

COMMISSIONERS MEETING – MONDAY, MARCH 24, 2003

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

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

At the beginning of the meeting the oral reading of the minutes of March 17 was dispensed with. Each Commissioner has read them personally. Mrs. Geissman moved to approve the minutes. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Gina Frimel, County Engineer's Office, presented and reviewed 5 resolutions to authorize the advertisement for bids for bituminous liquids for sealing county roads during 2003, accepting and awarding the bid for bituminous patch materials for use from April 1, 2003 through April 15, 2004 to 4 vendors depending on the work location, approving the final plat for Westfield Terrace located in Westfield Township, determining the necessity to close various county roads for bridge repairs, and authorizing the County Engineer to administer policies and procedures for issuance of driveway and ditch enclosure permits on Homer Township maintained highways. Mrs. Geissman moved to approve the 5 resolutions. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed the weekly permits list.

Holly Muren, Human Resource Assistant, presented and reviewed the personnel resolution. Mrs. Geissman moved to approve the personnel changes. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Chris Jakab, Finance Director, presented and reviewed 6 resolutions involving various fund transfers, approving agreements with the Adult Basic & Literacy Education Program, the Cornerstone Wellness Center, Hands Across Medina County Foundation and the Salvation Army for office space in the Medina and Brunswick Human Service buildings, revenue and expenditure adjustments, and the weekly bills in the amount of \$1,002,327.54. Mrs. Geissman moved to approve the 5 resolutions and payment of the bills. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

John Stricker, County Administrator, presented resolutions amending the Tables of Organization for the Maintenance Department and the Office for Older Adults. With the retirement of Dick Goodwin, Plumber in the Maintenance Department, the position of Plumber has been deleted and a Maintenance Worker 1 position was added. The Office for Older Adults is changing a part time Account Clerk position to full time. Mrs. Geissman moved to approve the amendments. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken Hotz, Sanitary Engineer, presented a resolution authorizing the purchase of a Ricoh copy machine through State Purchasing for the Engineering Center. The County Engineer and Sanitary Engineer's departments share the copier. Mrs. Geissman moved to approve the purchase. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken presented a resolution accepting easements for the Foskett Road waterline improvement project. Mrs. Geissman moved to accept the easement. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Karl Cetina, MCDAC Director, stated that he has been busy making revisions to the grant guidelines and applications to make them more streamline. These were made public last Monday and are also available on the web. He's held meetings with different organizations on the funding requirements and had technical training for grantees and prospective grantees. There are 18 organizations that have taken out grant applications. He is very pleased and impressed with the cooperation and efficiency of the various county departments. Through questioning he stated that the deadline for grant applications is April 21 at 4:00 p.m., and that the time is a strict requirement.

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Jim Doutt, Economic Development Corporation Director, and Tom Arnold, City of Brunswick, were present to support the inducement resolution for Industrial Development Revenue Bonds for Destiny Partners Ltd. Both sat on the C.I.C. and approved this project. Nick Andreff, Bond Counsel, was not present at this time, and the Clerk noted that she had received a call prior to the meeting that he is on his way.

Mr. Arnold stated that Destiny is a successful tool & die company that Brunswick attracted from Cleveland. They have a 45,000 square foot facility and have approximately 43 people on their payroll. In the last 6 months they have been negotiating with an out-of-country company that produces parts in the auto industry and those items are then shipped to the U.S. The proposed bond is for \$2 million for a 40,000 square foot expansion to their existing facility plus \$4.5 million for computer controlled stamping equipment that will be purchased from an Ohio company. They anticipate employing 25 new people, with 15 positions being skilled and 5 being high skilled. They have been excellent corporate citizens with the president of the company and staff making charitable contributions to the community. Through questioning he noted that Rockstedt Tool & Die Inc. and Destiny Manufacturing Inc. are subsidiaries of Destiny Partners Ltd.

At this time Commissioners proceeded with review of other material in their packets to allow additional time for Mr. Andreff to arrive.

Mr. Hambley presented a resolution commending Matthew Steven Hodek on earning the Eagle Scout Award. Mrs. Geissman moved to approve the commendation. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley presented a resolution proclaiming April 6-12 as “American Home Week”. Mrs. Geissman moved to approve the proclamation. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley presented a resolution authorizing the submission of a grant application for FY2003 specialized transportation program capital assistance. The application is through ODOT and is on behalf of the Handicapped Society. Mrs. Geissman moved to approve the grant application. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed a liquor permit transfer notice for a D5 permit for Jammins to Tonias Sports Lounge & Grill in Hinckley Township. No comments or concerns have been received.

