

COMMISSIONERS JOURNAL NO. 43- DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 21, 2002

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

Present: Donald Wuertz, Deborah Martin (Absent), James D. Ward

- 8:30AMInvestment Board
- 2:00PMBid Opening Date And Time For Sanitary Sewer Contract Construction Inspection Services
- 7:00PMPFinal Hearing By The Commissioners For Delaware Run Ditch Petition Filed By Ronald Rhoades And Others (Rutherford B. Hayes Services Building- Room G35)

RESOLUTION NO. 02-1323

8:35 AM IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR PENDING LITIGATION AND CONSIDERATION OF EMPLOYEE DISCIPLINE:

It was moved by Mr. Ward, seconded by Mr. Wuertz to adjourn into Executive Session at 8:35AM.

Vote on MotionMr. WuertzAyeMrs. MartinAbsentMr. WardAye

RESOLUTION NO. 02-1324

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Ward, seconded by Mr. Wuertz to adjourn out of Executive Session at 8:58AM.

Vote on MotionMr. WardAyeMr. WuertzAyeMrs. MartinAbsent

PUBLIC COMMENT

RESOLUTION NO. 02-1325

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1018:

It was moved by Mr. Ward, seconded by Mr. Wuertz to approve payment of warrants in batch numbers CMAPR1018 and Purchase Orders and Vouchers as listed below:

PO's				
Vendor	Description	Account Number	Amount	
John Eramo & Sons, Inc.	Replace Existing Manhole/Wedgewood Place	65211905-538038040	\$	5,065.00
Badger Excavating, Inc.	Ostrander Storm Sewer	23011708-5365	\$	66,000.00
Upper Valley Medical	Prof Medical & Dental	22511607-5342	\$	10,000.00
Increases				
DATA	Prof Transportation	22411601-535535501	\$	10,000.00
Vouchers				
Ben Bro Enterprises	Bldg/Land Rental	10011105-533533502	\$	14,625.00
Petroleum Traders Corp.	Gas/Diesel Fuel/Commissioners	10011106-522822801	\$	9,782.08
Villa Angela Care Center	Cluster	22511608-534234215	\$	9,758.00
Liberty Community Center	Child Care	22411606-5348	\$	13,417.00
Del Co Bd of Dev Dis	Board & Care	1011501-5350	\$	17,500.00
Dalmation Fire	Fire Protection/Hayes Bldg	40411412-541041002	\$	8,920.00
Gleeson	Const Interior/Hayes Bldg	40411412-541041002	\$	42,789.00
OH State Extension	4th Quarter Payment	10011102-560160101	\$	57,880.75
Sungard	Software Training	40411413-545045065	\$	11,125.10

Vote on MotionMr. WuertzAyeMrs. MartinAbsentMr. WardAye

RESOLUTION NO. 02-1326

IN THE MATTER OF PROCLAIMING OCTOBER 23-31, 2002 NATIONAL RED RIBBON WEEK DELAWARE COUNTY, OHIO:

It was moved by Mr. Ward, seconded by Mr. Wuertz to adopt the following resolution:

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- Whereas, October 23 through the 31st has been set aside for the annual nationwide campaign of drug awareness, education and prevention activities know as Red Ribbon Week; and
- Whereas, this observance, which began in 1988, is an integral part of this nation’s efforts in promoting a drug-free society, we as citizens, business, government, law enforcement, schools, religious institutions, service organizations, youth, the medical community, senior citizens, media, military forces, sports teams, and any other individuals who desire to demonstrate their commitment to a drug-free, healthy lifestyle, will be wearing and displaying red ribbons during this week-long campaign; and
- Whereas, it is appropriate that families and extended families join together participating in activities that will encourage all of our citizen, both young and old to stay drug-free to liberate our nation, state, county, and cities from the deadly grip of substance abuse; and
- Whereas, We the Commissioners praise the anti-drug efforts of The Delaware County Red Ribbon Coalition which represents all aspects of the community;

Now Therefore, We The Board of County Commissioners of Delaware County Do Hereby Officially Proclaim October 23-31, 2002, as Red Ribbon Week in Delaware County, Ohio and Encourage all Citizens to join in this week’s activities and to work all year long to protect our communities from the dangers of illegal drug use and drug abuse.

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

RESOLUTION NO. 02-1327

IN THE MATTER OF ADOPTING A RESOLUTION OPPOSING STATE ISSUE 1:

It was moved by Mr. Ward, seconded by Mr. Wuertz to adopt the following resolution:

WHEREAS, It is recognized that drug usage and drug addiction negatively impact our society and that treatment is an appropriate response to aid a substance abusing offender’s return to a meaningful role within their family, workplace and our society; and

WHEREAS, Ohio’s current approach to treatment through drug courts and other treatment programming is recognized as nation leading, progressive, and successful in its reduction of recidivism; and

WHEREAS, Issue 1 is a misguided effort—in a state that is leading the nation in innovative programming which has been documented to reduce recidivism—for the following reasons;

Issue 1 will undermine legitimate drug treatment programs in Ohio and thereby threaten the public safety by eliminating consequences for possession and use of dangerous and highly addictive drugs such as heroin, PCP, methamphetamine and crack cocaine and weaken the laws against possession of “date rape” drugs,

Issue 1 sends the wrong message to our children and will cost taxpayers millions of dollars in added public safety, court and drug abuse costs,

Issue 1 deliberately seeks to by-pass the legislative process because the General Assembly would never approve legislation accomplishing the sponsors’ goal of decriminalizing and legalizing drug usage,

Issue 1 dismantles the judicial system’s ability to sanction and incarcerate drug abusing offenders who refuse to comply with court ordered treatment; and

WHEREAS, The financial burden imposed upon the State by his Constitutional mandate to fund a program that offers no solid promise for improvements relating to drug treatment would result without any public hearings on the adequacy or effectiveness of such spending and may endanger the state’s ability to fund other important programs of greater priority leading to an extreme impact upon our county governments to deliver the services our constituents need and deserve;

THEREFORE BE IT RESOLVED that the Board of Delaware County Commissioners believes that: the subject matter of Issue 1 is inappropriate for a Constitutional Amendment; passage of Issue 1 would harm and set back Ohio’s already effective drug treatment programming; and the arbitrary funding level imposed by Issue 1 is ill advised for a program that can neither guarantee success or be changed without another Constitutional Amendment; and

BE IT FURTHER RESOLVED that the Board of Delaware County Commissioners opposes Issue 1 and urges the residents of Delaware County to VOTE “NO” ON ISSUE 1 on November 5th.

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

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RESOLUTION NO. 02-1328

IN THE MATTER OF APPROVING A LIQUOR LICENSE TRANSFER OF STOCK REQUEST FOR TARTAN FIELDS GOLF CLUB LTD LLC DBA TARTAN FIELDS GOLF CLUB GOLF COURSE DRIVING RANGE CLUB PATIO POOL AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mr. Ward, seconded by Mr. Wuertz to approve the following resolution:

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Concord Township Trustees that Tartan Fields Golf Club LTD LLC DBA Tartan Fields Golf Club Golf Course DRVG Range Club Patio Pool has requested a stock transfer for D5, D6 permits located at 8070 Tartan Fields Drive Concord Township Dublin, Ohio 43017 and

Whereas, the Concord Township Trustees have stated they have no objection, the Delaware County Sheriff has responded--no known reason for a hearing to be requested and the Delaware County Commissioners have received no objections.

Therefore Be it Resolved, The Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

Vote on Motion	Mr. Ward	Aye	Mr. Wuertz	Aye	Mrs. Martin	Absent
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RESOLUTION NO. 02 -1329

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

Building Regulations is requesting that Sandy Lewis attend an Advanced BDS Training for Permit Software in Powell, Ohio December 3, 2002, at the cost of \$150.00.

The Environmental Services Department is requesting that Barry Bryant attend a County Construction and Financing Law Seminar In Columbus, Ohio October 22, 2002, at the cost of \$174.00.

The Environmental Services Department is requesting that Shawn Sellers attend a County Construction and Financing Law Seminar In Columbus, Ohio October 22, 2002, at the cost of \$174.00.

The Environmental Services Department is requesting that Joe Scherler, Ken Bruen, Ric Irvine, Bob Geiger and Peggy Roberts attend a “Fire Alarm Operation-Testing Codes” seminar in Columbus, Ohio October 30, 2002, at the cost of \$ 400.00.

The Administrative Services Department is requesting that Terry Conant attend the CCAO Winter Conference in Columbus, Ohio December 2 and 3, 2002, at the cost of \$70.00.

The Administrative Services Department is requesting that Kevin Williams attend the CCAO Winter Conference in Columbus, Ohio December 3, 2002, at the cost of \$78.00.

The Administrative Services Department is requesting that Kevin Williams attend the Ohio Public Employer Labor Relations Association Fall Seminar in Columbus, Ohio October 29, 2002, at the cost of \$ 140.00.

The Environmental Services Department is requesting that Matt Kiss attend an Ohio Water Environment Association meeting in Newark, Ohio December 5, 2002, at the cost of \$100.00.

Juvenile Court is requesting that Margaret McCoy attend a Pressure and Stress Reduction Training Seminar at The Ohio State University October 23, 2002, at the cost of \$85.00.

Juvenile Court is requesting that Jennifer Burrows, Jan Crohen, Karen Jones, Dawn Huston, and Julie Bleak attend a “Taking the Difficulty Out of Managing People” Workshop in Columbus, Ohio November 22, 2002, at the cost of \$445.00.

The Engineer’s Office is requesting that Rob Riley attend a Highway Bridge Design Seminar in Madison, Wisconsin December 9-11, 2002, at the cost of \$1,922.50.

The Emergency Services Department is requesting that Pearline Howald and One other EMS Personnel attend a Public Sector Investigations Seminar in Columbus, Ohio October 29, 2002, at the cost of \$300.00.

The Emergency Services Department is requesting that 2 EMS Personnel attend a Law Enforcement, Fire and EMS Grant Workshop at the Columbus Police Academy November 11 and 12, 2002, at the cost of \$565.00.

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

RESOLUTION NO. 02-1330

IN THE MATTER OF APPROVING PLANS AND ESTIMATES FOR DONOVAN ROAD OVER
FULTON CREEK BRIDGE REPLACEMENT AND GREEN ROAD OVER CULVER CREEK:

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

Project Description- Donovan Road Over Fulton Creek Bridge Replacement

Replace Fulton Creek Road Bridge Over Fulton Creek Including Roadway Approaches

The Engineer’s estimate for the project is \$726,000.00

Project Description- Green Road Over Culver Creek

This project includes the replacement of a structurally deficient concrete slab bridge on olive green road over culver creek, with precast reinforced concrete box sections. Project has minor approach work, including pavement replacement over the structure, minor shoulder and ditch work and installation of guardrail. The total project length is 60 feet (0.01 miles) with an additional 240 feet of transition work.

The engineer’s estimate for the project is \$93,100.00

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

RESOLUTION NO. 02 -1331

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

It was moved by Mr. Ward, seconded by Mr. Wuertz to approve the following work permits:

Permit #	Applicant	Location	Type of Work
U02171	Suburban Natural Gas	Melrose Drive/Beaumont Square	Lay 2” gas main
U02175	Columbia Gas	Oxbow Drive	Install 2” gas main

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

RESOLUTION NO. 02-1332

IN THE MATTER OF AMENDING AN ECONOMIC DEVELOPMENT LOAN AGREEMENT
AUTHORIZING THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT ECONOMIC
DEVELOPMENT FUNDS FOR THE ADVANCED PRODUCTION CENTER, INC. EXPANSION
PROJECT:

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

WHEREAS, Delaware County has established a REVOLVING LOAN FUND (RLF) capitalized with the payback from Community Development Block Grant (CDBG) loans to local businesses; and

WHEREAS, the Delaware County RLF is intended to facilitate the implementation of job-creating projects where a defined financing gap exists; and

