



**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 17, 2022**

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27526315-5201	27526315-5101	100.00
State Victim Asst Grant/General Supplies	State Victim Asst Grant/Health Insurance	

Vote on Motion                      Mr. Benton              Aye              Mr. Merrell              Aye              Mrs. Lewis              Aye

**5**  
**RESOLUTION NO. 22-887**

**IN THE MATTER OF APPROVING THE PLATS OF SUBDIVISION FOR BERLIN FARM SECTION 1; THE FAIRWAYS AT BLUE CHURCH SECTION 1 LOT 171 DIVISION 1; ZORTMAN CAD; JENNINGS SPORTS PARK AT EVANS FARM; AND MELJER 143, SECTION 2 LOT 3551 DIVISION 1:**

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

Berlin Farm Section 1:

WHEREAS, M/I Homes of Central Ohio, LLC, has submitted the plat of subdivision for Berlin Farm Section 1, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of Berlin Farm Section 1:

**Berlin Farm Section 1:**

Situated in the State of Ohio, County of Delaware, Township of Berlin, in Farm Lot Section 7, Quarter Township 2, Township 4, Range 18, United States Military Lands, containing 34.804 acres of land, more or less, said 34.804 acres being part of that tract of land conveyed to M/I Homes of Central Ohio, LLC by deed of record in Official Record 1953, page 1476, Delaware County Recorder’s Office. Cost: \$147.00 (*\$3.00 per buildable lot*)

The Fairways at Blue Church Section 1 Lot 171 Division 1:

WHEREAS, Siemer Land, LLC, has submitted the plat of subdivision for The Fairways at Blue Church Section 1 Lot 171 Division 1, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of The Fairways at Blue Church Section 1 Lot 171 Division 1:

**The Fairways at Blue Church Section 1 Lot 171 Division 1:**

Situated in the State of Ohio, County of Delaware, Township of Kingston, and being part of Farm Lot 9, Section 4, Township 5 North, Range 17 West, and containing 13.519 acres and being all of existing Lot 171 of The Fairways at Blue Church Section 1, as shown on the recorded plat thereof, of record in Plat Cabinet 4, Slide 5 (and also Official Record 830, Page 1460/instrument Number 200800003920), Recorder’s Office, Delaware County, Ohio, said Lot 171 conveyed to Siemer Land, LLC, of record in Official Record 450, page 1569/ Instrument Number 200300080728. Cost: \$15.00 (*\$3.00 per buildable lot*)

Zortman CAD:

WHEREAS, Michael C. and Jill A. Zortman have submitted the plat of subdivision for Zortman CAD, including related development plans, and request approval thereof by the Board of Commissioners of Delaware County; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of Zortman CAD:

**Zortman CAD:**

Situated in the State of Ohio, County of Delaware, Township of Kingston, located in Farm Lots 24, 25&26, Quarter Township 2, Township 5 North, Range 17 West, United States Military Lands, and being all of a 24.240 acre tract conveyed to Michael C. & Jill A. Zortman as recorded and described in Book 1680, Page 1851-1852, County Recorder’s Office, Delaware, Ohio. Cost: \$15.00 (*\$3.00 per buildable lot*)

Jennings Sports Park at Evans Farm:

WHEREAS, Jennings Land Development, LLC, has submitted the plat of subdivision for Jennings Sports Park at Evans Farm, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of

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Jennings Sports Park at Evans Farm:

**Jennings Sports Park at Evans Farm:**

Situated in the State of Ohio, County of Delaware, Townships of Berlin , Range 18, Township 4, Quarter Township Section 3, Farm Lot 17, United States Military District and also Orange Township Range 18, Townships 3, Quarter Township Section 2, Farm Lots 12, 13, 14 and 15, United States Military District, being all of 55.514 acre tract described in a deed to Jennings land development, LLC of record 1699, Page 2034, all records referenced herein are on file at the office of the recorder for Delaware County, Ohio. Cost: \$15.00 (\$3.00 per buildable lot)

Meijer 143, Section 2 Lot 3551 Division 1:

WHEREAS, Tim Donut U.S. Limited, Inc., has submitted the plat of subdivision for Meijer 143, Section 2 Lot 3551 Division 1, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of Meijer 143, Section 2 Lot 3551 Division 1:

**Plat of Meijer 143, Section 2 Lot 3551 Division 1:**

Situated in the Township of Orange, County of Delaware, State of Ohio, and being part of Quarter Township 3, Range 18, United States Military District, being all of Lot 2551 of Meijer 143, Section 2 as recorded in Plat Cabinet 1, Slide 680, and also being all 2.702 acres of a tract of land conveyed to Tim Donut U.S. Limited, Inc. as Recorded in Volume 619, Page 246, County Recorder’s Office, Delaware, Ohio, all records referenced herein are on file at the Office of the Recorder for Delaware County, Ohio. Cost: \$6.00 (\$3.00 per buildable lot)

