

Patricia G. Geissman called the meeting to order at 9:30 a.m. with Colleen M. Swedyk and William F. Hutson present. The meeting opened with the Pledge of Allegiance and a prayer.

The minutes of the December 17, 2019 commissioners' meetings were emailed in advance. Mrs. Swedyk moved to approve the minutes; Mr. Hutson seconded the motion. There was no discussion. Roll call showed Mr. Hutson and Mrs. Geissman voting AYE; Mrs. Swedyk abstained. The motion carried.

**Highway Engineer Andy Conrad** presented and reviewed a resolution authorizing the change order no. 1 final to the contract for the 2019 Medina County Pavement Planing and Repair between Melway Paving Company and the Medina County Board of Commissioners. Mrs. Swedyk moved to approve the resolution; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

The commissioners reviewed the permits issued December 5-18, 2019.

**Finance Director Mike Pataky** presented and reviewed the following resolutions: (1) amending the 2019 appropriations resolution by transferring appropriations; (2) authorizing the county auditor to transfer funds from various county departments to the Medina County Print Shop revenue line item; (3) authorizing the county auditor to transfer funds from various county departments to the Gasoline Rotary Fund; (4) authorizing the purchase of 7,600 gallons of regular unleaded gasoline for the Engineering Center; (5) declaring interested vendors for gasoline fuel phone bids for 2020; (6) approving a purchase of service agreement between the Western Reserve Area Agency on Aging and the Medina County Board of Commissioners for the Office for Older Adults for FY 2020; (7) approving a memorandum of agreement between the Medina County Office for Older Adults and the Soprema Senior Center Café; (8) authorizing an agreement between Medina County Public Transit and Medina County Job & Family Services; (9) creation of Office for Older Adults Medicare Improvements for Patients & Providers Act Fund and authorizing appropriations; (10) creation of Office for Older Adults Home Energy Assistance Program Fund and authorizing appropriations; (11) creation of the Maintenance Rotary Fund and authorizing appropriations; and (12) allowing expenses of county officials. Mr. Pataky requested payment of the weekly bills in the amount of \$370,008.25. Mrs. Swedyk moved to approve the twelve resolutions and to pay the bills; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried. Mr. Pataky thanked his employees for their hard work this year.

**Human Resources Director Holly Muren** presented and reviewed a resolution approving personnel changes for the employees under the jurisdiction of the Medina County commissioners. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

**County Administrator Scott Miller** presented and reviewed a resolution extending an agreement for a mental health program at the Medina County Jail. Mr. Miller stated Alternative Paths provides the county with a contract at the beginning of the year. This is extending the current contract and once the budget is approved, the new contract will take affect provided the funding is approved. There will also be one for the Juvenile Detention Center on the 31. Mrs. Swedyk moved to approve the resolution; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

**Sanitary Engineer Amy Lyon-Galvin** presented and reviewed the following resolutions: (1) awarding the bid for the Medina County Sanitary Sewer Rehabilitation Project 2019; and (2) authorizing expenditures related to Solid Waste District-sponsored meetings. Mrs. Swedyk moved to approve the two resolutions; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

**Soil & Water Conservation District Manager Jim Dieter** reported the Prairie seeding went in this past week; it went really well. Mr. Dieter thanked the Park District for their assistance. At the Area 2 winter meeting, ODA discussed the updated regarding H2Ohio funds. They will be spread around the state, but will stay mainly in western Ohio. The Big Tree Contest is going to be the Wild Black Cherry for 2020. The tree seedling sale starts in January. The annual newsletter will be going out soon.

**Transit Director Shannon Rine** reported November was a good month including the Federal Reviews, initiative towards demand service, driving down denial rate and new software. Amanda Hooser is the new operations supervisor and brings a wealth of knowledge. There are two travel training videos for Demand and Fixed Route Service. Mr. Rine thanked Bill for narrating the videos. The videos are meant to inform, communicate and raise awareness about what transit can do for the folks of Medina County. Transit partnered with the Board of Developmental Disabilities to produce the videos. Mr. Hutson inquired about EZFare. Mr. Rine stated it is in effect now.

