is still the same land. Changing the size subverts the role of the people; it is still the intent by the petitioner to proceed against the vote. She motioned to strike the second amendment filed on July 21 because it was not 15 days in advance of the hearing; it was 32 days after the start of the hearing and it was filed only 10 days in advance of this hearing.

Ms. Bruggeman stated that the July 21 amendment was filed as a result of the directions received from the Medina County Engineer's Tax Map Office. It was done to conform to their analysis of the plat. It was sent with notice and there is no basis to strike the amendment. She objected to not only having one Prosecutor on the other side of the matter, but having two Prosecutors responding. She hoped that only one raises arguments. The political arguments are that this would go against the vote of the people; however, res judicata does not apply to the vote of the people – it applies to different settings not equal to this situation. She asked that the Board deny all objections.

Mr. Hambley stated that there is a question regarding the Prosecutor's opinion on the res judicata issue. He asked how long of a period of time it would take before a property owner would be able to go back into the process of applying for annexation and if that property could never be annexed. Trina Devanney answered that there truly has to be a change in circumstance; reducing the acreage amount is not a change in circumstance.

Mr. Hambley stated that since there were no further questions, there would be a short break. The Boards' intention is to rule on the motions, reassemble, and then break for lunch.

When the meeting reconvened, Mr. Hambley stated that the Board's first order of business is to rule on the two motions. The Board denied the motion to dismiss on the basis of res judicata because it did not apply in this case; conditions have changed as well as the issues raised by counsel for the petitioner. The Board also denied the motion to dismiss on the basis of the lack of an amendment prior approval with leave of the Board because the statute provides for notice and the petitioner followed it with normal procedure.

Mr. Hambley stated that the meeting would recess for lunch at 12:15 p.m. When the meeting reconvenes, it would be opened in the normal procedure for hearings including swearing in, opening statements by the petitioner, and those representing the Township and the municipality.

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Ms. Devanney stated objections to denying both motions and requested whether a decision had been made regarding the July 21 amendment. Mr. Hambley stated that the consensus was that a prior annexation dealt with the same issue and it was deemed a technical correction and not a substantive correction. Ms. Devanney also objected to that decision.

When the meeting resumed at 12:45 p.m., Mr. Hambley swore in those wishing to comment during the hearing and opened the hearing for opening statements.

Ms. Bruggeman stated that she was the attorney for the petitioners, Lydia and Donald Vance (present) and Dorothy Olmsted (out of town and sent an affidavit). The petition was filed on March 24, 2006 and it included 139.6205 acres from Wadsworth Township to the City of Wadsworth. An amendment was filed on June 2, 2006 reducing the area to 91.0765 acres on the west side of Hartman Road and excluding all of the land they own on the east side of Hartman Road. She reviewed the ownership of the different parcels and said it is a 100% annexation and it is being submitted as a Regular Type Annexation rather than an Expedited Type. As a Regular Annexation, the Township will receive tax sharing for a period of 12 years, which will considerably enhance the income to the Township. Now the land generates very few taxes since it has the CAUV designation. Also, a 100% annexation is strong evidence that it is in the best interest of the property. Code states that the desires of the owners of the territory to be annexed ought to be given greater weight than any considerations of residents outside the territory to be annexed. Citing a former case, she said when all of the property owners agree, Commissioners should only consider whether the annexing municipality can supply the territory with needed services. The 11th Appellate District has recently interpreted the new annexation laws and the choice of the property owner is the key consideration in general good. Mr. Dickinson objected to her legal argument. Ms. Bruggeman said this annexation satisfies all of the technical and legislative requirements and she reviewed them and asked for approval.

Mr. Dickinson stated that the annexation has already been rejected. The voters have exercised their Constitutional rights and that right lies at the heart of this case. If they consider the procedural and substantive defects and the important concern that this Board has already adjudicated this matter, an even much greater consequence is the inherent wrongness of this case. They urge people to vote and tell them that their vote is valuable, but what this petition seeks to do is have this Board tell the Wadsworth voters that their vote is not valuable. That is just simply wrong. There are substantive errors in the documents and there are no real benefits to the property to be annexed. The detriments to the property and the surrounding properties within 1/2 mile far outweigh any perceived benefits. Even the citizens, the people who this annexation will mostly affect, have already voted and said they do not want it. Another key component is the procedural history of this case. This Board has already ruled on this annexation and simply reducing the parcel from 139 acres to 91 acres is not substantive. The Board has already decided they are entitled to the annexation of 139 acres and the voters spoke and rejected that annexation. The petitioners now seek to have this Board overrule that election. For these reasons they ask the Board to deny this annexation.

