

COMMISSIONERS MEETING – MONDAY, SEPTEMBER 13, 2004

Sharon A. Ray called the meeting to order at 9:30 a.m. with Patricia G. Geissman and Stephen D. Hambley 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 August 16, August 23, August 30 and September 7 was dispensed with. Each Commissioner has read them personally. Mrs. Geissman moved to approve the minutes; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

Doug King, Administrative Assistant in the County Engineer's Office, presented resolutions to close sections of Spieth Road, Erhart Road and Chippewa Road for culvert repairs, approving the final plat for the West Chase Landings Subdivision Phase I, finding that public convenience and welfare requires the improvement of Windfall Road, and accepting & awarding the bid for deck overlay of Bridge No. 15 on Bellus Road. He noted that the public hearing on the Windfall Road improvements was held last week. Mrs. Geissman moved to approve the 6 resolutions; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

Commissioners reviewed the weekly permits list.

Chris Jakab, Finance Director, presented resolutions amending the appropriations by transferring and increasing/decreasing appropriations, various fund transfers, expenditure adjustments, revenue adjustments, purchasing fuel for the Engineering Center from Ports Petroleum and for the Highway Garage from Petroleum Traders, approving a lease agreement with the Medina City Board of Education, declaring county property as excess property, and the weekly bills in the amount of \$505,883.69. A transfer was made to set up the administrative funds for operations for the Port Authority. The Medina City Board of Education is trying to consolidate their offices and has given up some space in the Professional Building. They are keeping their space on the third floor. The lease runs from July 1, 2004 through June 30, 2005 at which time they are planning to vacate the building. The 12 items that are excess property are for the internet online auction. Mrs. Geissman moved to approve the 12 resolutions and payment of the bills; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

Holly Muren, Human Resources Department, presented and reviewed the personnel resolution. Mrs. Geissman moved to approve the personnel changes; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

John Stricker, County Administrator, presented and reviewed a resolution accepting and awarding the bid for improvements to the Prosecutors, Brunswick Human Services Center, and County Home parking lots. The award is to Perrin Asphalt for the total amount of \$98,878.50. Mrs. Geissman moved to accept and award the bid; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

John presented a resolution accepting and awarding the bid for roofing replacement at the Prosecutor's Office. This is for the old part of the roof. The award is to Advanced Roofing Systems in the amount of \$49,900. Mrs. Geissman moved to accept and award the bid; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

John presented a resolution amending the Table of Organization for the Department of Job & Family Services by deleting the position of Deputy Director. Mrs. Geissman moved to approve the amendment; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken Hotz, Sanitary Engineer, had no resolutions or report today.

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Don Hartman, Office for Older Adults, reported that Debra Radecky, Director, had surgery on Friday. They held their celebration for those seniors that are 90+ at the Center and thanked Mrs. Geissman for handing out certificates. They had 16 people in attendance that were 90 or older. They have delivering 223 home delivered meals and there is no waiting list. Upcoming events include the fall festival on October 15, Nursing Home Day on September 15, a doctor discussing glaucoma on the 17th, an Amish trip on the 21st, a presentation by Legal Aid on the 23rd, an osteoarthritis program on the 24th, and bingo on the 29th. The movie this month is *Mona Lisa Smiles*. A trip is also planned October 7th to the *Phantom of the Opera*.

Karl Cetina, MCDAC Director, presented resolutions approving agreements that will be paid from the subgrant from the State money received from the Tobacco Use Prevention & Control Foundation. The first agreement is with Medina General Hospital and The Oaks for Women Center. This is for the program for pregnant women. Mrs. Geissman moved to approve the agreement; Seconded by Mr. Hambley. Roll Call showed Ms. Ray and Mrs. Geissman voting AYE with Mr. Hambley abstaining. Mr. Hambley noted that his wife, Susan, is chairman of the board at The Oaks.

The second agreement is with Alcohol and Drug Dependency Services for the youth prevention and cessation program. Mrs. Geissman moved to approve this agreement; Seconded by Mr. Hambley. There was no discussion. Roll Call showed all Commissioners voting AYE.

Karl reported that the next MCDAC Board meeting is tonight and the Tobacco Coalition will be meeting this Friday.

Mr. Hambley thanked Karl for his work on evaluating programs and projects associated with the Tobacco Coalition. Everyone, including those that didn't get funding, appreciated his professionalism.

Jim Doutt, Economic Development Corporation Director, presented a resolution approving the Enterprise Zone Compensation agreement for Three D Metals Inc in Liverpool Township. There was stiff competition with the State of Connecticut with this, and Three D Metals will make this investment in Medina County. There will be an investment of \$2.5 million for the purchase of equipment and some inventory. This is the 2nd creative abatement with this company. The net back to the company on taxes saved will be 50% and the other 50% will be made to the school districts and taxing entities. The difference is that an addition \$24,397 will be paid over 10 years to the school districts. The company has 62 full time employees and this abatement will bring in 5 more employees. The company will also make donations of \$1,000 per year for a scholarship for a Buckeye graduate as well as \$1,000 per year for the Foundation over the 10 year abatement period. Mrs. Geissman moved to approve the agreement; Seconded by Mr. Hambley.

Mrs. Geissman stated that this is a good addition for the County.

Ms. Ray noted that Buckeye Schools have signed off on this as well.

There was no further discussion.

Roll Call on the motion and second to approve the Enterprise Zone Compensation agreement showed all Commissioners voting AYE.

Ms. Ray presented 2 liquor permit notices. One is a transfer from Roadhouse to Brown Derby Roadhouse in Medina Township and the other is a new permit Mad Fan Inc. in Medina Township. These are presented for informational purposes.

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

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

Commissioners recessed the meeting at 9:50 a.m.

At 10:00 a.m. the meeting was reconvened for the public hearing on the petition for annexation of 87.5498 acres of land from Brunswick Hills Township to the City of Brunswick.

Ms. Ray stated that individuals will be sworn in as they are called forward. She asked that everyone testifying give their name and address for the record.

The minutes of this annexation hearing are verbatim.

John Oberholtzer: of Oberholtzer, Filous & Lesiak; I have with me Michele Slimak of my firm and also with me Township Trustee Kathleen Scheuzow. We're here in opposition to this annexation being granted. We have 2 concerns, 1 of which is we're not convinced the map is absolutely correct, and, secondly, we feel that the subtraction of this territory from the township will create a detriment to the balance of the township; that's premised on our position that this of course is still subject to some assessments from the Western Reserve Water District (WRWD), which this a party. I'm sure you as Commissioners are aware that the OWDA has required you to charge what I'm going to call a tap in fee on each home that is constructed within this district and now receives county water. We're saying to subtract this large tract of land with many homes from the WRWD's jurisdiction deprives a source of revenue to help repay that loan. Normally I don't know if this would be an issue before the Commissioners but I think it has become one because the OWDA has made you be responsible for the repayment of those funds. Those are the 2 thrusts of our attack at this point this morning. Thank you. We would have for the sake of calendar issues, we intend to call basically 1 witness and then of course there would be any questions I might have of the other witnesses, as far as time is concerned.

Mr. Hambley: quick question, you're representing the township; are you also representing the WRWD?

Mr. Oberholtzer: well the WRWD, I'm not convinced is an appropriate party before this Board, but I do represent the WRWD; that is correct. I also represent the township trustees.

Mr. Hambley: the question of the debts and the assessment, are those attributable to the township or to the WRWD?

Mr. Oberholtzer: the WRWD is who is responsible for the actual assessments, and of course it is an independent taxing authority; but as a practical matter it's all part of the township.

Mr. Hambley: thank you, I just wanted to clarify.

Ms. Ray: is there someone who will be making a presentation on the other side?

Stuart Laven: I'm an attorney, Cleveland firm. I represent the Agent for the Petitioner, Mr. Robert Knight, who is sitting here. Also with me is Dan Kever who is affiliated with Mr. Knight. As I said he is the Agent for the Petitioner that is Curt Waite, the current owner of the property. We are here as proponents for the annexation of this 87 acres from the township into the city. Now at the start it is important to note that the parcel to be annexed is basically an island. It's surrounded on 3 sides by the city and on the westerly side by Interstate 71. In fact there is no way for the township to get to this property without going through the city. As I'm sure Commissioners are aware this hearing concerns meeting the requirements of what is known as Ohio Revised Code Section 709.033. There are essentially 6 requirements that must be met and if they are met it is then determined to grant the annexation petition as requested. I have distributed to each of you and Mr. Oberholtzer and others that requested, a brief which contains all of the arguments in support of the petition and also has exhibits, everything we filed and other

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documents, to support the petition. I won't waste the Commissioners time going through that item by item. But let me say that of the 6 requirements, and we'll submit testimony in support of those, a number of them are almost straight forward. One is that the petition meets the requirement for say judicial notice, that's all in the materials. The 2 I think we will focus on today are really, 1) this territory is not unreasonably large, and 2) the benefits to this territory, and by the way this property is sometimes referred to as the territory or property or the 87 acres, we're all talking about this land that is shown there (map); but the other one we will focus on when you look at the evidence here, that the benefits to this territory and annexing it outweigh any of the detriments, and we will establish that through testimony showing a lot of information which weighs to that. The primary witness we will have in support is Mr. Knight, the Agent for the Petitioner, and testimony will come from him. I understand that Mr. Oberholtzer has been put on by somebody who has a history of a water issue, but actually having heard his opening statement I would say that they're not a proper party here and that issue is probably not even relevant to this annexation. I'm ready to proceed.

Ms. Ray: Thank you. Procedurally we've finished with opening statements.

Mr. Hambley: should we also allow the city?

Ms. Ray: I'm sorry, is there someone from the city?

Ken Fisher: Law Director of the City of Brunswick, 4095 Center Road, Brunswick. Members of the Commission, the city council of Brunswick on July 26, 2004 did properly and lawfully enact Resolution 105-04 which has been forwarded to you by Barbara Ortiz, as part of the record for Brunswick City Council, which speaks of services that the City of Brunswick is ready, willing and able to provide to the territory that's the subject of the proceeding this morning. Further the Resolution states unequivocally that the council of the City of Brunswick urges the Commissioners to approve this petition and believes, again, that it's in the overall interest of the entire county that this annexation be approved.

