

COMMISSIONERS JOURNAL NO. 45 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MARCH 8, 2004

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

Present: Kristopher W. Jordan, Deborah B. Martin, James D. Ward

- 8:00 AM Prosecutor Session
- 9:30 AM Public Hearing#2 For The 3rd Degree Expansion Project
- 10:00 AM Bid Opening For Office Supplies For Delaware County
- 10:00 AM Bid Opening Date And Time For Consumable Printer Supplies For Delaware County

PUBLIC COMMENT

RESOLUTION NO. 04-302

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:

It was moved by Mr. Jordan, seconded by Mr. Ward to adjourn into Executive Session at 8:40AM.

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

RESOLUTION NO. 04-303

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Ward, seconded by Mr. Jordan to adjourn out of Executive Session at 8:55AM.

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

RESOLUTION NO. 04-304

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD MARCH 4, 2004 AS CONTAINED IN THE COUNTY'S OFFICIAL ELECTRONIC RECORDINGS OF THE PROCEEDINGS:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve the resolutions and records of the proceedings from regular meeting held March 4, 2004 as contained in the county's official electronic recordings of the proceedings.

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

RESOLUTION NO. 04-305

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS AND PAYMENT OF WARRANTS IN BATCH NUMBER CMAPR035.

It was moved by Mr. Jordan, seconded by Mr. Ward to approve payment of warrants in batch numbers CMAPR035 and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account Number</u>	<u>Amount</u>
Otis Elevator Co Inc.	Aut-O-Safe on Elevators	10011105-5328	\$ 4,797.00
Otis Elevator Co Inc.	Aut-O-Safe on Elevators	40111402-5328	\$ 4,797.00
Countryside Construction	Trench Drain/Hayes Bldg.	10011105-5328	\$ 9,623.00
Hills Blacktop Inc.	Courthouse Blacktop/Patrick Street	40111402-5410	\$ 12,300.00
Leo Meyers Uniforms Inc.	Uniform Allowance	10011303-5224	\$ 10,000.00
Nature Stone	Courthouse Basement Floor	40111402-5410	\$ 12,876.00
Universal Roofing & Exteriors	Wolf Bldg Roof Replacement	40111402-5410	\$ 21,100.45
Quality Masonry Company	Pillar Restoration Carnegie	40111402-5410	\$ 18,260.00
Fifth Third Bank	1995 Sewer Bond Refunding	50111117-5720	\$ 120,832.50
Fifth Third Bank	1995 Sewer Bond Refunding	50111117-5725	\$ 385,000.00
Delaware County Bank	Hayes Bldg	50111117-5720	\$ 901,242.50

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Delaware County Bank	Hayes Bldg	50111117-5725	\$	360,000.00	
Delaware County Bank	1999 Special Assessment Tartan	50111117-5720	\$	30,317.50	
Delaware County Bank	1999 Special Assessment Tartan	50111117-5725	\$	95,000.00	
Huntington Bank	1997 Capital Facilities	50111117-5720	\$	223,937.50	
Huntington Bank	1997 Capital Facilities	50111117-5725	\$	185,000.00	
Ohio Water Development	OWDA	50111117-5720	\$	26,257.05	
Ohio Water Development	OWDA	50111117-5725	\$	412,233.57	
Fifth Third Bank	1999 Alum Creek	50111117-5720	\$	2,297,496.26	
Fifth Third Bank	1999 Alum Creek	50111117-5725	\$	2,050,000.00	
Gruenbaum, Andrew & Judy	Board & Care	22511607-5350	\$	5,000.00	
Peele, Pam	Board & Care	22511607-5350	\$	8,500.00	
Vouchers					
Delaware JVS	Able Program	22411603-5348	\$	12,465.00	
Council for Older Adults	Protective Services Grant	22411606-5348	\$	12,066.75	
Synergy Mechanical	Preventive Maintenance	10011105-5325	\$	7,670.00	
Blue's Auto Service	Auto Repair	60111901-5370	\$	7,391.17	
Vote on Motion	Mrs. Martin	Aye	Mr. Jordan	Aye	Mr. Ward
	Aye				

RESOLUTION NO. 04-306

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The CSEA Department is requesting that Christine Dobrivich, Matt Smith and Wendy Shannon attend a Hearing Officer Training in Lancaster, Ohio April 15 to 16, 2004, at no cost.

