

**COMMISSIONERS JOURNAL NO. 40 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 4, 1999**

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

Present: James Ward, Deborah Martin, Donald Wuertz

RESOLUTION NO. 99-832

**IN THE MATTER OF APPROVING RESOLUTIONS AND MINUTES FROM REGULAR
MEETING HELD SEPTEMBER 27, 1999:**

It was moved by Mrs. Martin, seconded by Mr. Ward to dispense with the reading of the minutes and resolutions of the regular meeting held September 27, 1999 and to approve resolutions and minutes as submitted.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

PUBLIC COMMENT

Mrs. Martin reported that committees have been organized to address the issue of saving the Bellpoint Bridge. She asked that \$500.00 be provided from the General Fund as seed money for this group to use for postage and other expenses. Mr. Ward stated his belief this is money well spent. Mrs. Martin reported the group is working in several areas trying to come up with funding mechanisms for the project. On a motion made by Mr. Ward and seconded by Mrs. Martin the Board voted to approve this expenditure.

Mr. Andrew Halter asked what the status of the possible purchase of property on Union Street for the Administration Building is. Mr. Wuertz reported that the appraisals are ready and this week there will be initial contacts made with the property owners.

RESOLUTION NO. 99-833

**IN THE MATTER OF APPROVING FOR PAYMENT WARRANTS NUMBERED 253071
THROUGH 253572:**

It was moved by Mr. Ward, seconded by Mrs. Martin to approve for payment warrants 253071 through 253572 on file in the office of the Delaware County Commissioners.

Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 99-834

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following:

Human Services is requesting that Rebecca Ward attend the Civil Service Exam at Columbus on September 27, 1999, in the amount of \$ 23.55.

Human Services is requesting that Bill Henneke and Donna Bukovic attend the Welfare Reform Programs Workshop at Columbus on November 15, 1999, in the amount of \$18.00.

Human Services is requesting that Donna Bukovec and Marie Ellinger attend the Dealing with Denial in Intrafamilial Sexual Abuse Cases at Columbus on October 4, 1999, in the amount of \$36.60.

Juvenile Court is requesting that Stuart Berry and Ed Uhlman attend the Supervision Workshop at Columbus on October 25, 1999, in the amount of \$176.00.

Human Services is requesting that Lisa Newman attend the PCSAO Conference at Columbus on September 15, 1999, in the amount of \$125.00

Human Services is requesting that Marie Ellinger attend the PCSAO Conference at Columbus on September 16 through September 17, 1999, in the amount of \$185.80.

Human Services is requesting that Marie Ellinger attend the Social Work Training at Columbus on October 1, 1999, in the amount of \$18.60.

Human Services is requesting that Rosemary Halterman and Lisa Newman attend the People Type Training at Columbus on October 22, 1999, in the amount of \$30.00.

Human Services is requesting that Rosemary Halterman and Lisa Newman attend the Understanding Medical Mumbo Jumbo at Columbus on October 12, 1999, in the amount of \$30.00.

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Human Services is requesting that Rosemary Halterman attend the Understanding Psychological Evaluations Training at Columbus on October 29, 1999, in the amount of \$15.00.

Juvenile Court is requesting that John K. Awad and Donna Sigl attend the Group Relations Conference at Cincinnati on October 22 through October 24, 1999, in the amount of \$487.00.

OECC is requesting that Paul Sandstrom attend the OSHA Record Keeping Course at Columbus on November 19, 1999, in the amount of \$181.20.

OECC is requesting that Janet Fawcett attend the How to Handle People with Tact and Skill at Columbus on October 26, 1999, in the amount of \$154.00

OECC is requesting that Karen Morr attend the OWEA Southeast Section Meeting at Pickerington on October 21, 1999, in the amount of \$15.00.

Human Services is requesting that Keith Matlack attend the Broken Bonds Training at Columbus on October 5, 1999, in the amount of \$108.00.

Human Services is requesting that Ulrike Martin attend the Early Start Meeting at Upper Sandusky on September 21, 1999, in the amount of \$66.00.

Auditor Office is requesting that David Yost attend the Auditor's Conference at Columbus on December 7 through December 9, 1999, in the amount of \$265.00.

Human Services is requesting that Perry Harper attend the Employment Law Seminar at Delaware on October 13, 19, 27 and November 3, 1999, in the amount of \$30.20.

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-835

IN THE MATTER OF APPROVING TRANSFER OF FUNDS, APPROPRIATIONS, AND SUPPLEMENTAL APPROPRIATIONS:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

SUPPLEMENTAL APPROPRIATIONS

FUND NUMBER:	FUND NAME:	AMOUNT:
035-3510-020	Sanitary Engineer - Srvs & Chrgs	\$ 150,000.00

TRANSFER OF APPROPRIATION

FROM:	TO:	AMOUNT:
001-0310-012 Auditor – PERS	001-0130-020 Auditor Srvs & Chrgs	\$ 2,100.00
001-0180-010 Personnel – Salaries	001-0180-020 Personnel – Srvs & Chrgs	\$ 15,000.00
003-4520-010 Public Assistance – Salaries	003-4580-020 Public Assistance - Srvs & Chrgs	\$ 45,000.00
003-4520-011 Public Assistance – Benefits	003-4580-020 Public Assistance - Srvs & Chrgs	\$ 10,000.00
003-4560-010 Public Assistance – Salaries	003-4510-020 Public Assistance - Srvs & Chrgs	\$ 15,000.00
075-0920-010 Data Center – Salaries	075-0920-020 Data Center – Srvs & Chrgs	\$ 20,000.00

Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 99-836

IN THE MATTER OF APPROVING PETITION FROM CITY OF WESTERVILLE TO CHANGE BOUNDARY LINES OF ORANGE TOWNSHIP TO MAKE THE BOUNDARIES OF LAND ANNEXED TO CITY OF WESTERVILLE (3.0 ACRES) RESOLUTION 99-21 COTERMINOUS WITH THE CORPORATE BOUNDARIES OF THE CITY OF WESTERVILLE:

It was moved by Mrs. Martin, seconded by Mr. Ward that pursuant to a petition from the City of Westerville, Ohio and in conformity with the mandate of the Ohio Revised Code that the boundaries of Orange Township annexed to the City of Westerville by their Ordinance 99-72 be hereby changed to be coterminous with the corporate boundaries of the City of Westerville.