Ms. Ray: next we come back to challenges to the validity to the petition signatures. Is there any owner here that signed the petition that is asking to have their name removed from the petition?

No response.

Ms. Ray: is there anyone here that challenges the proof of the authority of a person to sign the petition?

No response.

Ms. Ray: now I'm going to inquire of our Clerk as to the validity of the petition; the petition contains signatures of a majority, 51%, of the owners?

Clerk: yes.

Ms. Ray: no signature was obtained more than 180 days before filing of the petition with the Clerk?

Clerk: correct.

Ms. Ray: an accurate legal description of the perimeter and an accurate map/plat of the territory proposed for annexation was filed?

Clerk: yes it was, and approved by our Tax Map Department.

Ms. Ray: agent was listed within the petition?

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Clerk: yes.

Ms. Ray: and a list of adjacent property owners' land was attached?

Clerk: yes.

Ms. Ray: next we want to proceed with the presentation of the case by the parties involved. Attorney Oberholtzer would you like to go first.

Mr. Oberholtzer: Mr. Laven, it's up to you, but I think you're the petitioner if you'd like to proceed.

Mr. Laven: I believe he's correct, I would like to go first. I would like to call as my first witness Mr. Robert Knight.

Mr. Knight was sworn in by Ms. Ray.

Ms. Ray: please state your name and address for the record.

Mr. Knight: Robert E. Knight, 3933 Center Road, Brunswick.

Mr. Laven: Mr. Knight, can you tell the Commissioners your business affiliation?

Mr. Knight: we are consulting engineers, surveyors and developers in the Brunswick and Medina areas.

Mr. Laven: have you been appointed agent for Curt L. Waite the owner of the property who filed this petition for annexation?

Mr. Knight: yes.

Mr. Laven: are you familiar with the property; that is the 87.5498 acres of land which is the subject of the petition for annexation that is shown graphically on the board on the easel?

Mr. Knight: I am.

Mr. Laven: as agent for the petitioner, did you through your counsel cause written notice of the filing of the petition, the date, the time, the petition date and the time & place of this hearing to be filed with the Clerk of Council of the City of Brunswick and with the Clerk of Brunswick Hills Township?

Mr. Knight: yes.

Mr. Laven: as agent for the petitioner, did you through your counsel send by regular mail a letter containing a copy of the notice of the hearing to all owners of property within the territory and all owners of property adjacent to the territory and adjacent to the road that is adjacent to the territory and located directly across the road from the territory, along with a map?

Mr. Knight: yes.

Mr. Laven: as agent for the petitioner, did you through your counsel cause notice containing the substance of the petition, the date, the time, and place of this public hearing to be published in the Gazette?

Mr. Knight: yes.

Mr. Laven: do you recall when that notice was published?

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Mr. Knight: I do not.

Mr. Laven: in your view, as the agent for the petitioner, will the general good of this property be served if it is annexed to the City of Brunswick?

Mr. Knight: yes.

Mr. Laven: can you tell why that general good will be served, in your view, including to providing of water?

Mr. Knight: the parcel is presently an island as you indicated and has absolutely no accessibility to it via any township properties. The water main is presently on Boston Road is a City of Cleveland water main operated in conjunction with the City of Brunswick that would provide water to the residents that we would eventually have occupy this property.

Mr. Laven: is it necessary to get the City; excuse me, the City of Brunswick controls that water that is along Boston Road, right?

Mr. Knight: that's correct; through a cooperation agreement with the City of Cleveland Water Department.

Mr. Laven: from Brunswick, the city's position is that they are requiring that this property be annexed before they will permit water.

Mr. Knight: that's correct.

Mr. Laven: and is it true that there really is no way for the Township of Brunswick Hills to provide water to that property?

Mr. Knight: I think it would be very, very difficult and costly.

Mr. Laven: but currently there's no way because there's no access to the property?

Mr. Knight: that's correct; they would have to traverse city residents' properties to get to this property.

Mr. Laven: which would require condemning, getting easements or imminent domain to get through the city to get to that property?

Mr. Knight: yes, I think you would have a difficult time getting to it.

Mr. Laven: now the property is surrounded on all its sides by the city and would that impact the ability of the township versus the city to provide services such as police, fire, EMS?

Mr. Knight: I would think if there's services required for emergency purposes it would, in all likelihood come from the city due to their facilities located in close proximity to this; namely Fire House #2, which is Grafton and Carpenter Roads. That's probably the closest EMS, although the City of Brunswick and Brunswick Hills Township share a joint dispatcher for safety services, it is still mostly like being in this location, the northeast quadrant of the city, that any response would come from the City of Brunswick in that regard.

Mr. Laven: and while I understand there may be some cooperation agreements in affect today between the city and the township in terms of providing emergency services, there's no guarantee that the future of those agreements would necessarily be continued, is that correct?

Mr. Knight: I'd have to defer that to the City Manager or someone in the city maybe that could speak more directly to those cooperation agreements and what the longevity of those are and how they are continued in perpetuity.

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Mr. Laven: if this property is annexed, that will permit development of the property?

Mr. Knight: that's correct.

Mr. Laven: if development takes place isn't it a fact that it will result in more revenues not only to the city but also to the township.

Mr. Knight: I would believe through the increased land values; presently it's an agricultural parcel of land that's generated very little income; I think you'd have that there as a result of your investigation with the Auditor's Office, and yes, substantially more income to both the township and the city.

Mr. Laven: there's another issue too; apparently there are currently some problems with this property with some drainage issues, and I think we'll hear more from the City Engineer on that, that causing water to drain to the north that will be corrected if this is annexed.

Mr. Knight: yes, when we initially met with the city they expressed some concerns about some residents along Boston Road experiencing some flooding from some 40 some odd acres that drain northerly to Boston Road, and we assured them through ongoing stormwater management of this property that would certainly correct those problems and not attribute more to them as well as there's a floodway at the south end of this property which will help us provide an opportunity to manage our stormwater in a very efficient way.

Mr. Laven: I realize the issue of development of that property is not really before the Board of Commissioners; if it were annexed it would be in the jurisdiction of the city; I'm sure people here want to get a sense of what is planned if things go well; can you tell the people how you envision this property being developed subject to approvals, etc.

Mr. Knight: our intention is to request, as you may or may not know, as property comes into the City of Brunswick it comes in as the lowest form of zoning and then you have to request a re-zoning to the desired use that you want. Our request will be for this to be an RL zoning, which allows for a mix of housing and in fact is compatible zoning for the neighborhood, and would allow approximately 190 residences and the split I believe is 65/35 with regards to conventional single family homes and detached cluster homes to be the balance.

Mr. Laven: if this property is developed and annexed, isn't it true there really is no detriment to the township by doing that?

Mr. Knight: I don't see a particular detriment to the township based on its present location, its present use, its present value and its highest and best use of development. In fact, the township prides itself in being a rural focused community; I think I indicated before, I could actually build more homes if this remained in the township than if it went into the city.

Mr. Laven: in terms of anybody currently in the township worrying about looking at this development or being too close to it, isn't it true the only side we're talking about that there would be township property at all is just that little strip and is really separated by I-71; so nobody from the township will be bordering this development, is that correct?

Mr. Knight: yes, that's correct.

Mr. Laven: from an economic standpoint today, isn't it a true this property generates some \$429/year in township taxes; I'm not talking school.

Mr. Knight: I'd have to defer to that investigation you did with the Auditor; I believe that's the right number; it's something less than \$500/year that the particular parcel generates in tax revenue for the township.

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Mr. Laven: one last question, there are no streets in here; no streets or highways that would be divided or segmented as a result of this annexation so as to create a road maintenance problem, is that correct?

Mr. Knight: no there are none, and in fact, as I mentioned to you we purchased the property along Boston Road that would adequately provide primary entrance; we bought a double lot, I believe it's 150 feet wide by some 600 feet deep, that will provide an excellent boulevard entrance into this prime development.

Mr. Laven: and you'll also have access on this Junior Parkway?

Mr. Knight: yes; that's a second means of ingress and egress that, it's certainly not meant to be the primary access, and there's also the intention of the master thoroughfare plan of the City of Brunswick to interconnect this with a third means of ingress and egress to the south when the Rosewood property is in its final phases of development.

Mr. Laven: those are shown around will be the northern border and those other borders that are in the city; those are primarily single family homes?

Mr. Knight: yes they are.

Mr. Laven: I have no further questions of Mr. Knight at the moment, but would reserve the right to recall.

Ms. Ray: Mr. Oberholtzer, do you have any questions for Mr. Knight?

Mr. Oberholtzer: yes, I do have a couple. First, I'm going hand you the brief your attorney has expertly put together. Exhibit C, page 1 and I'd like you to look at lines 30 & 31 if you could. You also have a copy of the map and it would appear to me that the map you submitted is not the same as the map that you have in your exhibit. Do you see 30 & 31?

Mr. Knight: yes I do.

Mr. Oberholtzer – it would appear that there's a parcel of property in your exhibit between parcels 30 and 31 that is neither one of those properties.

Mr. Knight: are you talking about the little sliver of property that has no frontage and appears to be land-locked?

Mr. Oberholtzer: yes, I am.

Mr. Knight: ok.

Mr. Oberholtzer: that's on that particular exhibit, but I don't see it on this one.

Mr. Knight: I can't; Dan can you answer that more clearly possibly. Exhibit C, page 2, see that little sliver he's talking about. I have no idea.

Mr. Oberholtzer: would you agree with me that the exhibit on the easel does not agree with what's there in your exhibit in the brief?

Mr. Knight: Yeah, I'll take your word for it.

Mr. Oberholtzer: go take a look; this is not my expertise.

Mr. Knight: yes, you're correct. We can only suspect that Mr. Curt Waite owns that piece; we'd have to investigate.

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Mr. Oberholtzer: but the exhibit is what is attached to your petition; the exhibit that shows that sliver of ground; in other words the exhibit on your brief that shows that sliver that is what is attached to the petition.

Mr. Hambley: we can settle that quickly if the Clerk can look to see what the map is that is provided with the petition.

