

**COMMISSIONERS JOURNAL NO. 79 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 13, 2023**

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:
Jeff Benton, President
Gary Merrell, Vice President
Barb Lewis, Commissioner

1:30 P.M. Viewing For Consideration Of The Felkner #302 Drainage Improvement Petition
2:00 P.M. Viewing For Consideration Of The Drainage Improvement Petition For The Moore No. 1 #361 Watershed

**1
RESOLUTION NO. 23-965**

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 9, 2023:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on November 9, 2023; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

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

**2
PUBLIC COMMENT**

**3
RESOLUTION NO. 23-966**

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1109:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1109 and Purchase Orders as listed below:

	<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase				
PR Number	Vendor Name	Line Description	Account	Amount
R2305109	COUNTY RISK SHARING AUTHORITY	DOL 06.01.22 CLAIM DATE 11.16.22 VALCORE	60111901 - 5370	\$ 23,611.25
R2305176	T WOOLUM EQUIPMENT REPAIR	MOVE LIFTS - BYXBE CAMPUS	42011440 - 5410	\$ 8,800.00

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

**4
RESOLUTION NO. 23-967**

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION FOR THE VETERAN SERVICES OFFICE:

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

Transfer of Appropriation
From: 10062601-5101 **To:** 10062601-5348 30,000

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Veteran Services/Health Insurance 10062601-5101	Veteran Services/Client Services 10062601-5201	5,000
Veteran Services/Health Insurance	Veteran Services/Gen Supplies & Equip <\$1000	

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

**5
RESOLUTION NO. 23-968**

IN THE MATTER OF APPROVING A COOPERATIVE PROJECT AGREEMENT BETWEEN DELAWARE COUNTY BOARD OF COMMISSIONERS AND BERLIN AND ORANGE TOWNSHIPS FOR IMPROVEMENTS TO SHANAHAN ROAD:

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

WHEREAS, the County Engineer recommends approval of a Cooperation Project Agreement between the Delaware County Board of Commissioners and Berlin and Orange Townships for Improvements to Shanahan Road;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the Agreement as follows:

**COOPERATIVE PROJECT AGREEMENT
BETWEEN DELAWARE COUNTY,
BERLIN TOWNSHIP AND
ORANGE TOWNSHIP
FOR IMPROVEMENTS TO SHANAHAN ROAD**

This Project Agreement (the “Agreement”) is made by and among the Board of Commissioners of Delaware County (“County”), Berlin Township and Orange Township (individually referred to as “Township” and severally as “Townships”) and the County Engineer, hereinafter individually referred to as a “Party” and collectively referred to as the “Parties” to the Agreement.

WHEREAS, the Parties have determined the need to make improvements to Shanahan Road (Township Road 100) including widening, paving and grading the road (the “Project,” as hereinafter defined in Section 1.1); and

WHEREAS, pursuant to Section 5541.02 of the Ohio Revised Code, a Board of County Commissioners shall select and designate a connected system of county highways connecting with either a state highway or another county road(s), and upon creation of a map prepared by the County Engineer and approved by the Director of Transportation, such highways shall be considered county roads; and

WHEREAS, pursuant to Section 307.15 of the Ohio Revised Code, the County may enter into an agreement with the Townships, whereby the County undertakes, and is authorized by the Townships, to exercise any power, perform any function, or render any service on behalf of the Townships, that the Townships may exercise, perform or render; and

WHEREAS, the Parties desire to cooperate for the purpose of completing the Project;

WITNESSETH:

In consideration of the mutual benefits accrued, the Parties hereby agree as follows:

1 PROJECT

1.1 Description of the Project. The Project includes reconstructing, grading, widening and paving Shanahan Road as a three-lane roadway from a point approximately 500 feet east of U.S. 23 to the intersection of North Road (Township Road 272), and ancillary roadway and drainage work necessary to complete the Project.

2 PROJECT DELIVERY AND ESTIMATED COSTS

2.1 County to Complete Project. The County will perform, procure, acquire, complete and pay for the planning, engineering, right of way acquisition, utility relocation and construction of the Project at the earliest practicable date. As of the date of this Agreement, the estimated completion of the Project is December 1, 2026.