There were no opening comments from the municipality.

Mr. Hambley asked Clerk Pam Vereb if the following statements regarding the validity of the petition were true and she said they were true:

- a. Petition contains signatures of majority (51%) of owners.
- b. No signature was obtained more than 180 days before filing of petition with Clerk.
- c. Accurate legal description of the perimeter and an accurate map/plat of the territory proposed for annexation was filed
- d. Agent was listed in the petition.
- e. List of adjacent property owners/land was attached.

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Ms. Devanney objected that an accurate legal description of the perimeter and an accurate map plat of the territory proposed to be annexed have been filed.

He asked the Clerk if all the required procedures have been followed and asked if they received a resolution to provide services to the 91.0765 acres. The Clerk said they received just a resolution to provide services to the 139.6205 acres and no resolution came specifically for the 91.0765 acres. Ms. Bruggeman said the 91 acres are included in the 139 acres. Ms. Devanney said the service agreement very specifically states 139 acres and it does not say more or less. They did not offer services at all for 91 acres. Mr. Hambley said they have two attorneys representing the same client and her colleague just argued that there is no significant difference between the 136 acres and 91 acres on the basis of the referendum and the res judicata issue. Now they are saying it is a significant difference on the basis of providing services. Ms. Devanney said 139 acres is a piece of property that the voters made a decision on. It was the same developer, same land in its entirety, same development process, and the City expected 139 acres on this issue and are offering services for 139 acres. If they are to say, as this Board has decided to find, that there are significant changes, then they are going to have to review it as if there were significant changes. They disagree with that proposition and think it was res judicata under the 139 acres and argued they could not do an amendment anyway. Under the Board's decision, there are no services for this property. Ms. Bruggeman said, after they hear from Mr. Easton who was involved with the process with the Planning Commission and Council, they will see that it included every acre of the 139 acres. Mr. Hambley said it is a matter of argumentation and they will continue in terms of procedure, but make note that they have a resolution to provide services to 139 acres and they do not have one for the 91 acres.

He asked the Clerk if all of the other required procedures as outlined in the Commissioners' resolution for annexation have been followed and she said they have been followed. The hearing was opened for the presentation of the case by the parties.

Ms. Bruggeman questioned Donald Vance. Mr. Vance stated he is the principle owner of the property that is requesting annexation. He wants to have the property annexed because he has been living in Wadsworth all of his life and about 1980, the City of Wadsworth issued a plot with phases showing highway development through to Hartman Road. At this time, they decided to sell the property and felt it was best to go with Wadsworth City to enable them to complete that phase of their plan. He explained why he wants to annex his property. He said he is 68 years old and he is tired of farming and his family does not want to farm. Property adjacent to him has just been annexed and the Township Trustees did not object to that annexation. He feels it makes sense to annex because Wadsworth City offered them water and sewer, and well water is out of the question because it has sulfur from the coal mines. He needs City annexation to get the best return from his property. He intends to continue living on five acres that he is separating from his homestead. If annexed, he will probably be selling the rest of the property to the Heritage Development Corporation. They will probably build commercial along the interstate and the rest will be apartments and single-family homes. He did not go to the Township to see if he could sell the property under their zoning because this area is planned City growth and it fills in a block. Annexing to the City of Wadsworth would be a benefit to his property and a benefit to the community. It is a family farm that has been in his family for 150 years. His neighbors that object, built their homes on his sled-riding hill and beautiful pasture to look at, and they did not ask him if they could build there. Now his property is being rejected and he feels he is being singled out and that is unfair. The land is now farm and woodland and is under CAUV.

Ms. Bruggeman questioned Lydia Vance. Mrs. Vance stated that she would like to have their property annexed because it would be easier to sell the property if it had access to City water. They were also prompted to request annexation because their neighbors annexed to the City and it would complete the block. Annexation would absolutely benefit the property. The

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developer has planned to keep the woods as a recreation conservation path and is not planning to put up a big box store.