Mr. Knight: stated that the brief was not part of the petition.

Mr. Oberholtzer: I understand that. We think that map was part of the petition.

Clerk pulled the map from the annexation file and presented it to the Commissioners.

Mrs. Geissman: it looks like the same one.

Mr. Hambley: yes it looks like it; that is what was presented.

Mr. Oberholtzer: the same as Exhibit C.

Mr. Hambley: yes.

Mr. Oberholtzer: so you would say at this point there is at least that question as to, in other words I can't tell if that's owned by a separate person or whether or not an adjoining property owner has been included or not.

Mr. Knight: I can only give you my opinion, and that would be, as an engineer/surveyor, that it is either owned by 30 or 31 because it would be improbable otherwise.

Mr. Oberholtzer: but you would agree with me at least at this point, as you said that what's on the easel and what's in your exhibit are not the same thing.

Mr. Knight: yes.

Mr. Oberholtzer: so that does raise a question that needs to be clarified here in the petition, is that correct?

Mr. Knight: yes.

Mr. Oberholtzer: would it be safe to say at this point the map that is attached to the petition is not accurate?

Mr. Laven: objection to these questions; these are legal questions; he's not a lawyer.

Mr. Knight: I don't know.

Mr. Oberholtzer: okay.

Ms. Ray: we checked with the Clerk and the map that was attached to the petition is the legal map that was updated.

Mr. Laven: there are 2 things on the petition; there is the map that doesn't show this at all; that is the file map, which is part of the petition. If you look at Ohio Revised Code the list that shows the adjoining property owners specifically provides in the statute, and I read 709.02 that at the time you file this list with that map, and that was only for illustration of who you were sending notices to, that the list shall not be considered a part of the petition for annexation and any error in the list shall not affect the validity of the petition.

Mr. Oberholtzer: and I'm sure he's reading the Ohio Revised Code correctly.

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Mr. Laven: this is kind of a canard to try to throw it off; more importantly, our next witness will testify that the line you're looking at is a fence line. But it's not relative to the petition and to ask Mr. Knight whether that affects the petition is improper.

Mr. Oberholtzer: a list of the abutting property owners and they're indicating that this is not exactly a separate parcel, and I think that goes to one of the technical requirements of this petition. I feel that has been demonstrated to you and you need to evaluate it accordingly. Mr. Knight, isn't it a fair statement to say that the issue that drives this annexation more than any other is the question of water?

Mr. Knight: no question.

Mr. Oberholtzer: and that comes about because the City of Brunswick takes the position that if you're going to use their water services you must be a part of the city.

Mr. Knight: that is their policy.

Mr. Oberholtzer: and it's not really the city's water, it comes out of Lake Erie through City of Cleveland pumps and treating plants.

Mr. Knight: I believe the way the agreement is, and you may correct as you may know about this than I do, but the City of Brunswick owns the hardware, the mains, the hydrants; they buy their water in bulk from the City of Cleveland with some sort of maintenance agreement on the hardware.

Mr. Oberholtzer: so that the City of Cleveland, in essence, agrees with this policy and it's your understanding as it is mine, that's something that is covered by contract.

Mr. Knight: yes.

Mr. Oberholtzer: and that's a contract between the City of Cleveland and the City of Brunswick?

Mr. Knight: yes.

Mr. Oberholtzer: are you aware of any time that anybody has attempted to get water without annexation from these lines, from this hardware, and has been successful?

Mr. Knight: no.

Mr. Oberholtzer: would it surprise you to know that there is a court order that has allowed people to tap into this hardware even though they haven't annexed into the City of Brunswick?

Mr. Knight: I'm aware that's been done.

Mr. Oberholtzer: you're aware that's been done?

Mr. Knight: yes.

Mr. Oberholtzer: so there are times where at least the Common Pleas Court has chosen to ignore that particular agreement, correct?

Mr. Knight: I'll take your word for it.

Mr. Oberholtzer: ok. Are you aware as the agent for the petitioner that this property is part of the WRWD?

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Mr. Knight: I did not know that.

Mr. Oberholtzer: and you are not aware that at one time the owner of this property was given an assessment for certain planning funds by the WRWD?

Mr. Knight: I don't know that that appeared and I'd have to check on our title commitment.

Mr. Oberholtzer: it's not on your title commitment; the assessment is not on the tax duplicate but were you aware that at one point an assessment was levied?

Mr. Knight: no I wasn't.

Mr. Oberholtzer: how many homes, you said this was RL zoning?

Mr. Knight: no, the request would be, I believe the zoning of the township is rural residential; the request for the zoning in the city would be RL.

Mr. Oberholtzer: what do you plan to put there, is that a housing development?

Mr. Knight: yes, the density there is 2.2 units per acre.

Mr. Oberholtzer: so you'd get how many total houses, do you believe?

Mr. Knight: I believe it's about 190.

Mr. Oberholtzer: and if it were in the township how many homes could you put up?

Mr. Knight: as it's currently zoned and without water, we'd be looking at 3 acre lots and there would be 35-40 homes.

Mr. Oberholtzer: so you could develop this property, but at a lower density.

Mr. Knight: much lower; unless somehow the township could provide water to it, and in that instance I'm sure that they would be accommodating in rezoning the property to their compatible circumstances with the city.

Mr. Oberholtzer: so it's a question of finding other hardware with water in it?

Mr. Knight: yes, precisely.

Mr. Oberholtzer: no further questions.

Ms. Ray: Attorney Fisher do you have any question for Mr. Knight?

Mr. Fisher: I do not.

Ms. Ray: Mr. Laven?

Mr. Laven: no.

Ms. Ray: I noticed that the current use for this property is agricultural, do you know if it's in the CAUV program?

Mr. Knight: I believe it is.

Mr. Laven: next I'd like to call Mr. Dan Kever.

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Mr. Kever was sworn in by Ms. Ray.

Ms. Ray: please state your name and address.

Mr. Kever: Dan Kever, 3933 Center Road, Brunswick, Ohio.

Mr. Laven: Mr. Kever can you tell the Commissioners your affiliation with the petitioner here?

Mr. Kever: I'm an employee of the agent.

Mr. Laven: what is your professional background?

Mr. Kever: I'm a professional engineer.

Mr. Laven: were you involved in the preparation of the diagram here as well as the one that is included in the handout materials showing the property and the adjoining properties to it?

Mr. Kever: yes.

Mr. Laven: and did you hear the testimony about this little sliver of land that showed up on this drawing and are you familiar with that?

Mr. Kever: yes.

Mr. Laven: that sliver of land is outside the annexation parcel?

Mr. Kever: that's correct.

Mr. Laven: so it is not part of the annexation parcel; there was some confusion as to what that little sliver was; are you familiar with what it is?

Mr. Kever: yes I am.

Mr. Laven: can you tell the Commissioners what it is?

Mr. Kever: yes, it's actually a fence line that was just shown for reference much like some of the other properties show buildings or other fence lines; that's why it was apparently mistaken by somebody.

Mr. Laven: I have no further questions.

Mr. Oberholtzer: in that case who owns that parcel?

Mr. Kever: which parcel are you referring to?

Mr. Oberholtzer: well whichever parcel that belongs to; this is the mail out, the service that was given to the township trustees and it's Exhibit C, page 2; you see the sliver that's on there?

Mr. Kever: I see a fence line; I don't see a sliver.

Mr. Oberholtzer: whatever you see there it looks like it's a separate parcel, is that correct?

Mr. Kever: it is not a separate parcel.

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Mr. Oberholtzer: who owns it?

Mr. Kever: the same person that owns 31.

Mr. Oberholtzer: the same person that owns 31?

Mr. Kever: 31 that is property 31.

Mr. Oberholtzer: so you're saying that sliver belongs to parcel 31.

Mr. Kever: that sliver is part of parcel 31.

Mr. Laven: who owns parcel 31?

Mr. Kever: I don't know off hand.

Ms. Ray: Mr. Oberholtzer, do you have any further questions?

Mr. Oberholtzer: no I don't.

Ms. Ray: Mr. Fisher, do you have any questions for this witness?

Mr. Fisher: no.

Mr. Laven: I reserve the right to recall Mr. Kever.

Ms. Ray: Mr. Laven, do you have anyone else you would like to call?

Mr. Laven: no other witnesses.

Ms. Ray: Mr. Fisher would you like to put on some testimony?

Mr. Fisher: I do have some questions about the WRWD, but I don't believe I'm going to call Mr. Oberholtzer whose here as an attorney for the trustees. If I may, a very quick statement; the map itself is clear; this is an island; it just doesn't work from a municipalities prospective; a very large island surrounded by the City of Brunswick; for that among many other reason we believe it is in the public interest that this petition be granted.

Ms. Ray: Attorney Oberholtzer.

Mr. Oberholtzer: I'd like to call to the witness stand Ken Hotz please.

Mr. Hotz was sworn in by Ms. Ray.

Mr. Oberholtzer: can you tell us your name, address and occupation?

Mr. Hotz: Kenneth Hotz, 791 W. Smith Road, Medina; County Sanitary Engineer.

Mr. Oberholtzer: how long have you been in that position?

Mr. Hotz: 46 years.

Mr. Oberholtzer: in that position you're involved in the water and sewer matters involving the County Commissioners?

Mr. Hotz: yes sir.

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Mr. Oberholtzer: this Board of County Commissioners is the sewer authority for a large portion of the county?

Mr. Hotz: yes.

Mr. Oberholtzer: including this territory?

Mr. Hotz: that's right.

Mr. Oberholtzer: does it have any jurisdiction as to water in that area?

Mr. Hotz: no sir.

Mr. Oberholtzer: why not?

Mr. Hotz: because we don't have a contract to supply water to that territory.

Mr. Oberholtzer: now, in your time as Sanitary Engineer, the issue of water in the City of Brunswick has surfaced many times, is that correct?

Mr. Hotz: yes sir.

Mr. Oberholtzer: the county does in fact have water hardware and service surrounding a lot of Brunswick City.

Mr. Hotz: that's correct.

Mr. Oberholtzer: how does that come about?