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

Nick Andreff, Brennan, Manna & Diamond, LLC, bond counsel, and Michael Schuessler, President of Destiny Partners Ltd., were present for a public hearing relative to a resolution pertaining to the conditional intent to issue Industrial Development Revenue Bonds (IRB) to assist Destiny Partners Ltd., Destiny Manufacturing Inc. and Rockstedt Tool & Die Inc. and a resolution authorizing Brennan, Manna, & Diamond as bond counsel.

Mr. Andreff stated that the project is for their existing facility and the purpose is for the construction to that manufacturing facility. Under the law IRB's are for core manufacturing purposes. This will be a 44,000 square foot building addition at their current location and they will purchase \$4.5 million of equipment for a total of \$6 million in IRB's. They are in the process of contacting lenders for a letter of credit to back the IRB, which will guarantee payments to the bondholders. The County is not obligated under these bonds. The company currently has 41 full time employees. With this project they plan to have 14 additional full time employees after the first year plus 11 more by the end of 3 years. The second resolution authorizes his firm as bond counsel and the expenses are not born by the County. The purpose of bond counsel is to issue an opinion that they are following the correct transaction and to assure the County is not held responsible for the bonds.

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Mr. Schuessler added that the project will double the capacity of their building and they will add state of the art equipment. Currently they are on pace to exceed last years sales regardless of the whether the negotiations with the out-of-country manufacturer work out or not. They have a training program through the Career Center in which they have 7-8 graduates that are apprentices to become journeymen tool & die makers. The presses they are looking at now are faster than anything they have found in the used market.

There were no further comments.

Mrs. Geissman moved to close the public hearing. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley noted that there is an inducement resolution pertaining to the Industrial Revenue Bonds in the amount of \$6.6 million for Destiny Partners. Mrs. Geissman moved to approve the inducement. Seconded by Ms. Ray.

Mrs. Geissman asked Chris Jakab if he has reviewed the resolutions.

Chris stated that the only comments he had was to delete the clause in the heading declaring this an emergency and that the bond counsel resolution was needed, which has been provided.

Mrs. Geissman moved to amend the inducement resolution to remove declaring an emergency. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley stated that there is a motion and second on approval of the inducement as amended. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Mrs. Geissman moved to approve the resolution retaining Brennan, Manna & Diamond as bond counsel. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

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

Mr. Hambley noted that the discussion session will be held at 1:30 p.m. with a public hearing at 2:00 on the Sharon Township to City of Wadsworth (Greenhaven) annexation.

Commissioners recessed the meeting at 9:28 a.m.

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

Mrs. Geissman asked if all Commissioners received the 2003 Ohio Municipal League Guide. There was also a book from the Chambers of Commerce.

There was a brief discussion about the books, which are a little confusing.

Mrs. Geissman presented information from the Red Cross regarding Heartland Heroes and asked if something should be sent out to department heads to see if they know of anyone that has done a heroic act. It was agreed that a letter would go out from the Board.

Mrs. Geissman stated that she talked with Representative Chuck Calvert regarding the increase in Recorders' fees. He does not feel he will get the votes in the Senate and it is not likely to go through.

Ms. Ray noted that Mead Wilkins, Job & Family Services, had sent information that cuts are planned in the childcare qualifications. She hopes they will reconsider these cuts as she finds this disturbing because getting a break on the childcare is what keeps a lot of people working.

Ms. Ray noted that she will be attending the New Commissioner Training later this week.

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Mr. Hambley noted that the information on the State budget and how it impacts County government was received. He has just started reviewing the transportation budget and suggested that contact may need to be made with Senator Ron Amstutz. There is a lot that will impact local money such as elimination of 2 cents of the 6-cent increase especially if the federal contingent increases the TEA-21. The State will get more but the locals won't.

Mr. Hambley noted an article in the newspaper in which a trustee accused Commissioners of unfunded mandates for the West Niles Virus and the storm water management. He has talked with this trustee to let him know the Commissioners were not responsible for these items. In talking with the trustee and Don Stewart of the Health Department, one thing that should be done on the county level is to make sure county ditches are clean as they are likely habitats for mosquitoes. He will communicate this with Dave Miller, County Engineer. Regarding the West Niles Virus, the Health Department has 5 townships willing to support action against this virus. No city or village is participating. One thing that was recommended was training for the county service departments that have people working out in the field so they can identify possible mosquito habitat.

Mrs. Geissman suggested having this information on the May *Your Medina County*.

