

## COMMISSIONERS JOURNAL – MONDAY, JUNE 2, 2003

Stephen D. Hambley called the meeting to order at 9:30 a.m. with Sharon A. Ray present. Patricia G. Geissman was out of town on county business.

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

At the beginning of the meeting the oral reading of the minutes of May 27 was dispensed with. Each Commissioner has read them personally. Ms. Ray moved to approve the minutes. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

Doug King, Administrative Assistant in the County Engineer's Office, presented and reviewed 10 resolutions. The first resolution accepts and awards the bid for liquid asphalt to Bituminous Products and the second resolution accepts and awards the bid for centerline striping and pavement marking to AeroMark. Resolutions were presented to approve the annual assessments and establishing a public watercourse and to approve the final plats for Quail Lake Farms Subdivision Phases I and II and Western Reserve Homestead Subdivision Phase II. There were also 2 road closing resolutions. Ms. Ray moved to approve the 10 resolutions. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

Gary Berkowitz, Human Resources Director, presented and reviewed the personnel resolution.

Ms. Ray asked if the promotion for Christina Fozio in EMA is a reclassification of the position.

Gary agreed that it was.

Mr. Hambley noted that the position was re-designated because the job description didn't match that of a Secretary I position.

Ms. Ray moved to approve the personnel changes. Seconded by Mr. Hambley. There was no further discussion. Roll Call showed both Commissioners voting AYE.

Gary noted that his wife is the principal of a local elementary school that was assisted by the Commissioners' Office in the coordination with MCPAF for use of the auditorium in the Administration Building. He presented a giant thank you card that was signed by the 4<sup>th</sup> and 5<sup>th</sup> graders from the school. His wife has received favorable comments from parents on the use of this auditorium

Chris Jakab, Finance Director, presented and reviewed 3 resolutions involving amending the annual appropriations, transfer of funds and the weekly bills in the amount of \$519,381.72. Ms. Ray moved to approve the resolutions and payment of the bills. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

John Stricker, County Administrator, had no resolutions for today.

Ken Hotz, Sanitary Engineer, presented a resolution declaring the necessity of constructing waterlines in Chatham and Harrisville Townships on various roads and authorizing the Sanitary Engineer to commence advertising for bids. The lines will run along Chatham Road, S.R. 83, Kohli Drive, Rippley Drive, Coon Club, Kennard, and Vandemark Roads. This resolution approves the plans and specification. The bid advertisement will not take place until they have heard whether they will be receiving CDBG funds for the extensions. He noted that this is also being coordinated with the Village of Lodi for emergency services. Ms. Ray moved to approve the resolution. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

Mr. Hambley noted that the Chatham Trustee requested extension of lines in the first year he was a Commissioner and he is glad to see that it is proceeding.

Joyce Farnsworth, County Home Administrator, reported that they have 51 residents. They will be holding an old-time ball game, weather permitting, on Saturday afternoon. They have some admissions on hold and they are in need of an LPN on staff. The winds on Saturday

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brought down the big tree by the road. The tree fell into electrical lines and she will be stopping by the Maintenance to check about having it removed from the lines.

Mr. Hambley noted that for the old-time ball game they wear old fashioned uniforms and he understands they have to use handmade bats.

John noted that if the tree is on the electric lines Ohio Edison needs to be contacted for their removal.

Ross Santamaria, Diversion & Forensic Services Director, reported that they have 150-175 clients in Diversion and the fees are running about at projections. He noted that last year there were problems involving malpractice insurance because the company he'd been with for years was no longer offering that coverage, and after searching for insurance a company from New Jersey was selected. That company has now stated that they will no longer be offering insurance outside of their own state. He is working with Chris Jakab on getting a new policy.

Mr. Hambley presented 38 commendation resolutions for the members of the Leadership Medina County Class of 2003. Ms. Ray moved to approve the resolutions. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

Mr. Hambley noted that these will be presented at the graduation ceremony on Wednesday.

Mr. Hambley presented a resolution amending Resolution #02-335 establishing deposit and fee regulations for costs incurred in annexation proceedings. Ms. Ray moved to approve the amendment. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

Mr. Hambley presented a resolution establishing a Medina County Weapons of Mass Destruction/Terrorism Advisory Team and read the names of the individuals being appointed. Ms. Ray moved to approve the establishment of this team. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

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

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

Mr. Hambley noted that a motion is needed for an Executive Session to discuss pending litigation. The session will start when Bill Thorne, Assistant Prosecutor, arrives. He also noted that there is a 10:00 public hearing relative to creation of a public defenders office.

Ms. Ray moved to recess into Executive Session to discuss pending litigation. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

The meeting was reconvened at 10:00 a.m. for the public hearing on a proposal to create a public defenders office. An attendance sheet is attached at the end of the minutes.

Mr. Hambley noted that the Commissioners have been examining the establishment of a public defenders office for approximately 9 months and Chris Jakab has prepared a proposal as well as other documentation.

Chris presented handouts and introduced John Alge from the State Public Defender's Commission. Chris reviewed the following handouts:

1. The first sheet showed the expenditure history for Medina County assigned counsel system over the last 10 years, which indicates various expenses have increased 104%. After state reimbursements, which decreased substantially in the last year due to state budget cuts, the expenses are up 114%. The reimbursement decrease was \$127,000 from 2001 to 2002, or a 30% reduction. He noted that the

- areas of cost increases over the last 10 years were for cases at the municipal court and juvenile court levels.
2. The second sheet was a comparative summary of statewide average cost per case for assigned counsel defense for various counties versus Medina County's assigned counsel cost per case. In 1992 the average case cost in Medina County was 9% less than the statewide average cost. Between the state fiscal years 1999 to 2002, Medina County has been 12% to 21% higher than the statewide average, with the greatest variances occurring in defense costs in misdemeanor offenses over the last 4 state fiscal years. The average cost for misdemeanor cases has been 66% to 79% higher than the statewide average costs.
  3. The third sheet showed a statewide county public defenders system average cost per case for all offense types for counties that use at least in part a public defenders office. In SFY02 the statewide average was \$198 for various public defender offices and Medina County's assigned counsel average case cost for the same period was \$418, which is 111% above the state average.
  4. Sheet 4 indicates assigned counsel caseloads and billing hours for Medina County. He noted that we're discussing misdemeanor cases and the most recent SFY indicated a caseload of a little under 1200 cases.
  5. The 5<sup>th</sup> and 6<sup>th</sup> sheets were provided by the Ohio Public Defenders Commission that show comparable costs with Portage and Wood Counties, which are similar in size to Medina County. The 5<sup>th</sup> sheet shows the total system costs for Portage and Wood, which use a combination of public defenders and assigned counsels. The cost per case for Medina County using assigned counsel was \$417 with the costs in Portage being \$307 and in Wood being \$218. The 6<sup>th</sup> page broke out the public defender cost per case in Portage and Wood which drops their numbers to \$258 and \$192 respectively.
  6. Sheets 7 & 8 show estimated budgetary statements for a proposed local public defenders office and contrasts the estimated cost of an operation of a local office with an estimated cost of assigned counsel. These are at the municipal court level. The only difference between the 2 budgetary statements is the estimated percentage of assigned counsel expenses needed for potential conflicts of interest or multi-party disputes. The first statement uses a 5% assigned counsel and the 2<sup>nd</sup> uses 10%. The potential annual savings based on the estimates would be \$93,000 using 5% assigned counsel or \$78,000 using the 10%.

Mr. Hambley asked Mr. Alge if he had anything to present.