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Further, the Clerk shall transmit copies of this Resolution to the County Auditor, County Recorder and County Engineer's Map Department along with description and map.

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-837

IN THE MATTER OF APPROVING SUBDIVISION PLATS FOR WHITETAIL MEADOWS, DESERET, AND VILLAGES OF OAK CREEK, PHASE 10, PART A; AND DITCH MAINTENANCE PETITIONS FOR VILLAGES OF OAK CREEK PHASE 10, PART A & B AND VILLAGE AT ALUM CREEK, SECTION 4:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

Whitetails Meadows

Situated in the State of Ohio, County of Delaware, Township of Genoa, being a part of Farm Lots 6 and 8, Section 4, Township 3, Range 17, United States Military Lands, and being all of Lot 122 (9.222 Acres) of Hardbarger Subdivision, Plat Book 4, page 371, conveyed to the Slane Co. in Deed Volume 655, Page 17, and being all of a 5.005 Acre Tract conveyed to the Slane Co. in Deed Volume 656, Page 547, Delaware County Recorders Office. Lot fee in the amount of \$69.00.

Deseret

Situated in the State of Ohio, County of Delaware, Township of Liberty, being part of Farm Lot 20, Section 1, and Farm Lot 41, Section 4, Township 3, Range 19, United States Military Lands, being a 38.333 Acre Subdivision, there being 35.969 Acres out of an original 49.684 Acre Tract conveyed to Russell B. Stein and Barbara Jean Grippi in Deed Book 450, Page 601 (Parcel 1) and 2.362 Acres out of a 5.000 Acre Tract conveyed to Russell B. Stein in Deed Book 454, page 261, as recorded at the Delaware County Recorder's Office, Delaware, Ohio. Lot fee in the amount of \$30.00.

Villages of Oak Creek Phase 10, Part A

Situate in the State of Ohio, County of Delaware, Orange Township, being part of Farm Lots numbered 27 and 28 of Section 3, Township 3, Range 18, United States Military lands containing 8.408 Acres, more or less, being 8.408 Acres out of the 50.971 Acre Tract conveyed to Homewood Corporation, an Ohio Corporation by Deed of record in Deed volume 0583 pages 781,782 and 783, including 2.163 Acres of right-of-way area and of which 3.342 Acres lies within Lot number 27 and 5.066 Acres lies within Lot number 28, records of the Recorder's Office, Delaware, Ohio. Lot fee in the amount of \$81.00.

Ditch Maintenance Petition – Villages of Oak Creek, Phase 10, Parts A & B

We the undersigned owners of 14.794 acres in Orange Township, Delaware County, Ohio propose to create a subdivision known as Villages of Oak Creek Phase 10, Parts A & B as evidenced by the subdivision plat (Exhibit "A" which is available at the County Engineer's Office). This plat has been approved and signed by the Delaware County Regional Planning Commission and the Delaware County Engineer. Drainage improvements related to this subdivision have been constructed (or are bonded and will be constructed within a period of one year as evidenced by the Subdivider's agreement Exhibit "B" available at the County Engineer's Office). In accordance with Section 6137 of the Ohio Revised Code, we (I) hereby request that the improvements delineated on Exhibit "C" (available at the County Engineer's Office), be accepted as part of the County Ditch Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for each lot in the subject subdivision to cover the cost of current and future maintenance of the improvements.

We (I) represent 100% of the property owners to be assessed for maintenance related to this drainage improvement.

We (I) hereby waive our rights to a public viewing and hearing and ask that your board approve this action in conjunction with the approval of the Village of Oak Creek Phase 10, Parts A & B Subdivision.

The cost of the drainage improvements is \$44,999.00 and a detailed cost estimate is available at the County Engineer's office in Exhibit "D". The drainage improvements are being constructed for the benefit of the lots being created in this subdivision. Forty-seven lots are created in this plat and each lot receives an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore, \$957.43 per lot. An annual maintenance fee equal to 2% of this basis \$19.15 will be collected for each lot. 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 \$899.98 has been paid to Delaware County.

Easements to provide for the maintenance of the improvements have been provided on the plat.

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Ditch Maintenance Petition – Village at Alum Creek, Section 4

We the undersigned owners of 28.491 acres in Orange Township, Delaware County, Ohio propose to create a subdivision known as The Village at Alum Creek, Section 4 as evidenced by the subdivision plant (Exhibit “A” which is available at the County Engineer’s Office). This plat has been approved and signed by the Delaware County Regional Planning Commission and the Delaware County Engineer. Drainage improvements related to this subdivision have been constructed (or are bonded and will be constructed within a period of one year as evidenced by the Subdivider’s agreement Exhibit “B” available at the County En accordance with Section 6137 of the Ohio Revised Code, we (I) hereby request that the improvements delineated on Exhibit “C” (available at the County Engineer’s Office), be accepted as part of the County Ditch Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for each lot in the subject subdivision to cover the cost of current and future maintenance of the improvements.

We (I) represent 100% of the property owners to be assessed for maintenance related to this drainage improvement.

We (I) hereby waive our rights to a public viewing and hearing and ask that your board approve this action in conjunction with the approval of The Village at Alum Creek, Section 4 Subdivision.

The cost of the drainage improvements is \$265,336.00 and a detailed cost estimate is available at the County Engineer’s office in Exhibit “D”. The drainage improvements are being constructed for the benefit of the lots being created in this subdivision. Seventy-five lots are created in this plat and each lot receives an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore, \$3,537.81 per lot. An annual maintenance fee equal to 2% of this basis \$70.76 will be collected for each lot. 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 \$5,307.00 has been paid to Delaware County.

Easements to provide for the maintenance of the improvements have been provided on the plat.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-838

IN THE MATTER OF ACCEPTING MAINTENANCE BONDS FOR DESERET AND WHITETAIL MEADOWS:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following.

Deseret

The construction of the above referenced project was started without bonding, thereby not allowing the developer to file the plat. The developer would now like to file the plat; therefore, the estimated remaining construction costs are \$36,900, and a bond in that amount is provided to cover the bonding of this project.