2.2 Cost Estimates. The estimated project costs, as of the date of this Agreement, are as follows:

Preliminary and Design Engineering	\$480,000
Right of Way Acquisition	\$1,450,000
Utility Relocation	\$700,000

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Construction	\$3,900,000
<u>Construction Engineering</u>	<u>\$180,000</u>
Total Project Cost	\$6,710,000

3 COST SHARING

3.1 Township Share of Cost. Berlin Township and Orange Township shall each contribute a fixed amount of One Million Fifty Thousand Dollars (\$1,050,000.00) toward the construction cost of the Project, to be paid in one or more installments by the dates specified below. Such amounts shall be the entire Township Cost Share contributed to the Project by the Townships.

The source of funds paid by a Township for its Cost Share shall be from non-federal sources and shall not obligate the County to any additional federal or state rules or regulations beyond those ordinarily applicable to public road projects paid for with county general revenue funds or Ohio Public Works Commission funds.

Each Township, in its sole discretion, may pay for its share of the Project from the proceeds of any township tax levies or other funds legally allowed for use on road improvements, including funds from tax increment financings (TIF's) placed by the Township upon properties in the vicinity of the Project.

Schedule of Contributions by Each Township.

Not later than June 30, 2025	\$150,000.00
Not later than June 30, 2026, an additional	\$150,000.00
Not later than June 30, 2027, an additional	\$150,000.00
Not later than June 30, 2028, an additional	\$150,000.00
Not later than June 30, 2029, an additional	\$150,000.00
Not later than June 30, 2030, an additional	\$150,000.00
<u>Not later than June 30, 2031, an additional</u>	<u>\$150,000.00</u>
Total Sum Paid Per Township	\$1,050,000.00

3.2 Townships to Jointly Apply for Ohio Public Works Commission Funding. The Townships agree to cooperate to file an application for funding assistance to the Ohio Public Works Commission (OPWC) through the State Capital Improvement Program (SCIP) and/or Local Transportation Improvement Program (LTIP), with Berlin Township being the lead applicant, subject to the following:

3.2.1 Grant Amount. Minimum of \$475,000 and a maximum of \$500,000 for the construction phase of the Project, determined by the County Engineer based on the highest whole percentage point of the estimated project cost at the time of the application which provides a grant request within this range.

3.2.2 Grant Year. The application shall be for funds to be awarded in State Fiscal Year (SFY) 2026. If the application is not granted for the minimum amount specified in SFY 2026, the Parties agree to resubmit the application again for SFY 2027, unless a construction contract for the Project is awarded by the County, or the County releases the Townships from this obligation.

3.2.3 Local Matching Funds. The grant funds provided through this grant shall not supplant funds to be paid by each Township as specified in Section 3.1; however, the funding provided by the County and Townships as specified herein, shall be considered, collectively, to be the necessary local match required for the SCIP and LTIP programs and no additional Township local match to the grant funds shall be required.

3.2.4 County Engineer to Prepare Application, Townships to Promptly Approve. The County Engineer agrees to prepare the necessary application forms, and Townships agree to promptly approve such application.

3.2.5 County Engineer to Administer Grant through Construction. The County Engineer shall administer the grant on behalf of the Townships through the construction phase, and shall coordinate direct payment from OPWC to the contractor as required.

3.3 County Share of Cost and County's Right to Pursue Other Sources of Funding. The County shall pay for all costs of the Project as amounts are due. The County may seek reimbursement or cost participation in the Project from other sources, including, but not limited to, tax increment financing, special assessments, and/or payments made by property owners or developers in lieu of construction of public improvements associated with subdivisions on adjacent or nearby properties.