Buck Adams, Emergency Management Agency Director, stated that about a year ago he sent over a continuity of operations plan that the federal government was suggesting be done, and in today's world there has been heightened interest. He has tried to get standard operating practices in writing for the Emergency Operation Center (EOC) so that everyone knew how to open it up and what their job responsibilities were. He received a small grant that allowed him to hire someone that has been able to prepare that document in a short amount of time. He feels it is time for the County to have a continuity of operations. This is not based on feelings that we might have a Condition Red, but this is a county that has the second most occurrences of tornadoes in Northeastern Ohio and we have straight-line windstorms. If something were to happen to this building something should be set up as to where the office could open and there should be accountability for current employees and buildings. Records are shipped to PA for storage, but the current records from the last week could be lost. It needs to be determined what records could become lost before it becomes critical and at what level services need to continue to the citizens. He has a person available that can work with the department heads to identify those critical items so we can continue the delivery of services as well as formally writing down the line of succession. A template can be put together for departments to basically fill in the blanks, return the information to EMA, and they will create the umbrella plan for the Commissioners. This is the next step needed for preparedness. He complimented Ken Hotz on his continuity of operations plan and that they constantly update that. That is the way this document should be handled. Through questioning, he stated that the template will be somewhat of a questionnaire to define what is critical to the job. An example would be the computer system and how long the Finance Department could go without them. This comes down to if we lost what we have today how we could continue to deliver the services tomorrow. He would want to start on this within the week and would like to see the entire plan completed in 60 days. He agreed to send Laura over to see John Stricker to go over the various county structures.

Ken stated that he has a meeting with Lorain Rural, Avon Lake and Medina trying to target what happens if a tornado goes through and the water goes down and setting up how to contact each other in an emergency.

Ken also reported that the sewer line for the pool at the Medina Schools will probably be done this week. Regarding a second connection that is needed for the pool, he keeps reminding them.

Mr. Hambley stated that he has also offered Mayor Jane Leaver 2 other locations to connect up.

Chris Jakab stated that he, Commissioner Geissman and Jeff Plummer attached CORSA and he feels the rates will be within the budgeted amount. A terrorism policy was purchased in September 2001 with certain exclusions on where and specific events. He hasn't seen the policy wording but it probably capped the policy amounts.

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Mrs. Geissman noted that there are now 55 counties in CORSA. When she first got involved with them there were only 17 counties involved. No counties have been turned down, but one county does pay a higher premium.

The Clerk noted that calls have started coming in about whether the offices will close part of the day on Good Friday. There was a brief discussion noting that our offices used to remain open with a skeleton crew. A couple of years ago we started closing the offices for half a day because the other elected officials were closing their offices at noon. Ms. Ray moved to approve closing at noon on Good Friday. Seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Chris noted that the County has been dismissed from the pay-for-stay lawsuit and can now start the program. The Sheriff is currently out of town and there is some training taking place soon and the department felt it was best to start on April 22.

Mrs. Geissman feels the Sheriff has addressed the concerns within the lawsuit.

Chris feels the program will go smoothly. There were some issues brought up by deputies, but it was stressed that the program will not require any additional work on them.

Ms. Ray asked if the courts have been asked if they are going to track their fees during the 6-month trial period of the program to see if the program will affect the fees they're collecting. There was some concern on the Community Corrections Board that if inmates are paying for their stay that they will be overwhelmed with fees and fines. They wanted the fees tracked to see if there is any affect on their fees and fines. She stated that she will contact the Wadsworth and Medina Municipal Courts and asked Chris to contact the Common Pleas Courts.

There was no further business before the Commissioners for discussion.

Commissioners recessed the meeting at 1:56 p.m.

Commissioners reconvened the meeting at 2:00 p.m. for the public hearing on the petition for annexation of 131.9526 acres from Sharon Township to the City of Wadsworth.

Mr. Hambley reviewed the history of this annexation petition, which was remanded back to the Board for further hearing. The hearing was originally set for February 24. The hearing was convened and on the request of the attorneys involved the hearing was continued to today. He proceeded with swearing in those wishing to testify at today's hearing.

Thomas Palecek, Agent for the Petitioners, noted that this annexation petition is known as the Greenhaven annexation. He presented the following documents to the Board: transcription from the court, Judge Kimbler's journal entry, copy of the petition and plat originally filed on October 24, 2001, the Engineer's approval that it is sufficient for transferring, an affidavit from John Demund, copies of notices sent to the City and Township Clerks that were received by them in November 2001, a copy of the newspaper notice of the hearing that ran in November 2001, the City resolution relative to services, and a list of admissions that went to Common Pleas Court from Sharon Township. Mr. Palecek read the list of admissions.