Mr. Hotz: we installed our distribution system up to the corporate limits of the city.

Mr. Oberholtzer: and the County Commissioners have done that?

Mr. Hotz: yes.

Mr. Oberholtzer: and, when you say you don't have a contract to service this area, who would that contract need to be with?

Mr. Hotz: City of Cleveland.

Mr. Oberholtzer: to supply the water?

Mr. Hotz: that's correct.

Mr. Oberholtzer: but you could supply the hardware?

Mr. Hotz: if we had a contract to supply the water, yes.

Mr. Oberholtzer: do you have any contracts with the City of Cleveland now to supply the water?

Mr. Hotz: yes.

Mr. Oberholtzer: where at?

Mr. Hotz: in Brunswick Hills Township south of Sleepy Hollow.

Mr. Oberholtzer: is that the only place?

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Mr. Hotz: we had one in Hinckley; we cancelled that.

Mr. Oberholtzer: do you know why you cancelled it?

Mr. Hotz: because we can do it better.

Mr. Oberholtzer: in the last several months there was discussion with the City of Brunswick about becoming the water authority or water supplier for the City of Brunswick?

Mr. Hotz: there was a request made to whether or not we could supply the City of Brunswick with water in lieu of the City of Cleveland.

Mr. Oberholtzer: what became of that request?

Mr. Hotz: the City of Brunswick decided they would stay with the City of Cleveland.

Mr. Oberholtzer: now, if the City of Brunswick had opted to go with the county, would this area, could this area be served by the county?

Mr. Hotz: if they turned their system over to us, yes.

Mr. Oberholtzer: was that one of the items of discussion?

Mr. Hotz: yes.

Mr. Oberholtzer: were you ever communicated any reason why the City of Brunswick turned you down?

Mr. Hotz: no.

Mr. Oberholtzer: is it important that the county water system continue to add customers?

Mr. Hotz: yes.

Mr. Oberholtzer: why?

Mr. Hotz: to stabilize the rates...

Mr. Oberholtzer: as you stand here today, do you have an opinion as to whether the county can provide water better for Medina County than the City of Cleveland?

Mr. Hotz: what do you mean by the county?

Mr. Oberholtzer: the county water system run by the County Commissioners?

Mr. Hotz: of course we can.

Mr. Oberholtzer: why?

Mr. Hotz: because it is more cost effective.

Mr. Oberholtzer: and you're newer?

Mr. Hotz: yes, that's part of the equation.

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Mr. Oberholtzer: so you're saying that if the City of Brunswick had teamed up with the county we wouldn't have to worry about this issue about whether or not water is available for that property?

Mr. Hotz: that's true; you also have the journal entry sitting there too that has to be resolved.

Mr. Oberholtzer: ok, and do you know whose a party to that journal entry?

Mr. Hotz: the city and the county.

Mr. Oberholtzer: but not the township?

Mr. Hotz: no.

Mr. Oberholtzer: are you familiar with an entity known as the WRWD?

Mr. Hotz: yes sir.

Mr. Oberholtzer: how are you familiar with it?

Mr. Hotz: watched them develop.

Mr. Oberholtzer: how was it created, do you remember?

Mr. Hotz: by order of the Common Pleas Court, under Chapter 6119 of the Ohio Revised Code.

Mr. Oberholtzer: and when that is done is the County Commissioners required to be served with a notice?

Mr. Hotz: we never served a notice.

Mr. Oberholtzer: you were never officially served with the pleadings?

Mr. Hotz: that's correct.

Mr. Oberholtzer: are you a necessary party to that, do you know?

Mr. Hotz: no sir.

Mr. Oberholtzer: did there come a time when the WRWD attempted to levy some assessments on various properties within this jurisdiction?

Mr. Hotz: yes.

Mr. Oberholtzer: is this particular property within the jurisdiction of the WRWD?

Mr. Hotz: yes; anything within the township was part of that district.

Mr. Oberholtzer: and, what's the history of those assessments as you know?

Mr. Hotz: there was an appeal to the Common Pleas Court here in Medina County and the judge disallowed them; they appealed and as far as I know it's with the Supreme Court and it's over now.

Mr. Oberholtzer: in other words, that question is still active?

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Mr. Hotz: yes.

Mr. Oberholtzer: those planning assessments were for what?

Mr. Hotz: how to provide water to the Western Reserve territory.

Mr. Oberholtzer: that involved the drilling of some wells and the running of lines and a whole project, is that correct?

Mr. Hotz: that was part of it, yes.

Mr. Oberholtzer: how was that to be financed?

Mr. Hotz: I'm not sure they were assessed or they were going to use tap in fees; we were not a part of it.

Mr. Oberholtzer: where did that money come from?

Mr. Hotz: the Ohio Water Development Authority (OWDA) loaned them a sum of money to do the planning process.

Mr. Oberholtzer: did some how the county get involved with that loan?

Mr. Hotz: after the WRWD ceased to exist and they didn't provide any service to some of some of this territory the county proceeded to install some lines in areas that were within it and the OWDA required the county to pay those proportions of assessments for those properties that we were now going to serve.

Mr. Oberholtzer: is that going to be true in any area the county serves within the jurisdiction of the WRWD?

Mr. Hotz: I'm sure it will be the same case.

Mr. Oberholtzer: was there some kind of a carrot or stick that was offered to the county in return for doing that?

Mr. Hotz: no.

Mr. Oberholtzer: didn't the county receive, in other words, wasn't the proposal that if the county did this they could get certain loan funds from the OWDA?

Mr. Hotz: we were getting loan funds from the OWDA; in order to obtain loan funds within the WRWD area they wanted those assessments paid.

Mr. Oberholtzer: so the county finds itself in the position if its going to install waterlines in this territory it must charge what, a tap in fee?

Mr. Hotz: yes; construction charge.

Mr. Oberholtzer: how much is that?

Mr. Hotz: it's \$3500 for the line itself and then in the case of within the WRWD, it's another \$300+; that depends on what the assessment will be at the time we develop it.

Mr. Oberholtzer: so that assessment goes up every year, is that correct, the portion for the OWDA loan?

Mr. Hotz: yes, for the OWDA loan.

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Mr. Oberholtzer: it currently is about \$350?

Mr. Hotz: close to that.

Mr. Oberholtzer: now if this 190 homes were subject to that \$350 fee that would generate a lot of money wouldn't it?

Mr. Hotz: what do you mean subject to it? We can't serve that area.

Mr. Oberholtzer: I understand that, but if some how that money was collected in that territory at \$350 per house, that would generate a lot of money.

Mr. Hotz: \$350 times 190.

Mr. Oberholtzer: ok; now does the City of Cleveland borrow money from the OWDA?

Mr. Hotz: not that I'm aware.

Mr. Oberholtzer: so the only way to compel that to be paid is that somebody has to be in a position of exercising authority to block the development of this property.

Mr. Hotz: I don't quite understand that.

Mr. Oberholtzer: as it stands now that money, there's no feasible way for that sum of money to be collected is there?

Mr. Hotz: not right now, no.

Mr. Oberholtzer: but if the annexation is turned down that certainly creates a major development doesn't it because of that reason?

Mr. Hotz: if it's turned down it won't create a development it would be a smaller development.

Mr. Oberholtzer: but it's going to provide a mechanism to guarantee that sum of money gets paid isn't it?

Mr. Hotz: only if somebody borrows the money from OWDA.

Mr. Oberholtzer: alright; but if the annexation came to be approved without that being a condition that would get it paid too wouldn't it?

Mr. Hotz: I don't know how because somebody would have to borrow money from the OWDA to put waterlines in. Now if the City of Brunswick did that, they could do that. The county certainly can't do it because we can't service to that property.

Mr. Oberholtzer: I understand that, but if you had \$350 times 190 homes, that would go a long way to making this problem go away.

Mr. Hotz: that's only a small part of that loan.

Mr. Oberholtzer: do you know how much it is?

Mr. Hotz: it started out at half a million; \$555,000.

Mr. Oberholtzer: the county has already paid quite a bit of that.

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Mr. Hotz: about \$30,000.

Mr. Oberholtzer: only \$30,000?

Mr. Hotz: maybe not even that much; close to \$30,000.

Mr. Oberholtzer: is there enough homes in the county district to pay that off?

Mr. Hotz: within the WRWD?

Mr. Oberholtzer: yes.

Mr. Hotz: no.

Mr. Oberholtzer: so this just makes the problem worse by having it subtracted from the township doesn't it?

Mr. Hotz: sure.

Mr. Oberholtzer: and you're saying the OWDA could tell the City of Brunswick that they're not going to have any money unless they agree to the same conditions?

Mr. Hotz: that's only if the City of Brunswick went to the OWDA.

Mr. Oberholtzer: and because the City of Cleveland doesn't go to the OWDA then they can't make the City of Cleveland do anything.

Mr. Hotz: no.

Mr. Oberholtzer: and you don't feel that the Commissioners by rejecting this annexation petition would cause that issue to be resolved?

Mr. Hotz: I don't feel the rejection to be resolved?

Mr. Oberholtzer: right.

Mr. Hotz: I don't think its going to get resolved period.

Mr. Oberholtzer: alright; are you aware the Common Pleas Court of Medina County has in fact said you can tie into the hardware of the City of Brunswick even without annexation?

Mr. Hotz: no.

Mr. Oberholtzer: you're not aware of a case that occurred up on Boston Road?

Mr. Hotz: oh, I know what happened on Boston Road.

Mr. Oberholtzer: ok, what happened?

Mr. Hotz: people on Boston Road got a permit from the City of Strongsville who didn't know about it when they tied on and by the time they got to Common Pleas Court the judge said they're tied on, leave them alone.

Mr. Oberholtzer: so the court in essence approved what happened?

Mr. Hotz: they let it happen; it happened before it got to the court.

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Mr. Oberholtzer: what's to stop this property from going across the street to the City of Strongsville and doing the same thing?

Mr. Hotz: I don't know.

Mr. Oberholtzer: are you, is the county attempting to develop water on the east side of W. 130th?

Mr. Hotz: yes.

Mr. Oberholtzer: and they're also trying to develop water south of this property on W. 130th, is that correct?