Ms. Devanney questioned Mrs. Vance. She asked Mrs. Vance how much land they are going to have cut out from the land to be annexed and she said five acres. Ms. Devanney asked her why five acres and she said because five acres is enough for them to take care of now. Ms. Devanney asked her why not a quarter acre and she said it is a personal thing and they want five acres. Ms. Devanney asked if it was because they like the country and she said no, it was because they have a lot of big trees there that they had planted.

Ms. Bruggeman questioned Robert Benjamin of Heritage Development. Mr. Benjamin stated that they have a contract to purchase the property if annexed. He went to a Township meeting and they questioned what he was doing there, probably because he was a developer and would need the proper services such as water to be able to develop the land like they wanted to. He talked to the Township since then about cooperating with the City toward annexation. The discussions about the development were positive, as well as what they would do on the parcel they are not annexing. He told them about some of the developments they have throughout Northeast Ohio such as their "Green Development" that helps conserve land. They discussed buffering the land in the back to the residents that live by that land and a conservation easement with a local group that would like to have the land donated back to them. They are willing to work with them and develop a piece of land the best they see fit for the market conditions today. There was not an agreement worked out with the City as far as he knows. The intent for development of the property to the west side is for single-family lots. Park Center Drive comes through that area that would connect to Hartman Road and potentially could have some freeway commercial just like Park Center Drive already has today, such as office buildings, restaurants, and hotels. The initial plans were to have a Planned Unit Development (PUD) where they would have a variety of different products such as condo, and small and large single-family homes. They would not be able to build this type of development if the land remained in the Township with no water services being provided.

Ms. Devanney questioned Mr. Benjamin. Mr. Benjamin said the contract to purchase terminates December 15, 2006. The preliminary plans are to build 200-250 homes depending on what the City of Wadsworth will allow according to their zoning. There might be a denser product next to Briarthorn with two to three units per acre. Across the freeway, the lots may become larger and perhaps a couple units per acre.

Ms. Bruggeman questioned Chris Easton. Mr. Easton repeated the scope of his duties. He said he was involved in discussion and adoption of Resolution 06-03 as to what type of services would be proposed to be provided to this property if annexed. They looked at the acreage in its entirety and the ability to deliver services to the entire area, recognizing that the 91 acres was part of the 139 acres. He said it was his opinion that this resolution would apply to the 91 acres. The City indicated, per section one, that they would provide police, fire, emergency medical services, electric, communications, and trash collection upon the effective date of the annexation. Further, they would provide water and sanitary sewer approximately two years after the effective date of the annexation. The recognition is that the delivery of those services would require extensions on and off site of utilities at the expense of anyone who wanted to use them, generally the property developer. Given the fact that within that two-year period those utilities were extended to the property, he has no doubt that the City of Wadsworth could provide those services.

The City engaged the sewer and water engineers at Burgess and Niple in a variety of studies and looked at distribution and capacity; they feel that a key distribution main needs to be through this property. They are currently involved in a comprehensive sanitary sewer study that looks at the existing flow and trunk lines to determine where extensions should be constructed. The County has maintenance responsibility for Hartman Road. The County may

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seek to amend the intergovernmental agreement that exists today regarding road maintenance and ask the City to consider portions of that maintenance. In the mid-80's, the City's thoroughfare planning believed that a connection between High Street and Hartman Road would be an appropriate thoroughfare element. In 1996, the City included that in their comprehensive thoroughfare plan. They did some engineering modeling of the thoroughfare system looking at traffic generation along with City and Township development, and recognized that this extension of Park Center Drive between Hartman Road and High Street would be a means of reducing traffic on S.R. 94, which is the primary road to the City. The State of Ohio and Northeast Ohio Areawide Coordinating Agency (NOACA) have also agreed that it is appropriate. That extension has been a wish of the City for approximately 20 years to better handle traffic. The City's current master plan for recreation shows that this area would be an appropriate area for green space.