Whitetail Meadows

The construction of the above referenced project was started without bonding, thereby not allowing the developer to file the plat. The developer would now like to file the plat; therefore, the estimated remaining construction costs are \$23,415, and a bond in that amount is provided to cover the bonding of this project.

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-839

IN THE MATTER OF APPROVING THE SUBDIVIDER’S AGREEMENT FOR WESTERVILLE RESERVE:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

THIS AGREEMENT executed on this 4th day of October 1999, between **ROMANELLI AND HUGHES** as evidenced by the **WESTERVILLE RESERVE PHASES 1 & 2** Construction plans filed with the **Delaware County Engineer**, Delaware County, Ohio and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** is governed by the following considerations, to wit:

Said **SUBDIVIDER** 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**, said **SUBDIVIDER** shall, at the time of plat approval, execute bond, certified check, irrevocable letter of credit or other approved financial warranties equal to the cost of any remaining construction as shown in the Engineer’s Estimate of \$573,106 approved September 14, 1999 which

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is acceptable to the **COUNTY COMMISSIONERS** to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Subdivision Regulations** of Delaware County, Ohio. The **SUBDIVIDER** shall pay the entire cost and expense of all improvements.

The **SUBDIVIDER** shall indemnify and save harmless the **County, Townships and/or Villages** 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 year from the date of the approval of said subdivision by the **COUNTY COMMISSIONERS**. But an extension of time may be granted if approved by the **COUNTY COMMISSIONERS**.

The **SUBDIVIDER** shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading plans and specifications and shall have the authority to execute the plans and specifications and alterations required by the **COUNTY**. The representative shall be replaced by the **SUBDIVIDER** when, in the opinion of the **COUNTY**, his performance is deemed inadequate.

If no bonding or performance surety has been filed, then no subdivision plat will be approved until a performance bond has been approved or until all public improvements have been made. In either case, the **SUBDIVIDER** further agrees that any violations or non-compliance 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.

If a subdivision plat has been approved with the necessary bonding, then the **COUNTY** shall have the right to act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

ROADWAY AND STORM DRAINAGE

It is further agreed that upon execution of the **AGREEMENT**, the **SUBDIVIDER** shall deposit **FORTY-FIVE THOUSAND NINE HUNDREDDOLLARS** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer** and, if deemed necessary by the **Delaware County Engineer**, testing by an independent laboratory, and the cost of street and traffic control signs. When the fund has been depleted to **thirty percent (30%)** of the original amount deposited, the **SUBDIVIDER** shall replenish the account, upon notice by the **Delaware County Engineer**. Upon completion and acceptance of the construction, the remaining amount in the fund shall be returned to the **SUBDIVIDER**, with the exception of a nominal amount for the final inspection at the end of the maintenance period.

The **County** reserves the right during construction and thereafter to permit connection of adjoining properties within the original drainage basin to the storm sewer system.

Upon completion of construction, the **SUBDIVIDER** shall be responsible for the maintenance, repair or reconstruction of any and all defective materials or workmanship for a period of one year. Said **SUBDIVIDER'S** bond or certified check or irrevocable letter of credit may be reduced to an amount estimated by the **County Engineer** 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 to the **Ohio Department of Transportation Specifications**.

Acceptance of the roads and drainage structures in said subdivision into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **SUBDIVIDER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

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

CONSTRUCTION

The **SUBDIVIDER** shall, within thirty (30) days following the completion of construction and prior to final acceptance, furnish to **Delaware County**, 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 **SUBDIVIDER** shall, within thirty (30) days of completion of construction, furnish to the **County** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **SUBDIVIDER** shall indemnify and hold harmless the **County** from expenses or claims for labor or material incident to said construction of improvements.

The **SUBDIVIDER** shall, during construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the **County** regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

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

Should the **SUBDIVIDER** become unable to carry out the provisions of this **AGREEMENT**, the **SUBDIVIDER'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**

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COUNTY, OHIO hereby grants the **SUBDIVIDER** or his agent the right and privilege to make the improvements stipulated herein.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-840

IN THE MATTER OF APPROVING ROAD NAME CHANGES IN THORTON WOODS AND NORTHERN LAKES, SECTION 7 IN GENOA TOWNSHIP:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the corrections to street names in Genoa Township as follows:

From August 17, 1998 Meeting:

- **Township Road Number 749** – recorded as Old Field Drive; should be Old Field **Court**

From October 5, 1998 Meeting:

- **Township Road Number 778** – recorded as Annadale Court; should be **Annandale** Court

From October 22, 1998 Meeting:

- **Township Road Number 791** – recorded as Baltusrol Court; should be **Baltrusol** Court
- **Township Road Number 793** – recorded as Rivera Court; should be **Riviera** Court

Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 99-841

IN THE MATTER OF ACCEPTING ROADS IN THORTON WOODS AND NORTHERN LAKES, SECTION 7:

It was moved by Mrs. Martin, seconded by Mr. Ward to release bonds and letters of credit and accept roads within the following:

Thorton Woods – Liberty Township

- **McGinnis Road**, to be known as **Township Road Number 853**

Northern Lakes, Section 7 – Genoa Township

- **Margaret Drive**, to be known as **Township Road Number 854**
- **Jean Court**, to be known as **Township Road Number 855**

Return the Letter of Credit being held as maintenance surety to the developer, Planned Communities, Inc.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-842

IN THE MATTER OF AUTHORIZING STOP CONDITIONS IN THORTON WOODS AND NORTHERN LAKES, SECTION 7:

It was moved by Mr. Ward, seconded by Mrs. Martin to authorize stop conditions at the following locations:

Thorton Woods

1. On **Township Road Number 853, McGinnis Road** at it's intersection with **Township Road Number 140, Bean Oller Road**

Northern Lakes, Section 7

1. On **Township Road Number 854, Margaret Drive** at it's intersection with **Township Road Number 539, Hilmar Drive**
2. On **Township Road 854, Margaret Drive**, at it's intersection with **Township Road Number 855, Jean Court**

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Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 99-843