Al Schrader, Attorney for Sharon Township, stated that Sharon Township did not agree to all of the items in the list of admissions.

Mr. Palecek presented a certified copy from the Recorder's Office showing that the property south of Greenhaven known as Valley View was recorded on January 2, 2002 as being part of the City of Wadsworth. The annexation petition was filed with the Board's Office on October 21, 2001 and the Board held their first hearing on December 18, 2001. The City accepted the Valley View property on December 18, 2001 and had it recorded on January 2, 2002. The Commissioners' second hearing was held on January 14, 2002. He reviewed a map of Wadsworth showing that the 131 acres of Valley View as part of the City and that the property was part of the City prior to the January 14 hearing. The Valley View property made the Greenhaven property contiguous by 1397 feet on the south plus it is contiguous by 60 feet on the southwestern portion of the property. The annexation petition meets the statutory requirements

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of notices, the plat, and legal description. He asked that John Demund come forward for questioning.

Through questioning by Mr. Palecek, Mr. Demund stated that he is the President of the corporation and the sole stockholder for Greenhaven. He signed the petition for annexation that was filed on October 24, 2001. He also signed the plat, and he is seeking the annexation for his property. The property touches Wadsworth on the southwest by 60 feet and on the south by almost 1400 feet. The property is unimproved and has one house and outbuilding. He pays around \$24,400 a year in taxes, with almost \$2700 going to Sharon Township. The reason for annexation is for residential development similar to the Wadsworth properties. The property no longer identifies with the farming community. He needs sewer and water for this development and Sharon cannot provide that. Wadsworth has agreed to provide the water. Water is only available in the township with wells for each individual lot and homeowners desire water. Water from the city is available at the southwest corner of the Greenhaven property. There is a new city fire station within a mile of this property and the Sharon fire department is 5 miles. He feels police protection will be more thorough. Other benefits would be the city's garbage collection and cable connect for homes, noting that there is competing cable service in the city. If the property remained in Sharon wells would have to be built for each home and he cannot develop the property as he wants.

Through questioning by Mr. Schrader, Mr. Demund stated that no lots have been sold and no water has been extended to the area. He purchased the property as a farm and that is what it still is. He bought the property with the intention to develop it. The cable TV and internet connection in the city is legendary, and he's not sure they extend that service out of the city limits.

Mr. Hambley asked if access to the sanitary sewer is a consideration for the annexation.

Mr. Demund stated that the sewer is provided by the county to this area.

Through further questioning by Mr. Palecek, Mr. Demund stated that the petition states the number of owners as one and that the agent for the petition is listed within the petition.

Through further questioning by Mr. Schrader, Mr. Demund stated that he was aware the city was looking for additional water sources since January 2001. He feels the police protection through the city is better because they have more people on their force and a smaller area to cover than the Sheriff. There has been no new petition signed for this annexation request.

William Lyren was asked to come forward for questioning.

Through questioning by Mr. Palecek, Mr. Lyren stated that he is the Wadsworth Director of Public Services and City Engineer. He has been with the City since 1966. His duties include overseeing and managing the city utilities and engineering services to review plans and to serve on the City Planning Commission. He oversees the streets and highways, storm water management, and parks. The city gets their water from wells in 3 well fields located in the vicinity of the city. The water system capacity is based on the treatment capacity that is limited to 3 million gallons per day. The average daily usage for 2002 was 2.2 million gallons/day, with the peak demand increasing the daily usage to 2.8 million gallons/day. Their average daily flow charts show that the average flow for 2000 and 2001 was 2.1 million gallons/day. The rate was higher in 1998 and 1999 when they were at 2.22 million gallons a day. The city did a number of things to bring down the daily usage in the city. Due to the city's growth they did a comprehensive analysis of their system for leaks and found several areas underground that were repairs. They visited all of their large industrial users to see how they use water and worked with them to reduce their use and that resulted in a significant reduction. A couple of businesses invested in recycling their usage. The city instituted a sprinkling control program on residential lawns in which residents alternate days of use for watering their lawns. These are the main elements of their reduction program. They have used the sprinkling control program since 1995. This program accommodates homeowners that want to sprinkle their lawns and it flattens out the demand. Lowering the level in the elevated storage could compromise fire protection. He believes in 1995 the city reached 3 million gallons/day in peak demand and a sprinkling ban was imposed. During the sprinkling ban they found that they decreased usage by 400,000 gallons per day. By having the alternate day schedule they don't contribute to any high peaks of use.

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Documents were presented showing the maximum daily flow rate from 1995. One delta used on water is a comparison of the ability to produce water at the plant on a continuous basis versus what the plant is actually doing. Using the 2002 figures, they can produce 3 million gallons/day and they actually used 2.2 million/day; the difference is the amount they can grow in their average daily use, which is around 800,000 gallons/day. The other delta used is with peak capacities. During peak capacity they could produce 3 million gallons/day, but they don't want to maintain that production. They can exceed the 3 million gallons/day for peaks but they cannot maintain it. The average home uses 6,000 gallons/month or 200 gallons/day. Based on this, he agreed that if this land is annexed and 300 new homes were built, the amount of water used would be deducted from the approximate 800,000 gallons/day the city can produce. He feels the city could service those homes with water. The city has been searching for long-term water sources and has made significant progress in the last couple of years. A contract was entered with Barberton for land in Wayne County that has 3 million gallons/day available. A plan has been developed for transmitting that water and currently negotiations are taking place for easement rights to get that water to the city. Mr. Lyren believes the water connection for the proposed annexation land is on the southwest corner of that property. There is a new fire station in the north end of the city that also provides emergency medical. The city offers competing cable. Time Warner was the only supplier in the city and in a comparison of rates since the city started their own, basic service rates under Time Warner dropped and match the city's rates. Time Warner's rates, he believes, are 20-25% more in the township. Regarding road maintenance issues, the city would have to meet with Sharon officials to make sure one entity is taking care of snow removal, patching, etc. Presently there is no arrangement with Sharon Township. There are maintenance arrangements with the County and Wadsworth Township for road maintenance. This is the first area of Sharon Township that arrangements will need to be worked out. The sanitary sewer system is a county system that is pumped to the city for treatment. The procedure for determining if the city can provide for the annexed land is that once the Clerk of Council receives the notice of a petition she sends it out to various departments and council. The Public Services Committee reviews the utility information and considers the properties proximity to the city and the utilities and the ability to service the area. A recommendation is forwarded to the council for their consideration. The council receives recommendations from various departments and adopts their resolution after reviewing all of those.

Through questioning by Mr. Schrader, Mr. Lyren stated that the city cable services are limited to areas where the infrastructure is available. In other words, a home across the street from another that has the service. City residents expect the service to be completed within the city before it is extended outside of the city. The city cable will be extended to the Valley View property by the end of this year. They will start extending these as soon as the weather permits. He believes the broadband system is not available openly outside of the city. There is no extension outside of the city even if the residents are willing to pay for that. Cable is available in Sharon, but it is not the city cable. Generally if cable is available in a township they only provide it in the populated areas of the township. Garbage collection, or sanitation, is provided outside of the city if they are adjacent to the city. There is a surcharge for this service. Homeowners within the city are mandated to use the city sanitation service, which is more economically feasible for them. If there is not 75-90% of an area using their service in an area outside of the city, they probably will not service that area. If the property is annexed they have to accept the city collection. Regarding the Chippewa waterline, the engineering study and aerial photography has been done to identify the route and the city is now in the process of obtaining easements in that corridor. He believes they can function under quick take if necessary. The city hopes to be nearing completion of construction by this time next year. There are always factors that will be identified as the work actually starts and the worse case would be that it would take another year. There are actually 2 water systems in the city now. If one system is peaking they can pump from the other system. As far as storage tanks, he believes 3 have tanks hold 600,000 gallons, the elevated tank that serves Sharon holds ½ million, and the elevated tank at Highpoint and Oak holds another 250,000 gallons. Regarding the tank that serves Sharon, the storage was built as part of an agreement with Sharon and there is a maximum allowance of water sales to Sharon with that extension. Having an additional water supply and treatment capacity would be good in terms of peak usage. The elements of a water system include supply, treatment, elevated storage and distribution. Fire suppression was compromised in 1995 when the city experienced a 3 million-gallon/day peak, and that hasn't happened since. The city uses a sprinkling schedule, not a sprinkling ban. There are penalties imposed if a homeowner is sprinkling on a day they are not supposed to be. The penalty can involve turning off the water, depending on the use. The