The City has dealt with other developments in the communities that have shown there was potential for underground mines. In those cases, their subdivision regulations have required the developer to perform a geotechnical study to show that the existence of the mine is true, the extent of it, and what development would be appropriate around and on it. There are a number of residential and commercial areas that have underground mines (if the maps are correct) including the new Home Depot, where the maps reflected potential for an underground mine. Mr. Easton reviewed the services that could be provided - fire, EMA, sanitation, electric and communications, water, and general City services such as parks, streets, planning, zoning, and income tax services. He said the current policy is that water services require annexation to the City.

Mr. Dickinson questioned Mr. Easton. Mr. Easton reviewed the services again. He described the differences between the City and Township services. He testified about the City's ability to provide water service to the parcel if annexed because Mr. Dickinson stressed that providing water service is big issue and discussed some of the history of the May 17, 2004, 139.77 acre annexation lawsuit testimony about providing water. Ms. Bruggeman objected. Mr. Dickinson asked if the issue of whether this should be 91 acres ever came up. Mr. Easton said the City Council, when evaluating 139 acres, assumed that all elements of that 139 acres were part of the annexation. In his opinion, City Council has already looked at the 91 acres because it is part of the 139 acres and have indicated that services could be provided. In his discussions with City Council they recognized that the land on the east side of Hartman Road actually would require a lift station. There was some discussion about the delivery of services to the 49 acres versus the other 91 acres. Mr. Dickinson asked if there was a discussion or any analysis of the difference between an annexation of 139 versus 91 acres. Ms. Bruggeman objected because the question had been asked and answered and Mr. Hambley agreed.

Mr. Hambley asked Mr. Easton how many years he has been with the City and he said 22 years. He asked if, during that time, the City of Wadsworth had not extended services when asked by property owners. Mr. Easton said no; generally when asked, it is really not a delivery of services issue. The cost of the extension of the infrastructure is borne by the property owner so if the property owner bears the cost, they will provide those services.

Ms. Bruggeman asked Mr. Easton when the Burgess and Niple study was done. He said the capacity study was done in May 2004. The lawsuit was filed about the same time period. Ms. Bruggeman asked if the study addressed any of the capacity issues that were the focus of the lawsuit. Mr. Easton said the study suggested acceleration of that project to meet the City's water needs. Ms. Bruggeman asked if the City has followed the suggestion of the study. Mr. Easton said yes; the study had numerous recommendations with respect to water capacity and in August 2006 the City will bring around another well; they acquired property to construct the well and water main pumps to add another 100,000 gallons per day to their capacity with Well 7A. In addition, the Burgess and Niple had numerous other recommendations to accelerate the process of the development of Rose Hollow, and they have received approval from the EPA to

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pump that well. They are acquiring property for a storage tank, distribution improvements such as reconstructing water mains, etc. Ms. Bruggeman asked if following through with these improvements suggested by Burgess and Niple gave him confidence that water can be supplied to this property under the annexation parameters here. Mr. Easton said the parameters here define a two-year time frame and he believes they could supply water to this parcel today.

Mr. Dickinson asked Mr. Easton about the lawsuit and his testimony. Mr. Hambley asked if that lawsuit was going to be documentation and Mr. Dickinson said it was public record and he would make a copy for review. Ms. Bruggeman objected; a lawsuit dealing with different property and another issue in some earlier period of time is irrelevant. Mr. Hambley said given the conversation back and forth and reference to documents that this Board has not seen, he requested being able to review the documents.

At 1:45 p.m., Commissioners recessed for a short break. The hearing resumed at 1:57 p.m.

Ms. Devanney said she wanted to be sure the record showed her objection to the perimeter description of the property. Ms. Bruggeman said she believes they have ample legal description in the record that was reviewed by the Tax Maps Department and it conformed to the requirements. Ms. Devanney said the ORC 709.033 states that this Board can only grant annexation if certain criteria are met. One of those items is compliance with 709.02(C) that states that contents of the petition should include an accurate legal description of the perimeter and an accurate map or plat of the territory proposed for annexation. What was originally filed was three separate legal descriptions – one for each parcel. The first and second amendment, both reduced those down to two legal descriptions; neither is a complete legal description of the entire perimeter of the property for annexation. Before the annexation laws were changed, all that was required was a description of the property and an accurate map the territory proposed for annexation. The legislature very specifically added the language “an accurate legal” “of the perimeter” making that a detriment to the application process if it is not included. It is not procedural error – an error that could be corrected by the Board. This Board cannot correct that error. It does not have a person that can do the title work or a surveyor to do the accurate legal description of the entire perimeter of the property. For that reason, she objects to the perimeter being considered accurate. The Highway Engineer’s Office stated that the map and the legal description were accurate for filing purposes. It doesn’t state that it complies with the statutes.