WHEREAS, the Delaware County Commissioners, via Resolution 97-812, did apply for a State of Ohio Small Cities CDBG Program grant, which was awarded as grant number B-E-97-020-2, and did authorize disbursement of \$53,200 of these grant funds through the County’s Revolving Loan Fund (RLF) via the execution of an economic development loan agreement and legally binding documents with Eva C. Amann, Member, ECA Properties, Ltd., and Paul Amann, President, Advanced Production Center, Ltd. for the Advanced Production Center (APC), Inc. Expansion Project; and

WHEREAS, the Delaware County Commissioners, via Resolution 97-1023, did authorize execution of a Grant Agreement for the APC Economic Development Project resulting in authorization of a loan in the amount of \$84,250, consisting of \$31,050 from the Delaware County Revolving Loan Fund (RLF) and \$53,200 in funds provided though grant number B-E-97-020-2, authorizing disbursement of these funds through the County’s Revolving Loan Fund (RLF) via the execution of an economic development loan agreement and legally binding documents with Eva C. Amann, Member, ECA Properties, Ltd., and Paul Amann, President, Advanced Production Center, Ltd. for the Advanced Production Center (APC), Inc. Expansion Project; and

WHEREAS, it is stated in the CDBG Grant Agreement between the State of Ohio Department of Development and

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Delaware County that, as a condition of awarding Grant Number B-E-97-020-2 to the County, Advanced Production Center, Inc. (the Company) was required to create 9 new, full-time equivalent (FTE) permanent job opportunities, with a certain number of said jobs being made available to low-moderate income individuals and minority persons, within 24 months of the completion of the Expansion Project; and

WHEREAS, Advanced Production Center, Inc. (the Company) was unable to meet said job creation commitment; and

WHEREAS, as a result of the Company not meeting the job creation commitments stipulated in the grant agreement, the loan agreement and the legally binding documents for the Expansion Project, the State of Ohio Department of Development has requested repayment by Delaware County of Grant Number B-E-97-020-2, and the County is seeking accelerated repayment from the Company to reimburse the County’s repayment of said grant to the State of Ohio and of the funds provided through the County RLF.

WHEREAS, Resolution No. 02-947 dated July 22, 2002, an amendment to the original resolution 97-1023 is to be cancelled and replaced by this resolution due to payments made by Paul Amann since July, 2002.

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

- SECTION I.

That the Delaware County Board of Commissioners hereby approves amending the loan agreement, and legally binding documents, on file in the offices of the Delaware County Economic Development Department, pertaining to this project, so that the outstanding principal balance of \$60,660.07 remaining on the economic development loan shall be paid off in full, by Eva C. Amann, Member, ECA Properties, Ltd., and Paul Amann, President, Advanced Production Center, Ltd. over a 36 month term, with monthly payments of principal only in the amount of \$1,685.00 due on the 1st day of each month beginning on November 1, 2002, and a final payment due October 1, 2005 in the amount of \$1,685.07; the County shall maintain a second security position as evidenced by the existing second mortgage for this project on file in the offices of the Delaware County Economic Development Department.
- SECTION II.

That Eva C. Amann, Member, ECA Properties, Ltd., and Paul Amann, President, Advanced Production Center, Ltd. shall remain intact as the owner of the property at the project site and remain the obligor on mortgages and on the property. All corporate and personal guarantees, including those of Eva C. Amann, Member, ECA Properties, Ltd., and Paul Amann, President, Advanced Production Center, Ltd., and Paul Amann, individually, and all other obligations stated in the loan agreement and legally binding documents, excluding job creation commitments, shall remain in effect and continue unchanged for the remainder of the term of this economic development loan, as hereby amended. Failure by the Company to adhere to said accelerated repayment schedule may result in immediate action by Delaware County consistent with and in protection of the County’s security position under the legally binding documents for this loan.
- SECTION III.

That Resolution No. 02-947 dated July 22, 2002, an amendment to the original resolution 97-1023 is to be cancelled and replaced by this resolution due to payments made by Paul Amann since July, 2002.
- SECTION IV.

The Delaware County Economic Development Director shall forward a copy of this Amendment Agreement and the Resolution authorizing the approval of this Agreement to the Office of Housing and Community Partnerships, Ohio Department of Development, upon execution.