Mr. Hotz: we could develop water on the east side of W. 130th in Hinckley Township.

Mr. Oberholtzer: to develop that water on the east side of W. 130th, would the county be able to service this property?

Mr. Hotz: no.

Mr. Oberholtzer: why can't the county service this?

Mr. Hotz: we'd have to go through the City of Brunswick to get there.

Mr. Oberholtzer: why is that a problem?

Mr. Hotz: the City of Brunswick wouldn't give us the road opening permit.

Mr. Oberholtzer: that puts the Commissioners in an interesting position doesn't it?

Mr. Hotz: might be.

Mr. Oberholtzer: in other words you don't see that the annexation is related to road opening permits and these assessment questions or anything like that do you?

Mr. Hotz: no.

Mr. Oberholtzer: when do the Commissioners interests get to a point where the annexations become detrimental to the county water system?

Mr. Laven: objection; I don't think that's a proper question to ask;

Ms. Ray: Mr. Oberholtzer, it's my understanding that Mr. Knight did testify that if this land was to remain in the township it would be subject to township zoning, which means it would have wells, correct?

Mr. Oberholtzer: not necessarily; yes, that's what he testified to, that's correct.

Ms. Ray: ok, I guess that's where I'm having a little confusion over this line of questioning.

Mr. Oberholtzer: I'll clarify the question; Mr. Hotz, don't you agree that each time you subtract territory from the township and it becomes part of the Brunswick City water system that's customers that the county water system is losing?

Mr. Hotz: these would have never been our customers.

Mr. Oberholtzer: but there will be a point where there are customers.

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Mr. Hotz: no they won't be.

Mr. Oberholtzer: not this particular property, but other properties.

Mr. Hotz: it's possible to the south.

Mr. Oberholtzer: so perhaps not today, but at some point an annexation could in fact have an impact on the county's water services.

Mr. Hotz: we have a contract with the City of Cleveland that provides for the rest of Brunswick Hills Township so it's not county water that's going to go in there today, so it won't have any affect on us.

Mr. Oberholtzer: on this one?

Mr. Hotz: or anything else in Brunswick Hills Township.

Mr. Oberholtzer: because you already have a contract?

Mr. Hotz: with the City of Cleveland.

Mr. Oberholtzer: so you're saying after this annexation every other annexation is going to be subject to that contract?

Mr. Hotz: it has been.

Mr. Oberholtzer: alright; no further questions.

Mr. Laven: Mr. Hotz, you testified about a \$350 fee which is apparently is required for water supply through this district that has been established.

Mr. Hotz: yes; at the time they tried to levy the assessment they took the number of parcels in the township, divided by what was owed and came up with \$200+; now since it's delayed this long, interest has accumulated and it's now over \$300.

Mr. Laven: and from what you said it sounds like that assessment is still in the court.

Mr. Hotz: it is; it's still being challenged.

Mr. Laven: assuming it's upheld then you're talking \$350 for this one parcel if it's done on a parcel basis.

Mr. Hotz: that's true.

Mr. Laven: so if this goes through, the assessment, we write a check for \$350 then we've met our obligation.

Mr. Hotz: I assume so.

Mr. Laven: and it's not even going to the township, it's going to the district?

Mr. Hotz: it goes back to the OWDA.

Mr. Laven: but this doesn't affect the township revenues one way or another.

Mr. Hotz: no.

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Mr. Laven: for \$350, we're out of the obligation?

Mr. Hotz: right.

Mr. Laven: I think you've already said this, but today there is no water available there and there's no way the township can bring water in there without going through the City of Brunswick.

Mr. Hotz: that's correct.

Mr. Laven: and then you really have to go through; let's switch the maps here; getting water through the city; now first the city says we won't permit; it stops and he owns the property and he can't get it from the city today. But even if they did this is not an easy task because you have to go through a lot of the city, which will involve road openings, easements, right-of-ways, possibly imminent domain expenses, to get the water in there.

Mr. Hotz: you mean if we were to try to do it?

Mr. Laven: well, whoever's going to do it. It's not an inexpensive task.

Mr. Hotz: well the developer of that property, it's not going to be difficult, he just has to tie into the City of Brunswick waterlines.

Mr. Laven: but if he can't; the answer is the city will; but if you want to bring it from the township you're going to have to install pipes through a considerable amount of the city, get easements, rights-of-way and so forth.

Mr. Hotz: I don't know where he's going to get it from.

Mr. Laven: that was my point. And I think, I'm glad you spoke on this, this one case that was alluded to where somebody in the township was able to tie into the city. But that a case that was actually because it was already done and the case just approved it after the fact.

Mr. Hotz: see the waterline was in the Strongsville side of the street so they went and got it from the Strongsville. Brunswick didn't know about it until it was already tapped in.

Mr. Laven: so the fact of the matter is if you're in the township now, there's no right to tie into the city system; in fact I believe there's a court case that has upheld that.

Mr. Hotz: Journal Entry 30174 in 1977 sets the boundaries; there are some properties that can have water without annexing, but there must be a tap in fee to the City of Brunswick.

Mr. Laven: and this was not one of them.

Mr. Hotz: no.

Mr. Laven: I have no further questions; one last question, do you know what the budget is for the township?

Mr. Hotz: no idea.

Ms. Ray: Mr. Fisher.

Mr. Fisher: I'll be quick. The water treatment facility that services the Medina County system is in Avon correct?

Mr. Hotz: Avon Lake.

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Mr. Fisher: and you buy your water from Avon Lake, correct?

Mr. Hotz: correct; bulk.

Mr. Fisher: and you don't serve on the Board of the Avon Lake Water Department do you?

Mr. Hotz: no.

Mr. Fisher: in fact, no Medina County officials serve on the Board of the Avon Lake Water Department, right?

Mr. Hotz: no sir.

Mr. Fisher: now in terms of east of W. 130th Street, that is water that is provided by the City of Cleveland?

Mr. Hotz: east, no; you mean west.

Mr. Fisher: now in regard to the WRWD, who is currently on the Board?

Mr. Hotz: I have no idea.

Mr. Fisher: do you know when they meet?

Mr. Hotz: they all scattered; I have no idea.

Mr. Fisher: you don't know how much money has been collected by this WRWD?

Mr. Hotz: no; the county had nothing to do with the WRWD; all we know is what we hear, rumors, few news articles.

Mr. Fisher: thank you.

Mr. Hambley: where is the closest county line of the Avon Lake water?

Mr. Hotz: it would be down on Route 3 in Medina Township; or possibly on Boston Road to the west over near Substation and Boston Road. (Pointed this out on the map.)

Mr. Laven: that's a long way to go to the property.

Mr. Hambley: the other water that is spoken of is essentially water provided by Cleveland into Hinckley, and as you pointed out there is an agreement, is it true that won't be available to the county for 5 years?

Mr. Hotz: correct.

Mr. Hambley: a 5 year period of time before we'll actually have access.

Mr. Hotz: yes.

Mr. Hambley: without the City of Cleveland approving.

Mr. Hotz: that's in Hinckley Township.

Mr. Hambley: my understanding is the 1977 Journal Entry involved a number of parties, one of which was Mr. Oberholtzer representing the county interest, one of the signatories, so I

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think certainly a good understanding of that; I think the question I would have, the Journal Entry of 1977, was that territory designated for service by which jurisdiction in terms of water.

Mr. Hotz: by the City of Brunswick with annexation.

Mr. Hambley: with annexation; and that has been the case since 1977?

Mr. Hotz: correct.

Mr. Hambley: has that been confirmed by every Board of Commissioners, it has been questioned and reaffirmed by the Board of Commissioners since then?

Mr. Hotz: certainly has.

Mr. Hambley: in terms of scaling the capital investment of the county water system requires mostly at capacity as areas develop, is that correct?

Mr. Hotz: yes.

Mr. Hambley: and basically this is a facility planning area done for sewers and it's also done for water.

Mr. Hotz: yes; in the case of water it's called general planning.

Mr. Hambley: so in sizing the water availability for areas outside of Brunswick that area, since it was subject to the 1977 Journal Entry, was never considered to be serviced by the county.

Mr. Hotz: that's true; it never been taken into account.

Mr. Hambley: only under the most recent proposal to take over the whole city system; a level of investment was required to provide water to the City of Brunswick.

Mr. Hotz: that's true.

Mr. Hambley: what was the investment required to provide water to the entire City of Brunswick in the last proposal?

Mr. Hotz: I believe it was in the neighborhood of \$16 million.

Ms. Ray: is it my understanding that the City of Brunswick has just re-entered an agreement with the City of Cleveland for the water.

Mr. Hotz: they'd have to answer that.

Mr. Fisher: the answer is no; we are in discussion. There was an RFP that went out, in fact, I had the pleasure to meet with Mr. Hotz and representatives from Avon Lake, and Mr. Zienkowski; we also met with Cleveland officials, and Brunswick City Council has directed the Brunswick administration to negotiate with Cleveland to extend the existing water service facility agreement; at this point no new agreement has been consummated.

Ms. Ray: may I ask what is the time length that is being negotiated or talked about?

Mr. Fisher: 50 years.

Ms. Ray: thank you.

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Mr. Hambley: we've some testimony, we should probably swear in the necessary, the representatives of the necessary parties; I don't believe we've done that; that was done as individuals as they came up. If we're going to get testimony from the representative from the city, township, in terms of facts, we did not swear them in. I just don't want a judge to decide that we did something improper.

Mr. Fisher was sworn in by Ms. Ray.

Mr. Fisher agreed as long as Mr. Oberholtzer does not disqualify him because he is the attorney for the city because I'm not a witness.

Mr. Oberholtzer: I just want to ask and cross-examine questions.

Trina Devanney, Assistant Prosecutor: may I also suggest that you also ask if him to swear that the statements he has already made have been the truth.

Ms. Ray: Mr. Fisher, do you solemnly swear that the statements you've already made are true?

Mr. Fisher: yes, to the best of my knowledge; again, I did make a brief opening statement that I do believe it's in the overall interest of Brunswick, and that's my opinion. Yes, all of the statements I have made are true in my opinion.