Ms. Bruggeman stated that if she went back and looked at every annexation for the last several years that the County Engineer’s Tax Maps Department have all dealt with the same type of legal description as this one. That is what is required for recording and that is the purpose of this statute so they know exactly what property is being annexed and that they did meet all of the qualifications that have been imposed by this County. She thinks this is a clever argument and suggested that the objection be overruled.

Ms. Devanney added that perhaps nobody prior to the last Brunswick Hills annexation objected to multiple parcels being listed rather than an entire legal description of the whole outside of the boundaries. However, that objection was made at a prior Brunswick Hills case and the petitioner withdrew their claim so that they could file it correctly. The annexation before this hearing had two separate parcels and one legal description. That shows that there is an error in this petition. Mr. Hambley said he recalls that the Brunswick Hills annexation was withdrawn with a number of errors that the Prosecutor’s Office pointed out. The Board did not have to rule on that particular issue. He asked Ms. Devanney if she was asking for a ruling if this meets the requirements and she said she would like one now or it would be a part of her closing. Mr. Hambley said the Board would need time to review before they could rule so they recessed to consult with legal counsel at 2:03 p.m.

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The meeting reconvened at 2:12 p.m. With regard to substantial compliance with procedural matters on the resolution to provide services by the City of Wadsworth to the 91.0765 acres, Mr. Hambley stated that the consensus was that they are in compliance based on the evidence provided by Chris Easton's testimony and the petitioner. Secondly, they would like to entertain more testimony on the last item brought up about the accurate legal description of the perimeter as outlined within the Ohio Revised Code. Ms. Devanney said that she challenges the validity of the petition. Mr. Hambley said if they find the argument has weight; that would invalidate the petition and they would no longer proceed with the hearing.

Ms. Devanney questioned Roxana Rohrich, Tax Maps Department Supervisor. Ms. Rohrich testified she has been in that position since 1995. The perimeter means the bounds around the outside of a parcel that closes it. She described Tabs A, B and C of the original petition for 139.6205 acres; a legal description for approximately 50, 80, and 11.77 acres, excepting two acres and also excepting a .1495 acres and one more description that is actually two sublots. In Tab A, it meets the measurements around the parcel. She would not know for sure, mathematically, if it closes unless she put it in the computer. They have not, by practice, been running a closure on any of the parcels that are reviewed. They were comparing the description to whether it would be sufficient for transfer for the County. In other words, if the deed came in with this description - would they allow it to record? By comparing the description to their tax maps, it recites all of the sides giving dimension (if there are any) and it goes back to the place of beginning. Therefore, by definition it closes. Mathematically, she cannot tell if it does close or not.

Upon questioning regarding No. 2's perimeter description, Ms. Rohrich said there is a perimeter description of the 80 acres and two other perimeter descriptions of the two parcels that they want to accept on the 80 acres. In this particular case, there is a problem with this one because one of the exceptions does not exist. In their standards, they require that all exceptions exist. The first exception of the .1495 acres was never split out of this parcel and was never recorded. Therefore, this description would not suffice for transfer and she reported that. Tab C is the whole of two sublots so it does not technically have a perimeter description because it refers to the subdivision that shows the dimensions and bearings around the individual two sublots. It meets the requirements for transfer. If it is a perimeter description, that would be a legal decision. She was always asked if they were sufficient for recording.

Ms. Devanney asked her to compare the amended petition with the corrections. Ms. Rohrich said she could tell by the description that there was a perimeter and a close on the 50.8848 acres that is part of the 91 acres. The next tab was a survey of 40.1917 acres, which is part of an original 80 acres. It has a beginning, perimeter description, and a close and meets her description of a perimeter. There are shared borders between A and B; the south line of the north parcel is the north line of the south parcel. Ms. Devanney asked if there were internal measurements in an overall perimeter description and Ms. Rohrich agreed; it is not an overall. Ms. Rohrich identified her memo to the Clerk saying she reviewed the corrected plat and petition and the list of adjoiners of this annexation and she found them all sufficient for recording purposes. She did not specifically say it was an accurate legal description. Ms. Devanney had Ms. Rohrich read part of the requirements of ORC 709.02 as an accurate legal description of the perimeter and an accurate map or plat of the territory proposed for annexation. Ms. Rohrich said each description individually is not the whole of the territory and it would not be adjoining lines.