Vote on Motion                      Mrs. Lewis              Aye              Mr. Benton              Aye              Mr. Merrell              Aye

**6**

**RESOLUTION NO. 22-888**

**IN THE MATTER OF APPROVING A DRAINAGE MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR JENNINGS PARK:**

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, on October 3, 2022, a Ditch Maintenance Petition for Jennings Park (the “Petition”) was filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, the Petition sets forth the drainage improvements that have been or will be constructed within Jennings Park, 56.831 acres in Orange Township; and

WHEREAS, the petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the real estate taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delaware County, Ohio:

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$946,729.70 and a detailed cost estimate is attached. The drainage improvements are being constructed for the benefit of the lot(s) being created in the subject site. The developed 56.831 acres will receive benefits (cost) of the project on a per acre basis. The basis for calculating the assessment for each lot is therefore, \$16,658.68 per acre. An annual maintenance fee equal to 2% of this basis (\$333.17) will be collected for each developed acre. We (I) understand that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year’s assessment for all of the lots in the amount of \$18,934.38 has

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been paid to Delaware County.

Vote on Motion            Mr. Benton            Aye            Mrs. Lewis            Aye            Mr. Merrell            Aye

**7**  
**RESOLUTION NO. 22-889**

**IN THE MATTER OF APPROVING OWNER’S AGREEMENT FOR HYATTS CROSSING DRIVE PHASE 3:**

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Engineer recommends approving the Owner’s Agreement for Hyatts Crossing Drive Phase 3;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner’s Agreement for Hyatts Crossing Drive Phase 3, as follows

**HYATTS CROSSING DRIVE PHASE 3:**

**OWNER'S AGREEMENT**  
**PROJECT NUMBER:**  
**22108**

**THIS AGREEMENT**, executed on this 17<sup>th</sup> day of October, 2022, between Hyatts Investors LLC, hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Hyatts Crossing Drive Phase 3 further identified as Project Number 22108 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **Thirty Two Thousand Dollars and No Cents (\$32,000.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to ten percent (10%) of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County**

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**Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

**Should the OWNER become unable to carry out the provisions of this AGREEMENT**, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

**EXHIBIT "A"**

CONSTRUCTION COST ESTIMATE	\$1,064,200.00
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$106,500.00
INSPECTION FEE DEPOSIT	\$32,000.00

Vote on Motion            Mr. Merrell      Aye      Mr. Benton      Aye      Mrs. Lewis      Aye

**8**  
**RESOLUTION NO. 22-890**

**IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:**

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following work permits:

WHEREAS, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

NOW, THEREFORE, BE IT RESOLVED that the following permits are hereby approved by the Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
UT2022-0169	DELCO WATER	KLONDIKE ROAD	WATER LINE
UT2022-0170	SPECTRUM	RAVINE RUN	CABLE
UT2022-0171	DELCO WATER	GREEN COOK ROAD	WATER LINE
UT2022-0172	DELCO WATER	GREEN COOK ROAD	WATER LINE

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UT2022-0173	DELCO WATER	GREEK COOK ROAD	WATER LINE
UT2022-0174	DELCO WATER	ROBINS ROAD	WATER LINE
UT2022-0175	SPECTRUM	RAVINES RIDGE ROAD	CABLE
UT2022-0176	THAYER POWER & COMMUNICATIONS	LIBERTY RD S & JEWETT RD	FIBER OPTIC CABLE

Vote on Motion                      Mrs. Lewis              Aye              Mr. Merrell              Aye              Mr. Benton              Aye

**9**

**RESOLUTION NO. 22-891**

**IN THE MATTER OF ACCEPTING THE ROADS, APPROVING RECOMMENDED SPEED LIMITS, ESTABLISHING STOP CONDITIONS AND RELEASING THE MAINTENANCE BOND FOR THE ENCLAVE AT ABBEY KNOLL:**

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Engineer has reviewed the roadway construction of the roads within The Enclave at Abbey Knoll (the “Subdivision”), finds them to be constructed in accordance with the approved plans, and recommends that the following roadways within the Subdivision be accepted into the public system:

- An addition of 0.14 mile to Township Road Number 1830, Zander Way
- An addition of 0.09 mile to Township Road Number 1831, Jaxton Court; and

WHEREAS, the Engineer also recommends that 25 mile per hour speed limits be established throughout the Subdivision; and

WHEREAS, the Engineer recommends that the following stop conditions be established within the Subdivision:

- On Township Road Number 1830, Zander Way, at its intersection with Township Road 1219, Abbey Knoll Drive
- On Township Road Number 1830, Zander Way, at its intersection with Township Road 1831, Jaxton Court; and

WHEREAS, the Engineer requests approval to return the maintenance bond to Josh Morgan Construction, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby accepts the Engineer’s recommendations stated herein and accepts the roads, approves speed limits and stop conditions, and releases the maintenance bond in accordance with the Engineer’s recommendations stated herein.