Mr. Oberholtzer: Mr. Hotz, the Journal Entry that we've discussed, it basically says that the City of Brunswick is not required to provide water without annexation; they could do it, couldn't they?

Mr. Hotz: if they chose to, sure.

Ms. Ray: Attorney Oberholtzer, do you have any other witnesses?

Mr. Oberholtzer: I have no other witnesses, but if Mr. Fisher is a witness and testified, which I think he now is, I would like to ask him a couple questions.

Mr. Laven: I would think that is improper; actually, he is counsel for the City and what statements he made on behalf of the City go into the record, that's fine; but then are you going to put Mr. Oberholtzer on the stand? If you actually listen, most the stuff when he had his witness on there were not questioned for statements.

Ms. Ray: at this point I'm going to ask for your patience while we take a 5 minute recess to meet with our legal counsel. We'll come back at 10 after 11.

The hearing was recessed from 11:05 to 11:12 a.m.

Ms. Ray: our legal counsel has told us that Mr. Fisher since you did testify to some information that we're using as testimony that you are liable to be cross-examined for that information only. So Mr. Oberholtzer, I think the only thing Mr. Fisher did testify to was the status of the agreement with the City of Cleveland that Brunswick is currently negotiating and working on. So Mr. Fisher if you'd like to come up.

Mr. Laven: one procedural question, am I entitled to ask Mr. Oberholtzer about the WRWD that he seems to be the only one with any knowledge about it.

Ms. Ray: we're going to get to that. So we'll do this first and then have some questions for Mr. Oberholtzer. Mr. Fisher I'd like to remind you that you're still under oath.

Mr. Oberholtzer: you indicated there are negotiations with the City of Cleveland by the City of Brunswick for the extension of a new agreement, is that correct?

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Mr. Fisher: yes; water agreement.

Mr. Oberholtzer: as part of those negotiations what's going to happen to the control that the City of Brunswick has had over water and the water hardware in regards to annexation?

Mr. Fisher: you asked two different questions, in regards to water, do you mean water rates?

Mr. Oberholtzer: what I'm saying is the current contract gives you, the City of Brunswick, what I would consider to be a hammer-lock over the use of the hardware without annexation; would you agree with that?

Mr. Fisher: I would agree that currently the water facility hardware is in fact owned by the City of Brunswick, which would include the tower and lines.

Mr. Oberholtzer: and there is an agreement with the City of Cleveland that says that can't be used by anybody unless they annex to the City of Brunswick.

Mr. Fisher: yes, we own the present water facilities.

Mr. Oberholtzer: what I'm trying to find out from you is under the current negotiations what's going to happen to that policy?

Mr. Fisher: I don't want to characterize anything as policy, but under the current negotiation the water facilities, which would include the tower and the lines, would become the property of the City of Cleveland Water Department if in fact a new agreement is consummated, which is a big if at this point because to be perfectly blunt, although we're in negotiations, as you know as a skilled attorney, we're far from completion. So yes, there are discussions, there are negotiations, but nothing has been consummated.

Mr. Oberholtzer: if the City of Cleveland does own the water and the waterlines will that mean that the City of Brunswick can no longer require annexation in order to get access to that service?

Mr. Fisher: no, we still will require annexation to get access to that service; if it involves lines that goes through the city to get to an outlying area.

Mr. Oberholtzer: so the policy is not going to change?

Mr. Fisher: not in my opinion; but again, this is discussion only; not anything that has been approved yet.

Mr. Oberholtzer: I have no further questions.

Ms. Ray: anyone else with questions for Mr. Fisher? Mr. Oberholtzer, when you made your opening statements, you said you were here in the capacity of representing Brunswick Hills Township?

Mr. Oberholtzer: that's correct.

Ms. Ray: are you also here in the capacity of representing the WRWD?

Mr. Oberholtzer: I am not; the question was am I the attorney for them, and yes I am. But no I am not appearing on behalf of them this morning. If somebody wishes to call me as a witness because of how this has transcended I will be more than happy to be sworn and testify.

Ms. Ray: Mr. Hambley what do you want to do?

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Mr. Hambley: not at this time.

Ms. Ray: Mrs. Geissman?

Mrs. Geissman: no.

Mr. Laven: I assume you're resting? We are through too, but it has come up while you were away that the actual owner of the property would like to say a few words to Commissioners. If that is possible I would like to call Curt Waite, if there is no objection, to the stand.

Ms. Ray swore in Mr. Waite.

Ms. Ray: please state your name and address for the record.

Mr. Waite: Curt Waite, 153 Carpenter Road, Brunswick.

Mr. Laven: I'll just ask you a few questions. Mr. Waite, this is the person you appointed as your agent (Mr. Knight)?

Mr. Waite: yes.

Mr. Laven: are you in favor of this annexation?

Mr. Waite: yes sir.

Mr. Laven: how long have you or your family owned this property?

Mr. Waite: since 1855.

Mr. Laven: and during that time you said it was farmed.

Mr. Waite: yes.

Mr. Laven: can you tell me now why you want to do the annexation?

Mr. Waite: the eventuality of the property being developed is; it's been there for years, it's just time to move on and there is basically no other sensible use of the property; they've been talking about an interchange for years for other purposes and so we knew the end was at hand, and this is the end.

Mr. Laven: no further questions.

Mr. Oberholtzer: I have no questions.

Mr. Fisher: your family's been patient; no questions.

Ms. Ray: Attorney Oberholtzer, you have no further questions is that correct?

Mr. Oberholtzer: I have none, but I would like to say to the Board I'd like to submit as part of this hearing, and I can do it yet today, the latest court order involving the WRWD as to the question of these assessments. It's a decision of the Franklin County Common Pleas Court.

Mr. Hambley: and that is dated when? I know they made more than one ruling; this is after the appeal?

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Mr. Oberholtzer: like I said I'm very willing to testify if that becomes necessary. But what has happened is the Franklin County Common Pleas Court was asked to

Mr. Hambley: I'm sorry the Assistant Prosecutor is raising her hand.

Ms. Devanney: I'm sorry, but I believe if he's going to be answering this question pursuant to a request that that would be testimony.

Ms. Ray swore in Mr. Oberholtzer.

Mr. Oberholtzer: I'm directed to reflect I'm John Oberholtzer and I'm currently serving as the attorney for the WRWD; that at the present time the Common Pleas Court of Franklin County has issued a decision that says the contract with the OWDA is a binding contract and we're currently having a dispute as to whether or not the Common Pleas Court of Franklin County has the authority as part of that decision to order that assessments be made for the repayment of this loan. Now, that's a decision of the Common Pleas Court and there are still a wide number of appeals before us; the current issue more specifically is over attorney fees; the current status is the Common Pleas Court has not allowed attorney fees to be part of the judgment, but the question of the assessments is still before the township and the trustees because the status of the water board is non-existent; it has no board members at all. I would like to submit as part of this hearing the latest court order that's part of the Franklin County Common Pleas Court case.

Mr. Hambley: if you don't mind, there were a number of statements made by Mr. Hotz and I believe by the attorney representing the applicant regarding the WRWD, particularly on the assessments. Were there any statements made by them, since you are the attorney representing the WRWD that were not accurate?

Mr. Oberholtzer: I think the statements are accurate; I think that the question is, is there an assessment currently levied? I think that was a little murky. The answer is no. The Common Pleas Court of Medina County said the assessments are wrong so there's nothing levied. Interestingly enough the OWDA then went to a court in Franklin County to try to find another mechanism to levy those assessments; they are several jumps from getting that accomplished, but that is hanging over all our heads. And of course the issue is the OWDA came to the Commissioners and said you start paying on this bill for those homes in your jurisdiction that are tying into county facilities. So I think that is very germane to this issue.

Mr. Hambley: ok, but the question

Mr. Oberholtzer: the answer to the specific question is absolutely true. I'm not disputing any of that.

Mr. Hambley: what was the year that the original assessments were placed, do you recall?

Some discussion between Mr. Oberholtzer, Mr. Dennis Kerwin and Ms. Slimak.

Mr. Oberholtzer: it was 1999 when they levied the first assessments.

Mr. Hambley: as Mr. Hotz indicated, it is on a parcel by parcel basis; total number of parcels, regardless of size, regardless of value or benefit to those parcels?

Mr. Oberholtzer: it was on a benefit assessment; so that would be parcel by parcel.

Mr. Hambley: but there was no capitalization on the potential number of lots that could be constructed?

Mr. Oberholtzer: no.

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Mr. Hambley: so when that decision was made by that board at that time it was on a parcel by parcel basis so that any future development, even of a parcel of Mr. Knight's, was for that single parcel.

Mr. Oberholtzer: recognize those assessments we would maintain are no longer an issue; the question is if they came through with new assessments and you now had more parcels you'd be able to levy an assessment against more parcels.

Mr. Hambley: or just as likely, on a benefit basis where you'd look at essentially potential development as well as frontage.

Mr. Oberholtzer: so if this property were subject to that assessment, if in fact it does get levied, and we are here to oppose that, that's one of my assignments representing my clients, but if in fact the assessment did get levied and this property was developed there would be 190 more assessments than there are now.

Mr. Hambley: but at this point, there would have to be an authority in place and board members, correct?

Mr. Oberholtzer: there's an authority in place; there would have to be board members.

Mr. Hambley: and there are no board members currently?

Mr. Oberholtzer: that's correct.

Mr. Laven: Mr. Oberholtzer, you said you're the attorney for the WRWD?

Mr. Oberholtzer: that's correct.

Mr. Laven: but I think you also said you're not here on behalf of the WRWD.

Mr. Oberholtzer: I am at this point as a witness, I guess.

Mr. Laven: earlier you said you weren't here on behalf of the WRWD.

Mr. Oberholtzer: that's correct.

Mr. Laven: I assume it's correct that the WRWD has not instructed you, authorized you, or told you to come down here and say a word, is that correct?

Mr. Oberholtzer: they cannot; did not.

Mr. Laven: so you're speaking on your own without the authority whatsoever of the WRWD.

Mr. Oberholtzer: no, I'm called here as a witness; I was asked questions and the Prosecutor determined it necessary I testify under oath so the answer is I haven't been specifically authorized to make these statement by the board but as a witness I'm required to testify.