The EMS Department is requesting that John Tracey and Kathy Coy attend The National Academies of Emergency Dispatch Navigator 2004 Course in Las Vegas, Nevada May 2 to 7, 2004, at the cost of \$3,920.00.

The EMS Department is requesting that 28 Paramedics attend an Advanced Cardiac Life Support Refresher Course in Delaware, Ohio March 24, 2004, at the cost of \$1,281.00.

The Department of Job and Family Services is requesting that Donna Eckman, Celia Vail, Sharon Lloyd, Tracey Merrin, and Chad Richardson attend an OHSTS Training on Street Drugs in Columbus, Ohio March 29 and 30, 2004, at no cost.

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

RESOLUTION NO. 04-307

IN THE MATTER OF APPROVING SUBDIVIDER'S AGREEMENT FOR THE CAD FOR JERSEY ACRES SUBDIVISION:

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

**SUBDIVIDER'S AGREEMENT
FOR
DRAINAGE IMPROVEMENTS**

Cad For Jersey Acres Subdivision

THIS AGREEMENT made and entered into this 8th day of March 2004, by and between the **COUNTY OF DELAWARE** (acting by and through its **BOARD OF COUNTY COMMISSIONERS**), hereinafter called the **COUNTY**, and **KAREN FICHTELMAN**, hereinafter called the **SUBDIVIDER**, as evidenced by the Engineering and Construction Plan entitled "**CAD for Jersey Acres Subdivision**" which was approved by the County Engineer, hereinafter called the **PLAN**, is governed by the following considerations, to wit:

1. The **SUBDIVIDER** is to construct, install or otherwise make all of the improvements as shown and set forth to be performed and completed on the **PLAN**, which is a part of this **AGREEMENT**.
2. The **SUBDIVIDER** shall pay the entire cost and expenses of said improvements.
3. The **SUBDIVIDER** is to provide an irrevocable letter of credit or other approved financial warranties in the amount of **THREE THOUSAND DOLLARS (\$3,000)** payable to the **DELAWARE COUNTY ENGINEER** to insure the faithful performance of this **AGREEMENT** and the completion of all of the said improvements in accordance with the current "**Delaware County Engineering and Surveying Standards for Subdivision**

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Development” and the current “Subdivision Regulations of Delaware County, Ohio”.

4. The **SUBDIVIDER** is to complete all construction to the satisfaction of the **COUNTY** as evidenced by an approval letter from the **Delaware County Engineer**.
5. The **SUBDIVIDER** shall hold the **COUNTY** free and harmless from any and all claims for damages of every nature arising or growing out of the construction of the said improvements.
6. The **SUBDIVIDER** shall perform and complete all said improvements prior to **SEPTEMBER 30, 2004**.
7. The **SUBDIVIDER** will at all times during the construction of said improvements maintain through traffic on the public roadway and keep the same free of unreasonable hazards to the public. Said roadway shall not be closed to traffic except as approved by the **Delaware County Engineer**. Construction signs, barricades and lights shall be placed as needed on the job site in accordance with the **Ohio Department of Transportation “Uniform Traffic Control Devices” and “Traffic Control for Construction and Maintenance”**.
8. The **SUBDIVIDER** further agrees that any violation of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **Delaware County Engineer** shall have the right to stop work forthwith and use the surety for the completion of the improvement.
9. If the **SUBDIVIDER** should 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**.
10. Upon approval and acceptance of the improvements, the original copy of the **PLAN** shall become the property of the **COUNTY** and shall be filed in the office of the **Delaware County Engineer**.
11. In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants to the **SUBDIVIDER** or his agent the right and privilege to make the said improvements stipulated herein.

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

RESOLUTION NO. 04 -308

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

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

Permit #	Applicant	Location	Type of Work
U04017	American Electric Power	Maxtown & Sunbury Roads	Relocate facilities
U04018	American Electric Power	S. Old State Road	Install aerial spans
U04020	Del-Co Water	Penry Road	Install road bore
U04021	Del-Co Water	Main Road	Install waterline
U04022	Verizon	Todd Street Road	Place telephone cable

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

RESOLUTION NO. 04-309

IN THE MATTER OF APPROVING THE CONTRACTS BETWEEN THE DEPARTMENT OF JOB AND FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND CHILD CARE PROVIDERS DIANA DALE AND NANCY LUCAS:

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

Child Care		Basic Rates Full Time (25 Hrs. or More)	Adjustment to Basic Rates
Diana Dale 78 Yorkshire Delaware, Ohio 43015	Infant	\$2.75	None
	Toddler	\$2.75	
	Preschool	\$2.50	
	Schoolage	\$2.50	
Nancy Lucas 8531 Liberty Road Powell, Ohio 43065	Infant	\$2.75	None
	Toddler	\$2.75	
	Preschool	\$2.50	
	Schoolage	\$2.50	

(A Copy of each of these contacts is available in the Commissioners’ Office until no longer of Administrative Value).

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

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RESOLUTION NO. 04 -310

IN THE MATTER OF AUTHORIZING THE USE OF DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES FUNDS TO ASSIST IN FUNDING THE PURCHASE OF COFFEE, MEALS, REFRESHMENTS AND OTHER AMENITIES FOR THE INDEPENDENT LIVING CLASSES:

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

WHEREAS, The Ohio Attorney General Opinion No. 82-006 addresses the issue Expenditure Of Public Funds For Proper "Public Purpose", and

WHEREAS, The October 20, 2003, State Auditor's ruling on payment of Expenditures Of Public Funds For Proper "Public Purpose" states that for persons who are employees or non-employees of the County, the Commissioners must pre-approve expenditures for the purchase of coffee, meals, refreshments and other amenities.

WHEREAS, the Delaware County Department of Job and Family Services has responsibility for providing Independent Living Classes; and

WHEREAS, training is scheduled throughout calendar 2004; and

WHEREAS, classes vary in length with some occurring evenings and some on Saturdays; and

WHEREAS, the Department requests approval to purchase refreshments as appropriate; and

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 hereby authorizes the use of Department of Job and Family Services funds in an amount not to exceed \$120.00 to assist in funding the purchase of coffee, meals, refreshments and other amenities for Independent Living Classes for Calendar Year 2004.

Further Be It Resolved, that the Commissioners approve a Purchase Order request to Buehlers in the amount of \$120.00.

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

RESOLUTION NO. 04-311

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND BUILD-MOR INC. FOR ABOVEGROUND FUEL TANKS :

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

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

**Build-Mor, Inc.
P.O. Box 21267
Columbus, Ohio 43221**

(the "Contractor") and the Delaware County Board of Commissioners (the "Owner").

In consideration of the mutual promises herein contained, the Delaware County Board of Commissioners and the Contractor agree as set forth below:

ARTICLE 1

1.1 The Contractor shall perform the entire work described in the Bid Documents, which is attached hereto as Exhibit "A" and reasonably inferable by the Contractor as necessary to produce the results intended by the Bid Documents, for:

**ITB #03-05R
Aboveground Fuel Tanks Re-bid
Opened on January 12th, 2004**

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ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of Sixty-Five Thousand, Three Hundred Sixty Nine dollars (the "Contract Price"), based upon the Bid Form submitted by the Contractor opened January 12, 2004.

Bid 1.	\$28,929.00
Bid 2.	\$36,440.00
Total Contract Amount	\$65,369.00

2.2 The Contract Price shall be paid in current funds by the Owner upon payment requests issued by the Contractor and approved by the Delaware County Board of Commissioners as provided in the Contract Documents.

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 100 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

<u>Contract Amount</u>	<u>Dollars Per Day</u>
\$1. To \$50,000	\$ 150.
More than \$50,000 to \$150,000	\$ 250.
More than \$150,000 to \$500,000	\$ 500.
More than \$500,000 to \$2,000,000	\$1,000
More than \$2,000,000 to \$5,000,000	\$2,000
More than \$5,000,000 to \$10,000,000	\$2,500
More than \$10,000,000	\$3,000

ARTICLE 4

4.1 The Contract Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.

4.2 The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in a court of competent jurisdiction in the State of Ohio.

4.3 If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 The Contract shall be binding on the Contractor and the Delaware County Board of Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the

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Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.

5.2 The Contract shall become binding and effective upon execution by the Delaware County Board of Commissioners.

Further Be It Resolved, that the Commissioners approve 2 (two) Purchase Order Requests to Build-Mor Inc.

One in the amount of \$28,929.00 40111402-5410
One in the amount of \$36,440.00 65211919-5450

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

RESOLUTION NO. 04-312

IN THE MATTER OF AWARDING THE BID FOR JANITORIAL AND CUSTODIAL SERVICES FOR THE DELAWARE COUNTY ONE-STOP-SHOP AT 12B TROY ROAD TO DELAWARE MAINTENANCE COMPANY:

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

WHEREAS, Delaware County received bids for janitorial and custodial services for the Delaware County One-Stop-Shop, 12B Troy Road on February 9, 2004. And;

WHEREAS, after carefully reviewing the bids received, the bid submitted by Delaware Maintenance Company has been determined to be the lowest and best bid for janitorial and custodial services;

NOW THEREFORE BE IT RESOLVED, that the board of Commissioners of Delaware County, State of Ohio, approve and accept the bid submitted by Fort’s Cleaning Service for janitorial and custodial services for the One-Stop-Shop, 12B Troy Road with the contractor providing supplies for Delaware County.

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

RESOLUTION NO. 04-313

IN THE MATTER OF AWARDING THE BID FOR JANITORIAL AND CUSTODIAL SERVICES FOR THE DELAWARE COUNTY WOLF BUILDING TO FORT’S CLEANING SERVICE:

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

WHEREAS, Delaware County received bids for janitorial and custodial services for the Delaware County Wolf Building, 149 North Sandusky Street on February 9, 2004. And;

WHEREAS, after carefully reviewing the bids received, the bid submitted by Fort’s Cleaning Service has been determined to be the lowest and best bid for janitorial and custodial services;

NOW THEREFORE BE IT RESOLVED, that the board of Commissioners of Delaware County, State of Ohio, approve and accept the bid submitted by Fort’s Cleaning Service for janitorial and custodial services for the Wolf Building, 149 North Sandusky Street with the contractor providing supplies for Delaware County.

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

RESOLUTION NO. 04-314

IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND AUTHORIZING THE DISPOSAL, PRIVATE SALE, OR INTERNET AUCTION OF CERTAIN PERSONAL PROPERTY:

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

Office/Dept.	Asset No.	Manufacturer	Model/Description	Serial No.	Condition
Maintenance		Various	Misc light fixtures		used
		Various	Misc wood trim pieces		used

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	Various	Misc doors		used
	Various	Misc office chairs		used
	Various	Misc folding chairs		used
	Various	Typewriters		used
	Various	Microwave ovens		used
	Various	Misc office furniture		used
	Trane	XR80 Gas Furnace		new
	Various	Misc Keyboards		used
	Various	Misc Monitors		used
	Various	Misc Computers		used
Sanitary Engineers				
4811010010	Jeep	1994 Cherokee 4 door 4x4	1J4FJ28SRL251068	used
Service Center				
	Chevy	1984 "Army" Ambulance	1GCHD34J4EF326139	used
	Fuellock	Fuel Management System		used
	Ford	7.3 Diesel Engine		used
	Ford	F350 rear differential		used
Jail				
003409	Richo	FT4622 Copier		used
		Dry food scale		used
	Cambro	Food warmers		used

NOW THEREFORE BE IT RESOLVED, that the board of Commissioners of Delaware County, State of Ohio, declare the above personal property obsolete, unfit, or not needed for public use and the fair market value of each item listed is less than \$2,500.00 and authorize the disposal, private sale, or internet auction as set by the Ohio Revised Code Section 307.12.

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

RESOLUTION NO. 04-315

IN THE MATTER OF APPROVING THE RESOLUTION OF NECESSITY FOR PURCHASE OF AUTOMOBILE FOR THE USE OF THE COUNTY COMMISSIONERS; ANY COUNTY DEPARTMENT, BOARD, COMMISSION, OFFICE OR AGENCY; OR ANY ELECTED COUNTY OFFICIAL OR HIS OR HER EMPLOYEES:

It was moved by Mr. Jordan, seconded by Mr. Ward to approve the resolution of necessity:

WHEREAS; the Board of County Commissioners of Delaware County, Ohio are required by Ohio Revised Code §307.41, to find, by resolution of necessity, that it is necessary to expend county monies for the purchase or lease of a new automobile to be used by the County Commissioners, by any county department, board, commission, office or agency, or by any elected county official or his or her employees, and

WHEREAS; the Board of County Commissioners of Delaware, County, Ohio has before it a request from Administrative Services, Dog & Kennel, to expend county monies for the purchase of one new 4X4 small, extended cab, pick-up truck; and

WHEREAS; the Board of County Commissioners have legally appropriated monies from the proper fund for the acquisition of vehicles

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:

- Section 1. That the Board of County Commissioners of Delaware County, Ohio, does hereby declare that a necessity exists to purchase one 4X4 small, extended cab, pick-up truck for use by the Dog & Kennel Department
- Section 2. That the Board of County Commissioners of Delaware County, Ohio, does hereby declare that the number of motor vehicles required is one for replacement of a current vehicle.
- Section 3. That the Board of County Commissioners of Delaware County, Ohio, does hereby declare that the estimated cost of said purchase or lease will be a total of \$16,000.
- Section 4. That the Board of County Commissioners of Delaware County, Ohio, does hereby declare that the purchase or lease of said vehicle will be in conformity with the public bidding requirements of Ohio Revised Code 307.86 through 307.92.

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

RESOLUTION NO. 04-316

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR GLEN OAK SECTION 3 PHASE A:

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

Glen Oak Section 3 Phase A 4,105 feet of 8 inch sewer 19 manholes

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

RESOLUTION NO. 04-317

IN THE MATTER OF APPROVING THE DEED OF CONSERVATION EASEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND THE OHIO DEPARTMENT OF NATURAL RESOURCES:

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

**Deed of Conservation Easement
Ohio Department of Natural Resources**

This Deed is made this 8th day of March 2004, by and between the Delaware County Board of Commissioners, Grantors, and the State of Ohio, the Ohio Department of Natural Resources, Grantee.

WHEREAS, Section 1501.01 of the Ohio Revised Code authorizes the Director of Natural Resources of the State of Ohio to acquire by purchase, lease or otherwise, such real and personal property rights or privileges in the name of the State of Ohio as are necessary for the purpose of the Department or any division therein; and

WHEREAS, said Grantors are the owners in fee of certain real property, hereinafter described, situated in Delaware County, Ohio, which the Director of Natural Resources has determined to be an importance to the water quality of the Olentangy State Scenic River.

NOW THEREFORE, the Grantors do hereby grant and convey, in perpetuity, unto the State of Ohio and its assigns an estate, interest and conservation easement in said real property of the Grantors of the nature and character and to the extent hereinafter expressed, to be and to constitute a servitude upon said real property of the Grantors, which estate, interest, easement and servitude will result from the covenants and restrictions set out below and hereby imposed upon the use of said property of said Grantors, and to that end and for the purpose of accomplishing the intent of the parties hereto, said Grantors covenant on behalf of themselves, their heirs, successors and assigns, with the State of Ohio and its assigns to do and refrain from doing, severally and collectively, upon the Grantors said property, the various acts hereinafter mentioned, it being hereby agreed and expressed that the doing and the refraining from said acts, and each thereof, upon said property is and will be for the benefit of the State of Ohio, Department of Natural Resources, which lands are adjacent to or in the vicinity of the lands of the Grantors described below.

The restrictions hereby imposed upon the use of said property of the Grantors, and the acts which said Grantors so covenant to do and refrain from doing upon their said property in connection therewith are and shall be as follows:

The easement property herein described shall be kept in its "natural state". As herein used, the term "natural state" is intended to mean that no buildings, billboards, signs or other structures of any kind, either temporary or permanent, shall be placed or erected on the easement property, unless otherwise expressly provided hereunder.

There shall be on or in the easement property no fillings, excavating, removal of top soil, sand, gravel, rock, minerals or other materials nor any building of roads or change in the topography of the land in any manner, other than that caused by the forces of nature or as reserved hereafter.

Herbicides or pesticides may only be used within the prescribed methods approved by the ODNR Division of Natural Areas and Preserves.

No power transmission lines may be erected, nor any interests in the easement property shall be granted for this purpose. It is the intent of provision to grant to the State of Ohio, Department of Natural Resources, such an interest in said easement property as is sufficient to prohibit the exercise of the power of eminent domain by

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public utility companies and any other body or person. The Grantors reserve the right and easement on the real property to maintain and repair existing telephone, electric, water, wells, or other utility lines or mains needed to provide for the needs of the Grantors, their successors or assigns. The area needed to repair said facility shall be the minimum necessary to accomplish the task as agreed upon in writing by the Grantors and Grantee. Upon completion, the area shall be restored to its previous state or as near as practical.

No trees, ground cover, or other vegetation shall be cut or removed unless approved by the ODNR, Division of Natural Areas and Preserves.

The lands shall at all times be kept free of garbage, trash, and machinery; and no other unsightly material shall be allowed to accumulate or be stored thereon, except Grantors shall have no duty to remove garbage, trash, etc. unlawfully deposited on the premises by persons acting without the Grantors consent.

Each and every other activity or construction which might endanger the natural or scenic state of the easement property is forbidden.

The Ohio Department of Natural Resources reserves the right to periodically inspect said property for violations of the easement property, and if upon sixty (60) days advance written notice the Grantors have not eliminated said violations, the Department may remove or eliminate, at the expense of the landowner, any violation by Grantors of the easement. The Director of the Department of Natural Resources or his authorized representative may enter upon said lands for the purpose of inspection.

The Ohio Department of Natural Resources reserves the right to post or clearly mark the boundaries of said easement in compliance with the Department's policy.

There shall be no manipulation or alteration of creeks, streams, surface or subsurface springs or other bodies of water, or any activities on or uses of the Property detrimental to water purity or quality. Restoration activities involving surface water manipulation must be approved in advance by the Ohio Environmental Protection Agency and ODNR's DNAP.

The Conservation Easement granted hereunder and the covenants heretofore made are subject to the following rights of the Grantors, which are expressly reserved hereunder.

Except as expressly limited herein, the Grantors reserve for themselves, their heirs and assigns, all rights as owner of the easement property, including the right to use the easement property for all purposes not inconsistent with this easement.

The lands of the Grantors, hereinabove referred to and to which the provisions of this instrument apply, are situated in the Township of Liberty, County of Delaware, the State of Ohio, over Delaware County Parcel Number 31833301003000 and are more particularly described as follows:

See Exhibits A, B, C, and D.
(Available in the Sanitary Engineer's Department)

TO HAVE AND TO HOLD unto the State of Ohio and its assigns forever. The covenants agreed to and the restrictions imposed, as aforesaid, shall be binding upon the grantors, their heirs, successors, and assigns, and each of them, and shall constitute a servitude upon the above described lands and said Grantors do COVENANT and WARRANT that the title to the land above described is CLEAR, FREE, and UNENCUMBERED, and that they will DEFEND the same against all lawful claims of all persons whomsoever.

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

RESOLUTION NO. 04-318

A RESOLUTION AUTHORIZING THE USE OF DELAWARE COUNTY REVOLVING LOAN FUNDS (RLF) TO ASSIST IN FUNDING THE VILLAGE OF ASHLEY WATER SYSTEM IMPROVEMENTS PROJECT FOR THE DELAWARE COUNTY RLF PROGRAM YEAR 2004:

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

WHEREAS, the Ohio Department of Development provides financial assistance to Delaware County under the Community Development Block Grant (CDBG) Program; and

WHEREAS, Delaware County has established a Revolving loan Fund (RLF) capitalized with the payback from CDBG loans to local businesses; and

WHEREAS, the CDBG/RLF funds may be utilized to assist various projects designed to meet the needs of the community's low and moderate-income households and the National Objectives established for the CDBG Program, and

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WHEREAS, the Ohio Environmental Protection Agency (OEPA) has directed the Village of Ashley to either make substantial improvements to its existing water system, or to disconnect from this system and connect to an OEPA approved system in order to serve the future water needs of the Village; and

WHEREAS, after analyzing the costs of these two options, the Village of Ashley has chosen to disconnect from its existing water system and connect to the existing DELCO Water System because of the relative cost effectiveness of this option.

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 hereby authorizes the use of County RLF funds for RLF Program Year 2004 for an infrastructure assistance in the amount of up to \$113,100 to the Village of Ashley, with up to \$50,895 to be provided to the Village as a grant, and up to \$50,895 to be provided to the Village in the form of a loan to be paid back over 10 years carrying an interest rate of 3%, and the Village putting in 10% of the cost up to \$11,310, allocated for activities associated with the Village of Ashley Water System Improvement Project. Said grant shall be available for this Project until the established date by which all funds shall be expended.

Section 2. That **December 31, 2004** shall hereby be established, as the date by which all activities associated with the Ashley Water System Improvement Project must be completed. All requests for payment must be submitted by the Village of Ashley to the Delaware County Department of Economic Development by **January 8, 2005**. Final inspection and closeout of the Project shall be completed by the Delaware County Department of Economic Development by **February 28, 2005**. If the Ashley Water System Improvement Project is not completed by this grant completion date, then the Village of Ashley may be required to repay a portion of or all of the RLF infrastructure grant funds expended on the project to the Delaware County Revolving Loan Fund as determined by Delaware County and/or the State of Ohio Department of Development. The Village of Ashley may request an extension of the completion dates noted above, however, any such request must be submitted by **October 1, 2004**, and the Delaware County Board of Commissioners and the State of Ohio Department of Development must approve any such extension.

Section 3. That this resolution shall take effect and be in force immediately after its passage.

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

RESOLUTION NO. 04-319

9:30 AM - IN THE MATTER OF PUBLIC HEARING # 2 FOR THE 3RD DEGREE EXPANSION PROJECT:

It was moved by Mr. Jordan, seconded by Mr. Ward to open the hearing:

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

RESOLUTION NO. 04-320

IN THE MATTER OF CLOSING THE PUBLIC HEARING # 2 FOR THE 3RD DEGREE EXPANSION PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to close the hearing.

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

There being no further business the meeting adjourned.

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Deborah B. Martin

James D. Ward

Letha George, Clerk to the Commissioners