Vote on Motion	Mr. Ward	Aye	Mr. Wuertz	Aye	Mrs. Martin	Absent
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RESOLUTION NO. 02-1333

IN THE MATTER OF ACCEPTING FROM THE OHIO DEPARTMENT OF DEVELOPMENT, OFFICE OF HOUSING AND COMMUNITY PARTNERSHIPS, THE AWARDING OF FISCAL YEAR 2002 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR THE SMALL CITIES FORMULA PROGRAM:

It was moved by Mr. Ward, seconded by Mr. Wuertz to accept the grant:

WHEREAS, the Ohio Department of Development has awarded \$138,000 in Fiscal Year 2002 Small Cities Community Development Block (CDBG) grant funds under the Formula Program to Delaware County, and

WHEREAS, funding to Delaware County through the FY02 CDBG Formula Program, is intended to assist communities within the Delaware County with necessary and useful public programs, which are responsive to State and National program objectives and qualification criteria for this program.

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

Section 1. That the Delaware County Board of Commissioners accepts the FY02 CDBG Formula Grant Program for Delaware County as follows:

Community Name	Proposed Project	Proposed CDBG Formula Funding
Radnor	ADA access ability of Radnor Historical Center	\$ 10,000
Village of Ostrander	Streetscape	\$ 30,000
Village of Ostrander	Storm Drainage	\$ 46,000
Village of Ashley	Storm Drainage Improvements	\$ 6,000
Village of Shawnee Hills	Road Improvements	\$ 30,000
Village of Galena	Land Use Plan Update	\$ 5,000
Village of Shawnee Hills	Commercial Area Plan	\$ 5,000
Fair Housing	Countywide	\$ 3,000
Administrative	General	\$ 3,000
Totals		\$138,000

Section 2. That this resolution shall take effect and be in force immediately after passage.

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

RESOLUTION NO. 02-1334

IN THE MATTER OF ACCEPTING A FEDERAL GRANT FOR THE DELAWARE COUNTY
EMERGENCY MANAGEMENT AGENCY:

It was moved by Mr. Ward, seconded by Mr. Wuertz to adopt the following Resolution:

WHEREAS, the Delaware County Emergency Management Agency (DCEMA) is eligible to receive a Federal Grant of \$120,050.00 for FY2002, and;

WHEREAS, these grant funds will provide the DCEMA with the capability to purchase equipment for the protection of all Public Safety personnel who may deal with Terrorist or Weapons of Mass Destruction (WMD) incidents, and;

WHEREAS, these Federal funds were identified following the Terrorist events of “9/11” specifically for use at the local level;

NOW THEREFORE BE IT RESOLVED: That the Board of County Commissioners approve acceptance of this grant award by DCEMA for a total amount of \$120,050.00 for the purpose of improving the overall response capability within the County to Terrorist or WMD incidents.

BE IT FURTHER RESOLVED: That the Clerk of the Board of Commissioners shall cause this Resolution to be spread upon the Board's Official Journal.

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

RESOLUTION NO. 02-1335

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DEPARTMENT OF JOB
AND FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND CHILD CARE
PROVIDER LA PETITE ACADEMY:

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

Child Care		Basic Rates Full Time (25 Hrs. or More)	Basic Rates Part Time	Adjustment to Basic Rates
La Petite Academy 1325 East Walnut St. Westerville, Ohio 43081	Infant Toddler Preschool Schoolage	\$ 152.00 \$ 131.00 \$ 114.00 \$ 103.00	\$ 102.00 \$ 88.00 \$ 76.00 \$ 67.00	\$25.00

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

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RESOLUTION NO. 02-1336

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS FOR THE DEPARTMENT
OF JOB AND FAMILY SERVICES:

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

TRANSFER OF APPROPRIATION

FROM:	TO:	AMOUNT:
22411606-530	22411602-530	\$ 20,000.00
JFS/Soc Srvs - Srvs & Chrgs	JFS/PRC - Srvs & Chrgs	

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

RESOLUTION NO. 02-1337

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR EAGLE TRACE
SECTION 3 AND SCIOTO RESERVE SECTION 3, PHASE 5:

It was moved by Mr. Ward, seconded by Mr. Wuertz to accept the sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

Eagle Trace Section 3	2,300 feet of 8inch sewer	12 manholes
Scioto Reserve Section 3, Phase 5	2,036 feet of 8 inch sewer	8 manholes

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

RESOLUTION NO. 02-1338

IN THE MATTER OF APPROVING THE SANITARY SUBDIVIDER’S AGREEMENTS FOR
WEDGEWOOD SECTION 11 AND WEDGEWOOD SECTION 2A:

It was moved by Mr. Ward, seconded by Mr. Wuertz to accept the following Sanitary Subdivider’s Agreements:

Wedgewood Section 11

SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

THIS AGREEMENT executed on this 21st day of October, 2002, by and **between Virginia Homes, Ltd. SUBDIVIDER**, as evidenced by the **Wedgewood Section 11** Subdivision Plat filed with the Delaware County Recorder 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 \$208,193.00, representing the payment of fifty percent (50%) of the capacity charges then in effect for each single family residential connection for 41 equivalent single family residential connections.

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 equal to the cost of construction (\$224,079.00) 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 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 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

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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 DELAWARE COUNTY SANITARY ENGINEER the sum of \$10,150.00, 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 a result of charges against the same at the rate of:

INSPECTOR \$60.00
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 \$0.50 per foot of sewer which will be deducted to cover a re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a 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 rights-of-way 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 Autocad 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 five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) 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.

Wedgewood Section 2A

**SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER**

THIS AGREEMENT executed on this 21st day of October, 2002, by and **between Virginia Homes LTD. SUBDIVIDER**, as evidenced by the **Wedgewood Section 2A** Subdivision Plat filed with the Delaware County Recorder 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 \$25,389.81, representing the payment of fifty percent (50%) of the capacity charges then in effect for each single family residential connection for 5 equivalent single family residential connections.

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

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of credit, or other approved financial warranties equal to the cost of construction (\$30,173.00) 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 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 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 DELAWARE COUNTY SANITARY ENGINEER the sum of \$2,400.00, 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 a result of charges against the same at the rate of:

INSPECTOR \$60.00
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 \$0.50 per foot of sewer which will be deducted to cover a re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a 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 rights-of-way 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 Autocad 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 five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) 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,

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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 Mrs. Martin Absent Mr. Ward Aye

RESOLUTION NO. 02-1339

IN THE MATTER OF CERTIFYING TO THE COUNTY AUDITOR SANITARY SEWER CAPACITY CHARGES:

It was moved by Mr. Ward, seconded by Mr. Wuertz to certify the Sanitary Sewer Capacity charges as follows:

254 South Liberty Street Powell, Ohio 43065

In the amount of \$2,400.00 with \$902.40 finance charge (pro-rated over a 10 year period) making total of \$3,302.40 for placement on tax duplicate. Bi-annual payment being \$165.12.

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

RESOLUTION NO. 02-1340

IN THE MATTER OF APPROVING THE TECHNICAL SUPPORT AGREEMENT WITH DOLBEY AND COMPANY FOR THE COURT OF COMMON PLEAS:

It was moved by Mr. Ward, seconded by Mr. Wuertz to approve the agreement.

(A Copy Of The Agreement Is Available In The Commissioners Office Until No Longer Of Administrative Value).

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

RESOLUTION NO. 02-1341

IN THE MATTER OF APPROVING TRANSFER APPROPRIATIONS:

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

TRANSFER OF APPROPRIATION

FROM:	TO:	AMOUNT:
10011302-530	10011302-520	\$ 2,000.00
General Fund/Safety - Srvs & Chrgs	General Fund/Safety - Mat & Sup	

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

RESOLUTION NO. 02-1342

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS AND TRANSFER OF FUNDS FOR VICTIM SERVICES:

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

TRANSFER OF APPROPRIATION

FROM:	TO:	AMOUNT:
10011102 - 590	10012301 - 580	\$ 15,140.00
General Fund/Comm - Contingency	General Fund/Victms Asst - Transfer	

TRANSFER OF FUNDS

10012301 - 5801	23612302 - 4601	\$ 15,140.00
General Fund/Victims Asst - Transfer	VOCA Grant - Transfer-in	

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

RESOLUTION NO. 02-1343

ADJOURNING INTO EXECUTIVE SESSION CONSIDERATION OF EMPLOYEE DISCIPLINE:

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It was moved by Mr. Ward, seconded by Mr. Wuertz to adjourn into Executive Session at 10:00AM.

