

COMMISSIONERS JOURNAL NO. 47 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 29, 2005

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

Present: Kristopher W. Jordan, James D. Ward
Absent: Glenn A. Evans

- 7:30 PM Final Hearing For The Parkshore Sections 1-2-4 Subdivision Ditch Maintenance Project
- 7:45 PM Final Hearing For The Willow Springs North Subdivision Ditch Maintenance Project
- 8:15 PM Public Hearing #2 For Davidson Company Acquisitions Of Land And Building

PUBLIC COMMENT

Commissioner Jordan has invited Senator Tim Grendell to attend the Commissioners’ Session on September 6, 2005 to talk about eminent domain.

RESOLUTION NO. 05-1150

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD AUGUST 25, 2005 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 August 25, 2005 as contained in the county’s official electronic recordings of the proceedings.

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1151

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0826 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0826:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve payment of warrants in batch numbers CMAPR0826, memo transfers in batch numbers MTAPR0826 and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account Number</u>	<u>Amount</u>
PO’s			
Double Z Construction	Olentangy Assessment	44211423-5420	\$ 1,972,059.75
Increases			
Kenny Huston	Masonry - Jail	40411414-5410	\$ 17,000.00
Vouchers			
Jerry Robinette	Repair Filters Alum Creek Pump	65211919-5328	\$ 7,349.00
Northwoods Consulting	DATA Processing Server/Contract	22411601-5320	\$ 17,000.00
Ameritas Group Dental	September Premiums	75010903-5370	\$ 16,796.80
Defense Technology	PPE Kits for County	21511309-5238	\$ 22,327.40
Brunner Corp.	Plumbing/HVAC Jail	40411414-5410	\$ 93,327.08
Scott Scriven & Wahoff	Legal Assistance	10011301-5301	\$ 8,687.85

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05 -1152

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Auditor’s Office is requesting that Sharon Upp and Shari Baker attend a CAAO State Budget Workshop in Reynoldsburg, Ohio September 21, 2005, at the cost of \$123.00.

The Commissioners Office is requesting that Dave Cannon attend an Ohio GFOA Conference in Cleveland, Ohio September 12-15, 2005, at the cost of \$640.00.

The Environmental Services Department is requesting that William Brutchey attend a Wastewater Certification Review in Columbus, Ohio October 10-12, 2005, at the cost of \$520.00.

The Department of Job and Family Services is requesting that Rosann Gingerich attend an ODJFS Multiethnic

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Placement Act Monitor’s Training in Columbus, Ohio August 25, 2005, at no cost.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Absent

RESOLUTION NO. 05-1153

SETTING DATE, TIME AND PLACE FOR THE FINAL HEARING BY THE COMMISSIONERS FOR THE SMITH #198 DITCH PROJECT:

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

Whereas, the Board of Commissioners of Delaware County on March 25, 2002, held a public hearing and determined the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the reconstruction and improvement of the Smith #198 Ditch project, and

Whereas, at that time the Delaware County Commissioners directed the Delaware County Engineer to proceed with the preparation of plans, reports, and schedules for the completion of the ditch project, and

Whereas, the Delaware County Engineer has notified the Commissioners that the plans, reports, and schedules for the construction of the Smith #198 Ditch are ready for their review and consideration.

Therefore be it Resolved, the Board of County Commissioners of the County of Delaware have fixed the **7th day of November, 2005, at 7:30 PM** at the Commissioners Hearing Room 101 North Sandusky Street Delaware, Ohio as the time and place of the final hearing by the Commissioners on the report of the County Engineer.

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1154

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, JIM LUBINSKY, REMAX AFFILIATES INC., REQUESTING ANNEXATION OF 1.446 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:

It was moved by Mr. Ward, seconded by Mr. Jordan to acknowledge that on August 23, 2005, the Clerk to the Board of Commissioners received an annexation petition request to annex 1.446 acres from Liberty Township to the City of Powell.