Mr. Laven: I understand you're required to testify to the questions, but you not only have not been authorized but you haven't been instructed; they don't even know you're here.

Mr. Oberholtzer: in that there are no board members, the answer is correct.

Mr. Laven: so anything that is said is just opinion, conjecture or whatever; the entity of which he is speaking of has not authorized anything to be said or presented here in the record.

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Ms. Ray: I think that's understood; I think that we asked Mr. Oberholtzer to speak for informational purposes only.

Mr. Laven: I have nothing further.

Ms. Ray: Mr. Fisher.

Mr. Fisher: I have nothing further; we're comfortable with the statements Mr. Oberholtzer made; we have no objections.

Ms. Ray: at this point I understand all 3 attorneys have no further witnesses. Is there anyone else here in the audience that wishes to testify in regards to this annexation? Sir, will you please come up?

Ms. Ray swore Dennis Kerwin in; please state your name and address for the record.

Mr. Kerwin: Dennis Kerwin, 569 Marks Road, Brunswick Hills Township. (Review of maps). My reason for testifying and bringing this item up; this is the original court hearing case, 30174; the original judgment order; the original judgment order was filed in 1977; this is a copy of the original; it is verified by John Oberholtzer; I'll read it: "Please be advised that the plat, drawing map discovered in some old papers I retained from my period as County Commissioner. I have referred to you containing brown paper envelope in my opinion is the map to be attached to the Journal Entry settlement that was reached between Medina County Commissioners and the City of Brunswick involving distribution of water within the county service area located primarily in Township of Brunswick Hills..." There is a difference, this shows A county water, B portion of Brunswick Hills Township to be served by the City of Brunswick (cross-hatched area), C portion of Hinckley Township to be serviced by Brunswick City; this section out here was C; all of a sudden once, and somehow 7 years later from this maps all disappeared; new one had to be drawn from memory; came up with a strange thing. A is all this side, stayed the same; B, wound up over here and all of a sudden it goes up to Hinckley, and C becomes the center. Interesting. This one says a portion of Brunswick Hills Township to be serviced by Northwest Water District, red cross hatched area; B, portion of Brunswick Hills Township and Hinckley Township to be serviced by City of Brunswick, black cross hatched area; paragraph 3; and C, portion of area to be serviced by Brunswick City, not cross hatched in black or red; that's the center, which is where the Waite property is located. Now then, we have this situation and to verify what I'm telling you it says down here "exhibit map filed in this case, July 26, 1984"; so this is an important thing when you talk about what is required by the City of Brunswick; what's required by the City of Cleveland. You have a bogus map brought in on you here.

Ms. Ray: Mr. Kerwin, I don't mean to interrupt you, but at this point there doesn't appear to be any relevancy of this discussion to this annexation hearing. Is there a point you're trying to make quickly?

Mr. Kerwin: yes; I will break the second one out; (presented another map); This basically is very important, this is the area here; this is June 30, 1997; this gives the same case number and gives the cross hatched area for Medina County water here; gives the area in Brunswick Hills not required annexation; it gives this area, it says annexation required by the City of Brunswick; that's why it's important. You see, there is a difference between these things that have been coming out over the years and the original over here.

Ms. Ray: sir, this is an annexation hearing; we have some very specific criteria that we're allowed to take in for testimony for the decision that we have to make; the fact that there is a difference in these maps really doesn't qualify.

Mr. Kerwin: but it's the court case that does; everybody has mentioned that court case.

Ms. Ray: and the relevance to this annexation hearing is?

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Mr. Kerwin: yes; in relevance to this annexation; people hear.

Ms. Ray: they've brought it up as a point of reference, sir, but I guess what I'm trying to ask you for is what exactly you want to say about the court case that you feel

Mr. Kerwin: that the map has been switched; you have a bogus map. You do what you want with it. I'll cut all this stuff and give it to you. You do what you want.

Ms. Ray: but sir

Mr. Kerwin: there's a big difference in that and I think this had a big bearing on that Hinckley/Brunswick ending their water spat because I gave Dave Terry and the Hinckley Trustees copies of these maps. I'll give them all to you to digest them as you see fit. And I think another thing that has a bearing on it, the annexation hearing here, is, no reflection on Steve at all, but there's a Hambley-Hambley connection; his wife serves on the council as a councilwoman at large and he's here to hear the case; I think somewhere along the line somebody should excuse themselves from the hearing. You do what you want.

Ms. Ray: would you like to submit them as exhibit sir?

Mr. Kerwin: I'm leaving them all. Has anybody got any questions on it?

Mr. Fisher: the letter that you got is from Mr. Oberholtzer?

Mr. Kerwin: yes.

Mr. Fisher: he's the one that gave you the so called correct map?

Mr. Kerwin: yes.

Mr. Fisher: when did he give it to you, 2000, the date of the letter?

Mr. Kerwin: yes; it would be July 31, 2000.

Mr. Fisher: 2000; and it's 2004

Mr. Kerwin: yes.

Mr. Fisher: and this is the same Mr. Oberholtzer that's here representing the township correct?

Mr. Kerwin: yes.

Mr. Fisher: has Mr. Oberholtzer as far as you know gone back to court and filed some kind of motion with the court to get the so-called correct map appended to the judgment entry, as far as you know?

Mr. Kerwin: not that I know of.

Mr. Fisher: thank you; nothing further.

Ms. Ray: not only that Mr. Kerwin but I would point out, I believe you read in that letter that map came from when Mr. Oberholtzer was County Commissioner; Mr. Oberholtzer, when were you a County Commissioner?

Mr. Oberholtzer: the map was in my personal papers that I had when I was County Commissioner, 1970 through 1978.

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Ms. Ray: so it was a few years ago and boundary lines do change as properties are annexed and platted. Mr. Oberholtzer noted that he was County Commissioner from 1970 through 1978. Are there any other questions for Mr. Kerwin? I thank you. Anyone else here that would like to testify today?

Mr. Fisher: is Mr. Kerwin Mr. Oberholtzer's witness?

Ms. Ray: no, Mr. Kerwin just wanted to testify as an interested party.

Mr. Kerwin: may I add on thing about that; I don't care what the Waite's do with their property as long as they're not forced to do it; that's the big issue here; it overrides everything. A person is being forced to do something to receive a service that they paid for processing. The Sewer District 5 main plant and 300 plant in Hinckley; those people paid on that and they should be able to get the water without any annexations.

Ms. Ray: at this point we're looking at closing statements. Mr. Laven, would you like to go first.

Mr. Laven: I reserve a moment for rebuttal if there is a need to do that. You've heard a lot of testimony and a lot of issues come up today; there's been a lot about the politics of water in Brunswick and Medina County; but I would suggest that none of that is really relevant. What is relevant is the requirements of the Ohio Revised Code and they have been met. Each one and if you go through my brief you'll see many of them to which Commissioners can judicial notice with regards to the petition and you'll notice right down the list. As I mentioned before and it wasn't discussed, but it's certainly addressed in my brief, is the size of the parcel is reasonable at 87 acres. I would direct your attention to a recent case that came out of the Commissioners hearing and was affirmed on appeal back in May which was in Wadsworth Township, an annexation there that was challenged in Common Pleas Court without the Court of Appeals, about 331 acres, sighted in my brief. The case is in the brief and the Court of Appeals affirmed them and deemed that parcel was not unreasonably large. This was actually taking into consideration the new annexation law with all its requirements. What do we have here today? We've met all the requirements; there's been substantial, reliable and probative evidence on the whole records that all of these requirements have been met. You come to the key requirement of the benefits and the detriments; you've heard all kinds of testimony on the benefits from Mr. Waite that he wants it done; from Mr. Knight, supplying water, better access and so forth. There really has been no testimony on behalf of the township of any detriments. There has been testimony, if you call it testimony, about the water issue and the WRWD. I would suggest first that is not really relevant; they're not really a party here. In the annexation statute, taking in to what somebody that's not a party or part of this, is not relevant. But having said that, there was no evidence presented that there's any ability for the township or this district to provide any water. It is all speculative and based on failure to collect an assessment, and actually on this assessment, when you drove down into that testimony deep enough, it was affirmed in the court, what will they get? \$350 because it's per parcel; this is one parcel. I don't want to cause my client to spent more money than he has to but if that issue can be resolved by the writing of a \$350 check, we're done with it. It is that insignificant. I'd also like to point out that he tried to attack the petition as being inaccurate because of this fence was shown in the documents submitted. This sliver, what looked like a little sliver of land, the testimony was that it was just a fence; it's not part of the petition. If you look at the map attached to the petition that doesn't even show this; it was a canard to distract. More importantly if you look at 709.015, they added this in the new annexation law, which basically says that if the substance is met you're not supposed to let these little details detract from the fact that this petition meets the majority of the issues. So even if you apply that, which is so far removed, this is a detail that should not detract from the fact that the substantive provisions of the statute have been met. Finally, the testimony of Mr. Hotz was actually supportive to our position. He confirmed they can't supply water. And even in the grander scheme of things about what's the county's view and what's coming in the future, he testified they didn't even take this property into consideration in meeting the future water needs of Medina County. It is considered part of the city's system in all of the planning.

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There is not economic detriment in that issue. Finally, in terms of tax revenues, an issue that always seems to drive these things when property is annexed, let's look at the budget of the township. The taxes on this property are minimal at best at \$429/year; its evidence in the tax bill of what comes to the township. As we go forward in the future, there's now the provision under the new law that will take care of the township's interest as tax grows; they will gain revenues also as well as the city. So they both benefit; this is basically a win-win situation. There are no detriments to the township; there are many benefits to the city, and maybe even benefits to the township. For all those reasons, I urge that the County Commissioners to grant the petition for annexation.

Ms. Ray: thank you. Attorney Fisher do you have any statements you'd like to make?

Mr. Fisher: there's been much discussion about water, but in terms of the ordinance that was duly enacted in July and forwarded by the Clerk of the Brunswick City Council; that's Resolution 105-04. It goes beyond water. Water is a main issue; it was basically the discussion at this hearing this morning. We're talking police, fire, EMS and it's all detailed in the resolution that was forwarded to you by Barbara Ortiz, Clerk. From that prospective all requirements of 709.033 have been met and the city respectfully requests that the petition be granted.