Mr. Alge stated that he was present to answer any questions that may arise. He noted that he is the Business Administrator in the Office of the Ohio Public Defender.

The hearing was opened for comments or questions.

Eric Hall stated that in reviewing the estimated annual cost for a public defenders office there is no expense for an investigator that would go out and talk with witnesses. There are also no expert fees for psychologists, interpreters or for any type of matter that would be outside the scope of an attorneys knowledge and he didn't see any allocation for an outside attorney if one would be needed.

Chris noted that there is an allocation set up assuming there are some conflicts necessitating assigned counsel. On the first proposal the amount is \$22,500 and on the second it is \$45,000. Regarding the investigator position, it was determined not to be a required position for misdemeanor cases only after discussions with the State. If the office ever expanded to other areas, juvenile and common pleas, an investigator would probably be required.

Mr. Hall explained that the expert fees would be, for example in DUI's, for someone that would be able to challenge the blood alcohol test. Defendants have a right to do this, but they don't have the time and they're indigent, but they should have the same right as somebody that is able to obtain counsel.

Chris stated that part of that would be in miscellaneous costs. This may be considered insufficient, but there would be some flexibility in the budget. He also noted that the salary estimates were based on the current average Assistant Prosecutor's salary. There is also the

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assumption that these attorneys would start out not at the average salary but more at the beginning salary structure. The same can be said about the clerical positions. Within the overall budget there's flexibility for some of the miscellaneous expenses.

Ed Bowers stated that he doesn't feel these things being talked about are budget items. He feels that comes from the court on a case by case basis. A defense attorney will petition a court for an expert or interpreter and the court will assign that cost. He's not sure that's a budgetary item under the Commissioners.

Mr. Hambley asked Mr. Bowers if he's saying that under the current system they petition the judge for those types of things and the public defenders would do the same thing.

Mr. Bowers agreed, adding that it is a case by case basis.

Mr. Alge stated that's generally how it's done in an appointed counsel system. Some counties have agreed to set up a budget line item within the public defenders office for that. It is the county's choice as they are going to pay for it one way or another. It depends on whose budget it comes out of.

Judge Dale Chase stated that it's not coming out of his budget. If a public defenders office is set up and experts need to be appointed then it's going to have to come out of their budget. That's the way it's paid now; it doesn't come out of the courts budget; it comes from the assigned counsel's budget.

Mr. Hambley stated that as he understands it the county is essentially going to pay for it either way. Currently the county pays for it and if there's a public defenders office the county will pay for it.

Judge Chase stated that there's no provision in the proposed budget for it. Right now when an attorney's fees are approved if there's an expert that's been approved it gets put in the attorney's fee application and approved as part of the process for payment.

Mr. Hambley stated that the current budget can be reviewed to see what proportion is being paid out in term of expert fees.

Chris agreed.

Ms. Ray noted that she had discussed the possible conflict rate for assigned counsel with Mr. Alge and originally came up with 5%. After talking the percentage was bumped up to 10% and she understands the percentage is between 5% and 8%.

Mr. Alge stated that is correct for the entire system. If you're looking just at municipal courts the percentage is a little lower because most of the conflicts are at the juvenile court level with multiple parties.

Dave Gedrock noted that there is a case before the U.S. Supreme Court now out of Louisiana where the Court is investigating funding for public defender offices. They are looking at whether the offices are properly funded and if they should be funded at the same level as prosecutor offices. There are 22 case states including Ohio watching this. If the U.S. Supreme Court decides public defender offices have to be funded at the same level as prosecutor offices, he questioned if there would be a savings of \$93,000 considering our Prosecutor's Office has 5 prosecutors in the criminal division and investigators.

Chris stated that we're not referring to the criminal division and the proposal is only relative to misdemeanors. He feels using the salaries and fringe benefit levels consistent with the Prosecutor's Office accounts for some of that concern. Through further discussion, Chris stated that he doesn't believe the case is saying that the same staff configurations have to be used, noting that the Prosecutor's Office handles civil, criminal, juvenile and 4-D. He believes the proposal is consistent with the funding level of the Prosecutor's Office.

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Mr. Gedrock stated that there's also a prosecutor's office out of Medina Municipal and Wadsworth Municipal and noted those figures should be factored in for funding purposes for a public defenders office.

Chris stated that those are hypothetical questions regarding the U.S. Supreme Court case and he feels the figures are consistent with the funding levels of the Prosecutor's Office.

Joe Salzgeber, President of the Bar Association, stated that one of his main concerns is the trend over the last 20 years to contract out government services such as trash pickup, snow removal, etc. This seems to be big government solution to problems. He has looked at the County Prosecutor's Office and it's doubled in size since 1989 due to the county's growth, and he thinks this is basically growth driven. When you look at staffing levels they've gone from a staff of 12-13 in 1989 to a staff size of 26, which is a comparable period of time to what being discussed here. He doesn't see how creating a new government bureaucracy that's only going to grow in the future is going to save money in the long run or in the short run. He is concerned that we're only looking to save \$93,000 a year based on projections and there are small government solutions such as better screening for indigence. Currently there is no requirement for tax returns to be shown to see if defendants are working or to see what type of assets they have. Everyone hears stories about how people fill out the forms and swear to them and then it turns out they have income and assets that could be collected. Another solution would be to collect appointed attorney fees as a condition of probation. A lot of people don't have the money up front to pay for retaining counsel so they seek appointed counsel. If the appointed attorney fees were collected as a condition of probation the discrepancy between our county and others would be cut to a level that we'd actually save the \$93,000 or \$78,000 without creating a new government entity that has to be funded for gratuity, staffing, location and support staff. He is concerned that other options haven't been looked into that might be better and save as much money if not more.

Mr. Hambley stated that in terms of screen for indigence, he couldn't agree more, but that's not under the Commissioners jurisdiction or ability. During budget discussion with the common pleas judges that has been discussed and essentially that is under their discretion and jurisdiction. He would be supportive of anything they could do to screen it. These items have been discussed for some time. The idea of a condition of probation is again not under the Commissioners jurisdiction in terms of recouping the funds. Relative to this being growth driven, he questioned how the difference in unit cost would be explained. We have a high cost per case in Medina County at \$417 per case versus \$307 in Portage and \$218 in Wood. There has to be some explanation for that and he's interested in getting response to that. Relative to a bureaucracy and the tendency to contract out services, our county has done quite a bit in terms of cost savings by doing that and that is why you start looking at the private sector. But that's not the only mechanism you choose in order to provide cost savings and better service. We've evaluated other county services and found some that actually can be done cheaper by the public sector for a lot of different reasons. You're always concerned when creating a new department because there are costs incurred, but you have to look fairly at what the cost is and whether you're providing a better service and better accountability to the public, and whether in the analysis it is something that can be reversed. He understands the ORC specifically enables the County Commissioners to terminate a public defenders commission at any time if at least 90 days prior to termination the Ohio Public Defenders Commission is notified in writing. We are looking at misdemeanors and a limited fashion of approaching this and there is the ability to say if its not working. To contend this is a bureaucracy that can't be controlled, modified or terminated is inaccurate.

Ms. Ray stated that her initial reaction to adding any type of governmental staff is negative, but asked what suggestions could be made about this. She sent this information to the President of the Bar Association 3 months ago asking for input, explanations of why it's so expensive doing it the way we are, and if there was anything they could give as an alternative. She was always amazed when she worked in Wadsworth Municipal Court of the quality of attorneys that are on their assigned counsel list. She does feel that a little something will be missed by going with a public defenders office, but by the same token in looking at the figures, she asked for suggestions.