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05-1155

IN THE MATTER OF APPROVING DITCH MAINTENANCE PETITIONS FOR AVONLEA SUBDIVISION AND THE VILLAGE AT BALE KENYON:

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

Ditch Maintenance Petition- Avonlea Subdivision

We the undersigned owners of 11.189 acres in Orange Township, Delaware County, Ohio propose to create a subdivision known as **Avonlea Subdivision** as evidenced by the attached subdivision plat (Exhibit “A” which is available at the County Engineer’s Office). The **Avonlea Subdivision** 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 **Avonlea Subdivision Plat**.

The cost of the drainage improvements is \$118,291.80 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 their subdivisions. Twenty (20) lots are created in these plats 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,

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\$5,914.59 per lot. An annual maintenance fee equal to 2% of this basis \$118.29 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 \$2,365.84 has been paid to Delaware County.

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

Ditch Maintenance Petition- The Village At Bale Kenyon

We the undersigned owners of 53.62 acres in Orange Township, Delaware County, Ohio propose to create a condominium development known as **The Village At Bale Kenyon** as evidenced by the attached improvement plans (Exhibit “A” which is available at the County Engineer’s Office). These plans have been approved and signed by the Delaware County Regional Planning Commission and the Delaware County Engineer. Drainage improvements related to this development 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 Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for each unit in the subject development 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 Bale Kenyon condominium development.

The cost of the drainage improvements is \$372,892.60 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 units being created in this development. 96 units are created in these plans and each unit receives an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each unit is therefore, \$3,884.30 per unit. An annual maintenance fee equal to 2% of this basis \$77.69 will be collected for each unit. 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 units in the amount of \$7,457.85 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 Mr. Jordan Aye Mr. Evans Absent

RESOLUTION NO. 05-1156

IN THE MATTER OF ACCEPTING MAINTENANCE BONDS FOR VINMAR FARMS SECTION 1:

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

Vinmar Farms Section 1

The roadway construction has been completed for the referenced subdivision and, as the results of The Engineer’s recent field review, he has determined that minor remedial work will be required during the 2005 construction season.

In accordance with the Subdivider’s Agreement, The Engineer recommends that the maintenance bond be set at **\$70,400** for the duration of the one year maintenance period. A Bond in that amount is available. He also request approval to return the Bond being held as construction surety to the developer, Dominion Homes.

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1157

IN THE MATTER OF APPROVING THE CONTRACTS BETWEEN THE DEPARTMENT OF JOB AND FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND CHILD CARE PROVIDERS KINDERCARE; THE LEARNING CENTER; LA PETITE ACADEMY AND DELAWARE CHRISTIAN ACADEMY:

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

BASIC RATES

Full-time Week for Licensed Center and Type A Providers: 25 to 60 hours
Hourly: Paid after 60 hours

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Part-time Week for Center and Type A Providers: 8 hours to 24.9 hours
Hourly Paid for .1 hour to 7.9 hours

Full-time Week for Certified Type B Home Providers: 25 hours to 50 hours
Hourly: Paid after 50 hours

Part-time Week for Home Providers: 8 hours to 24.9 hours
Hourly Paid for .1 hour to 7.9 hours