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agreement for the tank that services Sharon says that the main line on Route 94 is to Sharon's industrial area. Additional taps along that system can occur with no involvement by the city, but extensions of the line are not allowed pending the ability of the city to serve those areas. Extensions have been denied. There is a 150,000-gallon/day capacity for the Sharon area and he believes they currently use 50,000 to 60,000 gallons/day. The tendency for water consumption is that it will increase over long term. If the average today was 149,000 gallons/day they would need to be planning associated with that use, particularly for the industrial area. He believes the EPA uses 400 gallons/day for measurements, but the city uses 200 gallons/day. This varies by each community. He's not sure if there are areas within the city that don't use city water. There may be some that were developed in the township and then annexed that haven't needed city water at this time. To his knowledge there is this annexation and one other that's pending and analysis was done on both of those. Impact on the system will be long term and there will be continuing improvements to the system in the area of treatment, etc. His personal opinion, based on the number of developments in the planning stages or the number of lots available, is that the biggest factor of growth is the market of the lots. In his experience, the number of homes being built is based on the type being built and the economy. If there is no unusual construction in this proposed annexation area, it will be 3-4 years out before it is completed. He doesn't talk to the developers about their timeline because they are sometimes unrealistic. When land is annexed and the centerline of the road divides entities, a good reason to have an agreement for road maintenance is that resident seeing different vehicles doing different sides of the road can be confused, plus it is not economical or the best means to have 2 separate entities working on the road. There is no agreement with Sharon regarding road maintenance because the property has not been annexed yet.

Through further questioning by Mr. Palecek, Mr. Lyren stated that he has nothing that says that 300 homes will be built on the Greenhaven property. The only way for this property to get water, other than by annexation, is to get it from the county, if the city approves an extension. He has no doubt that the city can provide municipal services to this area.

Mr. Palecek stated that as a resident of the city, he is aware that when the city developed their own cable the competitive system brought the costs down. He presented certified records showing that in 1979 the Bent Creek annexation was approved with only 1 foot being contiguous and with the township on the west and east sides. He also presented a January 10, 2002 letter from Ken Hotz to the Commissioners stating that water cannot be provided at this time to the Greenhaven property and that the parcels along Ridge Road have the first right to water before extensions are made. A color-coded map was reviewed showing that Greenhaven is contiguous by 1397 feet to the south and 60 feet to the west. Regarding the argument that the 131 acre property is too large, a case from 1992 shows 155 acres being annexed from Brunswick Hills Township to the City of Brunswick and the statement from the 9th District Appeals Court says that it is not unreasonably large by the terms of the ORC. All exhibits submitted are submitted as part of the record. He believes the budget for Sharon Township is \$1 million. The \$2688 they will lose in taxes from this property will not be hard on the township. The property is a small percentage of the entire land of Sharon Township. He asked that the petition for annexation be approved.

Mr. Schrader stated that he trusts Commissioners will read Ken Hotz's testimony in the court instead of reviewing it at this time. One problem in the trial court is that at the time Commissioners made their decision, the evidence before the Board was that there was a touching of 60 feet. This Board continued the first hearing in order to discuss a water issue only. Commissioners didn't realize the extra 1300 feet because it wasn't part of the original annexation. In August 2001 it was determined that the property touched by only a point. In December the contiguity issue was that it touched by 60 feet and there was no evidence of the 1300 feet. There are now new statutes for annexations. This was remanded back to the Commissioners and he believes the Board must use the law that has been in affect since October 26, 2001. Essentially the court wanted the findings of fact on record and remanded this back for further proceedings. The new law should be applied and this annexation petition doesn't comply with the new law as follows: 1) there is no date next to the owners signature, 2) the notices to the Clerks were not sent by certified mail, 3) there was no legal ad for this hearing, 4) there were no notices to adjoining property owners, 5) there is no list of adjacent tracts and lots, 6) it doesn't say when it was signed by the petitioner, 7) the municipal ordinance of services doesn't have an approximate date for providing the services and it was not received 20 days before this hearing, 8) the County Engineer's letter was not received 25 days before the hearing, 9) affidavits are

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only accepted if filed 15 days before the hearing, and, 10) a highway maintenance problem is created and there is no agreement. At court and during this hearing Mr. Lyren testified there is no agreement and in the absence of an agreement there are road maintenance problems. As a condition of annexation the city has to agree to maintain the road/highway. There are new statutes for annexation and that should be followed in this decision.

Mr. Schrader stated that even under the old law there are still the issues of this land being unreasonably large in terms of contiguity and the ability to provide services. Because the information about the Valley View parcel to the south was available before the Board made their decision the judge felt it should have been considered. This is one reason why the case has been taken to the court of appeals. There is case law that you can't consider evidence that comes in after a hearing. The January 14 hearing was limited to the issue of water services and there is no way the evidence came in at that hearing. If it came in after the hearing there is also case law that it is cannot be considered. The case number for the Court of Appeals case is #23 Court of Appeals 0012M. He doesn't believe that it was wrong for the Board to deny the annexation on a continuity or unity of community basis when the evidence at the public hearing was that it touched by 60 feet. As of October 26, 2001 there is a new annexation law. This annexation petition doesn't meet the old or new laws. The petitioners want to give new evidence that occurred since January 14, 2002, but they don't want to follow the other requirements of the new law. They should have to do one or the other, and he believes they should follow the new statutes.

Mr. Palecek stated that the Commissioners' minutes of December 31, 2001 show that he said at that time the land was contiguous by 1397 feet on the south side. He told the Board that there was an annexation. Commissioners had approved that annexation on October 1 and the City of Wadsworth approved it on December 18. Mr. Schrader wants the Board to think they can't consider anything that isn't in affect at the time of the filing of the petition. There is no case in Ohio that says anything like that. The Board should consider the annexation that are occurring around the area. The December 31 hearing was continued and the Board can take in any information until the close of the public hearing. On January 14 the Board was told about the annexation that was completed and it touched this property by 1397 feet. To say that 131 acres is unreasonably large is frivolous. Mr. Schrader knows it is unconstitutional to apply a law retroactively and to suggest that the Board has to apply the new law is false. Section 709 of the new statute states that it will not be applied to annexation unless filed after the affective date of the law. Mr. Lyren never said there was a road maintenance problem and in fact said he would not let that happen. The petitioner has met every condition of the statute. Originally there was an error that the property only touched at a point, but that was found to be 60 feet. The land is also contiguous to the south by 1397 feet. The Board should look at all of the facts of the case. The facts are in front of the Board. He noted that only the OEPA uses 400 gallons/day for their measurements. In Mr. Hotz's court testimony he stated that the county uses 230,000 to 240,000 gallons/day.

Mr. Schrader stated that Mr. Hotz's testimony is from page 71-75 of the court's transcript and within that he said they use the EPA 400 gallons/day for homes but the actual usage is 230 to 240 gallons/day. The Court of Appeals did say at one time that 151 isn't unreasonably large, but there is a case, Middleton versus McGee, about the need for a unity of community, which was adopted in the current annexation law. There is an Ohio case that says that evidence cannot be considered after the hearing. Mr. Palecek may have said on December 31 that there was adjacency to the south, but that was not recorded and it was not true. It was not annexed until January 7, 2002. The city council may have accepted it but there was no evidence of that on the record and even if it had their ordinance isn't affective for 30 days. It is not considered annexed until it is recorded, which was January 7, 2002. He believes that the new law is in affect and that is what should be used.

Mr. Hambley asked Mr. Schrader if it is his contention that the Board shouldn't be considering the new contiguous boundary, or if it is considered that the petition should be considered the new law.

Mr. Schrader agreed. The subject being dealt with in the Court of Appeals is that the evidence wasn't presented to the Board and the Board couldn't make their decision on that basis. The trial court did a good job on this, but the judge didn't have a word for word transcript and didn't know all of the testimony from the hearings. Neither court granted a stay and that is why

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this hearing has proceeded. He would have liked not to argue this case today because it's still going to be in the Court of Appeals.

Mr. Hambley stated that as part of the record that in receiving Judge Kimbler's order, he remanded this back to the board to reconsider this and that it is clear the Board has to consider the new contiguous boundary.

Mr. Schrader stated that he's trying to make it clear for the record that the Board didn't ignore something in making their decision.

Mr. Hambley agreed, noting that on the advice of the Board's attorney and the decision was made that at the time of filing it was not contiguous, which was the basis of the Board's decision. At this time there is a ruling from Judge Kimbler that is now being complied with. The Board will come back with a basis of facts relative to the issues. He asked Bill Thorne, Assistant Prosecutor, whether the old or new law applies to this annexation.

Mr. Thorne stated that his initial reaction is that the old law would apply to this, but he will double check. He is sure the statute says that the new law doesn't apply to any petition filed before its affective date. This annexation had already been filed and simply remanded to the Board.

Mr. Hambley stated that if it was under the new law the new procedures would have been used for this hearing. He asked if the hearing should be closed if it should have been under the new law.

Mr. Thorne stated that this hearing can be closed. Under the new law the petition would have had to be started all over. This is simply a re-hearing.

There was no further testimony.

Mrs. Geissman moved to adjourn the hearing on the petition for annexation of 131.9526 acres of land from Sharon Township to the City of Wadsworth. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

At 3:55 p.m. Mrs. Geissman moved to adjourn the meeting. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

RESOLUTIONS PASSED:

03-0187 RESOLUTION COMMENDING MATTHEW STEVEN HODEK ON EARNING THE EAGLE SCOUT AWARD

03-0187 RESOLUTION COMMENDING MATTHEW STEVEN HODEK ON EARNING THE EAGLE SCOUT AWARD

03-0188 RESOLUTION PROCLAIMING APRIL 6-12, 2003 AS "AMERICAN HOME WEEK"

03-0188 RESOLUTION PROCLAIMING APRIL 6-12, 2003 AS "AMERICAN HOME WEEK"

03-0189 RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS

03-0190 RESOLUTION AUTHORIZING THE MEDINA COUNTY ENGINEER TO ADVERTISE FOR BIDS FOR THE PURCHASE OF BITUMINOUS LIQUIDS FOR SEALING MEDINA COUNTY ROADS DURING 2003

03-0191 RESOLUTION ACCEPTING AND AWARDIGN THE BID FOR BIUMINOUS PATCH MATERIALS FOR USE BY THE MEDINA COUNTY HIGHWAY DEPARTMENT FROM APRIL 1, 2003 THROUGH APRIL 15, 2004

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03-0192 RESOLUTION APPROVING THE FINAL PLAT FOR WESTFIELD TERRACE LOCATED IN LOT 59 OF WESTFIELD TOWNSHIP

03-0193 RESOLUTION DETERMINING THE NECESSITY TO CLOSE VARIOUS COUNTY ROADS FOR BRIDGE REPAIRS

03-0194 RESOLUTION AUTHORIZING THE MEDINA COUNTY ENGINEER TO ADMINISTER POLICIES AND PROCEDURES FOR ISSUANCE OF DRIVEWAY AND DITCH ENCLOSURE PERMITS ON HOMER TOWNSHIP MAINTAINED HIGHWAYS

03-0195 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS

03-0196 RESOLUTION AUTHORIZING COUNTY AUDITOR TO TRANSFER FUNDS FROM THE CHILD SUPPORT ENFORCEMENT FUND TO THE JUVENILE COURT IV-D FUND

03-0197 TRANSFER OF COUNTY GENERAL FUNDS TO THE COUNTY DIVERSION PROGRAM

03-0198 RESOLUTION APPROVING AGREEMENTS WITH THE ADULT BASIC & LITERARY EDUCATION PROGRAM, CORNERSTONE WELLNESS CENTER, HANDS ACROSS MEDINA COUNTY FOUNDATION AND SALVATION ARMY FOR OFFICE SPACE IN MEDINA COUNTY BUILDINGS

03-0199 REVENUE ADJUSTMENT FOR THE CDBG FUND

03-0200 EXPENDITURE ADJUSTMENTS FOR VARIOUS FUNDS

03-0201 RESOLUTION AMENDING THE TABLE OF ORGANIZATION FOR MEDINA COUNTY MAINTENANCE DEPARTMENT

03-0202 RESOLUTION AMENDING THE TABLE OF ORGANIZATION FOR MEDINA COUNTY OFFICE FOR OLDER ADULTS

03-0203 RESOLUTION AUTHORIZING THE SANITARY ENGINEERING DEPARTMENT TO PURCHASE A RICOH AFICIO 1075 DIGITAL COPY MACHINE THROUGH STATE PURCHASING FOR THE MEDINA COUNTY ENGINEERING CENTER

03-0204 AUTHORIZING THE SANITARY ENGINEER TO OBTAIN EASEMENTS FOR VARIOUS WATER LINE IMPROVEMENT PROJECTS

03-0205 RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR FY 2003 SPECIALIZED TRANSPORTATION PROGRAM CAPITAL ASSISTANCE

03-0206 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

03-0207 RESOLUTION PERTAINING TO THE CONDITIONAL INTENT TO ISSUE INDUSTRIAL DEVELOPMENT REVENUE BONDS TO ASSIST DESTINY PARTNERS LTD., DESTINY MANUFACTURING INC. & ROCKSTEDT TOOL & DIE INC...FINANCING OF A MANUFACTURING FACILITY...EXECUTION OF AN AGREEMENT...

03-0208 RESOLUTION RETAINING LEGAL SERVICES OF BRENNAN, MANNA & DIAMOND LLC RELATING TO FINANCING A PROJECT WITHIN THE BOUNDARIES OF THE COUNTY PURSUANT TO THE PROVISIONS OF CHAPTER 1625, OHIO REVISED CODE (IRB)

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MEDINA COUNTY COMMISSIONERS:

Stephen D. Hambley

Respectfully submitted,

Sharon A. Ray

Pamela J. Terrill, Clerk

Patricia G. Geissman