Kevin Dunn stated that it sounds like the decision has been made and if that's the case he would just point out that in approximately 1991-1992 the county raised its indigence rate from

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\$30 to \$40 for out of court work and from \$40 to \$50 for in court work. He doesn't believe the comparison of this county with the Portage and Wood hits on that particular rate. Also we don't have a university within our jurisdiction. Portage has Kent State University and has a public defender going over on Monday mornings to plead out 15-20 kids for public intoxication. We don't have that type of offense or that type of characteristic in Medina County. There are certain cases in municipal court with mandatory jail time and subsequent convictions that can be a felony that need a little more heightened look and they usually go to trial and/or take more work than driving under suspension or a person's license case. There are some items that can be decriminalized and handled in a different fashion, but that's up to the courts. For example, in Cincinnati a person can go in for a driving under suspension and the court won't sentence the person to jail if they go through their diversion program and get their license back. The bottom line is that if you're comparing 4 hours at \$40/hour versus 4 hours at \$30/hour, there's going to be a significant savings. If those counties wish to privately fund at a lower rate than ours, that's a shame on their defense counsel because even our rates are roughly 1/3 or 1/4 of the going rate for privately obtained counsel on these kinds of offenses. From that respect he believes the County is getting a bargain. Currently the Medina Municipal Court prosecutor's office has 2 part time attorneys as well as a full time attorney and law director. The Village of Spencer and Chippewa Lake/Briarwood Beach have their own solicitors, and Wadsworth and Brunswick have their own separate prosecutors as well. Lodi contracts with Wadsworth for their particular cases to be handled by the same individual that acts as Wadsworth's Prosecutor. He doesn't believe it is possible to hire competent people for the funds that are being put up for a lead attorney and 2 others as well as their handling of the caseload. To cut the salaries even less, you get what you paid for. He asked where the figures came from.

Chris stated that the documents utilized the average Assistant Prosecutor's salary. The State also supplied the salary ranges for the public defenders in Portage, which is \$40,500 to \$43,600 and for Wood, which is \$34,000 to \$53,000.

Mr. Hambley stated that we did look at Wood and Portage as well as the statewide average. We have the cost figures for the public defender system for 34 other counties. It's not the decided difference of whether the presence of a university makes a difference on costs or what the assigned counsel would have cost. The question arises as to why we have such a deviation from the averages and such a high amount that we pay per case above the average, even the median. Relative to the decision already being made, it has not been made. There were memos back in September and letters and visits with Judge Chase and Judge McIlvaine. This has been an ongoing review. A lot of work has been done to prepare this and we had to look at the history. In 1991, the last time this was proposed there was a room full of attorneys that didn't like the idea and brought out options. Basically this has been prepared and the information has been provided and this hearing is an opportunity to provide the Board with some options.

Mr. Hall stated that he spends a lot of time representing people. He's wondering if 3 attorneys representing municipal defendants are going to have time to go out and talk to witnesses. For instance, if he can't get some one on the phone if he has an address he goes out to talk with them. Sometimes that occurs from 9-5; sometimes it's done on his own time if that's the only time the person is available. He doesn't see a public defender willing to find that time and spend his own time investigating a criminal matter. He feels that will take away on the type of representation the defendants in this county have a right to and expect. From his own experience he has represented indigent defendants that have had subsequent offenses and they've requested him because they felt the quality of the representation was good. He hasn't heard that same experience with public defenders offices where someone requested a public defender again. He feels quality representation will be sacrificed and the disparity in the figures is because the attorneys under the current system take time to properly represent defendants.

Ms. Ray stated that she has some of those same concerns over the caseloads and Mr. Alge said that about 400 cases per attorney is a guide, but typically public defenders represent in excess of 500 or 600 cases.

Mr. Alge stated that the 400 cases per year were put out years ago by a national group as a recommended caseload, but his office doesn't see very many offices or individuals that adhere to that. He agreed this is based on misdemeanors.

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Prudence Spink stated that she is concerned that we've always been a collegial community and as President of the Law Library Association they've always had an open communication with the Commissioners Office, but she doesn't feel there has been any open communication with the Bar Association regarding this, and she feels it is a disturbing trend in Medina County. She questioned whether much time and effort was spent with Judge Chase and Judge McIlvaine to find out what kind of service is being provided and if the judges are satisfied with that representation. If you go into places like Cleveland that have a public defenders office you see one attorney at arraignment time with a long line of defendants. They spend under 30 seconds with each defendant and enter a plea at that time to dispose of the case. It doesn't take long to figure out those people are getting little, if any, representation that makes sense. They don't know whether a person with a driving under suspension is really driving with a suspended license or if the BMV has made a mistake. In Medina and Wadsworth Municipal Courts you find excellent representation where the attorneys get discovery from the prosecutor, there's a pre-trial and they make sure the people's rights are represented. If there's a problem with representation the judge can follow up on it. She represents a lot of mentally retarded and mentally ill cases and if someone is accused of a crime she doesn't stand there for 10 seconds and talk to them in the aisle and plead them out. She will file a detailed motion asking for a psychiatric or mental retardation evaluation and often times the people aren't found competent to stand trial. To compare that to a case of catching a rabbit out of season where you could just dispose of the case is a total disservice to the people accused of offenses. She's concerned that Judge Chase hasn't had a lot of input into the decision as well as the attorneys. There has been no general collegial type meeting with the Bar Association. You have to look at what is really going on and the level of service being provided and not just do it on a case by case basis. The Public Defenders Office in Columbus has a lot of resources that she and her colleagues call on from time to time. The total cost per case is not the way to look at this. She questioned the overhead costs of an office and where the office will be located as well as the overhead costs of the Prosecutor's Office, noting that none of that is paid with the assigned counsel system. She questioned whether the figures were used for costs of the Wadsworth Prosecutor's Office, Briarwood Beach and/or Brunswick. She wants to be clear that 3 people will be given 2000 cases to handle.

Chris and Mr. Hambley responded that the total is 1189 and that is minus 10% for the assigned counsel. It is anticipated that 5-10% of the cases would have to be given to assigned counsel due to conflict of interest or another problem. This brings the caseload down to 1000.

Ms. Spink stated that is about 300 cases per person and questioned if that is for municipal only.

Mr. Alge stated that 300 cases is below the national standards and that is for municipal cases. He could not state the average time a year a public defender spends on driving under suspension cases.

Ms. Ray stated that work started on this project last year and when it was brought up after she was here she sent all of the information, about 3 months ago, to Mr. Salzberger and Tom Morris of the Bar Association requesting they review it and respond if they wanted to have any input. She and Chris spent Wednesday morning with Judge McIlvaine so he could see the process from arraignment through sentencing. We have been working to get input and that's why it's important to have this public hearing.

Ms. Spink asked for a response about the overhead.

Chris stated that included in the budget is a category called Indirect Costs. As a department of the general fund we don't charge rent and utilities. These are not charged to the Prosecutor's Office, Treasurer, Auditor, or Commissioners. A cost allocation plan is prepared annually that identifies space and utilities costs and those costs are all accounted for in the plan. Relative to location, potentially the public defenders office would be located in the Professional Building on West Washington. Potentially that would be the central location of the office

Mr. Hambley added that the decision hasn't been made but that is tentative where we have been looking.