Child Care Provider		Full	Part Time	Hourly
Kindercare # 0879 2001 Hard Rd. Columbus, Ohio 43235	Infant	\$169.90	\$134.21	\$ 8.76
	Toddler	\$149.42	\$108.70	\$ 6.39
	Preschool	\$133.89	\$ 94.80	\$ 5.84
	Schoolage	\$102.38	\$ 71.99	\$ 5.39
	Before & After	\$ 99.00	\$ 71.99	\$ 5.39
	Before or After	\$ 71.99	\$ 71.99	\$ 5.39
Kindercare 96 Neverland Dr. Lewis Center, Ohio 43035	Infant	\$178.40	\$140.93	\$ 9.20
	Toddler	\$156.89	\$114.41	\$ 6.71
	Preschool	\$140.59	\$ 99.54	\$ 6.13
	Schoolage	\$107.50	\$ 75.59	\$ 5.66
	Before & After	\$102.90	\$ 75.59	\$ 5.66
	Before Or After	\$ 93.45	\$ 75.59	\$ 5.66
Learning Center 7878 Worthington-Galena Worthington, Ohio 43085	Infant	\$169.90	\$134.21	\$ 8.76
	Toddler	\$149.42	\$108.70	\$ 6.39
	Preschool	\$133.89	\$ 94.80	\$ 5.84
	Schoolage	\$100.00	\$ 71.99	\$ 5.39
Learning Center 149 Charring Cross Drive Westerville, Ohio 43081	Infant	\$169.90	\$134.21	\$ 8.76
	Toddler	\$149.42	\$108.70	\$ 6.39
	Preschool	\$133.89	\$ 94.80	\$ 5.84
	Schoolage	\$100.00	\$ 71.99	\$ 5.39
La Petite Academy 130 Polaris Pkwy Westerville, Ohio 43082	Infant	\$169.90	\$134.21	\$ 8.76
	Toddler	\$149.42	\$108.70	\$ 6.39
	Preschool	\$133.89	\$ 94.80	\$ 5.84
	Schoolage	\$102.38	\$ 71.99	\$ 5.39
	Summer/Schoolage	\$102.38	\$ 71.99	\$ 5.39
Delaware Christian Academy 2280 Marysville Road Delaware, Ohio 43015	Toddler	\$149.42	\$108.70	\$ 6.39
	Preschool	\$133.89	\$ 94.80	\$ 5.84

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

Further Be It Resolved, that the Commissioners approve the following Purchase Order Request:

Kindercare 2001 Hard Rd.	22411610	\$10,000
Kindercare 96 Neverland Dr	22411610	\$15,000
Learning Center Worthington	22411610	\$ 2,000
Learning Center Westerville	22411610	\$50,000
La Petite Academy	22411610	\$ 1,000
Del. Christian Academy	22411610	\$ 5,000

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05 -1158

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 FOSTER PARENT TRAINING:

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

WHEREAS, The Ohio Attorney General Opinion No. 82-006 addresses the issue Expenditure of Public Funds

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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 training for Foster Parents licensed by the Department; and

WHEREAS, an evening training has been scheduled for September 6 from 6:00 until 8:00 p.m.; and

WHEREAS, the Department requests approval to purchase food;

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 \$60.00, to assist in funding the purchase of coffee, meals, refreshments and other amenities for Foster Parent Training scheduled for September 6, 2005.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Absent

RESOLUTION NO. 05-1159

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR ESTATES OF GLEN OAK
SECTION 4 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:

Estates Of Glen Oak Section 4 Phase A 1,004 feet of 8-inch sewer 6 manholes

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1160

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR THE OAKS
FORCEMAIN AND LIFT STATION IMPROVEMENTS; SLATE CREEK PHASE 2 AND SLATE CREEK
PHASE 3:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve sanitary sewer plan for The Oaks Forcemain And Lift Station Improvements; Slate Creek Phase 2 And Slate Creek Phase 3 for submittal to the Ohio EPA for their approval as per recommendation of the County Sanitary Engineer.

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05-1161

IN THE MATTER OF APPROVING THE ESCROW AGREEMENTS FOR MCCAMMON CHASE
SUBDIVISION SECTION 2 AND MCCAMMON CHASE SECTION 3:

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

McCammon Chase Subdivision Section 2

Escrow Agreement
McCammon Chase Subdivision Section 2

This agreement is entered into at Delaware, Ohio this 29th day of , 2005, by and between Alum Creek, Inc. an Ohio corporation (hereinafter referred to as “Alum Creek”), Sweney Cartwright & Company, (hereinafter referred to as “Sweney”), and the Delaware County Board of Commissioners, (hereinafter referred to as ‘County’):