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

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

<i>Permit #</i>	<i>Applicant</i>	<i>Location</i>	<i>Type of Work</i>
2238	Columbia Gas	Romes Corners Road	Install gas main
2258	Columbia Gas	Mt. Royal Avenue	Install gas main
2261	Technetium, Inc.	Worthington Road	Relocate telephone facilities
2267	Columbus Southern Power	Braumiller Road	Replace poles
2271	Ameritech	Liberty Road	Install telephone cable
2272	Columbia Gas	Riverpoint Court	Install gas main
2273	Columbia Gas	Braumiller Road	Install gas main
2274	Columbia Gas	Woods of Dornoch	Install gas main
2276	Columbia Gas	Green Meadows Drive	Install gas main
2275	Columbia Gas	Fancher Road	Install gas main
2277	Columbus Southern Power	Green Meadows Drive	Bore under road

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-844

IN THE MATTER OF AUTHORIZING SPEED LIMIT REDUCTION ON BLAYNEY ROAD:

It was moved by Mr. Ward, seconded by Mrs. Martin to authorize speed limit reduction as follows:

Whereas, Due to the speed limit study, the Delaware County Engineer is requesting a speed limit reduction to 45 miles per hour on Blayney Road (TR 68) from SR 61 to Rosecrans Road (TR 69).

Whereas, Section 4511.21 (I) of the ORC provides for this type of reduction.

Therefore Be It Resolved, the Delaware County Commissioners request the Director of the Ohio Department of Transportation to determine and declare a reasonable and safe prima-facie speed limit of 45 miles per hour on Blayney Road (TR 68) from SR 61 to Rosecrans Road (TR 69).

Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 99-845

IN THE MATTER OF SUPPORTING THE EFFORTS OF RAILWATCH IN EDUCATING THE PUBLIC ABOUT RAILROAD SAFETY:

It was moved by Mrs. Martin, seconded by Mr. Ward to adopt the following:

WHEREAS; there is a train accident in the United States approximately every ninety minutes;

WHEREAS; trains daily carrying hazardous materials passes through Delaware County and each one has the potential to derail resulting in a spill and/or property damage causing the evacuation of people living nearby;

WHEREAS; According to the Federal Railroad Administration, more than 80% of the public crossings in the United States are unprotected by lights and gates; in Delaware County there are 25 of 63 such crossings (~40%); and

WHEREAS; the Delaware County Task Force Committee has urged support of this group as desired by The Angels on Track Foundation as part of its efforts to promote railroad safety in its Railroad Grade Crossing Upgrade grant program.

THEREFORE BE IT RESOLVED that the Delaware County Board of Commissioners supports RailWatch and its efforts to educate the public about railroad safety and joins RailWatch in urging the United States Congress to perform a complete and thorough investigation concerning railroad safety.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-846

IN THE MATTER OF ESTABLISHING A PRIORITIZATION OF RAILROAD CROSSING UPGRADE NEEDS IN DELAWARE COUNTY AND AUTHORIZE SUBMITTING A GRANT APPLICATION THE ANGELS ON TRACK FOUNDATION:

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It was moved by Mrs. Martin, seconded by Mr. Ward to adopt the following:

WHEREAS; by Resolution 98-557 the Delaware County Commissioner did establish the DELAWARE COUNTY RAILROAD TASK FORCE COMMITTEE to prioritize railroad grade crossing in Delaware County;

WHEREAS; the RAILROAD TASK FORCE COMMITTEE has completed its inventory and evaluation of all railroad grade crossing in Delaware County;

WHEREAS; the RAILROAD TASK FORCE COMMITTEE has identified and prioritized the 25 railroad grade crossing that need to be upgraded with flashing lights and gates; and

WHEREAS; the RAILROAD TASK FORCE COMMITTEE is recommending its prioritized railroad grade crossing list and that its top rated crossing be submitted to THE ANGELS ON TRACK FOUNDATION for a \$40,000 grant request.

THEREFORE BE IT RESOLVED that the Delaware County Board of Commissioners does hereby adopt the prioritization of the railroad grade crossing by the RAILROAD TASK FORCE COMMITTEE and agrees to submit an application requesting a \$40,000 grant from THE ANGELS ON TRACK FOUNDATION for the top ranked grade crossing.

RANK	Road Name
1	Buttermilk Hill CSX
2	Hyatts CSX
3	Seldom Seen CSX
4	Liberty Street CSX
5	Penry CSX
6	Berlin Station CR
7	Radnor CSX
8	Bean-Oiler CSX
9	Radnor – NS
10	Shoemaker CR
11	Harris CR
12	Ford Road CSX
13	Leonardsburg CR
14	Curtis CSX
15	Curve Road CR
16	N. Section Line
17	Curve Road CR
18	Thomas CSX
19	Maloney CR
20	Norton CSX
21	Troutman NS
22	Willey NS
23	Walton CR
24	Roberts CSX
25	Taylor/42CR

Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 99-847

IN THE MATTER OF APPROVING THE DELAWARE COUNTY HAZARDOUS MATERIALS PLAN:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the HAZMAT plan as presented.

Whereas, on September 9, 1999, the Local Emergency Planning Committee (LEPC) approved this plan for submittal, and

Whereas, the HAZMAT plan must reach the State Emergency Response Commission (SREC) by October 15, 1999.

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Therefore, be it Resolved, the HAZMAT plan as presented is hereby approved for submittal to the SREC.

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-848

IN THE MATTER OF APPROVING SANITARY SEWER PLANS FOR ORCHARDS AT BIG BEAR FARMS AND BRYN MAWR AT DELAWARE, SECTION 2:

It was moved Mrs. Martin, seconded by Mr. Ward to approve sanitary sewer plans for Orchards at Big Bear Farms and Bryn Mawr at Delaware, Section 2 for submittal to the Ohio EPA for their approval as per recommendation of the County Sanitary Engineer.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-849

IN THE MATTER OF SANITARY SUBDIVIDERS AGREEMENTS FOR WESTERVILLE RESERVE, PHASES 1 & 2:

It was moved by Mr. Ward, seconded by Mrs. Martin to accept the following Sanitary Subdividers Agreement:

Westerville Reserve, Phases 1 & 2

This agreement executed on this 4th day of October, 1999, by and between ROMANELLI & HUGHES BUILDING COMPANYSUBDIVIDER as evidenced by the WESTERVILLE RESERVE PHASE 1 & 2 Subdivision Plat as filed with the Delaware County Recorder. Delaware County, Ohio and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio is governed by the following considerations and conditions, to wit:

The SUBDIVIDER shall upon executing this AGREEMENT pay to the DELAWARE COUNTY SANITARY ENGINEER \$202,200.00, representing the payment of fifty percent (50%) of the capacity charges then in effect , plus a surcharge of \$420.00 for each single family residential connection, for 60 equivalent single family residential connections. The remaining capacity charge shall be fifty percent (50%) of the rate currently in effect at the time connection is made and shall be paid for each single family residential connection upon application to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect the single family residence to the sanitary sewer. Ownership of more than one (1) lot will not cause aggregation of the payments.