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Judge Chase feels the averages and the average cost per case in comparison to other courts are misleading. The averages don't really reflect the mix of cases that go through the different courts. Different courts have different mixes of misdemeanors; some will have a lot of underage consumption or public intoxication, which are almost processed in a simple fashion with no cost of appointed or assigned counsel. Portage and Wood Counties have universities within them; Kent State University and Bowling Green. They're likely to have a high volume of cases that just get processed through the system without a lot of expenses. In comparing statewide averages you have to look at how courts in this jurisdiction handle certain types of cases and how they are handled in other places. He's been doing this for 16 years and cases are handled differently in Medina and Wadsworth than in other courts in the state. In most courts under the charge of possession of a small amount of marijuana, a minor misdemeanor, they don't appoint counsel. The City of Medina has a drug offense statute that makes possession within the city a first degree misdemeanor with a mandatory 3 days in jail, up to 6 months in total, and a \$3,000 fine. He appoints counsel on these cases because of the potential jail sentence on these ordinance cases. He and Judge McIlvaine do not allow for reductions of DUI cases to wreckless operation or anything of that nature. That means attorneys have to do more work such as preparing motions to suppress. In 2001, Portage County reduced 24.4% of DUI's to wreckless operation and Wood County reduced 8.85. Statewide 13% of DUI's were reduced to a lesser offense. They are going to have different expenses than in Medina County because that doesn't happen in either municipal court here. Secondly, as a municipal court judge, this is being set up for misdemeanor offenders only and he is concerned that he has no input on the public defenders commission. Commissioners and the presiding judge of common pleas appoint the Commission that will run a program in municipal courts and the municipal court judges don't have any influence on who the public defender will be or who will be on the Commission. From the position as an elected official he has real problems with that. He feels there are a lot of benefits to the community having an appointed counsel system. One of those is the training and addition of new attorneys. We have a larger and increase Bar and we have attorneys that are court appointed that learn how the courts work. They learn this at the public expense admittedly, but they then provide those services to other members of the community not at public expense. There is a benefit from active, knowledgeable criminal law that this type of appointment system creates. In 2002 he appointed 73 different lawyers to handle cases and assume Judge McIlvaine appointed another 20-30. So there were appointments of 100 different attorneys to handle cases and the experience they get has a benefit to the rest of the community. Relative to the budget estimates, primarily the one with 10% allocation for conflicts, he feels the equipment estimate is incredibly low. For example, Portage spent \$34,000 last year on equipment. He's also concerned about not having an investigator. Currently the county is paying for investigators because the attorneys are doing it. In a public defenders office that's unlikely to happen, and in order to provide equal opportunity and representation to both sides there needs to be an investigator. He also questioned if West Law or Lexus contracts are included in the budget under supplies or miscellaneous expenses.

Chris stated that is in the budget.

Judge Chase stated that they will need those contracts. He doesn't feel there are enough attorneys planned for. In 2001 there were 9,412 hours paid for assigned counsel. Assuming a full time work week of 40 hours, the full time work year is 2,080 hours. Under the statistics given there is a need for 4 ½ attorneys to cover 9,400 hours. In his opinion, the Commissioners are trying to do this "on the cheap". That means people won't get adequate representation. The Ohio Administrative Code regulations on public defender offices provide the following criteria shall be governing: "supportive services shall include secretarial, investigative, and other services necessary for an adequate defense". Shall is a mandatory word legally; it doesn't mean maybe. The idea of not using an investigator and not budgeting for it is incorrect. He is concerned that the office location will be in the City of Medina. He often looks at where people live when appointing counsel for them in terms of travel and telephone expenses. Generally travel time is not paid for and if the office is in Medina there will be a lot of travel expenses or travel time for the people. He presented a "more realistic budget" using the 10% assigned conflict figure and the net county cost, which is the same. He assumed the same salary as the proposal, but budgeted for 4 ½ attorneys, 3 clerical and an investigator. He based the salary of the investigator on Dennis Wooley's salary in the Prosecutor's Office, which is \$45,000. Using his proposed budget for increased staff, keeping other expenses at the original proposed level, and subtracting the state reimbursement, he feels \$92,000 extra will be needed to adequately fund a public defenders office. If it is done "on the cheap" the municipal judges will have to deal

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with that decision. He runs his court on a 10 minute rule where the attorneys know they have 10 minutes from the time set to show up or the case goes on without them. He runs his court and the magistrate's court room simultaneously. They will need someone in both court rooms 3 times a week plus someone at the Wadsworth court. He presented a "more or less realistic budget" using the same information minus the half attorney and one clerical person which shows the county is still losing \$47,900. The concern about costs is legitimate, but he feels there has to be concern about the quality in terms of representation. The average cost is misleading based on the caseload mix, particularly handling DUI cases. In reviewing the statistics, in 1992 the average for misdemeanor cases was 7.3 hours and in 2001 the average was 7.96 hours. Looking at those averages, they are taking the same amount of time per case from 1992 to now. The reimbursement rate was changed about that time and the county is getting a good quality representation. The Commissioners need to be a more realistic perception of the budgetary needs in terms of what is actually needed. If the only goal is to save money a public defenders office can be created with one person in it. If the people aren't being adequately represented the problem becomes what he will do about inadequate representation since he has a constitutional duty to protect the rights of all of the parties in front of him. He believes it is a mistake on policy grounds in terms of the benefit of the community of a well trained Bar in this area of the law. It is also a mistake in terms of the benefit from having local people who live in the community and do other types of work doing this type of work. The budgetary aspect is governed by the fact Commissioners want to save money and not by the fact that adequate representation needs to be provided. If there is an adequate budget in establishing a public defenders commission that is fine with him. There is a trade-off in doing that in terms of the quality of the Bar, local people doing the work and their other relationships, and training new lawyers. The people that will bear the weight of this is Judge McIlvaine and himself. He encouraged a review of the budget figures because the one provided doesn't realistically reflect what is really needed.

Mr. Hambley asked if Judge Chase is proposing a full time investigator.

Judge Chase stated that he is. In a lot of cases now the attorneys are interviewing witnesses and taking care of things in the evenings. Because DUI cases are not reduced there is a need to adequately research those cases within the first 35 days because if the rule is that a motion to suppress must be made within that time. They need to have someone that can examine all the records of the state patrol or local agency. Under the rule of discovery the prosecutor doesn't have to give copies of all of this and they have to give permission for the defense attorney to inspect and copy material. If 2 people are needed in his court 3 times a week and somebody is in Wadsworth plus somebody is managing these people, there won't be enough time for that to be done.

Mr. Hambley stated that in terms of adequate staff, he understands that the way the Commission is set up the Commission determines the level of staffing required. At this point the proposal is a budgetary estimate. He disagrees that the Commissioners are doing this "on the cheap". The Commissioners are not trying to reduce the representation of the indigent. We are looking at the expense item and that is what is driving a lot of the discussion. Mr. Salzberger brought up some items that could be looked at in terms of initiatives. A lot of time has been spent shooting down the proposal but he would like to hear suggestions of what could be done to deal with the issue the Commissioners are facing.

Judge Chase stated that if someone fills out an indigence affidavit and counsel is appointed the courts ability to verify the affidavit is almost nil. The Commissioners have authority through the Auditor's Office or whomever to audit the payments and determine whether or not at the time of the appointment or during the process the defendant was able to pay for counsel or not and whether the defendant met the criteria. If someone is found to not meet the criteria, you may have an issue with regard to a criminal charge of falsification. The statute allows the Commissioners to recoup that amount from those individuals. If someone is in jail and they say they don't have a job and counsel is appointed, after they are out of jail they may find employment and there is a system to recoup that amount from them.