*Medina County Bar Association President Brad Proudfoot* stated the commissioners' received a packet he put together. Mr. Proudfoot stated he was here to ask the Commissioners' to accept a resolution the Bar Association passed at their meeting increasing indigent defense fees from \$40 and \$50 to a \$75 per hour flat rate with the caps to be raised. All courts use the Public Defender's Office or appointed counsel. The last fee increase was in 1991. Minimum wage in 1991 was \$4.25 and in 2020, minimum wage is \$8.70. With 2020 having a new reimbursement percentage of 70 percent, taking that number into account, he created two scenarios. If the fees were to increase, the county would still save \$200,000 a year compared to what was paid out in 2018. The two scenarios are based on calculated numbers because the hours being utilized will fluctuate each year. There are a few letters from the Ohio Public Defenders office in the packets. Mrs. Geissman stated when she was at the winter conference, it was one of the sessions she sat in on. The county is on the low side and Scott did send a memo to the commissioners and it will be something that will be discussed. Mr. Hutson inquired if he did any calculation at 90 percent reimbursement; Mr. Proudfoot answered no. Mr. Hutson stated that it is a catch 22 for counties if the rate is increased and in future budget cycles, the reimbursement rate goes down; the county would be on the hook. Mr. Hutson stated it does need to be addressed and he spoke to three of the common pleas judges and they were in support of an increase. Mr. Proudfoot stated that when this was presented, it was unanimously passed. Mrs. Geissman stated we are definitely on the low side.

*Commissioner Geissman* presented and reviewed the following resolution appointing representatives and alternates to the Northeast Ohio Areawide Coordinating Agency (NOACA) for 2020. Mrs. Swedyk moved to approve the resolution; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

*Commissioner Geissman* presented and reviewed the following resolution appointing a member to the Port Authority. Mrs. Swedyk moved to approve the resolution; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

*Commissioner Geissman* presented and reviewed the following resolution appointing township representatives to the Medina County Council of Governments (COG) on Drug Enforcement. Mrs. Swedyk moved to approve the resolution; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

*Commissioner Geissman* presented and reviewed the following resolution appointing representatives and alternates from the Medina County Township Association to the Medina County Planning Commission. Mrs. Swedyk moved to approve the resolution; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

#### **Public Comment**

*None.*

*Commissioner Swedyk* moved to go into Executive Session after Discussion Session to discuss pending litigation; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners voting AYE; the motion carried.

#### **Discussion Session**

At 10:02 a.m., the Commissioners began the Discussion Session in the Commissioners' conference room.

#### Recycle Bins

Amy Lyon-Galvin gave Rhonda Beck a copy of the Recycle Bin locations with the dates of pickup for the holidays.

#### Caught Green Handed

Amy Lyon-Galvin stated the weather deterred the caught green handed campaign. She is hoping to extend the program with the Commissioners permission into January until all the gift certificates are utilized. The commissioners agreed to extend the program into January.

#### CMAR

Scott Miller stated that last week Amy, Steven and himself met with the finalists for the Construction Manager at Risk. They independently scored each company and then discussed the scores. Gilbane was the number one with Ruhlin as a close second. Ruhlin is located in Sharon Center and Gilbane is in Cleveland, but they are using Fiorilli Construction on Route 18. They are all using local contractors. Gilbane did the Seneca Courthouse so they have experience with a joint courthouse. They had the lowest construction fee estimate at 1.35 percent versus the next lowest which was 2.25 percent. They did a nice job presenting and the staff they had were knowledgeable and seemed easy to work with. Mr. Miller stated with the commissioners' permission, he wants to finalize a contract. In the request for proposals, the law requires for a draft contract to be in the proposal. Gilbane's contract modifications are minor, but he needs review it with Mike Lyons and then have a discussion with Gilbane on the changes. He would like to pass a resolution, awarding the contract for CMAR to Gilbane and giving the County Administrator the authority to finalize the contract. Mrs. Geissman inquired if the three of them felt that they were better

than Ruhlin. Steven Basteau stated from their presentation and staff, Gilbane is the top choice, Amy Lyon-Galvin agreed noting they were very deep in the courthouse experience and impressive in their discussion on merging existing and new construction. Mr. Hutson inquired what other courthouses they have done. Mr. Miller answered that they listed Seneca, Franklin, Kendall, Rock Island, and Louisville. Ms. Lyon-Galvin noted they have a wide range in dollar value. They demonstrated between 12M and 160M for their projects; they have experience large and small. Mr. Miller stated they were the only firm that brought up just in time for material whereas the others were looking for lay down areas. That is a plus because of the limited space. They were very detailed in their presentation. Mr. Basteau stated they had a lot of ways to add value and were thinking outside of the box while saving money. Mrs. Geissman stated it is interesting that they worked for the only county in the state with a joint courthouse; that is good. It ended up costing more and had problems, is it because of this particular manager or just because of the difficulties of working with two governments. Mr. Basteau stated he would think the delay is having to go through two municipalities. Mrs. Geissman stated and that usually ends up costing more money. The commissioners' agreed to have Scott prepare a resolution.

### Fiber

Commissioner Swedyk noted that the Fiber event last Friday was very nice and very well attended. Seville did a wonderful job hosting and it was great to see the enthusiasm. Commissioner Geissman stated she signed up and would love to have cheaper rates.

The Commissioners' wished everyone a Merry Christmas.

### **Executive Session**

At 10:14 a.m., the Commissioners went into the Executive Session that had been voted on earlier. The Executive Session ended at 10:52 a.m.

### **Discussion Session**

At 10:53 a.m., the Commissioners went back into Discussion Session.

Mike Lyons stated the Commissioners' approved a contract with Steven Funk to represent Judge Kovack in regards to a writ of prohibition action filed by the commissioners. Since the prosecutors represent the commissioners and the court, the office could not participate in the representation. The commissioners hired separate counsel and the retention of the services of Steven Funk to represent Judge Kovack. The commissioners have applied for and received approval to dismiss that writ of prohibition action so that litigation is ceased. In conjunction with that, Judge Kovack had issued an order in which she approved of receiving the contract and use of the computer fund for Pioneer Software for the Clerk of Courts case management software. The three common pleas judges issued a contrary order negating her prior orders. There are conflicting orders from different judges and this raises a dispute between the judges. This no longer involves the commissioners in a legal dispute necessarily which raises a question of whether this will be eligible, but he cannot represent the commissioners with regard to legal action they might take regarding these dispute. Mr. Miller inquired if we should talk to the attorney representing the commissioners. Mr. Lyons answered that at some time you may want to do that. Mr. Hutson stated he does not think for purposes of the request being made of the commissioners to retain counsel for Judge Kovack to resolve the dispute amongst the judges. He does not think they need to have that. Mr. Lyons stated he is only here to discuss the request of Judge Kovack for continued legal representation. Commissioner Swedyk stated they would be approving paying for action against three sitting judges; Mr. Lyons stated potentially. Mrs. Geissman stated that is what it sounds like. Mr. Hutson stated his take is that she may eventually do something at the Ohio Supreme Court to have this dispute amongst the judges resolved. She wants the commissioners to, essentially, pay for an attorney to provide her with legal advice on how she can defeat the other three judges. That is his interpretation.

Mrs. Swedyk inquired if they are legally required to do this; Mr. Hutson stated he does not think so. Mr. Lyons stated there may be an obligation to do so. It is a conflict between her and the other judges. Judge Kovack's order was sufficient for the commissioners' to file a writ of prohibition. Mr. Hutson stated that is an extrajudicial prohibition against another branch of government. What she is asking for is to resolve an internal dispute amongst the judges on how the courthouse should be managed from an operational standpoint. His opinion would be if we do this, we ought to offer to the other judges to hire an attorney to represent them. Mr. Hutson does not think it necessary for the commissioners to get involved. If she wants us to do it, she should issue an order ordering us to do it. Mrs. Swedyk stated she would prefer an order. There would be no way to limit it if we just approved this. Mr. Hutson stated that if she is going to be represented by outside counsel, it would make sense that the other three judges would like to have representation. This is something needs to be resolved internally amongst the judges or through any dispute resolution mechanisms the Supreme Court has to offer. Mrs. Swedyk stated she would like her to order because she does not want it to be an open checkbook for continual grievances or issues. Mrs. Geissman stated she does not understand her thinking that she has the authority to overturn a decision by three judges.

Mr. Lyons stated that he is in a position where the prosecutor's office represents all judges, commissioners and clerk of courts all of whom are on different sides of the issue and they have been consulted by all parties. Your question leads to a legal assessment of her legal position. Mr. Lyons stated he is not able to step over that line

to begin to assess those things because that begins to go over into the area of giving legal advice on those issues. Mr. Lyons stated there are conflicting orders of the court. Mr. Lyons stated this is an internal governance issue of the court system, but in order for someone to seek the guidance of the Supreme Court in resolving that, there needs to be some legal steps taken. Mr. Lyons does not know if there are any mechanisms to go to the Supreme Court other than a writ of prohibition. Mr. Hutson stated from what he understands, the Supreme Court has a voluntary mediation program specifically to resolve those type of issues amongst elected officials. That was the process they put us into. From what he gathered through that process that is a service they offer that he does not believe lawsuits have to be filed necessarily. There are Rules of Superintendence for the courts that the Supreme Court establishes. They are broad, general rules on how the court is supposed to operate. The way the three judges read Rule 402, the common pleas judges generally can get together and is a majority rule. Mr. Hutson stated he thinks the way Judge Kovack interprets it is she is the administrative judge for her division because she is in a separate division. She is arguing that because she is a separate division, that the other judges cannot over rule a decision, she makes in her division. Mrs. Geissman inquired if she can go ahead with the Clerk of Courts and order the software that they want. Mr. Hutson stated she would probably have to order it to us because he does not believe the Clerk of Courts individually to legally sign a contract to bind the county. He does not have the ability to appropriate funds. Mrs. Geissman inquired if the judge does. Mr. Hutson stated she could order us to do it.