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

RESOLUTION NO. 02-1344

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Ward, seconded by Mr. Wuertz to adjourn out of Executive Session at 10:30AM.

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

RESOLUTION NO. 02-1345

**7:00 PM FINAL HEARING BY THE COMMISSIONERS FOR DELAWARE RUN DITCH PETITION
FILED BY RONALD RHOADES AND OTHERS (RUTHERFORD B. HAYES SERVICES BUILDING-
ROOM G35):**

It was moved by Mr. Ward, seconded by Mr. Wuertz to open the Hearing at 7:00PM.

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

RESOLUTION NO. 02-1346

**IN THE MATTER OF COMMISSIONERS’ DISALLOWING THE DECKER CLAIM FOR
DAMAGES FOR THE DELAWARE RUN DITCH PETITION:**

It was moved by Mr. Ward, seconded by Mr. Wuertz to disallow the Decker claim for damages for the Delaware Run Ditch Petition:

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

RESOLUTION NO. 02-1347

**IN THE MATTER OF COMMISSIONERS’ FINDING AFFIRMING ORDER, CONFIRMING THE
ASSESSMENTS, AND ORDERING THE LETTING OF THE CONTRACTS:**

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

In The Matter Of The Delaware Run Ditch Petition Filed By Ronald Rhoades And Others On January 29, 1996.

WHEREAS, this being the day fixed by said Board in the order dated the 21st day of October 2002, for the final hearing on the Reports, Plans, and Schedules of the County engineer, on the estimated assessments, on claims for compensation or damages and on the proceedings for the improvement.

WHEREAS, The Board finds that due and legal notice of this final hearing has been given as required by law; and

WHEREAS, The Board has heard all the evidence offered in the proceedings and received and considered all the schedules, plans, and reports filed by the County Engineer:

WHEREAS, this Board has considered the cost of location and construction, the compensation for land taken, the effect on land along or in the vicinity of the route of the improvement, the effect on land below the lower terminus of the improvement that may be caused by constructing the improvement, the sufficiency of the outlet, the benefits to the public welfare, and the special benefits to land needing the improvement, etc.;

THEREFORE BE IT RESOLVED, that the Board hereby approves the maps, profiles, plans, schedules and reports for prepared by the Delaware County Engineer, and

FURTHER BE IT RESOLVED, That once the water shed is confirmed, the Delaware County Engineer’s estimated assessments are hereby approved and confirmed, and the Engineer is ordered to receive bids for the construction of the improvement, and

FURTHER BE IT RESOLVED, The County Engineer is hereby directed to prepare the necessary bid documents and legal advertisements; and

FURTHER BE IT RESOLVED, That the County Engineer be and he is hereby directed to give at least two weeks

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public notice as required by law of the time when and the place where bids will be received for furnishing any material for the improvement, or for the construction of the improvement, or any part thereof, and in case manufactured material is required for the construction of the improvement, the County Engineer is hereby directed to send copies of the notice by mail to dealers and manufacturers and all bids shall be received at the office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio.

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

RESOLUTION NO. 02-1348

IN THE MATTER OF COMMISSIONERS’ APPROVING THE PAYMENT SCHEDULE FOR THE ASSESSMENTS ON THE DELAWARE RUN DITCH:

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

That county general funds be used to pay for the improvement, and that five years shall be the period of time, in semi-annual installments, as taxes are paid, given the owners of land benefited, to pay the assessments that may be made for the improvement, and no interest shall be charged on the installments.

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

There being no further business the meeting adjourned.

Deborah B. Martin

James D. Ward

Donald E. Wuertz

Letha George, Clerk to the Commissioners