Ms. Ray asked if Judge Chase makes payment of indigent counsel fees a condition of probation, noting that Judge McIlvaine does.

Judge Chase stated that he doesn't. Most of the people are at the marginal levels of employment. They are being charged a fine and in most cases a probation services fee if they are

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put on probation, which is \$300, and in some cases there is restitution to pay. The County is setting up a pay for jail program to charge people going to jail. He feels there's a limit on how much can be put on the back of an individual charges with a misdemeanor offense and expect them to adequately rehabilitate. The additional financial obligations on these people makes it more difficult for them to meet their basic obligations.

Ms. Ray noted that Wadsworth is statutory and Medina is charger and asked if he has any influence on who is selected in the prosecutor's office.

Judge Chase stated he has none.

Ms. Ray noted that he wants some input if a public defenders office is established.

Judge Chase stated that he doesn't choose the prosecutor but he does chose the defense attorney from a rotating list, with some exceptions as to geography. He is not saying he wants authority but that by statute he has no input on the creation of a public defenders commission.

Ms. Ray stated that she would want his suggestions if the proposal goes further.

Mr. Hambley added that the Board asks for nominations from various jurisdictions in regards to appointments to other committees/advisory counsel they appoint to. He feels it would be appropriate to receive nominations from the judges regarding that.

Judge Chase stated that one of his concerns is that this is budget driven. It's the public defenders commission that is going to decide how many lawyers are needed, but if the Commissioners indicate how much they'll receive in the budget then the budget decision decides the other issue. If the Commissioners say they're going to give them a proposed budget like the one they have and they've appointed 3 of the members, then the commission is going to go along with the budgetary requirements. In reality the way government works is that the decision has already been made when the budget is set up. Under the proposed budget there is not going to be adequate representation and the public defenders commission will be in the middle of a situation. They can come back to Commissioners and request X amount of dollars and the next thing is you find out you're not saving money.

Richard Barbera stated the Commissioners Office made a policy decision several years ago when the jail was expanded. For awhile space was being rented out to other areas in the newer jail. What happens is that in Medina County people are more likely to do jail time for an offense than in Portage and other counties. If a defendant is told the jail is overcrowded and they won't be facing jail time they are more willing to enter a plea to have the offense put behind them. The municipal court judges in Medina County have the ability to sentence a defendant to jail the same day. He had one client in Portage County with multiple DUI offenses that was given an appointment 3 months down the line to show up at the jail because they didn't have the space. The defendant decided not to show up and he's seen him in Judge Chases court several times where the Portage County warrant is still outstanding and Portage doesn't come and get him. Medina County cases are being compared to those in other counties that don't have judges with the ability to sentence people to jail. Another difference is that for the most part he doesn't know the type of sentence that will be given and that also affects a person's willingness to plead a case. The quicker a person pleads the less costs are per unit. The less likely a person is to plead the more expensive it's going to be. Comparisons with other counties have to include looking at the availability of jail space and the type of sentence being given. He feels that if a public defenders office is brought in a lot of people aren't going to be as willing to plead to guaranteed jail time, which occurs with DUI's and under the Medina City drug offense ordinance. Relative to verification, everyone that is turned down for a public defender will go to a private attorney at the going rate. A lot of attorneys would be happy to have that person and retain them at the regular going rate. When an attorney accepts a court appointment it is substantially below the going rate in the county. He's not here to prevent this because he's worried about how it will affect his pocketbook. He feels there is a better way of doing this where both of us win. There will be less court appointed fees and more of those people that get court appointed attorneys and then pull out their \$2500 bail money won't be costing the county. If anything they'll be bringing money into the county.

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Ms. Spink noted that it was said the main office would be in Medina and asked if there will be a satellite office in Brunswick and Wadsworth. In most DUI cases or driving under suspension cases the people are supposed to be driving so if there is only one office in Medina she questioned how those in Wadsworth or Brunswick will get to Medina to see their attorney.

Chris stated that there is office space available in a county owned building in Brunswick for a satellite office. He and Ms. Ray have talked about the possibility of space in Wadsworth.

Ms. Ray added that there's a witness room in the hallway of the courtroom that Judge McIlvaine had indicated could be used by a public defender to meet with clients.

Through further questioning, Chris stated that the implication is not that the satellite offices would be staffed full time, and that is yet to be determined.

Mr. Bowers stated that the budget is artificially low and he doesn't think the projections are good. There are 5 personnel and \$5,000 for equipment indicated and you have to assume everybody will have computers to do their work, not including rent, furniture, etc.

Chris noted that is in the indirect costs.

Mr. Bowers stated that there is a need for a full time investigator. He served as an Assistant Wayne County Prosecutor, and a prosecutor's office has a lot of investigators. They can contact the officer on the case and many times get witness statements from that officer. It was indicated that Mr. Wooley gets \$45,000 in the County Prosecutor's Office. Actually the prosecutor has the ability to use all of the officers to talk with people and get statements. As assigned counsel the attorney goes out and talks to people and is spending time away from the office. He's not sure the proposal has taken that into account.

Judge Chase stated that one thing not in the caseload totals is probation violations. In some cases an attorney is appointed and the case is over, and then 6 months later the defendant violates their probation. It's still the same case, but there's another appointment and money paid out. In 2002 Medina Municipal Court had 153 probation violations, and assuming Wadsworth has 50-60, you're looking at a couple hundred probation violations that would get appointed counsel in which the public defender would have to take. At least half of those, 100, would have counsel appointed or a public defender and there is a lot at state because if they are found in violation they're going to jail in almost every case. Portage and Wood Counties are good example as they have 2 municipal courts. However, there is Wayne County that has 1 municipal court that meets in 2 locations, Wooster & Orrville. They have a public defenders office with 1 public defender, 3 assistants, part time administrator, 2 clerical staff, 1 full time investigator and a part time legal intern. It cost them \$386,595 to run that office last year, which is more than what is being proposed for Medina County. That's why he's concerned about the budget proposal. If the decision is made on what he believes is an inadequate budget he feels the Commissioners will be making the wrong decision. If you look at what he feels is a realistic budget for the number of people needed, he feels the Commissioners will find that the existing system, although higher than state averages, provides good representation from quality representatives for a cost that's comparable or less than what is needed for a public defenders office.

Mr. Salzberger added that Medina County has about 50,000 more residents than Wayne County plus we have major highways, 71 and 76/224, that bring people into the county. Even at Wayne County's staffing levels we'd probably be low.

Through questioning, Mr. Alge stated that Wayne County handles felonies, juveniles and misdemeanors. For calendar year 2002 they had 1,752 closed cases and 305 probation violations.

Mr. Dunn stated that 10 years ago when this issue was visited cost recoupment and individuals being indigent or not were discussed. At that time it was discussed whether the county could appoint someone to basically do asset checks on the individuals and at that time the numbers couldn't be justified. As an example, he had an individual before Judge Chase with a second DUI offense that has an \$800 fine plus court costs of approximately \$300, plus he's going to have to pay \$350 to the BMV to get his license back eventually. This individuals total

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outlay will be about \$1800 and he makes \$11,000 a year. With a lot of people the inquiry is going to waste more time and money to figure out whether they're capable of paying and then trying to get the money out of them. Some of the courts put that on the attorneys to try to determine whether the person is indigent. If the inquiry is made at the time of appointment, then the person can be turned back into the court. Frankly, at the felony and other levels he's had those people sent back to him saying it would be handled at the end of the case. He feels the representation of the individuals has taken a back seat versus a number crunching. He would open the court up for the Commissioners to review the files and talk with the attorneys to see how cases were handled. Commissioners are missing a lot of things that have been brought up by Judge Chase and others. If Commissioners move forward with this it will not hurt him financially. But there are some people that these are a good portion of their practice and they're providing more than competent representation. He works approximately 60 hours a week and he doesn't know any public defender that would be paid \$48,000 that would be working more than 40 hours.