Said SUBDIVIDER 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; said SUBDIVIDER is to execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties prior to January 1, 1999, equal to the cost of construction (\$142,890.00) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents for mall 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 action, or omissions of any contractor or sub-contractor or from any material, method or explosive 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 of the approval of said SUBDIVIDER by THE COUNTY COMMISSIONERS but extension of time may be granted if approved by the COUNTY COMMISSIONERS

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the Subdivider, when in the opinion of the COUNTY, his performance is deemed inadequate.

The SUBDIVIDER 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.

SANITARY SEWER CONSTRUCTION

It is further agreed that upon execution of this Agreement, the SUBDIVIDER shall deposit, with the

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DELAWARE COUNTY SANITARY ENGINEER the sum of \$8,600.00 estimated to be necessary to pay the cost of inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund, as result of charges against the same at the rate of :

INSPECTOR \$40.00
CAMERA TRUCK \$150.00

per hour for time spent by said SANITARY ENGINEER or his staff has been depleted to a level of less than \$1,000.00, the SUBDIVIDER shall make an additional deposit of \$1,000.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.25 per foot of sewer which will be deducted to cover the one year reinspection.

The SUBDIVIDER for a period of five (5) year after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and or workmanship. All warranties for equipment installed as part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The subdivider shall provide to the COUNTY all necessary easements or right of ways required to complete the IMPROVEMENTS all of which shall be obtained at the expense of the SUBDIVIDER.

The COUNTY shall upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

ALL CONSTRUCTION UNDER COUNTY JURISDICTION

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required, As built drawings on the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible Mylar and 3.5" or 5.25" Diskettes in either Autocade DWG files or DXF files.

The SUBDIVIDER shall within thirty (30) days of completion of construction, furnish to the COUNTY an itemized statement showing the cost of IMPROVEMENTS and an affidavit that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a one (5) year maintenance bond or other approved financial warranties, equal to ten percent of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

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

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or his agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-850

IN THE MATTER OF EXECUTING THE LEASE AGREEMENT FOR SUITE 1 (PROBATE AND JUVENILE COURT) AT 94 NORTH SANDUSKY STREET, DELAWARE, OHIO:

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It was moved by Mr. Ward, seconded by Mrs. Martin to execute the lease agreement for Suite 1 at 94 North Sandusky St. Delaware, Ohio.

LEASE

This Lease agreement is made and entered into at Delaware, Ohio, by and between George A. Rodman and Lori L. Rodman, husband and wife, hereinafter jointly referred to as the Lessor, and the Delaware County Commissioners, hereinafter referred to as the Lessee.

WITNESSETH:

In consideration of the mutual covenants, promises and agreements herein contained, the Lessor agrees to lease to the Lessee and the Lessee agrees to lease from the Lessor the "leased premises" as more fully described and defined in paragraph I hereof.

1. **Leased Premises:** The "leased premises" shall consist of Suite 1 of 94 North Sandusky Street, Delaware, Ohio (said area shall be hereinafter referred to as the Premises). The Lessee is also granted ingress and egress to the leased premises and non-exclusive use of any common areas with other tenants of the premises. The leased premises do not include any parking spaces.
2. **Initial Term:** The term of this Lease shall be month to month commencing on the 1st day of October, 1999. This lease, unless previously terminated, shall terminate at the latest on September 30, 2001.
3. **Rent:** The rent during the term of this lease shall be \$550.00 per month. Payments of rent shall be mailed or delivered to George Rodman at his offices at 92 N. Sandusky Street, Delaware, Ohio 43015. Said payments of rent shall be due and payable on the 1st day of the month commencing the execution of this lease.
4. **Use of the Premises:** The Lessor and the Lessee contemplate the use and occupation of the leased premises for office space (not requiring public access) as deemed necessary by the Lessee and all purposes related thereto or for any similar purpose with the consent of the Lessor, which consent shall not unreasonably be withheld. The property is presently zoned C-2 and any uses must be lawful within that zoning classification; further, the premises shall not be used for any purpose which would cause the property to be rated differently for casualty insurance purposes. The Lessee shall not commit, or suffer to be committed, any waste on the leased premises. At the end of the term of this Lease, Lessee will deliver the premises back to the Lessor in good and reasonably clean condition, reasonable use and normal wear and tear (and damage by the elements, fire, or act of God, or other cause beyond the control of the Lessee) excepted. Except as otherwise provided in this agreement, the Lessee shall be responsible for conforming to all federal, state and local regulations, laws, and ordinances pertaining to the use of the leased premises.
However, if any regulatory agency or court of law issues any final order from which the Lessee does not appeal which is impossible or impractical for the Lessee to comply with, the Lessee may immediately terminate this lease and upon vacation of the leased premises in proper order, the obligation to pay rent shall immediately abate prorated to the date of vacation of the leased premises.
5. **Damage or Destruction to the Premises:** In case the premises hereby leased shall be partially damaged by fire or other cause but not rendered untenable, the same shall be repaired with all proper speed. If the damage cannot be repaired (by the Lessor) within one hundred eighty (180) days, either party shall have the option of canceling this Lease within thirty (30) days after such damage occurs. If neither party cancels this Lease within such time, the Lessor shall repair the damages with all proper speed and thereafter the parties shall continue this Lease. It is expressly agreed between the Lessor and the Lessee that until the Lessor shall repair the premises the rent shall be abated proportionately from the time of the occurrence of said damage and shall again be payable in full from the date when such repairs shall be completed as herein set forth.
6. **Utilities:** The Lessor shall pay utility charges related to common areas. During the term of this Lease, the Lessee shall be responsible for and shall pay utility charges for gas and electric service. The Lessee shall provide reasonable custodian services and refuse removal services and shall provide and pay for all other utilities including any desired phone service accruing during its occupancy of the leased premises.
7. **Posting "For Sale", "For Rent" or "For Lease" Signs:** The Lessor reserves the right to place "for sale", "for rent", or "for lease" signs on common areas of the premises at any time so long as such signs do not unreasonably interfere with the Lessee's use of the leased premises.
8. **Signs:** The Lessee shall have the right to display signs so long as they conform to all applicable statutes, ordinances, and other laws related thereto. At the end of the term of this Lease, the Lessee shall promptly remove all signage and shall bear the expense of repairing any damage to the demised premises caused by the removal thereof.
9. **Liability:** The Lessee agrees to, and shall, indemnify and hold the Lessor safe from any and all liability arising out of the Lessee's use of the demised premises.