3.4 Township Contributions Subject to Future Appropriation and Availability of Funds. The Township contributions described in Section 3.1 shall be subject to future appropriation and availability of funds by Berlin and Orange Townships and shall not be construed by any Party as debt, and approval by any instrument. Party of this Agreement shall not be interpreted as a promissory note or other debt

3.5 Retention in the County Treasury; County Withholding of Discretionary Grants. The Parties

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agree that if a Township fails to appropriate funds for or make a contribution described in Section 3.1 in its entirety by the date specified, the payment shall be made by the retention in the county treasury of the amount due from taxes collected for the Township, pursuant to Section 307.16 of the Ohio Revised Code. The Townships each consent to this retention in the county treasury and acknowledge that the county auditor and county treasurer shall be governed by this provision in settling accounts for such taxes. The Parties further agree that, if a Township fails to appropriate funds for or make a contribution described in Section 3.1 in its entirety by the date specified, the County may, in its sole discretion, withhold any future discretionary grants or other discretionary financial assistance provided to that Township.

4 DESIGNATION AS COUNTY HIGHWAY

4.1 Shanahan, Piatt and Hollenback Road. The County will perform necessary actions to designate the following existing township roads as county highways, effective not later than January 1, 2025, to be maintained by the County as county roads.

Shanahan Road (Twp Rd 100) from U.S. 23 to Piatt Road (entire length)	1.319 miles
Piatt Road (Twp Rd 99) from Shanahan Road to Hollenback Road	0.300 miles
<u>Hollenback Road (Twp Rd 274) from Piatt Road to South Old State Road</u>	<u>1.215 miles</u>
Total	2.834 miles

5 GENERAL PROVISIONS

- 5.1 Entire Agreement.** This Agreement, and those documents incorporated by reference herein, will constitute the entire understanding and agreement, will supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.

- 5.2 Financial Audits.** The agency managing the respective phase of work of the Project will be responsible for conducting and coordinating any federal or state audits of funds provided in those phases.

- 5.3 Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement will be filed in and heard before the courts of Delaware County, Ohio.

- 5.4 Headings.** The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and will not affect the construction or interpretation of any of its provisions. This Agreement will be deemed to have been drafted by all Parties and no interpretation will be made to the contrary.

- 5.5 Waivers.** No waiver of breach of any provision of this Agreement will in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement will be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the Party claimed to have waived or consented. Such waiver will not constitute and will not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

- 5.6 Severability.** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance will to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it will be held invalid or unenforceable will not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof will, in all other respects, continue to be effective and to be complied with.

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

**6
RESOLUTION NO. 23-969**

IN THE MATTER OF APPROVING AN OWNER’S AGREEMENT FOR DRAINAGE IMPROVEMENTS TO SLATE RIDGE RESIDENTIAL SECTIONS 1, 2, 3, 4, & 5:

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

WHEREAS, the Engineer recommends approving the Owner’s Agreement for Drainage Improvements to Slate Ridge Residential Sections 1, 2, 3, 4, & 5;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner’s Agreement for Drainage Improvements to Slate Ridge Residential Sections 1, 2, 3, 4, & 5:

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OWNER'S AGREEMENT FOR DRAINAGE IMPROVEMENTS

PROJECT NUMBER: 23049

THIS AGREEMENT, executed on this 13th day of November, 2023 between PULTE HOMES OF OHIO, LLC, hereinafter called "OWNER", and the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO, hereinafter called "COUNTY COMMISSIONERS", for the project described as Slate Ridge Residential Sections 1, 2, 3, 4, & 5 and further identified as Project Number 23049 (the "Project") is governed by the following considerations to wit:

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

The OWNER is to provide a bond, certified check, irrevocable letter of credit, or other approved financial warranties in the amount of FIVE HUNDRED EIGHTY EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$588,500) payable to Delaware County, Ohio. Should the OWNER complete Sections of the Project per the AGREEMENT at different times, the AGREEMENT may be amended in writing with mutual consent and agreement of both the OWNER and COUNTY COMMISSIONERS to release portions of the financial warranties equal to the cost of construction as shown in Exhibit "A" attached hereto.

The financial warranties are to insure faithful performance of this AGREEMENT and the completion of all public drainage improvements in accordance with the current Delaware County Design, Construction and Surveying Standards and any supplements thereto, as well as the current Subdivision Regulations of Delaware County, Ohio.