Mr. Hambley stated that the qualitative difference between the 2 systems is a hard one, but he's trying to assess it. It's kind of hard to do a customer satisfaction survey with the group of individuals involved as they would relate their satisfaction with the system with their outcome. The qualitative issue end up being a matter of antidotal and that has been offered here and he has heard from some people that have dealt with public defenders offices and said they were fine. For him this is one of the areas that he is having the greatest difficulty evaluating.

Ms. Spink stated that in terms of doing things to cut costs, Cleveland has a driving under suspension diversion type program where the BMV will set up a program. She has talked with Judge Chase about this program. There are approximately 2000 cases a year and the BMV would send someone down 1-2 times a month to help people navigate their system to get their licenses back. In Cleveland if a person gets their license back the driving under suspension is dismissed and the person saves on reinstatement fees, etc. without going to Brookpark or Columbus. That would be a cheap way to help these citizens, it would save money on defense, and it would take those cases off the judges' dockets. She's not sure exactly how this is set up.

Judge Chase stated that he likes that idea.

Ms. Ray stated that Judge McIlvaine does a lot of that through the arraignment process.

Judge Chase stated that what happens now with a first degree misdemeanor, which involves jail time, is that if a person request appointed counsel he has to appoint it. If a diversion program were set up for those type of situations those people wouldn't have to see an attorney. They could plea and go through the program, which would take probably 150-200 cases a year off the docket that he appoints counsel for. It would make a lot of sense to set up a diversion program and the BMV program. There would be a need for criteria for the diversion program, such as someone with 7 other driving under suspensions wouldn't go through diversion. That criterion can be agreed upon by the courts at the misdemeanor level. These programs could divert a couple of hundred cases out of the system. He's not sure enough money could be saved to justify using someone in the Auditor's Office to do a post-review of the indigent costs and to recoup the money. One way to check it is to do a random sample of the payment for a particular month and see whether the results are applied to the whole year if it would justify having post-reviews done.

Mr. Alge stated that over the past several years a lot of analysis and consulting with counties have been done over the issue of staying with appointed counsel systems, public defender systems or doing something different. Previously their office had one person that would do a full blown analysis on this, however, due to budget cuts in their office they no longer have that person. What they have found is that if you take the state as a whole or a sub-unit of the state and compare the appointed counsel system with a public defender system the public defender system is always less costly on paper. They've also found that each county has its own uniqueness and you have to look at what's going on in each county to see what makes sense. Some counties simply made some changes and maximized their systems. Other counties save a lot more money if they change their system. Recommendations have been made both ways and they are not pre-disposed to one way or another. However, on a general rule they have found that a public defender system works more cost efficiently over time. Relative to an investigator, he met with Chris before and had a former public defender investigator with him. They have

found that in most places the investigators spend most of their time on serious felonies and on juvenile cases. It was their advice to Chris that if the public defenders only doing misdemeanors most counties don't employ a full time investigator. Investigations can be done by contracting it out or by hiring a part time investigator without going to the expense of adding to the staff with benefits, etc. Relative to the staff needed, there are offices that use part time public defenders where you have a situation of 2 courts meeting at the same time and one person can't be in both places. Under Ohio law part time public defenders at the county level don't have to be excluded from private practice. They spend some of their time as an employee of the public defenders office and the other time as a private attorney. Relative to the caseload and number of staff, he appreciates the effort Judge Chase put into his proposals and they have given some ideas of how to analyze things. However, a budget of 5 ½ lawyers for 1400 misdemeanor cases means there's a lot of work on every case because that puts you below any average per case workload for an attorney per year for misdemeanors. He feels that is unusually high compared to most place he's seen and that is closer to a budget for an entire public defender system here. Regarding collection of money from clients, an Administrative Code Rule review this subject. For certain clients that are above the poverty line by 125% but below 187 ½% for a county to be reimbursed they're supposed to have some type of program that the person participates in. Those are not terribly profitable. A lot of people in that range can't pay or won't pay and it costs more to screen them out and try to chase them down for the money. That has been studied nationally and the same conclusion has been made. In Washington County a particular judge holds hearing to determine indigence and there is a full investigation. For those that qualify there is a fee of \$75 to qualify for free counsel. In the last 5 years they've collected around \$12,000 and spent between \$50,000 and \$60,000 to collect it. Another thing is that if they are screened out and they seek a private attorney many end up back at the court saying they can't pay for an attorney. As a general rule the people coming in requesting a public defender end up qualifying. Medina County isn't doing anything unusual in examining this and the trend really is to look at changing in ways to save money. There's an issue of quality and that's a subjective thing. In the last 10-12 years a lot of counties have looked at their systems and changed them. Union and Van Wert Counties set up a public defenders office; Lorain, Licking and Marion Counties are looking at their systems. It seems count-intuitive to say the solution to cost problems is to create another bureaucracy called a public defender system, but in fact for some reason because of the nature of the work it is often the solution to saving money in the county in the long term.

Judge Chase asked Mr. Alge if it is his experience that the lead public defender is in court a significant amount of time or if they are administering the office.

Mr. Alge stated that the only time they don't see the lead public defender in the courtroom is in the large offices like Cuyahoga/Cleveland where you have a staff of 50 lawyers. In the smaller median sized counties the lead public defender carries almost a full caseload and is in the courtroom.

Judge Chase stated that if you have a public defenders office that handles felonies, juveniles and misdemeanors their investigators are primarily going to work on the felonies and juvenile cases because that's a public policy decision. That's why their not working on misdemeanor cases. But if you have a public defenders office only to handle misdemeanor cases in municipal courts he believes there is a need for an investigator. Most likely you're already paying for an investigator because the attorneys are doing the work. An investigator is needed to do that work so the attorneys have all the information needed to represent their client through a public defenders office. He noted that Mr. Wooley also has a county paid car to use and that's another thing to consider in the budget. If this decision is going to be made, make that decision based on reasonably accurate and fair projections of the needs. Don't decide dollar amounts and then decide the needs. If the lead public defender is going to be in court the half attorney can be eliminated from his one proposal. If you have 3 people every day to cover the 2 courts you need someone to do the interviewing and investigating during the day or evenings. He does not feel the proposal will adequately fund an office.

Joan Heller, Auditor's Office, asked how the percentage that a county is reimbursed is determined, who determines the amount, and about the calculation.

Mr. Alge stated that their office has an appropriation from the state legislature that is intended to cover a portion of the costs of indigent defense in Ohio. They make a project of what the entire cost is going to be and then month by month make a simple calculations to determine

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the reimbursements. It changes with budget cuts. In 15 years there was one supplemental appropriation that increased their funding.

There were no further questions or comments.

Ms. Ray moved to adjourn the public hearing at 11:49 p.m. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

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

Ms. Ray asked if there is a policy to purchase office supplies from one vendor versus another, noting that Office Depot has been inquiring about selling supplies to the county offices.

John Stricker stated that there is.

There was a brief discussion noting that Office Depot was the main supplier in the past and after closing their local store it was determined that Staples would be the main supplier. The bulk of ordering goes to Staples, but departments do have the capability to purchase through any distributor that has a better price.