Ms. Bruggeman questioned Ms. Rohrich. Ms. Rohrich testified that through the history of how she was to review annexations there was no distinction. If they wrote separate descriptions, as long as each one worked and was sufficient for recording they accepted it. Generally, she found that when there were many parcels they would have one overall perimeter description, but when there were fewer, they sometimes gave her separate descriptions and she was never instructed that it was incorrect. She had very accurate legal descriptions of the

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perimeters of those parcels when it was surveyed as in this annexation. Because this particular parcel is a split, she needs the exact acreage and the exact dimensions in order to reduce the remaining parcel that is left in the Township. Their ruling had been that all annexations that were split had to be surveys and then the survey description would be accepted. Also, in this case, they found a different acreage on the one existing parcel of 50 acres; they found it to be 50.55 so this is even more precise. Ms. Bruggeman asked, in the big scheme of things if she had legal descriptions and perimeter of the islands for recording and transferring and for the balance. She asked if a surveyor could merely do a mathematical summation for a total perimeter evaluation. Ms. Rohrich said yes, from that information and that is technical.

Ms. Devanney asked Mrs. Rohrich if it wouldn't have been just as easy for a surveyor to go through the bounds description of the entire parcel and that would have given her the description that she would have needed. Ms. Rohrich answered not without the dividing line and the dimensions between the two in order to keep the information valid for the non-annexed piece. Ms. Devanney asked her if it would have been more accurate for lay-persons looking at this property for annexation in the paper to describe parcel one as being part of an overall lot and comprised of XYZ and going directly into also comprising parcel 2, picking up shared borders and giving an overall accurate legal description and Ms. Rohrich agreed.

Ms. Bruggeman asked Ms. Rohrich if she has no hesitation she has an accurate identification of the parcels to be annexed and Ms. Rohrich said that is correct.

Ms. Devanney asked when new annexation laws took affect and Mr. Hambley said this Board had their first new one in 2003. She said the technicalities are now coming to light.

Ms. Bruggeman asked Ms. Rohrich if she had accurate legal description and Ms. Rohrich said, yes, plural. She asked if the description could be determined and Ms. Rohrich said absolutely. Ms. Bruggeman said she thinks it is a technical argument.

Mr. Hambley recessed at 2:40 p.m. to confer with legal counsel.

Mr. Hambley reconvened the hearing at 2:55 p.m. on the motion regarding the legal description. It was the consensus of the Board that the lack of an accurate legal description of the perimeter is a substantive deviation from ORC 709.02 (C)(2). While the information and legal description is precise enough for recording, transferring, and doing the balancing as Ms. Rohrich testified, it does not meet the requirements specific to that part of the code. It is not a procedural error, but is a substantive error and not merely just a small technical error. This is one that Tax Map should address in procedure and they apologize for that. It does not alter the decision and responsibility of this Board to act in accordance with what the code indicates.

Ms. Bruggeman moved that they be allowed to supplement the record to include a perimeter description, which would take less than 24 hours to get to them. Ms. Devanney objected. Mr. Hambley asked if they have that ability. Mr. Thorne answered that it would be another amendment so they probably need to start again. Ms. Bruggeman said she thought it would be too complicated to start again and under the circumstances, they would seek leave to further amend. Ms. Devanney objected. Ms. Bruggeman objected and said this goes to the heart of the petition and is a technical requirement that would take two minutes. It would prejudice the petitioners a great deal.

Mr. Hambley said he and his colleagues request written briefs within five days and they will make a decision next Monday, August 7, at 2:00 p.m. They realize the petitioner has gone through a considerable amount and the property owners have every right to proceed according to their rights. They are trying to respect that, but they are also compelled to follow the law as they best understand them and with advice from their counsel.