The OWNER shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The OWNER will at all times during the construction of said improvements maintain the job site in accordance with the conditions outlined within The Ohio Environmental Protection Agency "General Permit Authorization For Storm Water Discharge Associated with Construction Activity Located Within Portions of the Olentangy Watershed Under the National Pollutant Discharge Elimination System" and maintain drainage free of unreasonable hazards to the public. Any permit noncompliance constitutes a violation of ORC Chapter 6111 and is grounds for enforcement action.

The OWNER is to complete all construction to the satisfaction of the COUNTY and release of the financial warranties will be contingent upon satisfactory completion of all items of the approved plans, the receipt and approval of final as-built plans, and the stabilization of storm water management facilities.

The OWNER shall indemnify and hold 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, costs (including attorney fees), 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 OWNER or any of its contractors or subcontractors 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 OWNER or any contractor or their agents or employees.

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 drainage improvements within this subdivision.

It is further agreed that upon execution of the AGREEMENT, the OWNER shall deposit Eighteen Thousand Dollars and No Cents (\$18,000.00) 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 acceptance of the improvements by the COUNTY COMMISSIONERS, the remaining amount in the fund shall be returned to the OWNER.

The OWNER shall submit, 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

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material and labor costs have been paid. The OWNER shall indemnify and hold harmless Delaware County and all Townships and/or Villages within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

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"

TOTAL CONSTRUCTION COST ESTIMATE	\$588,500
Slate Ridge Residential 1, 2, 3, 4, 5 Drainage Improvements	
Section 1 (minus cost of Stream Channel improvements)	\$347,324
Section 2	\$23,362
Section 3 (minus cost of Stream Channel improvements)	\$7,330
Section 4	\$0
Section 5	\$210,484
CONSTRUCTION BOND AMOUNT	\$588,500
INSPECTION FEE DEPOSIT	\$18,000

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

**7
RESOLUTION NO. 23-970**

IN THE MATTER OF ACCEPTING THE ROADS, APPROVING RECOMMENDED SPEED LIMITS, ESTABLISHING STOP CONDITIONS, AND RELEASING THE SURETIES FOR LIBERTY GRAND DISTRICT SECTION 1 PHASE A, LIBERTY GRAND DISTRICT SECTION 1 PHASE B, LIBERTY GRAND DISTRICT SECTION 2 PHASE A, LIBERTY GRAND DISTRICT SECTION 2 PHASE B, LIBERTY GRAND DISTRICT SECTION 3, LIBERTY GRAND DISTRICT SECTION 4, LIBERTY GRAND DISTRICT SECTION 5, LIBERTY GRAND DISTRICT SECTION 6 PHASE A, LIBERTY GRAND DISTRICT SECTION 6 PHASE B, LIBERTY GRAND DISTRICT SECTION 7, LIBERTY GRAND DISTRICT SECTION 9, HARVEST CURVE, NORTHSTAR-GOLDWELL SECTION 2, PIATT PRESERVE SECTION 1 PHASE A, PIATT PRESERVE SECTION 1 PHASE B, PIATT PRESERVE SECTION 2:

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

WHEREAS, the Engineer has reviewed the roadway construction of the roads within Liberty Grand District Section 1 Phase A, Liberty Grand District Section 1 Phase B, Liberty Grand District Section 2 Phase A, Liberty Grand District Section 2 Phase B, Liberty Grand District Section 3, Liberty Grand District Section 4, Liberty Grand District Section 5, Liberty Grand District Section 6 Phase A, Liberty Grand District Section 6 Phase B, Liberty Grand District Section 7, Liberty Grand District Section 8, Liberty Grand District Section 9, Harvest Curve, Northstar-Goldwell Section 2, Piatt Preserve Section 1 Phase A, Piatt Preserve Section 1 Phase B, Piatt Preserve Section 2 (the “Subdivisions”), finds them to be constructed in accordance with the approved plans, and recommends that the following roadways within the Subdivisions be accepted into the public system:

Liberty Grand District Section 1 Phase A:

- An addition of 0.073 mile to township road number 1855, Dulles Drive
- An addition of 0.049 mile to township road number 1854, Boone Drive
- An addition of 0.012 mile to township road number 1852, Constitution Way
- An addition of 0.366 mile to township number 1813, Eagles Landing Drive

Liberty Grand District Section 1 Phase B:

- An addition of 0.060 mile to township road number 1854, Boone Road
- An addition of 0.228 mile to township road number 1855, Dulles Drive

Liberty Grand District Section 2, Phase A:

- An addition of 0.232 mile to township road number 1857, Shoal Way
- An addition of 0.106 mile to township road number 1858, Celebration Drive

Liberty Grand District Section 2 Phase B:

- An addition of 0.202 mile on township road number 1858, Celebration Drive
- An addition of 0.030 mile on township road number 1859, Legacy Road

Liberty Grand District Section 3:

- An addition of 0.162 mile to township road number 1854, Boone Drive

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- An addition of 0.136 mile to township road number 1852, Constitution Way
- An addition of 0.284 mile to township road number 1855, Dulles Drive

Liberty Grand District Section 4:

- An addition of 0.340 mile to township road number 1857, Shoal Way
- An addition of 0.226 mile to township road number 1859, Legacy Road

Liberty Grand District Section 5:

- An addition of 0.184 mile to township road number 1952, Constitution Way
- An addition of 0.152 mile to township road number 1856, Mantle Drive

Liberty Grand District Section 6 Phase A:

- An addition of 0.088 mile to township road number 1860, Cutler Drive
- An addition of 0.231 mile to township road number 1858, Celebration Drive

Liberty Grand District Section 6 Phase B:

- An addition of 0.350 mile to township road number 1858, Celebration Drive

Liberty Grand District Section 7:

- An addition of 0.492 mile on township road number 1854, Boone Drive

Liberty Grand District Section 9:

- An addition of 0.611 mile to township road number 1854, Boone Drive
- An addition of 0.263 mile to township road number 1861, Old Glory Loop

Harvest Curve:

- An addition of 0.183 mile to township road number 1395, Vista Walk Lane
- An addition of 0.126 mile to township road number 1862, Autumn Grove Drive
- An addition of 0.124 mile to township road number 1863, Golden Crest Court
- An addition of 0.089 mile to township road number 1864, Amber Valley Drive

Northstar-Goldwell Section 2:

- An addition of 0.519 mile to township road number 1789, Goldwell Drive
- An addition of 0.097 mile to township road number 1865, Honey Grove Drive
- An addition of 0.123 mile to township road number 1866, Devon Ridge Court

Piatt Preserve Section 1 Phase A:

- An addition of 0.177 mile to township road number 1867, Aldengate Lane
- An addition of 0.033 mile to township road number 1868, Henshaw Drive

Piatt Preserve Section 1 Phase B:

- An addition of 0.125 mile to township road 1868, Henshaw Drive
- An addition of 0.154 mile to township road number 1869, Cranbrooke Lane
- An addition of 0.170 mile to township road number 1870, Bellgrove Place
- An addition of 0.033 mile to township road number 1871, Bellgrove Court

Piatt Preserve Section 2:

- An addition of 0.124 mile to township road number 1872, Balsamridge Drive
- An addition 0.055 mile to township road number 1873, Castlecove Court
- An addition of 0.158 mile to township road number 1874, Eastwick Road

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

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

- On township road number 1855, Dulles Drive, at its intersection with township road 1813, Eagles Landing Drive
- On township road number 1854 Boone Drive, at its intersection with township road number 1813, Eagles Landing Drive
- On township road number 1852, Constitution Way, at its intersection with township road number 1813, Eagles Landing Drive
- On township road number 1813, Eagles Landing Drive, at its intersection with county road number 125, Steitz Road
- On township road number 1854, Boone Drive, at its intersection with township road number 1855, Dulles Drive
- On township road number 1857, Shoal Way, at its intersection with township road number 1812, Liberty Grand Boulevard
- On township road number 1858, Celebration Drive, at its intersection with township road number