Whereas Alum Creek and County have entered into a Subdivider’s Agreement providing for the construction of certain improvements instant to the construction of sanitary sewers in the McCammon Chase Subdivision Section 2, which improvements shall be owned by the County and

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Whereas Alum Creek desires to insure the County that funds will be available to provide for the maintenance of said improvements according to the terms of the Subdivider’s Agreement, and

Whereas the estimated costs of the maintenance of those improvements by such Subdivider’s Agreement are Eight Thousand & 00/100 dollars (\$8,000), and

Whereas Alum Creek has agreed to place in escrow with Sweney the marketable securities and funds as described in Exhibit A, attached hereto and incorporated herein by reference, and

Whereas Sweney has agreed to hold as Escrow Agent said marketable securities and funds according to the terms set forth herein, and

Whereas Alum Creek has agreed to pay all fees or charges to Sweney for services rendered,

It is therefore agreed by and between the parties as follows:

- 1) Creation of Escrow: Upon execution of this Agreement by all parties, Alum Creek shall deposit with Sweney as Escrow Agent pursuant to the terms and conditions of this agreement the marketable securities as described in Exhibit A having a market value on the date of this Agreement of no less than Eight Thousand & 00/100 dollars (\$8,000). Such marketable securities shall have attached thereto a duly executed irrevocable power authorizing the subsequent transfer of said securities pursuant to the terms of this agreement. All amounts deposited and held pursuant to this agreement shall be held by Sweney in account # 009-00048-13
- 2) Disbursements by Escrow Agent: Sweney shall hold said marketable securities until it receives a resolution from the County to deliver said securities to the person or persons named in such resolution.
- 3) Investment of Escrow Securities: Upon the maturity of any of the marketable securities contained within the escrow during the term of this Agreement, Sweney shall reinvest the proceeds at the sole discretion of Alum Creek, providing however that all such replacement securities shall be of such type and quality so as not to reduce the market value of the escrow below the value as specified in Section 1 above.
- 4) Duration of Escrow: This Agreement and the escrow created herewith shall continue until February 1, 2009. At that date, any funds still within the escrow account shall be released to Alum Creek.
- 5) Closing of Escrow: At such time as Sweney delivers all of the securities and funds contained within the escrow pursuant to the resolution from the County as specified in Section 2 above, this Escrow agreement will terminate.
- 6) Liability of Escrow Agent: Sweney shall not be liable for any action it may take or fail to take as Escrow Agent hereunder while its conduct is in good faith based upon this agreement.
- 7) Notices: Any notices required or desired to be given by any party may be given by mailing it to the party to be notified, postage prepaid, certified United States Mail, return receipt requested, as follows:

As to County:	Delaware County Commissioners 101 North Sandusky Street Delaware, Oh. 43015
As to Alum Creek, Inc.:	Alum Creek, Inc. 1349 Cameron Avenue Lewis Center, Ohio 43035
As to Sweney	Sweney Cartwright & Company 17 South High Street, Suite 300 Columbus, Ohio 43215 Attn: George Geissbuhler

- 8) Successors: This Agreement shall be binding and inure to the benefit of the successors and assigns of the parties hereto, however this Agreement is not assignable by any party without the prior written consent of all the other parties.
- 9) Modification: This Agreement contains the entire understanding among the parties and supersedes all prior understanding or agreements between them regarding the subject matter. No changes, alterations, modifications, additions, or qualifications to the terms of this Agreement shall be made or be binding unless in writing and signed by each of the parties.

McCammon Chase Section 3

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This agreement is entered into at Delaware, Ohio this 29th day of August 2005, by and between Alum Creek, Inc. an Ohio corporation (hereinafter referred to as “Alum Creek”), Sweney Cartwright & Company, (hereinafter referred to as “Sweney”), and the Delaware County Board of Commissioners, (hereinafter referred to as “County”):

Whereas Alum Creek and County have entered into a Subdivider’s Agreement providing for the construction of certain improvements instant to the construction of sanitary sewers in the McCammon Chase Subdivision Section 3, which improvements shall be owned by the County and

Whereas Alum Creek desires to insure the County that funds will be available to provide for the maintenance of said improvements according to the terms of the Subdivider’s Agreement, and

Whereas the estimated costs of the maintenance of those improvements by such Subdivider’s Agreement are Four Thousand Eight hundred & 00/100 dollars (\$4,800), and

Whereas Alum Creek has agreed to place in escrow with Sweney the marketable securities and funds as described in Exhibit A, attached hereto and incorporated herein by reference, and

Whereas Sweney has agreed to hold as Escrow Agent said marketable securities and funds according to the terms set forth herein, and

Whereas Alum Creek has agreed to pay all fees or charges to Sweney for services rendered,

It is therefore agreed by and between the parties as follows:

- 1) Creation of Escrow: Upon execution of this Agreement by all parties, Alum Creek shall deposit with Sweney as Escrow Agent pursuant to the terms and conditions of this agreement the marketable securities as described in Exhibit A having a market value on the date of this Agreement of no less than Four Thousand Eight Hundred & 00/100 dollars (\$4,800). Such marketable securities shall have attached thereto a duly executed irrevocable power authorizing the subsequent transfer of said securities pursuant to the terms of this agreement. Ail amounts deposited and held pursuant to this agreement shall be held by Sweney in account # 009-0047-14
- 2) Disbursements by Escrow Agent: Sweney shall hold said marketable securities until it receives a resolution from the County to deliver said securities to the person or persons named in such resolution.
- 3) Investment of Escrow Securities: Upon the maturity of any of the marketable securities contained within the escrow during the term of this Agreement, Sweney shall reinvest the proceeds at the sole discretion of Alum Creek, providing however that all such replacement securities shall be of such type and quality so as not to reduce the market value of the escrow below the value as specified in Section 1 above.
- 4) Duration of Escrow: This Agreement and the escrow created herewith shall continue until February 1,2009. At that date, any funds still within the escrow account shall be released to Alum Creek.
- 5) Closing of Escrow: At such time as Sweney delivers all of the securities and funds contained within the escrow pursuant to the resolution from the County as specified in Section 2 above, this Escrow agreement will terminate.
- 6) Liability of Escrow Agent: Sweney shall not be liable for any action it may take or fail to take as Escrow Agent hereunder while its conduct is in good faith based upon this agreement.
- 7) Notices: Any notices required or desired to be given by any party may be given by mailing it to the party to be notified, postage prepaid, certified United States Mail, return receipt requested, as follows:

As to County:	Delaware County Commissioners 101 North Sandusky Street Delaware, Oh. 43015
As to Alum Creek, Inc.:	Alum Creek, Inc. 1349 Cameron Avenue Lewis Center, Ohio 43035
As to Sweney	Sweney Cartwright & Company 17 South High Street, Suite 300 Columbus, Ohio 43215 Attn: George Geissbuhler

- 8) Successors: This Agreement shall be binding and inure to the benefit of the successors and assigns of the parties hereto, however this Agreement is not assignable by any party without the prior written consent of all the other parties.
- 9) Modification: This Agreement contains the entire understanding among the parties and supersedes all

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prior understanding or agreements between them regarding the subject matter. No changes, alterations, modifications, additions, or qualifications to the terms of this Agreement shall be made or be binding unless in writing and signed by each of the parties.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Absent

RESOLUTION NO. 05-1162

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

Jennifer Franklin has accepted the position of Customer Service Specialist with the Child Support Enforcement Agency Department; effective date August 15, 2005.

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05-1163

7:30 PM FINAL HEARING FOR THE PARKSHORE SECTIONS 1-2-4 SUBDIVISION DITCH
MAINTENANCE PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to open the Hearing at 7:30PM.

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1164

IN THE MATTER OF CLOSING THE PUBLIC HEARING TO ADDRESS THE PARKSHORE SECTIONS 1-
2-4 SUBDIVISION DITCH MAINTENANCE PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to close the Hearing at 7:43PM.

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05-1165

IN THE MATTER OF COMMISSIONERS FINDING AFFIRMING ORDER AND CONFIRMING THE
ASSESSMENTS FOR THE PARKSHORE SECTIONS 1-2-4 SUBDIVISION DITCH MAINTENANCE
PROJECT:

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

In the matter of the Parkshore Sections 1-2-4 Subdivision Ditch Maintenance Project filed By Jamie Stabl (representing the homeowners association) and others on November 9, 2004.

WHEREAS, This being the day fixed by said Board in the order dated the 29th day of August 2005, for the final hearing on the Reports and on the assessments, of the County Engineer, for the Parkshore Sections 1-2-4 Subdivision to be placed on maintenance.

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 the assessments filed by the County Engineer:

THEREFORE BE IT RESOLVED, that the Board herby approves the assessments prepared by the Delaware County Engineer, and

FURTHER BE IT RESOLVED, that the maintenance fund shall be maintained, as needed, by an assessment levied not more often than once annually upon the benefited owners, as defined in section 6131.01 of the Revised Code, apportioned on the basis of the estimated benefits for construction of the improvement. An assessment shall represent such a percentage of the estimated benefits as is estimated by the engineer and found adequate by the board or joint board to effect the purpose of section 6137.02 of the Revised Code, except that at no time shall a maintenance fund have an unencumbered balance greater than twenty per cent of all construction costs of the improvement. The minimum assessment shall be two dollars. Any cost incurred from the petition project process will be paid from the annual ditch maintenance assessments.

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Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Absent

RESOLUTION NO. 05-1166

7:45 PM FINAL HEARING FOR THE WILLOW SPRINGS NORTH SUBDIVISION DITCH MAINTENANCE PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to open the Hearing at 7:45PM.

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1167

IN THE MATTER OF CONTINUING THE PUBLIC HEARING TO ADDRESS THE WILLOW SPRINGS NORTH SUBDIVISION DITCH MAINTENANCE PROJECT TO NOVEMBER 7, 2005 AT 7:20PM:

It was moved by Mr. Jordan, seconded by Mr. Ward to continue the public hearing to November 7, 2005 at 7:20pm

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05-1168

IN THE MATTER OF AMENDING A RESOLUTION AND AGREEMENT AUTHORIZING THE USE OF DELAWARE COUNTY REVOLVING LOAN FUNDS (RLF) FOR THE 2081 RT. 23 COMPANY, LTD. (HALL’S FURNITURE):

It was moved by Mr. Jordan, seconded by Mr. Ward to amend a resolution and agreement:

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 96-991, did authorize RLF participation, and the execution of a loan agreement, note, second mortgage, direct guaranty agreement, and security agreement for the Hall’s Furniture Project; and

WHEREAS, William and Carol Hall, owners of 2081 Rt. 23 Company, Ltd, has requested an amendment of the grant agreement and legally binding documents for the Project as a result of the loss of a tenant at the Project Site at 2081 Rt. 23, Delaware, Ohio...

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 Board of Commissioners hereby approves amending Resolution 96-991, the grant agreement, and RLF legally binding documents pertaining to this project, to allow William Hall to pay only the interest on his loan from September 1, 2005 – February 1, 2006, in the amount of \$1,006.01 per month. Mr. Hall is to resume principal and interest payments in the amount of \$3,354.48 starting April 1, 2006 until August 1, 2011; with the term and total repayment amount of principal and interest for said loan remaining unchanged.
- SECTION II.

Interior Furniture will cease to be considered a tenant at the Project Site as of September 1, 2005. It is the intent of the 2081 Rt. 23 Company to lease the space as soon as possible thereafter. All personal guarantees, including those of William Hall and Carol D. Hall, shall remain in effect and continue unchanged for the remainder of the term of this RLF loan.
- SECTION III.

All commitments, including job creation, shall remain as stated in the grant agreement and legally binding documents for this project. 2081 Rt. 23 Company, Ltd. shall inform the Delaware County RLF Committee when the space formally occupied by Interior Furniture is leased. Should this space not be leased by March 1, 2006, representatives of 2081 Rt. 23 Company, Ltd. shall meet with the RLF Loan Committee to review the status of the project.
- SECTION IV.

The Delaware County Economic Development Director shall forward a copy of this

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Resolution and the revised project agreement to the Office of Housing and Community Partnership, Ohio Department of Development upon execution. This amendment is conditioned on concurrence of the Ohio Department of Development, Office of Housing and Community Partnership.

SECTION V. Unless otherwise provided herein, the terms of any and all agreements between and among William and Carol Hall, 2081 Rt. 23 Company, Ltd., and the Delaware County Board of Commissioners remain in full force and effect.

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05-1169

8:15 PM - IN THE MATTER OF OPENING THE PUBLIC HEARING # 2 TO CONSIDER THE FUNDING OF DELAWARE COUNTY’S REVOLVING LOAN FUND (RLF) AND CDBG ECONOMIC DEVELOPMENT LOAN FOR DAVIDSON COMPANY ACQUISITION OF LAND AND BUILDING:

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

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 05-1170

IN THE MATTER OF CLOSING THE PUBLIC HEARING # 2 TO CONSIDER THE FUNDING OF DELAWARE COUNTY’S REVOLVING LOAN FUND (RLF) AND CDBG ECONOMIC DEVELOPMENT LOAN FOR DAVIDSON COMPANY ACQUISITION OF LAND AND BUILDING:

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

Vote on Motion Mr. Jordan Aye Mr. Evans Absent Mr. Ward Aye

RESOLUTION NO. 05 - 1171

IN THE MATTER OF AUTHORIZING THE USE OF DELAWARE COUNTY REVOLVING LOAN FUND (RLF) FUNDS FOR THE DAVIDSON COMPANY ACQUISITION PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to authorize the use of Delaware RLF Funds for The Davidson Company Acquisition Project:

WHEREAS, Delaware County has established a Revolving Loan Fund (RLF) capitalized with the payback from Community Development Block Grant (CDBG) loans to local eligible businesses; and

WHEREAS, the Delaware County RLF is intended to facilitate the implementation of job-creating projects that would not go forward without RLF participation; and

WHEREAS, the County’s RLF Loan Review Committee has reviewed the application and supporting documentation for **The Davidson Company Acquisition Project** and has recommended RLF participation in same.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT RESOLVED that the Delaware County Board of Commissioners, does hereby approve a total loan amount of **\$400,000** comprised of a loan in the amount of **\$226,000** for 15 years at a rate of interest of 3% from the Delaware County Revolving Loan Fund, and in the amount of **\$174,000** for 15 years at a rate of interest of 4% from Community Development Block Grant (CDBG) Economic Development (ED) funds to **JDC3 Real Estate Holdings LTD** (the Real Estate Company), to be corporately guarantied by **JDC3 Acquisition Group LLC dba Davidson Company** (the Operating Company). These funds shall be used to complete the financing of the above referenced project to assist the Real Estate Company in acquiring the property at 7830 N. Central Drive, Lewis Center, Ohio, Delaware County Tax Parcel # 31824002014000. Said loan shall be made subject to the following terms and conditions as recommended by the Delaware County RLF Loan Review Committee, the Ohio Department of Development, and required by the RLF program:

Section 1: Final approval by the Ohio Department of Development and awarding of a Community Development Block Grant (CDBG) Economic Development (ED) Program Grant to Delaware County in an amount of \$174,000 for the purposes of loaning these funds through the Delaware County RLF for the purposes of financing The Davidson Company Acquisition Project.

Section 2: Receipt of a new appraisal on the real estate at 7830 North Central Drive in Lewis Center, Ohio with approval being tied to the appraised value being within 10% of \$1,200,000.

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Section 3: Final approval of a business loan from Delaware County Bank (DCB) to **JDC3 Real Estate Holdings LTD** in the amount of \$680,000 per DCB’s Commitment Letter Dated June 30, 2005.

Section 4: The loan shall be secured by a Second Mortgage and Security Agreement on the real estate land and building to be acquired with the proceeds of the RLF loan, plus a personal guaranty and corporate guaranty of repayment of said loan shall be provided by the majority owner of the Operating and Real Estate Companies and corporately by the Operating and Real Estate Companies.

Section 5: Key person Life Insurance on the majority owner of the Operating and Real Estate Companies in the amount of the RLF loan.

Section 6: The Operating and Real Estate Companies agree to any and all Federal Davis Bacon Prevailing Wage requirements and CDBG bidding requirements as applicable to said project.

Section 7: Use by the Operating and Real Estate Companies of current HUD Low-Moderate Income (LMI) Limit levels for Delaware County, CDBG Job Certification and Verification Forms to verify and certify levels of jobs created by the project.

Section 8: Upon passage of this resolution; approval of the Legally Binding Loan Documents for this project by the Delaware County Prosecutor’s Office; full environmental release of this project by the Ohio Department of Development; and approval of the RLF Project Report Form for this project by the Ohio Department of Development; Kristopher W. Jordan, President of the Board of County Commissioners, shall be authorized to execute the Legally Binding Documents for the RLF and CDBG-ED financing for the referenced project.

Section 9: Upon passage this resolution shall be immediately in effect.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Absent

RESOLUTION NO. 05-1172

A RESOLUTION AUTHORIZING THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO FILE AN APPLICATION TO THE STATE OF OHIO, TO PARTICIPATE IN THE SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT ECONOMIC DEVELOPMENT PROGRAM TO ASSIST WITH THE FINANCING OF THE PROPOSED DAVIDSON COMPANY ACQUISITION PROJECT IN LEWIS CENTER, OHIO:

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

WHEREAS, the State of Ohio, Department of Development, provides financial assistance to local governments for the purpose of addressing local needs; and

WHEREAS, the Delaware County Board of Commissioners desires to participate in the program to receive financial assistance for the proposed Davidson Company Acquisition Project under the Ohio Small Cities Community Development Block Grant Economic Development Program; and

WHEREAS, the Delaware County Board of Commissioners has the authority to apply for financial assistance and to administer the amounts received from the State of Ohio, Department of Development, through its Small Cities Community Development Block Grant Economic Development Program; and

WHEREAS, the President of the Delaware County Board of Commissioners must direct and authorize the Director of the Delaware County Department of Economic Development to act in connection with the application and to provide such additional information as may be required.

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 Board of County Commissioners authorizes the Director of the Delaware County Department of Economic Development as the official representative of Delaware County to submit an application to participate in the State of Ohio, Department of Development, Small Cities Community Development Block Grant Community Development Program, and provide all information and documentation required in said Application for submission.

Section 2. That the Delaware County Board of Commissioners hereby approves filing an application for up to \$174,000 in financial assistance under the Ohio Small Cities Community Development Block Grant Community Development Program.

Section 3. That the Delaware County Board of Commissioners hereby understands and agrees that participation in the program will require compliance with program guidelines and assurances.

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Section 4. That the Delaware County Board of Commissioners hereby commits itself to provide the local share funding as described in the application.

Section 5. Upon passage this resolution shall be immediately in effect.

Vote on Motion Mr. Evans Absent Mr. Jordan Aye Mr. Ward Aye

There being no further business the meeting adjourned.

Glenn A. Evans

Kristopher W. Jordan

James D. Ward

Letha George, Clerk to the Commissioners