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10. **Insurance:**

- A. Lessee agrees that, at its own cost and expense, it shall provide coverage and/or financial responsibility for any and all claims for injuries to persons or damage to property occurring in, about, or upon the Premises caused by the negligence of the Lessee. Such coverage and/or financial responsibility will be for no less than one million dollars (\$1,000,000.00). Lessee shall provide hard copy proof of financial responsibility.
- B. Lessee agrees to provide any insurance coverage on Lessee's contents which Lessee desires. Lessor shall in no event be liable for damage to Lessee's contents not covered by insurance.
- C. Lessor shall procure and maintain at its own expense during the term of this lease, fire, wind, storm and extended coverage on the building premises which insurance shall be in amounts determined by Lessor. A copy of the declarations page from any such policy shall be supplied to Lessee. Such insurance shall be written by a company or companies authorized to engage in the business of casualty insurance in the State of Ohio. Lessee shall not, nor will Lessee permit clients, employees, invitees, licensees or visitors to do anything on or to the premises or so occupy the premises or bring anything upon the premises, or permit anything to be brought upon the premises or be kept therein which would cause an increase in the rate of insurance.
- D. Except as provided in paragraph 10, Lessor and Lessee agree that all policies of insurance or other means of coverage to be kept and maintained in force by the respective parties hereto, shall, unless prohibited by law or other regulation having the effect of law, contain provisions in which the rights of subrogation against the Lessor or Lessee, respectively, are waived by the insurance company or carriers insuring the premises or property in question. Lessor expressly waives any right of recovery against Lessee for damage to or loss of the building premises or the premises or improvements thereon, which loss or damage may arise by fire or any other peril covered by any policy of insurance required to be maintained pursuant to this lease which contains or is required to contain a waiver of subrogation rights against Lessee pursuant to this section.

- 11. **Taxes and Assessments:** Lessor shall pay all taxes and assessments on the leased premises during the term of this Lease or any additional term thereof.
- 12. **Lessee's Assignment Sublease or License:** The Lessee shall not sublease the leased premises or any interest therein or part thereof during the terms of this lease or any renewal hereof without the written consent of the Lessor, which consent shall not unreasonably be withheld; provided, however, that the Lessee shall remain liable for the performance of all of Lessee's obligations under this lease.
- 13. **Notices:** Any notice given pursuant to the provisions of this Lease, or necessary to carry out its provisions, shall be in the form of a single notice in writing, and delivered personally or by certified mail, return receipt requested, addressed as provided in the following sentence. The address of the Lessor for such purposes shall be George A. Rodman, 92 N. Sandusky Street, Delaware, Ohio 43015, or at such other address as the Lessor may in writing designate to the Lessee. The address of the Lessee for such purposes shall be Delaware County Commissioners, 104 North Sandusky Street, Delaware, Ohio 43015 or such other address as it may in writing designate to the Lessor.
- 14. **Ownership of Leasehold Improvements:** All leasehold improvements shall be and remain the exclusive property of the Lessor. The Lessee shall retain ownership of its tangible personal property to the extent that such tangible personal property can be removed upon termination of this Lease from the leased premises without causing injury to the leased premises except to the extent that the Lessee may, and shall have a duty to, repair.
- 15. **Eminent Domain Proceedings:** Eminent domain proceedings resulting in the condemnation of the part of the premises leased herein but leaving the rest usable by the Lessee for the purposes of the business or which the premises are leased will not terminate this Lease. The effect of such condemnation will be to terminate the Lease as to the portion of the premises condemned and leave it in effect as to the remainder of the premises. The Lessee's rent for the remainder of the leased term shall remain unaffected except Lessee shall be entitled to a prorata reduction of the rent payable pursuant hereunder based on the proportion of the premises taken bears to the total premises, and Lessor shall apply so much of the award paid to it by reason of such taking as may be necessary to restore the premises to a condition as close as reasonably possible to that existing before such taking.

If the entire premises is so taken or if the part of the premises taken prevents Lessor from lawfully or economically continuing the use of the premises (as such use was conducted immediately prior to such taking), then this Lease shall terminate as of the date of such taking and the rent payable by Lessee hereunder shall be apportioned and paid to the time of such termination.

Any award granted by the condemning authority, or any payment for any voluntary conveyance of transfer in lieu of condemnation, shall belong to and be the property of the Lessor. Award includes, but is

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not limited to, damages for diminution in value of the leasehold, reversion or fee of the premises, or Lessee's improvements. Lessee shall have no right to claim for the taking or condemning authority any compensation or award for the diminution of its leasehold estate or otherwise, and Lessee shall only be permitted to seek a separate award for its tangible personal property and equipment and its moving costs.