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- 1857, Shoal Way
- On township road number 1859, Legacy Road, at its intersection with township road number 1858 Celebration Drive
 - On Township road number 1855, Dulles Drive at its intersection with township road number 1852, Constitution Way
 - On township road number 1857, Shoal Way, at its intersection with township road number 1859, Legacy Road
 - On township road number 1859, Legacy Road at its intersection with township road number 1812, Liberty Grand Boulevard
 - On township road number 1852, Constitution Way at its intersection with township road number 1856, Mantle Drive
 - On township road number 1856, Mantle Drive, at its intersection with township road number 1812, Liberty Grand Boulevard
 - On township road number 1860, Cutler Drive, at its intersection with township road number 1859, Legacy Road
 - On township road number 1858, Celebration Drive, at its intersection with township road number 1860, Cutler Drive
 - On township road number 1854, Boone Drive, at its intersection with township road number 1861, Old Glory Loop
 - On township road number 1861, Old Glory Loop at its intersection with township road number 1854, Boone Drive
 - On township road number 1862, Autumn Grove Drive at its intersection with county road 125, Steitz Road
 - On township road number 1862, Autumn Grove Drive, at its intersection with township road number 1395, Vista Walk Lane and township road number 1863, Golden Crest Court
 - On township road number 1863, Golden Crest Court, at its intersection with township road number 1395, Vista Walk Lane and township road number 1862, Autumn Grove Drive
 - On township road number 1864, Amber Valley Drive, at its intersection with township road number 1395, Vista Walk Lane
 - On township road number 1798, Goldwell Drive at its intersection with township road number 1865, Honey Grove Drive
 - On township road number 1865, Honey Grove Drive at its intersection with township road number 56, Wilson Road
 - On township road number 1866, Devon Ridge Court at its intersection with township road number 1798, Goldwell Drive
 - On township road number 1867, Aldengate Lane at its intersection with township road number 99, Piatt Road
 - On township road number 1868, Henshaw Drive at its intersection with township road number 1867, Aldengate Lane
 - On township road number 1868, Henshaw Drive at its intersection with township road number 1869, Cranbrooke Lane
 - On township road number 1869, Cranbrooke Lane at its intersection with township road number 1870, Bellgrove Place
 - On township road number 1870, Bellgrove Place at its intersection with county road 96, Gregory Road
 - On township road number 1871, Bellgrove Court at its intersection with township road number 1870, Bellgrove Place
 - On township road number 1872, Balsamridge Drive at its intersection with township road number 99, Piatt Road
 - On township road number 1872, Balsamridge Drive at its intersection with township road number 1873, Castlecove Court and township road number 1874, Eastwick Road
 - On township road number 1873, Castlecove Court at its intersection with township road number 1872, Balsamridge Drive and township road number 1874, Eastwick Road
 - On township road number 1874, Eastwick Road at its intersection with township road number 1872, Balsamridge Drive and township road number 1873, Castlecove Court

WHEREAS, the Engineer requests approval to return the cash being held as maintenance surety to Epcon Clear Creek LLC , M/I Homes of Central Ohio LLC, Rockford Homes, Inc., Nationwide Residential Development LLC and D.R. Horton-Indiana 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 maintenance sureties in accordance with the Engineer's recommendations stated herein.

Vote on Motion

Mrs. Lewis Aye

Mr. Benton Aye

Mr. Merrell Aye

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8

RESOLUTION NO. 23-971**IN THE MATTER OF APPROVING AN OWNER'S AGREEMENT FOR SLATE RIDGE EMIL'S WAY EXTENSION:**

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

WHEREAS, the Engineer recommends approving the Owner's Agreement for Slate Ridge Emil's Way Extension;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner's Agreement for Slate Ridge Emil's Way Extension:

OWNER'S AGREEMENT**PROJECT****NUMBER:22127**

THIS AGREEMENT, executed on this 13th day of November, between Kerbler Farms LLC, hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Slate Ridge Emil's Way Extension further identified as Project Number **22127** 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-Five Thousand Dollars and No Cents (\$35,000.00) 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

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completion of the maintenance period and acceptance of the improvements by the Delaware County 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.