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Mr. Vaughn said, earlier today, Mr. Hambley made a statement that the people had voted on this and as it is now it could never be brought into the City. He asked if that was correct and Mr. Hambley said he wanted the attorneys representing the Township to indicate the parameters for making that change. Substantial conditions have changed. That was the res judicata issue. Ms. Bruggeman said to start over again would be a detriment. Mr. Hambley agreed and said that is why they are looking into some latitude on that issue to see if it could be amended. They will have legal counsel review what court cases are out there to give them some guidance. Unfortunately, this is new annexation law and a lot of language was changed and it appears Medina County is going to be a test case.

Ms. Ray moved to recess the Public Hearing at 2:58 p.m. and Mrs. Geissman seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ms. Ray moved to adjourn the meeting; seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

RESOLUTIONS PASSED 7/31/06:

NUMBER	RESOLUTION TITLE
06-0723	RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS
06-0724	RESOLUTION AUTHORIZING THE MEDINA COUNTY ENGINEER TO ADVERTISE FOR BIDS FOR THE REPLACEMENT OF BRIDGE NO. 33 ON STATION ROAD (C.H. 23) IN LIVERPOOL TOWNSHIP
06-0725	RESOLUTION TO AMEND THE CONTRACT OF JUNE 2006 BY AND BETWEEN TRI MOR COPORATION AND THE MEDINA COUNTY BOARD OF COMMISSIONERS
06-0726	RESOLUTION AUTHORIZING THE MEDINA COUNTY ENGINEER TO ADVERTISE FOR BIDS FOR THE REHABILITATION OF THE "S" CURVE ON SMITH ROAD IN MONTVILLE TOWNSHIP, MEDINA COUNTY, OHIO
06-0727	RESOLUTION DETERMINING THE NECESSITY TO CLOSE GRANGER ROAD (C.H. 21) BETWEEN RIDGE ROAD (S.R. 94) AND CODDINGVILLE ROAD (T.H. 61)
06-0728	RESOLUTION AMENDING THE ANNUAL APPROPRIATION RESOLUTION
06-0729	RESOLUTION AMENDING THE 2006 APPROPRIATIONS RESOLUTION BY TRANSFERRING APPROPRIATIONS
06-0730	AUTHORIZING A CASH TRANSFER FOR THE MEDINA COUNTY PORT AUTHORITY
06-0731	EXPENDITURE ADJUSTMENTS FOR THE DRUG TASK FORCE GRANT FUNDS
06-0732	CREATION OF A FAMILY FIRST COUNCIL HELP ME GROW FY06 GRANT PROGRAM FUND
06-0733	AUTHORIZING CHANGE ORDERS FOR THE 2005 EXTERIOR BUILDING REPAIRS PROJECT AT THE COUNTY ADMINISTRATION BUILDING AND COURTHOUSE

COMMISSIONERS MEETING, MONDAY, JULY 31, 2006

- 06-0734 RESOLUTION AMENDING THE TRAVEL-REIMBURSEMENT POLICY RESOLUTION

- 06-0735 APPROVAL OF AN AGREEMENT FOR ELECTRONIC SURPLUS PERSONAL PROPERTY SALES

- 06-0736 RESOLUTION ACCEPTING AND AWARDING BIDS FOR MEDINA COUNTY 2006 ROOF REPAIRS

- 06-0737 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS

- 06-0738 RESOLUTION AMENDING THE TABLE OF ORGANIZATION FOR MEDINA COUNTY OFFICE FOR OLDER ADULTS

- 06-0739 AUTHORIZING THE SANITARY ENGINEER TO OBTAIN EASEMENTS FOR VARIOUS SANITARY SEWER IMPROVEMENT PROJECTS

- 06-0740 AUTHORIZING THE SANITARY ENGINEER TO OBTAIN EASEMENTS FOR VARIOUS WATER IMPROVEMENT PROJECTS

- 06-0741 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

- 06-0742 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

All deliberations concerning official business and formal actions by this Board of Commissioners were conducted in an open public meeting this thirty-first day of July 2006.

Respectfully submitted,

Pam Vereb, Clerk

COMMISSIONERS

Stephen D. Hambley

OF

Sharon A. Ray

MEDINA COUNTY

Patricia G. Geissman