16. **Lessor's Inspection and Repairs:** The Lessor, upon at least three (3) day's notice, shall have access to the leased premises, and each and every part thereof for the purposes of inspecting the same and making such repairs, if any, as the Lessor is obligated to make under the terms of this Lease.
17. **Alterations and Improvements:** The Lessee shall make no alterations or improvements to the premises without the express written consent of the Lessor which consent shall not unreasonably be withheld.
18. **Repairs and Maintenance:** The Lessor agrees to perform all of the following functions at its own expense during the term of this lease or any renewal thereof:
 - A. Pay all taxes and assessments accruing against said premises.
 - B. (1) Lessor shall keep and maintain (i) the foundation, exterior walls and roof of the building premises, exclusive of doors, door frames, door checks, windows and window frames within leased premises, and (ii) common areas (including the main entry door), driveways, access roads, sidewalks, parking areas, and outside lighting service the building premises from the lot lines of the Building premises to the exterior walls of the building located on the building premises in good repair except that Lessor shall not be called upon to make any such repairs occasioned by the act or negligence of Lessee, its agents, employees, invitees, licensees or contractors.
 - (2) Except as provided in (1) hereof, Lessee shall keep and maintain in good order, condition and repair (excluding replacement of parts and equipment if necessary) the Premises and every part thereof and any and all appurtenances thereto wherever located, including but without limitation, the exterior and interior portion (excluding those in common areas) of all doors, door checks, glass, plumbing and sewage facilities within the leased premises, including free flow up to the main sewer line, fixtures, heating, ventilating and air conditioning systems (if any), electrical systems, walks, floors and ceilings. Lessee shall keep and maintain the Premises in a clean, sanitary and safe condition in accordance with the laws of the State of Ohio and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector, or other proper officials of the governmental agencies having jurisdiction, at the sole cost and expense of Lessee, and Lessee shall comply with all requirements of the law, ordinance or otherwise, affecting the Premises. At the time of expiration of the tenancy created herein, Lessee shall surrender the premises in good condition, reasonable wear and tear, loss by fire or other unavoidable casualty excepted. The Lessee shall provide its own telephone system and service, leasehold improvements, trash removal, and together with the other second floor tenants, shall furnish and clean the common use restroom at the top of the staircase, and shall be responsible for cleaning the hallway and stairstep carpeting.
 - (3) In the event Lessee should neglect reasonably to maintain the premises, Lessor shall have the right (but not the obligation) to cause repairs or corrections to be made. Any amount paid by the Lessor for such repairs or corrections shall become immediately due and payable as rent by Lessee to Lessor. Any such payments by Lessor shall not be deemed to be a waiver of any other rights which the Lessor may have under the provisions of this Lease or as provided by law.

Lessor shall be responsible for all major maintenance repair costs to the facility, (heating, air conditioning, electrical, plumbing), large plate windows excluding window applied signage. The provisions of Section 19, paragraph B notwithstanding, the Lessee's liability for repairs shall be limited to \$250.00 per occurrence; provided, however, that Lessor shall make such repairs and bill the Lessee for the first \$250.00.
 - C. Restroom facilities shall have hot and cold running water.
 - D. Provide and maintain landscape service for all unpaved exterior area, if applicable.
 - E. Provide prompt removal of snow and ice from sidewalk(s), pathway(s) and fully clear all handicapped access ramps. Such removal is to occur after snowfall of two (2) inches and/or before agency business hours in the event of overnight precipitation.

In the event Lessor fails to provide any services required of Lessor under this lease, Lessee shall notify Lessor in writing of the service or services which are not being provided. If Lessor does not provide same within 10 days of the date of such notice, Lessee may provide the service and deduct the cost thereof from rents reserved herein. In extreme cases of negligence, Lessee reserves the right to terminate

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this lease by written notice of termination at any time after expiration of said 10 days.

19. **Subordination:** This Lease and any changes or amendments hereto, or any renewal or extension hereof, shall be subject and subordinate to all mortgages which may now or hereafter affect the premises. The Lessee covenants and agrees that it shall promptly, upon request, by the Lessor, or Lessor's successor or successors in interest, execute any instrument of subordination in confirmation of such subordination, provided, however, that the possession of the Lessee shall not be disturbed by virtue of such subordination so long as the Lessee is not in default in the performance of any of its obligations under the provisions of this Lease and that the Lessor, or Lessor's successors in interest or Mortgagee, shall affirmatively agree in writing to be bound by the terms of this Lease.
20. **Estoppel Certificate:** The Lessee shall, upon request by the Lessor, promptly execute an instrument certifying that this Lease is unmodified and in full force or effect (or if there have been modifications, that the same is in full force and effect as modified, and the dates to which the base rent, any applicable late charges, consumer price index adjustments and additional rent and other charges have been paid, and stating whether or not, to the best knowledge of the person executing such instrument on behalf of the Lessee, the Lessor is in default in the performance of any covenant, agreement, term, provision or condition contained in this Lease, and, if so, specifying each such default, it being intended that such statement delivered pursuant hereto may be relied upon by any prospective purchaser, any mortgagee or prospective mortgagee thereof, or any prospective assignee of any mortgage thereon.
21. **Attornment:** In the event any proceedings are brought for the foreclosure of, or in the event of the exercise of the power of sale under any mortgage covering the leased premises or in the event of any other transfer or sale of title to the leased premises, Lessee shall attorn to the purchaser under any such sale, transfer or foreclosure and recognize such purchaser(s) or transfer as the Lessor under this Lease.
22. **Insolvency or Bankruptcy:** Appointment of a receiver to take possession of the Lessee's assets, the Lessee's general assignment for the benefit of creditors, or the Lessee's insolvency or taking or suffering action under the bankruptcy act is breach of this Lease.
23. **Lessor's Right to Assign its Interest under this Lease to Creditors:** At any time during this Lease, the Lessor shall have the right to assign all of the Lessor's right, title and interest in and to the benefits of this Lease including, but not limited to, the right to receive rents to any creditor or creditors of the Lessor.
24. **Lessor's Remedies on Lessee's Breach:** If said rent, or any part thereof, shall at any time be in arrears and unpaid for a period of ten (10) days after the same becomes due, or if Lessee shall fail to keep and perform any of the covenants, agreements or conditions of this Lease on the part of the Lessee to be kept and performed, and not cured upon ten days notice, or if the Lessee shall be adjudged bankrupt, or shall make an assignment for creditors, or if a receiver of the property of Lessee in or on said premises be taken in any action, suit or proceeding by or against Lessee, or if the interest of Lessee therein shall be sold under execution or other legal process, or if Lessee shall abandon or vacate said premises during said term or renewal thereof, then and in any such case, it shall be lawful for Lessor to enter into said premises, and again have, repossess and enjoy the same, as if this Lease has not been made and thereupon this Lease, and everything herein contained on the part of the Lessor to be done and performed, shall cease, determine and be utterly void; without prejudice up to the time of such entry. The commencement of a proceeding or suit in forcible entry and detainer, or in equivalent, or otherwise, after default by Lessee, shall be equivalent in every respect to actual entry by Lessor. In case of any such default and entry by Lessor, Lessor shall within a reasonable time rent said premises for the remainder of said term for the highest rent obtainable and may recover from Lessee any deficiency between the amount obtained and the rent herein before reserved.
25. **Mechanic's Liens:** Neither party shall permit any mechanic's liens to be placed against the subject premises by contractors, subcontractors, laborers, and material men. In the event that any lien is filed or suit is brought on any such lien, the party whose actions have resulted in the filing of the same shall, within thirty (30) days thereof, either pay such lien or cause a bond to be filed under the provisions of Chapter 1311 of the Ohio Revised Code thereby releasing any such lien against the subject premises.
26. **Quiet Enjoyment:** The Lessor hereby covenants and warrants that the Lessor is the owner of the leased premises, subject to the terms and conditions of any mortgage thereon and subject to easements and public streets of record, and that the Lessee, upon performance of all matters to be performed by it, shall and may peaceably possess and enjoy the demised premises during the term hereof without any interruption or disturbance. In the event the Lessor defaults in any payment of any mortgage, the Lessee may pay the same and credit such payments against rents due.
27. **Lessor's Liability:** The Lessee agrees to indemnify and save Lessor harmless from all loss, cost and expense by reason of injury to any person or property on or about the leased premises, which injuries result from the careless or improper conduct on the part of the Lessee, Lessee's agent, employees, guests, or invitees.
28. **Memorandum of Lease:** This Lease shall not be recorded. However, the parties shall execute, acknowledge,

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and deliver a memorandum of lease complying with the minimum requirements of Section 5301.251 of the Ohio Revised Code, for the purpose of giving public notice of the rights and obligations of Lessor and Lessee under this Lease which the Lessor shall thereupon record. The memorandum of Lease shall not include rent terms.

- 29. **Termination of the Lease:** The Lessee may terminate this Lease with not less than thirty (30) days written notice of the Lessee's intent to terminate this Lease. Lessee's notice shall be delivered on or before the last day of the month immediately preceding the last month Lessee intends to lease the premises in order to be effective the first day of the month following the last month Lessee intend to lease.
- 30. **Time:** Time shall be of the essence in doing and performing all things to be done and performed under the terms of this Lease.
- 31. **Choice of Law:** This Lease shall be construed under and in accordance with the laws of the State of Ohio.
- 32. **General Provisions:**
 - (a) All of the provisions of this Lease shall be deemed as running with the land, and construed to be "conditions" as well as "covenants" as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.
 - (b) No failure by either Lessor or Lessee to insist upon the strict performance by the other of any covenant, agreement, term, or condition or this Lease or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this Lease, but each and every covenant, condition, agreement, and term of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.
 - (c) This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Lease shall be binding or valid.
 - (d) Except as provided otherwise herein, each and all of the covenants, conditions and restrictions in this Lease shall inure to the benefit of and shall be binding upon the successors in interest of all parties.
 - (e) All references to the term of this Lease or Lease Term shall include any and all extensions of such term.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-851

IN THE MATTER OF A RESOLUTION AUTHORIZING THE EXECUTION OF THE GRANT AGREEMENT FOR THE COUNTY'S FY 99 FORMULA CDBG PROGRAM:

The Delaware County Commissioners met in regular session on Monday, October 4, 1999, all members present. It was moved by Mrs. Martin and seconded by Mr. Ward to adopt the following Resolution.

WHEREAS, the State of Ohio, Department of Development, provides financial assistance to local governments under the Community Development Block Grant (CDBG) Program for the purpose of addressing local government needs; and

WHEREAS, Delaware County has been awarded FY 99 Formula CDBG funds by the Department of Development to facilitate the implementation of community redevelopment projects throughout the County.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Board of Commissioners, County of Delaware, State of Ohio as follows:

SECTION I. That the Delaware County Commissioners authorizes Donald Wuertz as the official representative of the County's FY 99 Formula CDBG Program, to execute the Grant Agreement (Grant Number B-F-99-020-1) for the FY 99 Formula CDBG Program.

SECTION II. That the Board of Commissioners hereby understands and agrees that participation in the CDBG Program requires compliance with Program guidelines and assurances.

Vote in Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

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RESOLUTION NO. 99-852

IN THE MATTER OF ANNEXATION OF 87.677 ACRES OF LAND FROM BERKSHIRE TOWNSHIP TO THE VILLAGE OF GALENA:

Mr. Wuertz reconvened the hearing at 7:34 p.m. Testimony was heard both for and against the annexation.

It was moved by Mr. Ward and seconded by Mrs. Martin to close the hearing at 8:43 p.m.

Vote on Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

Mr. Ward moved to set date and time for rendering a decision for November 29, 1999, at 7:15 p.m. Mrs. Martin seconded the motion.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

RESOLUTION NO. 99-853

IN THE MATTER OF PROVIDING FINANCIAL ASSISTANCE FOR THE EFFORTS TO SAVE AND RENOVATE THE BELLPOINT BRIDGE:

Mr. Ward moved to provide \$500.00 to the Committee who is working to obtain financing to save and restore the Bellpoint Bridge. Mrs. Martin seconded the motion.

Vote on Motion Mr. Wuertz Aye Mr. Ward Aye Mrs. Martin Aye

RESOLUTION NO. 99-854

IN THE MATTER OF MODIFYING THE BID OPENING DATE AND TIME FOR THE OSTRANDER ACCESSIBLE RESTROOM PROJECT:

It was moved by Mr. Ward and seconded by Mrs. Martin to modify the bid opening date for the Ostrander Accessible Restroom Project from October 11, 1999, at 10:30 AM to **October 25, 1999, at 2:00 p.m.** in the Commissioners Hearing Room.

Vote on Motion Mr. Ward Aye Mrs. Martin Aye Mr. Wuertz Aye

There being no further business, the meeting adjourned.

Deborah Martin

James D. Ward

Donald Wuertz

Letha George, Clerk to the Commissioners