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$578,000.00
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$57,800.00
INSPECTION FEE DEPOSIT	\$35,000.00

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

**9
RESOLUTION NO. 23-972**

IN THE MATTER OF APPROVING THE AMENDED DITCH MAINTENANCE PETITION AND DITCH MAINTENANCE ASSESSMENTS FOR BERLIN FARM WEST:

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

WHEREAS, on August 28, 2023, the Delaware County Board of Commissioners (the "Board") adopted

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Resolution No. 23-729, approving a ditch maintenance petition for Berlin Farm West Sections 1 through 8 (the “Original Petition”) and approving the ditch maintenance assessments for Berlin Farm West; and

WHEREAS, the Original Petition set forth the drainage improvements that have been or will be constructed within Berlin Farm West Sections 1 through 8; and

WHEREAS, the petitioners have changed the distribution of the number of sections within Berlin Farm West, reallocated the lots to subsequent sections, and filed an amended petition for Berlin Farm West Sections 1 through 12 (the “Amended Petition”); 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 lots 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 Amended 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 Amended 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 Amended Petition, as follows:

The cost of the drainage improvements is \$3,899,601.11 (for Section 1 and future sections) for the benefit of the lots being created in this subdivision. 434 lots (total all sections) are being created in this plat and future plats and each lot received an equal share of benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore \$8,985.26 per lot. An annual maintenance fee equal to 2% of this basis (\$179.71) will be collected for each lot. 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 \$9,344.92 has been paid to Delaware County.

Section 3. The Board’s order granting the Amended Petition herein supersedes the Original Petition as approved in Resolution No. 23-729.

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

**10
RESOLUTION NO. 23-973**

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

It was moved by Mr. Merrell, seconded by Mrs. Lewis 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:

<u>Permit #</u>	<u>Applicant</u>	<u>Location</u>	<u>Type of Work</u>
UT2023-0192	SUBURBAN GAS	BERLIN FARM PH 2	GAS MAIN
UT2023-0194	BREEZELINE	COLTSBRIDGE	ROAD BORE
UT2023-0196	DELCO WATER	REED PARKWAY	ROAD BORE

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

**11
MID-OHIO REGIONAL PLANNING COMMISSION (10:00AM)
PRESENTATION/UPDATE
•WILLIAM MURDOCK, Executive Director
•JOSEPH GARRITY, Senior Director Of Government Affairs & Community Relations
•EILEEN LEUBY, Membership Services Officer**

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ADMINISTRATOR REPORTS

-No comments noted

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COMMISSIONERS' COMMITTEES REPORTS

Mrs. Lewis

- Gave tribute to a recently deceased Veteran named Ken.
- Spoke of Ken's accomplishments and accolades.

Mr. Merrell

- Acknowledged school children writing letters that were given at the Veteran's breakfast.
- Read two letters from children.

Mr. Benton

- Attended Veteran's Breakfast
- ODOT Meeting to be held on 11/14
- Made mention of Fair Board meeting and Budget Hearing coming up soon

14

RESOLUTION NO. 23-974

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mrs. Lewis, 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 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 of a Public Employee or Public Official and for Pending or Imminent Litigation.

Vote on Motion	Mr. Merrell	Mrs. Lewis	Mr. Benton
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RESOLUTION NO. 23-975

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

Vote on Motion	Mr. Merrell	Aye	Mrs. Lewis	Aye	Mr. Benton	Aye
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RECESS at 11:30 a.m. /RECONVENE at 1:30 p.m.

SOIL AND WATER CONSERVATION DISTRICT

15

1:30P.M. Viewing For Consideration Of The Felkner #302 Drainage Improvement Petition

16

2:00P.M. Viewing For Consideration Of The Drainage Improvement Petition For The Moore No. 1 #361 Watershed

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There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners