

COMMISSIONERS MEETING – MONDAY, NOVEMBER 3, 2003

Stephen D. Hambley called the meeting to order at 9:30 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 October 27th minutes and the minutes from the October 15th Planned Unit Development (PUD) zoning meeting with the Commissioners, Lafayette Township Trustees, Lafayette Township Zoning Commission, and the Lafayette Township Board of Zoning Appeals 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.

Doug King, Administrative Assistant in the County Engineer's Office, presented three resolutions. The first one was approving the final plat for the Medina County University Technology Park Subdivision in Lafayette Township. The next one was to extend the completion date of the 2003 centerline striping and pavement marking contract with Aero-Mark, Inc. The third resolution was authorizing Change Order No. 1 of the contract for the installation of a traffic signal at the intersection of Smith Road and River Styx Road. Mrs. Geissman moved to approve all three resolutions and Ms. Ray seconded. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed the weekly permits list.

Chris Jakab, Finance Director, presented and reviewed seven resolutions involving amending appropriations, transferring funds, cash transfer, approving an agreement with the Economic Development Corporation for the purposes of the projected revenue to be received through revenue bond financing for the Port Authority, and the weekly bills totaling \$500,531.42. Mrs. Geissman moved to approve the seven resolutions and pay the weekly bills. Ms. Ray seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

Gary Berkowitz, Human Resources Director, presented and reviewed the personnel changes resolution that included newly hired employees, several rate changes, and a leave of absence. Mrs. Geissman moved to approve the resolution and Ms. Ray seconded. Mr. Hambley clarified that FML stands for the Family Medical Leave Act. There was no further discussion. Roll Call showed all Commissioners voting AYE.

John Stricker, County Administrator, had no resolutions to present this week.

Ken Hotz, Sanitary Engineer, presented a resolution to authorize a sanitary sewer easement. They had to replace the pump station on the corner of Boston Road and Carpenter Road and they needed a temporary easement for this purpose. Mrs. Geissman moved to approve the resolution, which was seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken presented a resolution authorizing the bidding process for painting the S.R. 18 water tower near State Road. Ken said they would do the work next spring. Mrs. Geissman moved to approve the resolution and Ms. Ray seconded. Mrs. Geissman commented that it does not seem like it has been there long enough to need painted again. Ken said the paint is beginning to peel off and they need to repaint the inside of it. Roll Call showed all Commissioners voting AYE.

Ken presented a resolution authorizing him to represent Medina County with FEMA. The county is going to get about \$13,000 for the costs incurred from the storms on July 21 and 22, 2003. Mrs. Geissman moved to approve the resolution. Ms. Ray seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

The next resolution Ken presented was to authorize rebuilding the trash shredder at the Central Processing Facility (CPF). Repairs will take about three weeks. Mrs. Geissman moved to approve the resolution. Ms. Ray seconded. Mrs. Geissman asked what they would do

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without a shredder for that time period. He said they would ship the material out in bigger pieces. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Ken presented a resolution accepting and awarding the bid for lawn maintenance services for all the county buildings and snow plowing for the Sanitary Engineering Department's buildings. Mrs. Geissman made a motion to approve awarding the bid and Ms. Ray seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

The last resolution Ken presented was to accept and award the bid for the sanitary sewer relocation for S.R. 18. This will take place between Windfall Road and River Styx Road because ODOT will be putting in the extra lanes. The water line is already in, and all the work will be done by next spring. Mrs. Geissman moved to approve the resolution. Seconded by Ms. Ray. Mr. Hambley commented that the county's work is ahead of the other utilities. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Joyce Farnsworth, County Home Administrator, reported that they have 51 residents this month. The County Home Advisory Council Facilities Committee toured the building on Wednesday evening to determine what maintenance and repairs need to be done. The dryers have been installed, which made the crew happy. They are forming a County Home Auxiliary to involve members of the community with helping the County Home and its residents. They will meet the third Wednesday of each month, and the membership fee is \$2. Their first fundraiser project is a cookbook that will be coming out soon.

Dr. Ross Santamaria, Director of Diversion and Forensics, reported that they have an influx of new clients recently due to a "sting" by the Sheriff's Department. It is illegal to sell alcohol products to anyone under the age of 21, and it is illegal to sell tobacco products to anyone under the age of 18. The Sheriff's Department has done this annually for about 10 years. They hit 12 to 20 places in one evening. Two detectives send an underage person to convenience stores to attempt to buy either alcohol or tobacco products. The young person has a valid underage ID, and they try to catch the clerks when they are busy. The individual is wearing a wire or audiotape, and as they come out the detectives take the purchase and site the salesperson. Those people go to the courts and the judges usually refer them to the First Offender's Program. He said the people are usually upstanding, and they are mortified how easy it is to get involved with the criminal justice system. The Diversion Program explains the damage that alcohol and tobacco products do to young people and the health concerns. They come through the program and then their records are cleared. All in all, he said things are going smoothly.

Tom Arnold, City of Brunswick, discussed the Enterprise Zone Agreement between the City of Brunswick and Rockstedt Tool & Die/Destiny Manufacturing, Inc. He explained that this is for a \$7.1 million expansion project that will create 25 new jobs. The company has been in their community for about five years and has been an outstanding corporate citizen. He introduced Nick Andreff, corporate counsel, and Mike Schuessler, Vice President.

Nick Andreff expressed his appreciation to Tom Arnold, Jim Doutt – Director of the Medina County Economic Development Corporation, Commissioners, and Brunswick Officials. He said this is an excellent example of a public/private partnership. The investment the company is making in Brunswick assures that they will stay there. They are a second tier supplier and will be manufacturing parts for General Motors in the facility.

Mr. Hambley said they have not received anything in their packets so they will take action at the 1:30 p.m. Discussion Session.

Mary Vance, Job & Family Services, presented a resolution allowing for expenditures relating to the Professional Education Program. Only full time employees in good standing will be eligible. It will assist people to obtain their Bachelors or Masters Degrees on a reimbursement basis. There are no local funds used. The approval expires on June 30, 2005. Mrs. Geissman moved to approve the resolution. Ms. Ray seconded the motion. Mr. Hambley said the Commissioners had considerable discussion on this matter at the working session last

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week, and they felt it was acceptable. Mary commented that the JFS employees feel very fortunate to have this program. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Mary presented a resolution to amend the Prevention, Retention & Contingency (PRC) Plan. This amends the plan for funding to Community Outreach Services to help support the Lodi Resource Center. Mrs. Geissman moved to approve the resolution and Ms. Ray seconded. Mrs. Geissman said that the program is working out wonderfully, and she is glad they were able to get the funding. There was no further discussion. Roll Call showed all Commissioners voting AYE.

The next resolution Mary presented was authorizing agreements with certified interpreter services for the hearing impaired and foreign languages. This would keep JFS in compliance with the Civil Rights Act of 1964. They contact Case Western Reserve University for language services. There is not a tremendous need in the area, but it is extremely important to make certain that the people that are receiving benefits understand due process. Mrs. Geissman made a motion to approve the resolution. Ms. Ray seconded the motion. Mr. Hambley asked if this was for certified interpreters to provide services on-call. Mary said that is correct. They contact the interpreter and write up a small contract in terms of the dollar amount and what they estimate the amount of time that will be needed. They have them sign confidentiality agreements to be there as an advocate to represent the client. If Case Western Reserve cannot accommodate them, they usually are able to refer JFS to someone else with the needed expertise. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Mary presented a resolution allowing expenditures for children in Substitute Care. These are children that are taken into custody and need to be placed in some kind of a facility group home or network home outside of their foster parents. About 1/3 or more of the children are placed in these facilities due the behaviors or the severity of the situation. This is for allocation January 1, 2004 through December 31, 2004 in the amount of \$1,500,000. Mrs. Geissman moved to approve the resolution, which was seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mary presented a resolution authorizing professional services agreements for ongoing foster caregiver training on behalf of JFS. This is for the period of November 1, 2003 through June 30, 2004 in the amount not to exceed \$3,000. Their staff does a lot of the training internally, but occasionally there is a need to go outside if they need an area of special expertise. Mrs. Geissman moved to approve the resolution. Seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mary presented a resolution accepting and awarding proposals for professional services relating to a consulting clinician for JFS. A request for proposal (RFP) was issued and the bidder was Cindy Orlasky, Ph.D. The amount is not to exceed \$27,750 for the period commencing November 1, 2003 and ending June 30, 2004. Mrs. Geissman moved to approve awarding the bid, which was seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mary presented a resolution to allow expenditures under contract with Family First Council in conjunction with many other agencies. The contract is retroactive from October 1, 2003 through June 30, 2005 in an amount not to exceed \$95,000. Mrs. Geissman moved to approve the resolution and Ms. Ray seconded. There was no discussion. Roll Call showed all Commissioners voting AYE.

The last resolution Mary presented was authorizing an agreement for Teenage Pregnancy Prevention (Wellness) Services between Family First Council and JFS. This is retroactive from October 1, 2003 through June 30, 2005 in an amount not to exceed \$120,000. Mrs. Geissman moved to approve the resolution that was seconded by Ms. Ray. There was no discussion. Roll Call showed all Commissioners voting AYE.

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Patrice Theken, Director of the Department of Planning Services, reported that they are busy with projects in addition to the routine duties of reviewing subdivisions, mapping for the townships, etc. They are working on the Joint Economic Planning Committee (JEPC) project that deals with land use capability. They are assisting with the Planned Unit Development (PUD) text for the Lafayette Township project for the University Center and Technology Park Project. They are helping the Village of Seville with their zoning regulations and comprehensive plan, and have helped them develop a land use map.

Patrice invited everyone to their Community and Regional Planning Day Open House to take place this Friday, November 7th from 2:00 to 4:00 p.m. There will be an awards ceremony at 3:00.

Patrice said that Liverpool Township has sent them a letter requesting their assistance on their Comprehensive Plan. She responded with a proposal and they have accepted it. They would like the Commissioners approval to proceed. Mrs. Geissman made a motion to approve assisting Liverpool Township with updating the Liverpool Township Development Policy Plan. Ms. Ray seconded. Mr. Hambley asked Patrice if she will be discussing the plan at the County Planning Commission (CPC) meeting on Wednesday and she said yes. There was no further discussion. Roll Call showed all Commissioners voting AYE. Patrice asked if the County Planning Commission needed to act on this. Mr. Hambley said that since they provide planning services to the CPC, the Commissioners would like to make sure they are comfortable with what the staff was doing. There are only a finite number of hours that the staff has, and more and more townships are looking to do comprehensive planning. There might come a day when they cannot do a contracts without adding staff and some additional financial commitments. At this point they have the ability, and that is exactly why they established a Planning Services Department.

Mr. Hambley read the resolution amending Resolution No. 03-36 appointing County Commissioners to various committees and areas of direct responsibility for 2003. He said the county created a Medina County Port Authority. This resolution would appoint him as the liaison to the Port Authority for this year, and this would be subject to review in 2004. Mrs. Geissman moved to approve the resolution and Ms. Ray seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

The Assistant Clerk read the expenses of County Officials. Mrs. Geissman moved to approve the expenses and Ms. Ray seconded. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley opened the floor to Public Comment. No one wished to comment this morning. He said that there would be a 10:15 a.m. Public Hearing.

Commissioners recessed the meeting at 10:07 a.m.

Commissioners reconvened the meeting at 10:15 a.m. for the Public Hearing to discuss the annexation of 14.0224 acres of land from Brunswick Hills Township to the City of Brunswick. Mr. Hambley swore in the parties that this concerns and said that Donna Gerraty, a court reporter with Medina Court Reporters, Inc. was recording the hearing.

Mr. Hambley identified the following representatives: the agent for the petitioner, Steven Sokol, the representatives for the municipality, Ken Fisher - Law Director for the City of Brunswick and Robert Zienkowski, Brunswick City Manager, the representatives for the township, Michelle Slimek – attorney, and Linda Hudson – Brunswick Hills Township Trustee.

Mr. Hambley explained that this is a Regular Annexation according to the Ohio Revised Code Section 709.02, 03. He began the hearing with an opening statement from the petitioner.

Steven Sokol stated that he is the petitioner and owner of record for seven years of the approximately 14 acres parcel located on Laurel Road west of Maxwell Road. The property itself, with the exception of one small portion, is an island and almost totally surrounded by the

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City of Brunswick. He asked the Commissioners to take care of this small piece of township property that should be included with the city.

Ken Fisher, Brunswick Law Director, said that on September 3, 2003, the City of Brunswick received notice that Mr. Sokol filed the petition with the Commissioners. The Council enacted a resolution on September 22, 2003 consenting to the annexation and another resolution to declare that it conforms to the requirement that municipal services will be provided to the owner of the parcel within 30 days of annexation. If there is a zoning issue of buffering, the city will require that the owner comply with them. He provided certified copies of both resolutions, which he said were properly served within the 20 and 25 days statutory periods as it relates to the clerks. He feels that the criteria were met under the statutory requirements 709.023, which the Commissioner use to make determinations and he feels the request should be granted.

Michelle Slimek, legal counsel for Brunswick Hills Township, stated that the petition that was filed is defective for two reasons. First, there is not a proper notary clause on the petition. There is a notary signature and a stamp, but no seal and acknowledgement. Also they were unable to check to see if service on the municipalities was completed because the green cards were never filed. They could not verify that the correct individuals signed for them, and they were not filed in a timely manner. They were to be filed 10 days after service was complete pursuant to 709.03 Section B. She believes in looking at the statute and seeing that the petitions were incorrectly filed, the Commissioners should reject this petition for annexation.

Mr. Hambley asked if there were any challenges to proof of authority persons to sign and there were none. He asked the clerk if the petition contains signatures of the majority of the owners; that no signature was obtained more than 180 days before filing the petition with the clerk; there is an accurate legal description of the perimeter and an accurate map plat of the territory proposed for annexation; the agent was listed in the petition; a list of the adjacent property owners is in the petition; and a list of adjacent property owners and land is attached. All of these requirements had been met, according to the clerk.

Mr. Hambley said that now is the time for the presentation of the case by the parties. This is the opportunity to present evidence, to examine and cross-examine witnesses, and comment on evidence submitted.

Steve Sokol added that there are three different types of Regular Annexations and this is a Type 3. He had previously gone before the Board of Brunswick Hills Trustees and asked them if they could look at the circumstances of this piece of property and see if there is some way it could be a Type 1 Expedited. They passed an Expedited Type 1 petition by a majority vote. Then he went to the City of Brunswick and had them go through the paperwork that they would have needed to complete. In the subsequent time between that and going back for the actual recording of the Type 1 petition, the Trustees voted against the previous vote.

Ken Fisher verified the petition's content, maps, signature, description, and dates with Steve Sokol.

Steve said there was one small portion that belonged to the previous owner and they did not incorporate that parcel in the annexation request. It belongs to Stuart and Barbara Warden.

Michelle Slimek said that her copy of the petition is dated 9-2-03 and she does not have the petition dated 8-7-03.

Bill Thorne, Assistant County Prosecutor, stated that the Commissioners file contains both petitions. They have the original copy of the petition for the Regular annexation dated 9-2-03 (before Commissioners today) and a copy the petition for the Expedited annexation dated 8-7-03 that was circulated with the notices to the township and the newspaper.

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Michelle asked Steve who signed the green card for the Brunswick Hills Trustees and Steve was unable to identify the signature. It was addressed to Tony Roberts' attention. He received the receipt back on 9-8-03 and forwarded the information back to the clerk.

Michelle Slimek asked Linda Hudson, Brunswick Hills Township Trustee, if she had occasion to observe the Clerk's signature. Linda said the Clerk is Tony Roberts and she did not sign that green card. It was Dale Ponsford's signature. He is a Brunswick Hills Police Officer.

Ken Fisher asked Linda Hudson the date on the green card. She was not sure of the date. He asked her if it related to the petition submitted in August or the petition submitted in September and she said she was not sure. He asked her if she disputes that Brunswick Hills Township did receive the actual petition submitted by Mr. Sokol in September. At some point in time they were served with two petitions and she is not sure if the green card with Dale Ponsford's signature relates to the first petition or the second petition.

Michelle wanted to make sure the Commissioners noted that the Clerk had not signed for the green card. She noticed that there is a seal on the original but there is no juried and no acknowledgement, which are required.

Stuart Warden, 3853 Laurel, who lives next door to the property said he has a vested interest in the property. He has an easement recorded in 1975 for drainage to his basement and he wanted to be sure the situation gets settled between he and Mr. Sokol. Mr. Sokol said he understands that there is an easement on the property and at such time he will sit down with Mr. Warden and go through the issue. He sees no problem with it.

Ron Bizek, 3800 Royal Oak, Sublot 63, said his property is behind Mr. Sokol's property. He would like the opportunity to purchase the property if it goes up for sale.

Both Mr. Sokol and the City of Brunswick felt the requirements for annexation were met in their closing statements.

Michelle Slimek asked the Commissioners to deny the petition for annexation because the petition is defective due to improper service and notary clause. They anticipate that the water problem in Brunswick Hills Township is coming to an end soon so the trustees are considering asking the Commissioners for a moratorium on annexations for a year so that this matter can be resolved.

Ken Fisher said that Robert Zienkowski, Brunswick City Manager, had to leave but he wanted to go on record as saying that water is not an issue in regard to this annexation petition. Both entities are working cooperatively to address water issues.

Linda Hudson said she would like to enter an objection to this annexation as any annexation from Brunswick Hills is for the sole purpose of obtaining water. The Board voted on the first petition with a 2-1 majority. The two were not informed enough at that time to make the decision on their first application for annexation with detachment so they reversed their decision unanimously. Brunswick Hills Township would like the opportunity to work with their neighbors in Brunswick City and come to an agreement that would give a fair and equitable sharing of tax revenues for the services that both communities support. She feels that Mr. Sokol wants to annex for the sole purpose of obtaining city water.

Mr. Hambley asked if the annexation would be permissible if there would be not detachment. Linda said she could not speak for her other two colleagues, but yes that it what they were considering.

Mr. Hambley said the Commissioners have some procedural issues they need to review. If they find that the petitions are valid, it also has to pass the "general good test" – that the general good of the territory proposed to be annexed will be served, and the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the

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territory to be annexed in the surrounding area. The new hearing date was set for November 24, 2003.

Mrs. Geissman moved to recess the hearing to allow additional information by all interested parties. Ms. Ray seconded the motion. Mr. Hambley said the time would be published. The reopening is intended to allow further evidence as well. There was no further discussion. Roll Call showed all Commissioners voting AYE.

The Commissioners recessed at 10:55 a.m. to go into Executive Session to discuss property acquisition. The Executive Session recessed at 11:20 a.m.

The meeting reconvened at 1:30 p.m. for the Discussion Session.

Mr. Hambley presented the resolution that was discussed in the morning for the Enterprise Zone Agreement for Destiny Manufacturing/Rockstedt Tool and Die. The Commissioners reviewed it over lunch. Mrs. Geissman moved to approve the agreement and Ms. Ray seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

Dave Miller, Highway Engineer, presented a plat for signatures. It was from Baker Sand and Gravel showing where Friendsville Road was relocated. The Commissioners all signed it.

Dave showed the Commissioners the White Road relocation on a map. There had been a public hearing and he Mr. Baker proposed turning it to the south. He changed his mind and now wants the road to go north. Dave feels it is a better layout for everyone. They will bid it after the first of the year, and work on it next spring. To dedicate this new right of way they need to schedule a public hearing in January.

Commissioners recessed at 1:35 p.m. to move to the larger room to accommodate the crowd.

The Commissioners reconvened the Discussion Session in the Hearing Room at 1:37 p.m. to discuss the proposed Medina County Public Defenders Commission. Mr. Hambley asked Chris Jakab, Finance Director, if he had anything further to add to what he had provided to the Commissioners at the June 6th public hearing on the subject.

Chris said that the expenses for the first nine months of this fiscal year for assigned council are projected to be about \$993,000, which is an annual increase of 9.3%. Last year's total for all courts was \$908,178. He had provided the Commissioners with information from a gentleman in Athens County who manages a multi-county Public Defenders Office and also information from Wood County.

Ms. Ray stated that she and Chris have spent a tremendous amount of hours visiting with people that set up a Public Defenders Office and reviewing all of the information. She disagrees with the Finance Director as to the extent of the savings on an annual basis, but she feels that it is significant enough to look into further, and Mrs. Geissman agreed. The Public Defenders Commission will be appointed and they will be the ones that determine the staffing configuration. These would possibly be contract attorneys as opposed to three full time attorneys, or a combination of both.

Chris drafted a proposed resolution for the creation of a Public Defenders Commission for their review. He said there are three appointments for the Commissioners to make. Two of the members would have two-year terms beginning with the effective date of the office and one member would have a four-year term. It is his understanding that Common Pleas Judge Christopher Collier has made two recommendations.

Upon questioning, Mrs. Geissman said Judge Collier is the presiding judge, and his recommendations were Ron Spears and Kevin Dunn.

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Mr. Hambley added that Judge Collier has this authority per the Ohio Revised Code. He opened the floor to discussion.

Daniel Gigiano, a Wadsworth attorney and a former public defender, stated that what the Commissioners are trying to accomplish is to save money by having several attorneys handle high volumes of cases like they do in Wood County. The assistant public defenders would not be able to do the substantial number of necessary investigations because they will be in court and would probably not put in the extra hours to make up the difference if the Commissioners' projections are incorrect.

Daniel explained the steps of the process that Medina Municipal Courts' appointed attorneys have to go through now and compared it to other courts with public defenders. Very few pre-sentence investigations are conducted in Bowling Green because most are DUI's (college town), and as a result of this system, only about six cases have been tried this year. There is an easier discovery process in Wood County. In Perrysburg there is an easier pre-trial process and most cases can be handled in one court hearing – in and out in one day. Trials are extremely rare and defendants will agree to take the plea because of the certainty of lesser sentences. He said in Medina County they do more extensive investigations to find constitutional violations and mitigating evidence that are used for pre-trial hearings and trials. Most of the time they can go to the Prosecutor and show weaknesses in the case and get a lesser offense, and sometimes the Prosecutor will dismiss the case. If that avenue fails, the attorney will often file a pre-trial motion to try to eliminate evidence, which results in another hearing, or they may also use the evidence at a trial. If they feel the Prosecutor has a solid case, they will usually persuade the client to plead to the charge that is recommended by the Prosecutor, although they may face jail time. They tell the client they may face even more jail time if they go to trial. Sometimes the client insists on going to trial anyway because they face the maximum amount of jail time and have nothing to lose. If the attorneys fail to go through these steps to investigate the case they are subjected to potential civil liability and disciplinary action. The likelihood of this happening increases as the sentence that the client receives increases. He feels that a good result outweighs bad process for the client. These are two totally different systems. The current Medina County system has more court dates (four as opposed to one), it takes longer, and there is more preparation, especially with sentencing hearings.

Daniel said if Medina County had a public defender system given these facts – the public defenders would not likely streamline the process, but attend the pre-trials without the client. After the client agrees to the plea they would still have to attend the hearing and the sentencing. Many clients, when faced with the uncertainty of a sentence, would still use the plea so the public defender would still have to handle the additional preparation for the cases. If they do streamline the process through necessity because they are overworked and understaffed, then the process is not working. They may fail to investigate and file essential motions, and the office will face and defend malpractice lawsuits and disciplinary complaints. The attorneys will see that their licenses are in jeopardy, and there will be a “revolving door” of employees that will result in increased costs.

In conclusion, Daniel questioned why the Commissioners would want to see the system change. He feels attempts to streamline the process would backfire. A tenacious public defender would respond by shutting down the system because they would see that as the only way to do justice to their client. They would refuse to plead their cases and try every single case, which is impossible. The court would have to pay an unprecedented number of fines because the Ohio Supreme Court mandates that each case be tried within 180 days. He asked if the local attorneys under the appointed counsel system have failed Medina County. He pointed out one area where there is uncertainty and they can make a direct comparison to Wood County. When a client has a driving while under suspension charge, every attorney knows from experience exactly what is going to happen to that client, as is the same as the Wood County system. He does not feel that a Public Defenders Office would succeed with the number of attorneys allocated. They need many more attorneys, which would run well over the cost of the current system, and Judge Chase showed accurate numbers at the last discussion to show that.

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Ms. Ray stated that she feels Mr. Gigiano's argument is inconsistent. She said he alluded to the fact that when they go up for sentencing that the outcome is uncertain. He practiced in Wadsworth where she used to work, and they normally knew what the sentence was going to be when it was a first, second, or third offense. She agrees with him as far as defendants' rights are concerned because she has seen some questionable cases, but by using a combination of full-time attorneys and contract attorneys, this would provide the economy of scale for which they are looking. The savings are still going to be significant. Medina County would still be different from some of the counties they talked to that plea-bargain all of the DUI's. Medina County would not do that even if it requires a trial every day.

Medina Municipal Judge Dale Chase said that means that the Commissioners' action of creating a public defenders system will defame the entire system of justice in Medina County, like Mr. Gigiano said. It is not possible to try 900 DUI's in his court and 250 DUI's in Wadsworth. Now the number of trials is very minimal.

Ms. Ray asked Judge Chase if he thinks all of the cases would go to trial, and he said not all - but more. Ms. Ray said that the judges are not going to change their rules of justice to fit the system, and she and Judge Chase both know there would not be a daily trial.

Judge Chase said in his first two years when he came to Medina and changed the system by refusing to try DUI's, he tried 62 cases in two years. Last year he tried 11. He said the question is if Medina County would go back to higher caseloads in both courts.

Ms. Ray said that she was skeptical at first, but from going over the numbers again and again, she believes a Public Defenders Office would result in significant savings for the county.

Daniel Gigiano explained that the uncertainty Ms. Ray questioned was when a client looks at the lower end of the spectrum of what he tells them a sentence will be and questions how it will impact his life. For example, if it is a 30 days sentence - the client could get that much time off work, but if it were 60 days - he would lose his job. The client's decision is made based upon this uncertainty.

Mr. Hambley said that part of this is looking at the qualifications for indigency. He asked Daniel if the other places that he worked had reasonable means of determining indigence.

Daniel said that Summit County only uses a simple affidavit that they sign, but their Juvenile Court makes them submit pay stubs as proof.

Mr. Hambley asked him how he feels Medina County could move into a streamlined process as a solution to save money, and if that would be a positive.

Daniel asked if this county is willing tolerate people getting less jail time. That is how you streamline the process in places where the jails are crowded. Medina County does not have that problem. His other solution that works in Wood County is to complete the process all in one day. The way the system is set up now in Medina County puts the defendant in jail for a longer period, and that is why the judges have set it up. They want to retain control over sentencing and sentence according to their guidelines. The attorneys in this county recognize that.

Mark Abood, Brunswick attorney, stated that he spoke with Doug Coverly from the Wood County Probation Department who used to be with the Public Defenders Office. Besides 20% of the cases being handled by student services at Bowling Green State University, they farmed out significant cases to private attorneys because of the overload. Wood County's primary goal was monetary savings, but it was not at all what was projected as the years went by, plus it was a logistical nightmare. They have two full-time public defenders and an investigator who was heavily relied upon in addition to other staff. Doug said the quality of attorneys was not comparable to what he had seen in other communities because there is a lack of pleadings and trials are rare. Doug said that the Public Defender program in Hancock County was not cost effective either, and they had to go back and ask for more money.

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Mark added that the non-monetary benefit to Medina County's current system is the level of collegiality among colleagues. When he first started practicing law, it was a great opportunity to take court appointed court cases to learn how to be in the courtroom and handle motion practice, suppression hearings, and take cases to trial. It raises the level of representation from the bar to defendants. If the Commissioners create a Public Defenders Office they would take that valuable resource away from the community. Mark said Mr. Coverly said that the judge in those communities thought it was a benefit to a Public Defenders Office to be able to contact one office if they needed to reschedule something, but he does not think Medina County municipal judges have that problem, and this is not an issue.

Mr. Hambley questioned Mark indicating in the discussion that the cost did not save what they anticipated because of a greater number of appointed counsel was needed than was originally anticipated.

Mark said that Doug said the primary reason that Wood County and Hancock County went with Public Defenders Offices was to save \$70,000 to \$90,000 per year and it did not happen. They had to ask for more money in the infancy stage to get things done. A good number of the cases have to be farmed out, and he is not sure if that is the cause or effect.

Mr. Hambley asked if the Public Defenders Office is contracting cases out, or if the judges were doing it.

Judge Chase said if they have a Public Defenders Office, it is the Public Defender who decides whether they have a conflict and farm it out. The judge has nothing to do with it.

Mr. Hambley said that it is his understanding of the Code Section 120.16E that the judge still has the ability to determine whether that is an appropriate appointment. There is nothing that precludes the judge from appointing the counsel other than a county Public Defenders Office. Likewise not removed is the ability of the defendants to select their own counsel.

Mr. Hambley also questioned Mark's comment that, because the way the public defender system works, justice is not being served to the defendant because of lack of pleadings.

Mark said that the young public defenders would be in court all the time and are not necessarily doing all the background work that ought to be done. He explained the work he does for a DUI charge such as site visitation and calibrations on the Breathalyzer. A "trialable" issue could be overlooked from a person just handed a stack of files.

Wayne Kerek, Brunswick attorney, commented that one way to save money would be higher criteria and standards that were more encompassing for eligibility for indigency. He does not think a Public Defenders Office will work in the long run without having the input and representation of private counsel.

Andrew Korduba, Medina attorney, said that the idea of creating a Public Defenders Office in Medina is a huge mistake. He feels that they could not provide better quality representations than is provided in the system that is set up right now. The attorneys on the court appointed list have impeccable records. Attorneys they would get as public defenders would be young and inexperienced. There would be a high turnover because the county would not pay as well as private practice. One of the reasons he brought his family to Medina County and established his law practice here is because this current system is not in many other areas. Attorneys can create a law practice and develop a business here. This opportunity ultimately benefits the community. 80 to 90% of the lawyers in Medina County started out as court appointed counsel. There will always be an influx of attorneys when others retire as the system is currently set up. He does not want the Commissioners to think that the reason he is here today is because part of his livelihood would possibly be taken away and it is money out of his pocket. This is not true because he practices in many other areas as well. He feels that it will not be cost beneficial to create a Public Defenders Office because they are overlooking huge expenses that he has seen from opening his own business. If the issue is saving money by

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trimming costs, there are many other ways to do this by more strictly regulating who is indigent and who is not, and regulating court appointed counsel fees. The judge has the ability to see that no one is abusing the system.

Dave Gedrock, Medina attorney, said that most court appointed attorneys' attitude is to "take it to the box". If a public defender has this attitude they will have a problem because they will be unable to process the cases. Unless they force the judge to change his attitude toward DUI's, it is not going to work. Defendants are people and deserve better than adequate representation. The perception in the county will be that the client is not treated fairly. He said he is convinced that the county cannot afford a Public Defenders Office, and he would be curious to see if they publicly admit they made a mistake and try to remove it from the system.

Scott Deliman, Brunswick attorney, said that he hears on the Commissioners side of the equation that a lot of research has been done and data compiled. He cautions that they listen to those that have "been in the trenches" in Wood and Hancock Counties that said a Public Defenders Office did not work out like they intended. He suggested the Commissioners proceed with caution and not rush into anything. He said that attorneys from other counties have said that Medina County's current system works better than theirs because they can do the motion process. He said he has been asked by county workers why his bills for being a court appointed attorney are so low and he suggested they look at his bills for the last five years. The perception is that they all over bill, and he would like to say that there are some attorneys that are conscientious and appreciate the opportunity that they have been given.

Mr. Hambley read part of a letter from a partner of one of the largest law firms in Medina County saying that the basic problem of escalated costs is that some lawyers over bill. The letter also detailed the disparity between lawyers in terms of activity. Mr. Hambley said that his problem, as a public official, is how to reconcile that with the public. Where that oversight currently occurs is apparently insufficient to prevent this one element in the escalation of costs. Other concerns are in representation, quality, and discerning eligibility of individuals to receive a public service. The facts are there of escalating costs that are growing faster than the state average.

Judge Dale Chase said he became a judge in 1988. In 1987 there were 1,099 DUI's filed in Medina Municipal Court and over 40% were reduced to reckless operation. Since January 1, 1988, no DUI filed after that date has been reduced to reckless operation. The Ohio Supreme Court will statistically show some things they call reductions, but they are not actually true. He brought up a sentence from the same letter saying that there is no way that appropriate defense of indigent criminal defendants on a misdemeanor level could be accomplished in the structure that has been outlined in the plan. The result would be expanding the agency to meet the needs, or there would be litigation in regard to inadequate representation. Judge Chase said if there are concerns whether indigent individuals qualify, the Commissioners already have statutory authority to audit the status of those who are approved for indigent payment of fees. If they are found after the fact to be ineligible, the Commissioners could file suit to recoup the amount that was paid to those people. This has never been done. He said he has a concern with Ms. Ray saying that the Commission would determine the staff. Then she said there would be three attorneys. He asked which statement is true – that a Public Defender Commission (a majority of whom are appointed by the Commissioners) is going to determine what is an adequate level of staffing and spending to meet the needs of the Municipal Courts, or if they are going to be given a budget that says here is X number of dollars you will receive regardless of what the need is. If she says the Commission is going to determine staffing, but they are told there are going to be three attorneys, those statements cannot coexist in the same sentence. Judge Chase also questioned why an appointed individual on the Commission that was appointed by Judge Collier, does not live in Medina County. He also questioned why the Commissioners are creating a public defender system for Municipal Court only. He does not think it is fair to provide a lesser quality of representation to the Municipal Courts than court appointed council in the other courts. In reviewing the budget, Judge Chase said they needed to provide for costs such as malpractice insurance, sick and vacation time, and continuing education. He does not see provisions for sick time. With all this considered, he figures they will be short one lawyer 20% of a year. He has concerns with adequacy of staffing for clerical, investigation, and paralegal positions. The

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burden of failure rests on he and Judge MacIlvaine if it is inadequately funded, and that they are budgeting the department backwards. He questioned why the Commissioners are creating a new beuaracracy to do a job that is already being done by the private sector in an adequate fashion.

Regarding Judge Chase's comment about the authority to audit indigency to recoup costs, Mr. Hambley said it would be more cost effective to screen up front rather than recoup the cost in the back.

Judge Chase said that the problem with screening up front is that they look at the affidavit and see if it meets the criteria established by the Public Defender Commission. There is a chart they follow. The person that provides the information is swearing under oath that it is true. There is a cost to more closely examine that, which means they would have to hire someone or bring in a staff member, plus there would be a delay in providing legal services. Usually the people they see in the justice system that have appointed counsel obviously qualify for it.

Mrs. Geissman stated that they have been working on this for well over a year so this is not something they are rushing into. Everything that she has seen from the state, the other counties, and data they have gathered shows that Medina County can run a well managed Public Defenders Office and give good representation to those that need it. She said she has listened to what they have said today and will be checking on a few more things. She is not sure that some of the matters brought up are truly a problem or just a concern of change. She trusts Chris Jakab, the Finance Director, and the figures he has provided and the information Ms. Ray has brought back from other counties. She feels that the proposed makeup of the public defenders would be very good representation. She does not believe that it is the Commissioners' role is to provide a training program for local attorneys. They are here to provide the best representation at the best cost for savings to the taxpayers. More and more counties across the state are looking into Public Defenders Offices as a way to save money. When they first investigated this system, she wanted to include all of the courts. If they can show success with the Municipal Courts, where the costs are spiraling, then they would want all of the other courts to follow suit. Regarding the comment about probable turnover because the pay would be less, Pat said they are planning to look for very good quality, experienced people to do the job as our Medina County Prosecutors Office has, and pay them what the Prosecutors are paid. If this did not work, she said she would not be afraid to say it was a big mistake and the Bar Association told them so. But until they try it, she has a hard time closing the book on it at this point. She would like to proceed with the Public Defender Commission.

Ms. Ray said that she made a mistake and the Commission will actually determine qualifications and size of the supporting staff and also the budget. They looked at several different mock budgets. One had three attorneys and one had a couple of contract attorneys. That will be up to the Public Defender Commission to determine. Several things have happened to make the increases more noticeable. Not only has Medina County grown significantly, but also the state has decreased their reimbursement from 50% to 33%. It is a combination of factors that have made this a priority. The savings are going to be significant enough to warrant giving this an opportunity. If they do it for a year and it does not work out, she has no problem admitting she was wrong and going back to the old way or another system.

Mr. Hambley said they needed to schedule an Executive Session to discuss the proposed Commission members. It is the Commissioners consensus to move forward on this resolution and look for the appointment of the three board members.

Commissioners moved back to the Conference Room for further discussion. Mr. Hambley said they received a \$9,500 estimate from Bob Arnold for the landscape buffer plan for the University Center Project. This is not cost shared with the university, but the county could recoup the cost from the sale of the lots in the Technology Park. All of the Commissioners agreed to give Chris Jakab authorization to proceed with a resolution next Monday.

Mr. Hambley said that they have received five applications from people interested in being on the County Home Advisory Council. He has asked the clerk to schedule interviews for

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next Monday plus an interview for the Port Authority vacancy. Mr. Hambley gave an update on the organizational meeting this morning of the Medina County Port Authority. Ron Paydo is Chair, Bill Frantz is Vice Chair, and Jim Gerspacher is Secretary. They will meet in the Balcony Room on the first and third Mondays at 8:00 a.m.

Chris Jakab gave the Commissioners copies of a memo from Judge Kimbler regarding the magistrate's salary account. There have apparently been additional costs due to staff turnover. Chris said he asked for additional information.

There was a discussion about the contract rates for dispatch services. Call activity went down because two townships have contacted elsewhere.

Commissioners had a short discussion about the discussion regarding the Public Defenders Office.

Chris Jakab said that Kathy Ham from the Wood County Public Defenders Office assured him they were not overwhelmed and he felt she was a good reliable source.

Mrs. Geissman commented that the Prosecutors side of the defense would be the same configuration of public sector attorneys and there would be not be a problem in getting a good qualified staff. She also said it was not their job to provide a training ground for private sector attorneys.

The meeting recessed at 3:45 p.m. for the Commissioners to go into Executive Session to discuss pending litigation and an appointment to a public body. The meeting adjourned at 4:15 p.m.

RESOLUTIONS PASSED:

03-0893 RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS

03-0894 RESOLUTION APPROVING THE ENTERPRISE ZONE AGREEMENT FOR DESTINY MANUFACTURING, INC. AND ROCKSTEDT TOOL & DIE

03-0895 RESOLUTION APPROVING THE FINAL PLAT FOR THE MEDINA COUNTY UNIVERSITY TECHNOLOGY PARK SUBDIVISION LOCATED IN TRACT 2, LOTS 1 AND 2 OF LAFAYETTE TOWNSHIP, MEDINA COUNTY, OHIO

03-0896 RESOLUTION TO EXTEND THE COMPLETION DATE OF THE 2003 CENTERLINE STRIPING AND PAVEMENT MARKING CONTRACT BY AND BETWEEN AERO-MARK, INC. AND THE MEDINA COUNTY BOARD OF COMMISSIONERS

03-0897 RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT THE INTERSECTION OF SMITH ROAD (C.H. 4) AND RIVER STYX ROAD (C.H. 49) BY AN BETWEEN LINWARD ELECTRIC INC. AND THE MEDINA COUNTY BOARD OF COMMISSIONERS

03-0898 RESOLUTION AMENDING THE 2003 ANNUAL APPROPRIATIONS RESOLUTION BY TRANSFERRING APPROPRIATIONS

03-0899 RESOLUTION AMENDING THE ANNUAL APPROPRIATION RESOLUTION

03-0900 RESOLUTION AUTHORIZING COUNTY AUDITOR TO TRANSFER FUNDS FROM THE CHILD SUPPORT ENFORCEMENT FUND TO THE PROSECUTOR TITLE IV-D FUND

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03-0901 RESOLUTION AUTHORIZING COUNTY AUDITOR TO TRANSFER FUNDS FROM THE CHILD SUPPORT ENFORCEMENT FUND TO THE JUVENILE COURT IV-D FUND

03-0902 AUTHORIZING A CASH TRANSFER FOR THE BOARD OF ELECTIONS CAPITAL FUND

03-0903 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM VARIOUS COUNTY DEPARTMENT ACCOUNTS TO THE MEDINA COUNTY GENERAL FUND FOR THE COSTS OF THE COUNTY-WIDE AUDIT

03-0904 APPROVAL OF AN AGREEMENT WITH THE MEDINA COUNTY ECONOMIC DEVELOPMENT CORPORATION

03-0905 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS

03-0906 AUTHORIZING THE SANITARY ENGINEER TO OBTAIN A TEMPORARY EASEMENT DURING THE BOSTON/CARPENTER LIFT STATION CONSTRUCTION, INSTALLATION AND COUNTY APPROVAL OF SAID WORK

03-0907 RESOLUTION AUTHORIZING THE SANITARY ENGINEERING DEPARTMENT TO ADVERTISE FOR BID FOR THE STATE ROUTE 18 WATER TOWER REHABILITATION

03-0908 RESOLUTION AUTHORIZING AN AGENT TO REPRESENT MEDINA COUNTY FOR MATTERS PERTAINING TO COUNTY OWNED SEWER AND WATERLINES WITH THE STATE OF OHIO EMERGENCY MANAGEMENT AGENCY

03-0909 RESOLUTION AUTHORIZING SANITARY ENGINEER TO REBUILD THE SATURN SHREDDER AT THE MEDINA COUNTY CENTRAL PROCESSING FACILITY.

03-0910 RESOLUTION AWARDED THE BID FOR LAWN MAINTENANCE SERVICES AND SNOW PLOWING SERVICES TO BE UTILIZED AT VARIOUS MEDINA COUNTY FACILITIES

03-0911 RESOLUTION ACCEPTING AND AWARDED BIDS FOR THE SANITARY SEWER RELOCATION FOR S.R. 18 (MEDINA ROAD) MCSE #SR-500/10-1

03-0912 RESOLUTION ALLOWING FOR EXPENDITURES RELATING TO THE PROFESSIONAL EDUCATION PROGRAM FOR MEDINA COUNTY JOB AND FAMILY SERVICES

03-0913 RESOLUTION AMENDING THE PREVENTION, RETENTION & CONTINGENCY PLAN (PRC) FOR MEDINA COUNTY JOB AND FAMILY SERVICES

03-0914 RESOLUTION AUTHORIZING AGREEMENTS WITH CERTIFIED INTERPRETER SERVICES FOR MEDINA COUNTY JOB AND FAMILY SERVICES

03-0915 RESOLUTION AUTHORIZING CONTRACTS FOR SUBSTITUTE CARE OF CHILDREN FOR MEDINA COUNTY JOB AND FAMILY SERVICES

03-0916 RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENTS FOR ONGOING FOSTER CARE GIVER TRAINING ON BEHALF OF MEDINA COUNTY JOB AND FAMILY SERVICES

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03-0917 ACCEPTING AND AWARDED PROPOSALS FOR PROFESSIONAL SERVICES RELATING TO A CONSULTING CLINICIAN FOR MEDINA COUNTY JOB AND FAMILY SERVICES

03-0918 RESOLUTION AUTHORIZING AN AGREEMENT FOR OUTREACH SERVICES BETWEEN MEDINA COUNTY FAMILY FIRST COUNCIL AND MEDINA COUNTY JOB AND FAMILY SERVICES

03-0919 RESOLUTION AUTHORIZING AN AGREEMENT FOR TEENAGE PREGNANCY PREVENTION (WELLNESS) SERVICES BETWEEN MEDINA COUNTY FAMILY FIRST COUNCIL AND MEDINA COUNTY JOB AND FAMILY SERVICES

03-0920 RESOLUTION AMENDING RESOLUTION NO. 03-36 APPOINTING COUNTY COMMISSIONERS TO VARIOUS COMMITTEE AND AREAS OF DIRECT RESPONSIBILITY FOR THE YEAR 2003

03-0921 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

MEDINA COUNTY COMMISSIONERS:

Stephen D. Hambley

Respectfully submitted,

Sharon A. Ray

Pamela M. Vereb, Asst. Clerk

Patricia G. Geissman