Ms. Ray noted that talks are beginning with Wayne and Holmes Counties regarding Workforce Development. It appears we will need to partner due to state population guidelines. She has talked with Commissioners from each county and a meeting has been scheduled for Friday, June 27 in Wayne County. She would like Chris Jakab to attend this meeting. Wayne and Holmes are already partnering with this. A lot of discussion will be needed relative to the makeup of a Policy Board, etc. The 2 counties can't make the population guidelines.

Mr. Hambley noted that in the past we were combined with Summit County and he believes going to the southern counties would make a lot more sense.

Ms. Ray noted that there are some overlapping programs, noting that the Homebuilders Association is working on a carpentry program that includes Wayne County.

Mr. Hambley noted that the tree that fell at the County Home was on the telephone lines, not the electric lines. Verizon is working on removing it.

Mr. Hambley asked, as follow up from the public hearing, if Ms. Ray felt the Bar Association would be willing to come up with counter proposal. Everything that was heard was against this, but they talked about a diversion program for driving under suspension charges. He agrees with the State Public Defenders Office a post-audit for indigence not being cost effective.

Ms. Ray stated that she certainly doesn't think Wadsworth is doing things perfectly, but they do have some investigation during the probation of those convicted. It sounds like Judge Chase doesn't believe in adding costs as part of a condition of probation in light of the other fees he assesses. She feels the public hearing went well and that there were good discussions. She would like to get some additional information such as talking with some that attended and maybe didn't want to speak publicly.

Mr. Hambley noted that a couple said the judge "stole their thunder" in the comments he made. He asked if there is any further information needed from Chris or the Public Defenders Office.

Chris stated that he asked them to see if they could break out the costs for investigative services in Medina County last year. The State felt they could contract out that service.

Ms. Ray stated that on the more complex cases that might be necessary, but she's not sure that typically goes on with municipal cases.

Mr. Hambley added that typically they are DUI's and driving under suspension.

Ms. Ray stated that it also includes domestic. If convicted of this at the municipal level and then get charged again it would be a felony. A provision under the domestic violence statute

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now states that if someone is convicted of the offense they aren't allowed to own a gun, which is a point of contingency in rural areas.

It was noted that a point being made was that the ability to sentence someone immediately to jail would change the judicial temperament about bargaining.

Chris noted that the State feels his budget proposal is quite adequate based on their experiences. He knows those attending didn't like the comparisons to Wood and Portage Counties but they have 4-5 attorneys doing 50%-70% more cases. Per attorney their caseload is substantially greater and they're doing felonies, juveniles and misdemeanors. In comparison to counties doing 75% or more misdemeanor cases, their costs are under \$100 per case.

Ms. Ray stated that she'd like to verify that Judge McIlvaine will allow the public defender, if established, to utilize the witness room in his court. That would be a very effective feature from a matter of conveniences.

Bill Thorne, Assistant Prosecutor, noted that if a person has a private attorney in Medina that person drives in to see the attorney. Generally the attorney doesn't drive out to see the client.

Ms. Ray stated that there have been complaints over the years that some attorneys on the indigence list won't accept calls from clients in the jail because they have to call collect. She doesn't feel any system is absolutely perfect. Although she would like to have Judge Chase and Judge McIlvaine's input on selection of a Public Defenders Commission, she takes issue with Judge Chase's request that he has to have some influence on who's selected as he doesn't have any on who the City Prosecutor is.

Mr. Hambley stated that the cost of the defense counsel is contingent on how efficient the city prosecutor works. There are times some city prosecutor's aren't willing to work out things or consider a settlement until right before the hearing.

Ms. Ray stated that if a public defender is present on arraignment day, which in Wadsworth is Mondays and Wednesdays, they will be able to determine after talking with the defendant, in some instances, whether the person is going to plead out or if further investigation is needed. Some of those could be handled the same morning without having the defendant make multiple trips back to court. The way it works now is the defendant gets an attorney's name and number and they contact them on their own. Therefore, in some cases it would be more convenient for defendants to have a public defender.

Mr. Hambley noted that Judge Chase had brought up 9400 hours and he asked what that was based on.

Chris stated that is what the State was billed from Medina County for assigned counsel for misdemeanor cases. He had asked the State about that number a couple of weeks ago, noting that there were 1200 cases and with a type work week that equates to more than 3 attorneys. The State's response was that we're being over-billed.

Ms. Ray noted that he also brought up the probation violations and said that was an additional number to be added into the caseload. At Wadsworth those are set as a separate appointment and it constituted a separate case so she believes the probation violations are already factored into that. You have to file separate indigence paperwork for that. Through questioning, she stated that in a majority of the cases the same attorney would be appointed.

Mr. Hambley asked if there was any other information needed in order to continue the discussion next week.

Chris stated that the State suggested he visit Wood County to see how their operation works as well as see how they handle things as a university town. He will be trying to set that up.

Mr. Hambley noted that someday we'll have a university in our county as well.

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Ken Hotz stated that they should start making pellets at the Central Processing Facility (CPF) this week. It was cut back from 500 tons to 125 tons and it's already bailed. The equipment is coming possibly tomorrow. There is a buyer for this in Rittman that will be able to turn it. This will be test burning and feel it should be easy to get their PTI for this.

Chris noted there's an impact on the Auditor's Office if this public defenders office is set up and asked Joan Heller if they have any thoughts or comments. There should be a substantial savings of time in their office.

Joan stated that she talked with Connie and if it's just the at the municipal level, they feel in terms of time they'll be okay with that as they'll still be doing common pleas cases. She also talked with Mike Kovack, Auditor, and he said if there's anything they can do to help to let him know. She asked who verifies the attorney bills.

Chris and Mr. Hambley responded that it is the judge. Mr. Hambley added that if there seems to be a gross abuse the judge will review them further.

Bill added that they review the hours on the cases.

Joan asked about verification of the indigence status and asked if that is done in Wadsworth?

Ms. Ray stated that some is done informally through the probation program because if they're working and can make payments back to cover the indigence counsel it is made a condition of their probation.

Mr. Hambley stated that he understands they have to file an affidavit in the court that they can't afford it and it's taken at that value.

Chris added that there is some oral discussion. The magistrate in Medina Municipal asks about the ability to get a home equity loan, etc. There is some follow up discussion. Judge McIlvaine will ask about their employment, earnings and living expenses. The process does take place but it is mostly taking the individual at their word.

Joan understands that the county can go back 2 years to collect the fees, but trying to find them is difficult. Someone at the hearing noted that the amount they spend is about \$60,000 versus how much they collect, which is about \$12,000.

Chris stated that back in 1991 when that was looked at that was the same type of disparity that was coming out.

Bill stated that it is the judge that makes the determination if someone is indigent. There will be times that the judge will be lied to.

Mr. Hambley asked if it was found that they could have paid it can be taken back to the judge.

Bill stated that is correct. One attorney stated he had done that.

Chris added that some public defenders offices are doing the screenings.

Ms. Ray asked if there is a public defenders office created, if there is a reimbursement situation between those at 125 to 185 of the poverty level.

Chris believes there has to be a policy on trying to collect and that it's the State's requirement. He believes the State was trying to tell Judge Chase that he's supposed to have a policy and they are supposed to be trying to collect the money. Wadsworth does and Common Pleas, through the Clerk of Courts Office, is collecting some but there is a policy in place.

There was no further business before the Board for discussion.

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Ms. Ray moved to adjourn the meeting at 1:57 p.m. Seconded by Mr. Hambley. There was no discussion. Roll Call showed both Commissioners voting AYE.