Mr. Lyons explained that the computer fund has two components. One is a general Clerk of Courts computer fund that was implemented by the judges back in 2013 or so. The statutes allowed them to do it and they issued an order to impose that fee. The other one is a court computer fund. The general computer fund requires two steps to be used: the approval of the court and the appropriation by the commissioners. The clerk has no authority over that fund. If the court wants to use the Court Computer Fund, they can use it without approval of the commissioners, but have to be accountable to the public. The larger computer fund be put into a single account and the smaller computer fund is put into another account. With respect to the larger fund, it raises the question to which judge or judges have to approve the utilization of the larger computer fund. They have competing orders. Judge Kovack has approved the use of the computer fund for the purchase of Pioneer while the other three judges have approved the use of the fund for Tyler and rescinding her order. This is a legal conflict with the conflicting orders.

Mrs. Swedyk moved to approve the retention of the services attorney Stephen W. Funk to represent Judge Kovack in accordance with attorney Funk's engagement letter attached hereto; Mr. Hutson seconded the motion. There was no discussion. Roll call showed all commissioners' voting NAY; the motion was lost.

Mrs. Swedyk stated she didn't want it to be perceived that we were using tax dollars for this. Mrs. Geissman stated they should be able to sit down and talk to one another to resolve it.

### **Adjournment**

Mr. Hutson moved to adjourn the meeting; Mrs. Swedyk seconded the motion. Roll call showed all commissioners voting AYE; the motion carried. The meeting adjourned at 11:16 a.m.

**RESOLUTIONS PASSED DECEMBER 20, 2019**

<u>Number</u>	<u>Resolution Title</u>
19-1079	Allowing claims and issuance upon the treasurer in settlement of such list of claims
19-1080	Authorizing the change order number 1 final to the contract for the 2019 Medina County Pavement
19-1081	Amending the 2019 appropriations resolution by transferring appropriations
19-1082	Authorizing the county auditor to transfer funds from various county department accounts to the Medina County Print Shop Revenue Line Item
19-1083	Authorizing the county auditor to transfer funds from various county department accounts to the Gasoline Rotary Fund
19-1084	Authorizing the purchase of 7,600 gallons of regular unleaded gasoline for the engineering center
19-1085	Declaring interested vendors for gasoline fuel phone bids for 2020
19-1086	Approving a purchase of service agreement between the Western Reserve Area Agency on Aging and the Medina County Board of Commissioners for the Office for Older Adults for FY2020
19-1088	Authorizing an agreement between Medina County Public Transit and Medina County Job and Family Services
19-1089	Creation of Office for Older Adults Medicare Improvements for Patients & Providers Act Fund and authorizing appropriations
19-1090	Creation of Office for Older Adults Home Energy Assistance Program Fund and authorizing appropriations
19-1091	Creation of the Maintenance Rotary Fund and authorizing appropriations
19-1087	19-1087 Approving a memorandum of agreement between the Medina County Office of Older Adults and the Soprema Senior Center Cafe
19-1092	Allowing expenses of county officials
19-1093	Approving personnel changes for the employees under the jurisdiction of the Medina County Commissioners
19-1094	Extending an agreement for a Mental Health Program at the Medina County Jail
19-1095	Awarding the bid for the Medina County Sanitary Sewer Rehabilitation Project 2019
19-1096	Authorizing expenditures related to Solid Waste District-Sponsored Meetings
19-1097	Appointing representatives and alternates to the Northeast Ohio Areawide Coordinating Agency (NOACA)
19-1098	Appointing a member to the Medina County Port Authority
19-1099	Appointing township representatives to the Medina County Council of Governments (COG) on Drug Enforcement
19-1100	Appointing representatives and alternates from the Medina County Township Association to the Medina

All deliberations concerning official business and formal actions by this Board of Commissioners were conducted in an open public meeting this twentieth day of December, 2019.

Respectfully submitted,	COMMISSIONERS	_____ Patricia G. Geissman
	OF	_____ William F. Hutson
_____ Rhonda J. Beck Clerk to the Commissioners	MEDINA COUNTY	_____ Colleen M. Swedyk