Vote on Motion                      Mr. Merrell              Aye              Mrs. Lewis              Aye              Mr. Benton              Aye

**10**

**RESOLUTION NO. 22-892**

**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS AND ADVANCE OF FUNDS:**

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

**Supplemental Appropriations**

40311489-5328	Buell #542/DI Project/Maintenance and Repair	\$164.02
40311488-5328	Chancel Gate DI/Maintenance and Repair	\$63.50
40311480-5328	Davis #240/ Maintenance and Repair	\$838.17
40311476-5328	Dustin Road Watershed/Maintenance and Repair	\$610.57
40311470-5328	English 346 Watershed/Maintenance and Repair	\$403.51
40311490-5328	Evan #354/Maintenance and Repair	\$302.64
40311478-5328	Franklin Drainage Improv/Maintenance and Repair	\$3,470.18
40311472-5328	Gorsuch Joint County #588/Maintenance and Repair	\$24,973.66
40311484-5328	Griffith #391/Maintenance and Repair	\$228.59

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40311491-5328	Harsh #480/ Maintenance and Repair	\$243.88
40311468-5328	Hidden Springs Condo/Maintenance and Repair	\$76.20
40311475-5328	Hoover #61/Maintenance and Repair	\$6,231.65
40311463-5328	Kingston Twp 2017-1/Maintenance and Repair	\$11,742.27
40311467-5328	Kingston Twp 2017-2/Maintenance and Repair	\$810.15
40311474-5328	Lanetta Lane Subdivision/Maintenance and Repair	\$4,048.56
40311460-5328	Norris Run Full Watershed/Maintenance and Repair	\$2,989.00
40311458-5328	Radnor Twp #2015-1/Maintenance and Repair	\$1,302.41
40311450-5328	Ribov #620 Watershed/Maintenance and Repair	\$1,606.23
40311487-5328	Slate Lick Lateral #1/Maintenance and Repair	\$871.17
40311477-5328	Watson-Ford #25/Maintenance and Repair	\$3,479.66
40311455-5328	Webster Arnold Drainage Proj/Maintenance and Repair	\$748.99
40311482-5328	Zerbe-O'Keefe #265/Maintenance and Repair	\$1,652.86
40311467-5301	Kingston Twp 2017-2/Contracted Professional Services	\$51,922.00

**Advance of Funds**

<b>From:</b>	<b>To:</b>	
10011102-8500	52311142-8400	\$168.75
Commissioners General/Advance Out	BR DI Hardin/Advance In	
10011102-8500	52411143-8400	\$852.13
Commissioners General/Advance Out	BR DI Roof/Advance In	
10011102-8500	52711146-8400	\$4,399.05
Commissioners General/Advance Out	BR DI Havens/Advance In	
10011102-8500	52911148-8400	\$197.33
Commissioners General/Advance Out	BR DI Ruder East/Advance In	

Vote on Motion            Mr. Benton            Aye            Mr. Merrell            Aye            Mrs. Lewis            Aye

**11**

**ADMINISTRATOR REPORTS**

Tracie Davies, County Administrator

-Will be attending the Sunbury Chamber event on Wednesday morning with Economic Development Director Monica Connors.

Dawn Huston, Deputy Administrator

-No reports.

**12**

**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Merrell

-Received news yesterday the former Delaware County Judge Henry Shaw passed away. Read the proclamation that was passed last June at the dedication of the Session Room in his name.

Commissioner Benton

- Echoed the sentiments the proclamation captured.
- Attended the Back the Blue event on Saturday morning.
- Attended the 25<sup>th</sup> Anniversary of Price Farm Organics.
- The Guardians will play again tonight.

Commissioner Lewis

-God Bless Judge Shaw and his family.

**13**

**RESOLUTION NO. 22-893**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR SECURITY ARRANGEMENT AND EMERGENCY RESPONSE PROTOCOLS:**

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive

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session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)–(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration of employment; compensation of a public employee or public official; for security arrangement and emergency response protocols.

Vote on Motion            Mrs. Lewis        Aye    Mr. Benton        Aye    Mr. Merrell        Aye

**RESOLUTION NO. 22-894**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn out of Executive Session.

Vote on Motion            Mr. Benton        Aye    Mrs. Lewis        Aye    Mr. Merrell        Aye

There being no further business, the meeting adjourned.

\_\_\_\_\_  
Gary Merrell

\_\_\_\_\_  
Barb Lewis

\_\_\_\_\_  
Jeff Benton

\_\_\_\_\_  
Jennifer Walraven, Clerk to the Commissioners