Ms. Ray: Attorney Oberholtzer.

Mr. Oberholtzer: the sole issue really in coming before you on behalf of my clients to oppose this is that the county has been drawn into this problem in a monetary sense. I don't think there's any question but what the testimony indicates that the county was told that if they're going to borrow any more money from the OWDA within the jurisdiction of the Brunswick Water Authority that they need to put a tap in fee on the property of each house of \$350. Now, it seems to me if the OWDA can do that they can say well not only that but we're going to say that if you put any homes up in Liverpool or Hinckley we're going to require a \$350 tap in fee. I think that's a debt the county is going to get strapped with. If the county can be put in the position that if they borrow money they have to put in this tap in fee, then it seems to me the OWDA can say that about any place. The problem is that would be okay if it was fair on both sides of the fence but it isn't. The City of Cleveland doesn't have to worry about the OWDA for whatever reason. Maybe Brunswick will, but we don't know that. So as a result this puts you at somewhat of a competitive disadvantage in terms of water customers. To us that's the most significant part of this whole thing is that the Board of Commissioners is being forced to address that debt. It wasn't the Board's debt, but the OWDA feels you must pay it. And they're doing everything in their power to make you pay it. And we feel that as a result that debt ought to be paid as quickly as possible, and as long as territory keeps getting subtracted like this will do, then it makes it that much more difficult for the debt to be paid. I think that argument is very clear to the Board and I think it has to go with Section 6 in the criteria that you've outlined in your very well put together handbook on annexation. We're saying the problem is the general good of the surrounding territory suffers because of this; because of this particular tax question. An assessment is not levied. It doesn't exist today. If that property were 190 homes and the assessment were re-imposed by some court order then of course it would be 190 more homes that would have to pay that particular assessment. We're hoping that assessment is never levied, but the bigger problem is the Commissioners are going to lose the ability to charge the tap in fee on that 190 homes to pay this bill that the OWDA is making you pay. The Waite's have been long standing residents of the township and it is unfortunate that they get caught in this kind of cross-fire. The cross-fire exists because the City of Brunswick takes the position that they can mandate the use of quite frankly Lake Erie's water to people and as a result that puts the squeeze on the township and the township becomes smaller and smaller. There are people who want to live in a township. A lot of them live in Medina County. This is in some respects the issue of survival of townships and I think a lot of these questions, I was interested in some of the testimony that this may be the last annexation that is purely driven by the issue of City of Brunswick control. If that's the case, I'm very happy to hear that. I'm not totally convinced that's the case, but if it is that is good news. But be that as it may, I think the arguments are quite clear that there will be a detriment and its monetary and it impacts almost more on the county

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than it does the township per say. It puts you in an interesting position; you have to make a decision that is in some respects is against your own self interest if you agree to the annexation. I think this debt will come back to haunt this Board. It's already been back once. The only way to keep it from coming back is to try to get it paid as quickly as possible. Thank you very much for your consideration.

Ms. Ray: at this point, do we want to close the public hearing, but allow Mr. Oberholtzer to submit the Franklin County Common Pleas Court decision within 7 days?

Mr. Hambley: that would be fine.

Mr. Oberholtzer: Mr. Laven I'll send you a copy as well.

Mr. Hambley moved to close the public hearing at 11:48 a.m.; Seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

Mr. Hambley noted that the Commissioners have 30 days to decide on this annexation petition.

Commissioners reconvened for the discussion session.

Ms. Ray noted that the funeral for Pfc. Devin Grella is coming up and his father would like the Commissioners and county offices to attend. The obituary has not been in the paper yet. He also would like a Commissioner to say a few words at the Church, which she understands will be Saturday. As President of the Board she would be comfortable with this, noting that she didn't know Pfc. Grella, but they had mutual friends. As soon as the obituary information is received she will be sure the other get copies.

Ms. Ray also noted that the Child Support Enforcement Agency has received significant awards and she would like to write a letter of congratulations to each employee of the agency from the Board. They have come a long way. She will prepare the letter and have the others sign.

Ms. Ray presented a proposed agenda for the upcoming department head/elected official meeting.

Mr. Hambley stated that the County Home Advisory Council would like to be involved in the interview process for the Superintendent. He will let Gary Berkowitz know about this as well as to let him know to proceed with advertising the position with interviews in late October or early November.

Ken Hotz presented a letter regarding bids that were received for a skid loader. The low bidder doesn't meet the specifications and he will have a resolution prepared for the award next week to the second lowest bidder.

Chris Jakab stated that he has been reviewing the mileage reimbursement rate and will be estimating what an increase will cost various departments.

Mrs. Geissman stated that she will be contacting the CCAO about having someone come up to meet with local government entities for an action plan for saving the local government funds. She noted that 5 entities did not respond with their information, but she was able to get some information from the Auditor's Office.

There was no further business before the Board at this time.

Mr. Hambley moved to adjourn the meeting; Seconded by Mrs. Geissman. There was no discussion. Roll Call showed all Commissioners voting AYE.

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RESOLUTIONS PASSED:

- 04-0820 RESOLUTION TO ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS
- 04-0821 RESOLUTION DETERMINING THE NECESSITY TO CLOSE SPIETH ROAD (C.H. 65) BETWEEN COLUMBIA ROAD (S.R. 252) AND ABBEYVILLE ROAD (C.H. 47)
- 04-0822 RESOLUTION DETERMINING THE NECESSITY TO CLOSE ERHART ROAD (C.H. 3) BETWEEN SPIETH ROAD EAST (T.H. 65) AND CROW ROAD (C.H. 64)
- 04-0823 RESOLUTION DETERMINING THE NECESSITY TO CLOSE CHIPPEWA ROAD (C.H. 50) BETWEEN AVON LAKE ROAD (S.R. 83) AND VANDEMARK ROAD (C.H. 31)
- 04-0824 RESOLUTION APPROVING THE FINAL PLAT FOR THE WEST CHASE LANDINGS SUBDIVISION PHASE I LOCATED IN TRACT 1, LOT 12 OF BRUNSWICK HILLS TOWNSHIP
- 04-0825 RESOLUTION FINDING THAT PUBLIC CONVENIENCE AND WELFARE REQUIRES THE IMPROVEMENT OF WINDFALL ROAD (C.H. 101) IN MONTVILLE TOWNSHIP, MEDINA COUNTY, OHIO
- 04-0826 RESOLUTION ACCEPTING AND AWARDED THE BID FOR THE MICRO SILICA CONCRETE DECK OVERLAY OF BRIDGE #15 ON BELLUS ROAD (C.H. 140) IN HINCKLEY TOWNSHIP, MEDINA COUNTY, OHIO, FOR THE MEDINA COUNTY ENGINEER
- 04-0827 RESOLUTION AMENDING THE 2004 APPROPRIATIONS RESOLUTION BY TRANSFERRING APPROPRIATIONS
- 04-0828 RESOLUTION AMENDING THE ANNUAL APPROPRIATION RESOLUTION
- 04-0829 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM VARIOUS COUNTY DEPARTMENT ACCOUNTS TO THE ASOLINE ROTARY FUND
- 04-0830 RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM VARIOUS COUNTY DEPARTMENT ACCOUNTS TO THE MEDINA COUNTY PRINT SHOP REVENUE LINE ITEM
- 04-0831 AUTHORIZING CASH TRANSFER FOR THE COUNTY HOME LEVY FUND
- 04-0832 AUTHORIZING CASH TRANSFER FOR THE MEDINA COUNTY PORT AUTHORITY
- 04-0833 EXPENDITURE ADJUSTMENTS FOR VARIOUS FUNDS

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- 04-0834 REVENUE ADJUSTMENTS FOR VARIOUS FUNDS

- 04-0835 RESOLUTION AUTHORIZING THE PURCHASE OF 3,800 GALLONS OF PREMIUM UNLEADED AND 4,200 GALLONS OF REGULAR UNLEADED GASOLINE FOR THE ENGINEERING CENTER

- 04-0836 RESOLUTION AUTHORIZING THE PURCHASE OF 5,000 GALLONS OF DIESEL AND 1,500 GALLONS OF REGULAR UNLEADED GASOLINE FOR THE MEDINA COUNTY HIGHWAY GARAGE

- 04-0837 RESOLUTION APPROVING AN OFFICE SPACE LEASE AGREEMENT WITH THE MEDINA CITY BOARD OF EDUCATION

- 04-0838 RESOLUTION DECLARING MEDINA COUNTY PROPERTY AS EXCESS PROPERTY

- 04-0839 RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE MEDINA COUNTY COMMISSIONERS

- 04-0840 RESOLUTION ACCEPTING AND AWARDED BIDS FOR IMPROVEMENTS TO VARIOUS COUNTY PARKING LOTS

- 04-0841 RESOLUTION ACCEPTING AND AWARDED BIDS FOR MEDINA COUNTY ROOFING REPLACEMENT AT THE PROSECUTOR'S OFFICE

- 04-0842 RESOLUTION AMENDING THE TABLE OF ORGANIZATION FOR THE DEPARTMENT OF JOB & FAMILY SERVICES

- 04-0843 APPROVING AN AGREEMENT WITH MEDINA GENERAL HOSPITAL & OAKS FAMILY CARE CENTER FOR THE MEDINA COUNTY PREGNANT WOMEN TOBACCO CESSATION PROJECT

- 04-0844 APPROVING AN AGREEMENT WITH ALCOHOL AND DRUG DEPENDENCY SERVICES FOR THE MEDINA COUNTY YOUTH TOBACCO PREVENTION & CESSATION PROJECT

- 04-0845 RESOLUTION APPROVING THE ENTERPRISE ZONE COMPENSATION AGREEMENT FOR THREE D METALS INC.

- 04-0846 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

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MEDINA COUNTY COMMISSIONERS:

Sharon A. Ray

Respectfully submitted,

Patricia G. Geissman

Pamela J. Terrill, Clerk

Stephen D. Hambley