**RESOLUTIONS PASSED:**

- 03-0389            RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS
  
- 03-0390            RESOLUTION COMMENDING RANDALL AREHART ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0391            RESOLUTION COMMENDING CRAIG BAILEY ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0392            RESOLUTION COMMENDING CHRIS BAKER ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0393            RESOLUTION COMMENDING LOIS BERRY ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0394            RESOLUTION COMMENDING DAVID BOWEN ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0395            RESOLUTION COMMENDING STACEY BOYCIK ON GRADUATING FROM LEADERSHIP MEDIAN COUNTY, CLASS OF 2003
  
- 03-0396            RESOLUTION COMMENDING DONALD CHICATELLI ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0397            RESOLUTION COMMENDING DAVID CIVITTOLO ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0398            RESOLUTION COMMENDING D. MICHAEL DAVIDS ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0399            RESOLUTION COMMENDING KATHLEEN DAVIS ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0400            RESOLUTION COMMENDING JOSEPH DESTRO ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0401            RESOLUTION COMMENDING NIVINE Y. EL-REFAI ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003

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- 03-0402 RESOLUTION COMMENDING BERNICE GOERTZEN ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0403 RESOLUTION COMMENDING TRESA GOODWIN ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0404 RESOLUTION COMMENDING JOAN HELLER ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0405 RESOLUTION COMMENDING ALAN HLAD ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0406 RESOLUTION COMMENDING JENNIFER HOMER ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0407 RESOLUTION COMMENDING LEONARD HROVAT ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0408 RESOLUTION COMMENDING DAVID JILBERT ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0409 RESOLUTION COMMENDING VICKI KARABINUS ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0410 RESOLUTION COMMENDING KEITH LOWE ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0411 RESOLUTION COMMENDING KAREN MASSARO ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0412 RESOLUTION COMMENDING MARJORIE MUIRDEN ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0413 RESOLUTION COMMENDING CHRIS NESPECA ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0414 RESOLUTION COMMENDING JO PARK ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0415 RESOLUTION COMMENDING DEBRA RADECKY ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
- 03-0416 RESOLUTION COMMENDING VALERIE RAPP ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003

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- 03-0417 RESOLUTION COMMENDING CHRISTINE RUF ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0418 RESOLUTION COMMENDING LINDA SCHMIDT ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0419 RESOLUTION COMMENDING MARILYN SOTOTINCIC ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0420 RESOLUTION COMMENDING NANCY SPROWLS ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0421 RESOLUTION COMMENDING CAROL STARRICK ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0422 RESOLUTION COMMENDING PETER ULRICH ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0423 RESOLUTION COMMENDING MARY VACCARO ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0424 RESOLUTION COMMENDING DAVID WALLOVER ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0425 RESOLUTION COMMENDING THOMAS WHELAN ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0426 RESOLUTION COMMENDING KAREN WIDDER ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0427 RESOLUTION COMMENDING BARRY JONES ON GRADUATING FROM LEADERSHIP MEDINA COUNTY, CLASS OF 2003
  
- 03-0428 RESOLUTION ACCEPTING AND AWARDING THE BID FOR SEAL GRADE LIQUID ASPHALT FOR USE BY THE MEDIAN COUNTY HIGHWAY DEPARTMENT
  
- 03-0429 RESOLUTION ACCEPTING AND AWARDING THE BID FOR CENTERLINE STRIPING AND PAVEMENT MARKINGS ON VARIOUS COUNTY ROADWAYS FOR THE MEDINA COUNTY HIGHWAY DEPARTMENT
  
- 03-0430 RESOLUTION APPROVING ANNUAL ASSESSMENT ON IMPROVEMENTS CONSTRUCTED...22.4878 ACRES OF LAND...WADSWORTH TOWNSHIP KNOWN AS QUAIL LAKE FARMS SUBDIVISION PHASE 1 AND ESTABLISHING SAID IMPROVEMENTS AS A PUBLIC WATERCOURSE
  
- 03-0431 RESOLUTION APPROVING ANNUAL ASSESSMENT ON IMPROVEMENTS CONSTRUCTED...86.2473 ACRES OF LAND...GRANGER TOWNSHIP AND KNOWN AS WESTERN RESERVE HOMESTEAD SUBDIVISION PHASE 2 AND ESTABLISHING SAID IMPROVEMENTS AS A PUBLIC WATERCOURSE

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- 03-0432 RESOLUTION APPROVING ANNUAL ASSESSMENT ON IMPROVEMENTS CONSTRUCTED...91.0162 ACRES OF LAND...WADSWORTH TOWNSHIP KNOWN AS QUAIL LAKE FARMS SUBDIVISION PHASE 2 AND ESTABLISHING SAID IMPROVEMENTS AS A PUBLIC WATERCOURSE
  
- 03-0433 RESOLUTION APPROVING THE FINAL PLAT FOR THE WESTERN RESERVE HOMESTEAD SUBDIVISION PHASE II LOCATED IN LOT 30 OF GRANGER TOWNSHIP
  
- 03-0434 RESOLUTION APPROVING THE FINAL PLAT FOR QUAIL LAKE FARMS SUBDIVISION PHASE I LOCATED IN LOT 10 OF TRACT 1 IN WADSWORTH TOWNSHIP, MEDINA COUNTY, OHIO
  
- 03-0435 RESOLUTION APPROVING THE FINAL PLAT FOR QUAIL LAKE FARMS SUBDIVISION PHASE II LOCATED IN LOT 10 OF TRACT 1 IN WADSWORTH TOWNSHIP, MEDINA COUNTY, OHIO
  
- 03-0436 RESOLUTION DETERMINING THE NECESSITY TO CLOSE SLEEPY HOLLOW ROAD (C.H. 136) BETWEEN S. CARPENTER ROAD (T.H. 103) AND W. 130TH STREET (C.H. 17)
  
- 03-0437 RESOLUTION DETERMINING THE NECESSITY TO CLOSE STATE ROAD (C.H. 44) BETWEEN LEDGE ROAD (C.H. 135) AND BELLUS ROAD (C.H. 140)
  
- 03-0438 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS
  
- 03-0439 RESOLUTION AMENDING THE ANNUAL APPROPRIATION RESOLUTION
  
- 03-0440 RESOLUTION AUTHORIZING COUNTY AUDITOR TO TRANSFER FUNDS FROM THE CHILD SUPPORT ENFORCEMENT FUND TO THE COUNTY GENERAL FUND FOR DOMESTIC RELATIONS COURT SERVICES
  
- 03-0441 RESOLUTION DECLARING THE NECESSITY OF CONSTRUCTION WATERLINES IN CHATHAM & HARRISVILLE TOWNSHIPS..CHATHAM ROAD,S.R.83,KOHLI DR.,RIPLEY DR.,COON CLUB,KENNARD & VANDEMARK ROADS... APPROVING DETAILED PLANS & SPECIFICATIONS...COMMENCE BIDDING...#W-500/00-5.1.59
  
- 03-0442 RESOLUTION AMENDING RESOLUTION NO. 02-335 ESTABLISHING DEPOSIT AND FEE REGULATIONS FOR COSTS INCURRED IN ANNEXATION PROCEEDINGS
  
- 03-0443 RESOLUTION ESTABLISHING A MEDINA COUNTY WEAPONS OF MASS DESTRUCTION/TERRORISM ADVISORY TEAM
  
- 03-0444 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

**MEDINA COUNTY COMMISSIONERS:**

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Stephen D. Hambley

Respectfully submitted,

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Sharon A. Ray

Pamela J. Terrill, Clerk