

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 19, 2008

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

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

PUBLIC COMMENT

RESOLUTION NO. 08-575

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 15, 2008 AS CONTAINED IN THE COUNTY’S OFFICIAL ELECTRONIC RECORDINGS OF THE PROCEEDINGS:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the resolutions and records of the proceedings from regular meeting held May 15, 2008 as contained in the county’s official electronic recordings of the proceedings.

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

RESOLUTION NO. 08-576

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0516:

It was moved by Mr. Evans, seconded by Mr. Ward to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0516, and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO's</b>			
Arrow Uniform	Rental & Cleaning/Uniforms	66290301-5336	\$ 3,528.50
Arrow Uniform	OECC Maintenance	66290306-5336	\$ 673.00
Arrow Uniform	OECC Collections	66290305-5336	\$ 548.00
Arrow Uniform	Alum Creek Maintenance	66290406-5336	\$ 900.00
Arrow Uniform	Rental & Cleaning/Uniforms	66290401-5336	\$ 3,528.50
Arrow Uniform	Alum Creek Collections	66290405-5336	\$ 772.00
Bergren Associates	Golf Village/Air Release Valves	66290308-5292	\$ 5,066.40
Bergren Associates	Alum Creek/Air Release Valves	66290405-5292	\$ 2,533.20
Bergren Associates	Peachblow/Air Release Valves	66290411-5292	\$ 10,132.80
Bergren Associates	OECC/Air Release Valves	66290305-5292	\$ 2,533.20
<b>Increase</b>			
Franklin County Coroner	Autopsies	10030301-5342	\$ 20,000.00
Kroll	Children Services	22511607-5215	\$ 9,000.00
Sherry Hughes-Webb	Day Care	22511607-5350	\$ 1,800.00
JFS Rent	Job and Family	22411602-5348	\$ 15,000.00
<b>Vouchers</b>			
Crabbe Brown	Legal Services Sheriff	10011102-5361	\$ 8,211.75
State of Ohio Treasurer	State Audit	10011102-5301	\$ 6,003.25
State of Ohio Treasurer	BCMH	10011102-5319	\$ 8,287.93
Design Group	Design Services	40411414-5410	\$ 144,288.48
Franklin County Coroner	Autopsies	10030301-5342	\$ 7,048.00
<b>Memo Transfer</b>			
<b>From</b>	<b>To</b>		
Drainage Maintenance	Soil and Water	Billing	\$ 31,638.05
21911401-5328	72190901-5230	2008 First Quarter	
Job and Family	Facilities	Postage	\$ 6,233.07
22411605-5331	10011105-5331		

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

RESOLUTION NO. 08 -577

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Department of Job and Family Services is requesting that Pam Pruett attend a Northwoods Technical Pointe of Contact Training in Dublin, Ohio June 2-6, 2008, at the cost of \$1,545.60.

The Recorder’s Office is requesting that Andrew Brenner attend an Ohio Recorders Association Conference in

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Chillicothe, Ohio June 17-20, 2008, at the cost of \$514.46.

Juvenile Court is requesting that Amanda Weiss, Carole Bernhardt and Wendal Horlocker attend a 2008 Court Technology Conference in Wilmington, Ohio May 23, 2008, at no cost.

Juvenile Court is requesting that Pat Martin and Faith Walzak attend a Domestic Relations Round Table For Mediator’s Training in Columbus, Ohio May 16, 2008, at the cost of \$15.00.

Juvenile Court is requesting that Katie Murray attend a Blending Addiction Science and Treatment Training in Cincinnati, Ohio June 1-3, 2008, at the cost of \$469.00.

The Facilities Department is requesting that Jeff Bowen, Tom Ruthig, Randy Ormeriod and Jack Prim attend a 410A Refrigerant Certification Class at Carr Supply Inc. May 21, 2008, at the cost of \$180.00.

The Department of Job and Family Services is requesting that Steve Ehrle attend a WIA Youth Program Workshop in Columbus, Ohio June 2-3, 2008, at the cost of \$43.36.

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

RESOLUTION NO. 08-578

IN THE MATTER OF APPROVING TUITION ASSISTANCE REQUEST:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the Tuition Assistance requests as follows:

Amy Compton                      2 Class                      Tuition \$808.00                      Books                      \$217.50

Delaware County will reimburse an employee up to 90% for actual course tuition and required lab fee costs and 50% of the required book costs, not to exceed \$2,500 in total reimbursable expenses annually (review Section 4.0 for specific items). The employee shall provide proof of full payment before reimbursement is processed.

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

RESOLUTION NO. 08-579

IN THE MATTER OF GRANTING THE ANNEXATION PETITION OF 0.931 ACRES OF LAND IN ORANGE TOWNSHIP TO THE CITY OF WESTERVILLE:

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

Whereas, on May 13, 2008, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Bruce E. Bailey, Esquire, agent for the petitioner, of 0.931 acres, more or less, in Orange Township to the City of Westerville.

Whereas, ORC Section 709.022-Expedited Type 1 Annexation Petition; Consent of all Parties with Either an Annexation Agreement or Cooperative Economic Development Agreement states- Upon receipt of the petition and a certified copy of the applicable agreement, the board of county commissioners, at the board’s next regular session, shall enter upon its journal a resolution granting the annexation.

Therefore, Be It Resolved, the Delaware County Board of Commissioners (the “Board”) grants the annexa tion petition request to annex 0.931 acres, more or less, in Orange Township to the City of Westerville.

Be It Further Resolved, the Board directs the Clerk of the Board to deliver a certified copy of the entire record of the annexation proceedings, including all resolutions of the Board, signed by a majority of the members of the Board, the petition, map, and all other papers on file, and the recording of the proceedings, if a copy is available, to the auditor or clerk of the City of Westerville.

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

RESOLUTION NO. 08-580

IN THE MATTER OF ADOPTING A RESOLUTION DECLARING THE THIRD WEEK OF MAY 2008 AS NATIONAL EMERGENCY MEDICAL SERVICES WEEK IN THE COUNTY OF DELAWARE, OHIO:

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

WHEREAS; Emergency Medical Services is a vital public service; and

WHEREAS; the members of emergency medical services teams are ready to provide lifesaving care to those in

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need 24 hours a day, seven days a week; and

WHEREAS; access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS; the emergency medical services system consist of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others; and

WHEREAS; the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

THEREFORE be it resolved by the Board of County Commissioners, Delaware County, State of Ohio, that this resolution be passed, recognizing the value and accomplishments of emergency medical services providers, and declaring the Third Week of May 2008 as:

EMERGENCY MEDICAL SERVICES WEEK

And encourage the community to observe this week with appropriate programs, ceremonies, and activities.

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

**COMMISSIONER JORDAN’S MOTION FOR A SEVEN TENTHS OF ONE MILL TAX LEVY REPLACEMENT ON THE AUGUST 5, 2008 SPECIAL ELECTION BALLOT, FOR VOTE BY THE GENERAL ELECTORATE, FOR THE BENEFIT OF DELAWARE COUNTY; SENIOR CITIZENS SERVICES AND FACILITIES DIED FOR LACK OF A SECONDED.**

**RESOLUTION NO. 08-581**

**RESOLUTION TO PLACE A SEVEN TENTHS OF ONE MILL TAX LEVY REPLACEMENT AND TWO TENTHS OF ONE MILL INCREASE ON THE AUGUST 5, 2008 SPECIAL ELECTION BALLOT, FOR VOTE BY THE GENERAL ELECTORATE, FOR THE BENEFIT OF DELAWARE COUNTY; SENIOR CITIZENS SERVICES AND FACILITIES:**

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

WHEREAS, the residents of Delaware County did, in 1999, approve a seven tenths of one mill tax levy to provide, through the Council for Older Adults of Delaware County, support services for senior citizens that help individuals maintain their independence, living in their own homes; and

WHEREAS, the residents of Delaware County did, in 2003, approve a replacement of a seven tenths of one mill tax levy to provide, through the Council for Older Adults of Delaware County, support services for senior citizens that help individuals maintain their independence, living in their own homes; and

WHEREAS, grants and service agreements have been provided through the Council for Older Adults of Delaware County to fund the provision of services, including, but not limited to, information and assistance, home delivered and congregate meals, transportation, in-home personal care, home maintenance, caregiver support, durable medical equipment, emergency response systems, adult day care, senior group support, home repair and chore services; and

WHEREAS, the Council for Older Adults of Delaware County has established Senior Choices as a one-stop access to information, assistance, and in-home care to help maintain the independence of the county’s elderly, responding annually to over seven thousand requests for information, assistance, in-home services and other service; and

WHEREAS, senior service tax levies by state law are not permanent and must be taken back to the electorate for voter approval at least every five years, if they are to be continued; and

WHEREAS, a replacement and increase levy will enable the continuation of existing services for current clients and provide for the projected large increase in the number of senior citizens residing in Delaware County; and

WHEREAS, the Council for Older Adults has demonstrated the capacity to effectively plan, develop, coordinate, manage and provide services needed by local older adults and their caregivers; and

WHEREAS, the Commissioners of Delaware County have the authority to place a tax levy replacement and increase on the ballot; and

WHEREAS, the amount of taxes which may be raised within the ten mill limitation will be insufficient to provide an adequate amount for the necessary requirements of Delaware County, Ohio; and

WHEREAS, a resolution declaring the necessity of levying a tax under R.C. § 5705.19(Y) outside the ten-mill

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limitation must be passed and certified to the county auditor of Delaware County in order to permit the Delaware County Board of Commissioners (the “Board”) to consider the levy of such a tax and must request that the county auditor certify to the Board the total current tax valuation of Delaware County and the dollar amount of revenue that would be generated by the tax;

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

Section 1. The Board, two-thirds of all members elected thereto concurring, hereby finds that it is necessary to levy a replacement and increase of a tax in excess of the ten-mill limitation for the benefit of Delaware County for the purpose of PROVIDING SERVICES FOR SENIOR CITIZENS THROUGH THE COUNCIL FOR OLDER ADULTS, INCLUDING BUT NOT LIMITED TO, HOME DELIVERED MEALS, TRANSPORTATION, IN-HOME CARE, CAREGIVER SUPPORT AND ADULT DAY CARE, pursuant to R.C. § 5705.19(Y), at a rate not exceeding nine tenths (0.9) mills for each one dollar of valuation, constituting a replacement of the existing tax of seven tenths (0.7) mills and an increase of two tenths (0.2) mills , which amounts to nine cents (\$0.09) for each one hundred dollars of valuation, for five years.

Section 2. The levy shall be placed upon the tax lists of the current tax year, commencing in 2008, first due in calendar year 2009, if a majority of the electors voting thereon vote in favor thereof.

Section 3. The question of such tax levy shall be submitted to the electors of Delaware County at the special election to be held therein on August 5, 2008.

Section 4. The Clerk of the Board is hereby directed to certify a copy of this Resolution to the county auditor. The Board hereby requests that the county auditor certify to this Board the total current tax valuation of Delaware County and the dollar amount of revenue that would be generated by the tax levy if approved by the electors.

Section 5. Upon receipt of the auditor’s certification requested in Section 4, the Clerk of the Board is hereby directed to certify, not less than 75 days prior the election, to the Board of Elections, Delaware County, Ohio, a copy of this Resolution together with the certification of the Delaware County Auditor, and notify the board of elections to cause notice of election on the question of levying the tax to be given as required by law.

PROPOSED TAX LEVY  
DELAWARE COUNTY  
SENIOR CITIZENS SERVICES AND FACILITIES

A replacement of 0.7 mills of an existing levy and an increase of 0.2 mills, to constitute a tax for the benefit of Delaware County for the purpose of PROVIDING SERVICES FOR SENIOR CITIZENS THROUGH THE COUNCIL FOR OLDER ADULTS, INCLUDING BUT NOT LIMITED TO, HOME DELIVERED MEALS, TRANSPORTATION, IN-HOME CARE, CAREGIVER SUPPORT AND ADULT DAY CARE at a rate not exceeding 0.9 mills for each one dollar of valuation, which amounts to nine (9.0) cents for each one hundred dollars (\$100.00) in valuation, for a period of five (5) years, commencing in tax year 2008, first due in calendar year 2009.

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

RESOLUTION NO. 08-582

IN THE MATTER OF APPROVING DITCH MAINTENANCE PETITION FOR RANBRIDGE RAVINES :

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

Ditch Maintenance Petition- Ranbridge Ravines

We the undersigned owners of 26.931 acres in Berlin Township, Delaware County, Ohio propose to create a subdivision known as **Ranbridge Ravines** as evidenced by the attached subdivision plat (Exhibit “A” which is available at the County Engineer’s Office). This plat has been approved and signed by the Delaware County Regional Planning Commission and the Delaware County Engineer. Drainage improvements related to this subdivision have been constructed (or are bonded and will be constructed within a period of one year as evidenced by the Subdivider’s agreement Exhibit “B” available at the County Engineer’s Office). In accordance with Section 6137 of the Ohio Revised Code, we (I) hereby request that the improvements delineated on Exhibit “C” (available at the County Engineer’s Office), be accepted as part of the County Drainage 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 **Ranbridge Ravines** Subdivision.

The cost of the drainage improvements is \$42,000.00 and a detailed cost estimate is available at the County

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Engineer’s office in Exhibit “D”. The drainage improvements are being constructed for the benefit of the lots being created in this subdivision. 10 lots are created in this plat and each lot receives an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore, \$4,200.00 per lot. An annual maintenance fee equal to 2% of this basis \$84.00 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 \$840.00 has been paid to Delaware County.

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

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

RESOLUTION NO. 08-583

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

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

Permit #	Applicant	Location	Type of Work
U08-038	VERIZON	LIBERTY RD	RELOCATE CABLE
U08-040	DEL-CO WATER	JUSTAMERE RD	INSTALL BORE
U08-039	DEL-CO WATER	ULERY & PORTER CENTRAL RD	INSTALL BORES & BURY WATERLINE
U08-037	AEP	AIRPORT RD	INSTALL POLE

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

RESOLUTION NO. 08-584

IN THE MATTER OF APPROVING A CONTRACT WITH THE SHELLY COMPANY FOR THE 2008  
DELAWARE COUNTY ROAD IMPROVEMENT PROGRAM:

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

2008 Road Improvement Program-Bid Opening of May 6, 2008

As the result of the above referenced bid opening, we recommend that a bid award be made to The Shelly Company of Columbus, Ohio, the low bidder for the project. A copy of the bid tabulation is attached for your information.

Available are two copies of the Contract with Shelly, a copy of the Notice of Award and a copy of the Notice to Proceed for your approval. Also available are the required documents from the Auditor’s Office and Prosecutor’s Office with the appropriate signatures. All other pertinent information for the bid award was submitted with the bidder’s proposal.

CONTRACT

THIS AGREEMENT is made this 19<sup>th</sup> day of May, 2008 by and between The Shelly Company, hereinafter called the “Contractor” and the Delaware County Commissioners, hereinafter called the “Owner”.

The Shelly Company  
1771 Harmon Avenue  
Columbus, Ohio 43223

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project; namely, the “2008 Delaware County Road Improvement Program”, and required supplemental work for the project all in strict accordance with the Contract Documents.

ARTICLE 2. The Contract Price

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The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed \$2,976,512.20, subject to additions and deductions as provided in the Contract Documents.

ARTICLE 3. Contract

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements
- i. This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

RESOLUTION NO. 08-585

IN THE MATTER OF ADOPTING A RESOLUTION DECLARING A NECESSITY AND THE  
INTENT OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO APPROPRIATE  
PROPERTY:

PROPERTY OWNER:                      DELAWARE PROPERTIES LIMITED  
PARTNERSHIP

PROPERTY LOCATION:                      (3 WD)  
5790 SOUTH OLD STATE ROAD  
LEWIS CENTER, OH 43035

(4 WD1/4 T1)  
5732 SOUTH OLD STATE ROAD  
LEWIS CENTER, OH 43035

(4 WD2/4 T2)  
2626 LEWIS CENTER ROAD  
LEWIS CENTER, OH 43035

(25 WD/25 T1/25 T2)  
5741 SOUTH OLD STATE ROAD  
LEWIS CENTER, OH 43035

Permanent Parcel Numbers:                      (3 WD)  
318-210-03-014-000

(4 WD1/4 T1)  
318-210-03-013-000

(4 WD2/4 T2)  
318-210-03-012-000

(25 WD/25 T1/25 T2)  
318-120-05-006-000

PURPOSE OF APPROPRIATION:

ROADWAY CONSTRUCTION, RE-CONSTRUCTION, IMPROVEMENT, maintenance AND  
REPAIR

IT WAS MOVED BY: MR. WARD AND SECONDED BY: MR. EVANS TO APPROVE THE FOLLOWING:

PREAMBLE

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**WHEREAS**, the Board of Delaware County Commissioners (“Board”) deems it necessary to construct reconstruct, improve, maintain and repair the roadway at the intersection of South Old State Road and Lewis Center Road in Orange Township, Delaware County, Ohio (“Improvement”); and,

**WHEREAS**, the Board has determined the necessity for such Improvement and the necessity that such Improvement be made; and,

**WHEREAS**, the Board has determined that additional land is necessary for such Improvement.

**RESOLUTION**

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Delaware County Commissioners (the "Board"):

**SECTION 1:**

That it is deemed necessary and it is hereby declared to be the intention of the Board to appropriate right-of-way in fee simple (Parcels 4 WD1, 4 WD2, 3 WD and 25 WD) from and temporary easements (Parcels 4 T1, 4 T2, 25 T1 and 25 T2) on, across, above and or under certain real estate owned by Delaware Properties Limited Partnership described in Exhibits “A”, “B” and “C” attached hereto, and by this reference incorporated herein, all for roadway construction, re-construction, improvement, maintenance and repair purposes at the intersection of South Old State Road and Lewis Center Road in Orange Township, Delaware County, Ohio; and,

**SECTION 2:**

That the legal description of said right-of-way in fee simple (Parcels 4 WD1, 4 WD2, 3 WD and 25 WD) and the temporary easements (Parcels 4 T1, 4 T2, 25 T1 and 25 T2) are attached hereto as Exhibits “D”, “E”, “F”, “G”, “H”, “I”, “J” and “K” and by this reference incorporated herein; and,

**SECTION 3:**

That the Board directs the County Prosecuting Attorney to commence the appropriation proceedings on behalf of the Board; and,

**SECTION 4:**

This Resolution shall take effect and be in force immediately upon passage.

(COPIES OF EXHIBITS “A”, “B”, “C”, “D”, “E”, “F”, “G”, “H”, “I”, “J” and “K” ARE AVAILABLE IN THE DELAWARE COUNTY ENGINEER’S DEPARTMENT.)

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

**RESOLUTION NO. 08-586**

**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR ENVIRONMENTAL SERVICES:**

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

<b>Supplemental Appropriation</b>		
66611906 - 5450	URF Tartan Fields	36,370.00

**FURTHERMORE**, let it be resolved that the Board of County Commissioners approve a Purchase Order to Henry P. Thompson Company, Inc. of Milford, Ohio from account number 66690602 - 5450 in the amount of \$ 36,370.00.

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

**RESOLUTION NO. 08-587**

**IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN EMERGENCY COMMUNICATIONS NETWORK, INC. AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS FOR A CodeRED WEATHER WARNING SERVICE:**

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

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This Services Agreement ("Agreement") is made and effective as of the last date written below by and between Emergency Communications Network, Inc. a Florida Corporation ("Licensor") located at 9 Sunshine Boulevard, Ormond Beach, FL 32174 and *Delaware County Board of Commissioners*, located in the State of *OHIO* ("Licensee") located at *101 North Sandusky Street, Delaware, OH 43015*.

Licensor is the owner of a service identified as "CodeRED® Weather Warning Service" (hereinafter referred to as the "Service", CRWW" or "CRWW Service"), offers the automatic launching of prerecorded Weather Warning calls to Licensee approved subscribers.

In consideration of the promises set forth, the parties agree as follows:

**1. CodeRED® Weather Warning Service:** Licensor's CRWW offers the automatic launching of prerecorded Weather Warning notification projects to Licensee approved subscribers. These automated notifications are initiated by the issuance of a Severe Weather Bulletin by the National Weather Service (NWS), with no intervention on the part of Licensee or Licensor. Notification recipients are determined by matching the geographic locations associated with a database of opt-in subscribers against the storm based polygon(s) associated with Severe Weather Warnings issued by NWS.

**2. CRWW Terms Of Use For Subscribers:** Severe weather events can occur at any time of day or night. Accordingly, CRWW calls will automatically be launched in response to the issuance of NWS Bulletins at any time, 24 hours/day. The CRWW service targets the telephone numbers of ONLY those households and businesses that have CHOSEN to participate through an opt-in process. Residents and businesses within **Delaware County Ohio** who wish to receive the CRWW calls can add their name and geographic location to the CRWW subscriber database via the Licensee's CodeRED Residential Update Website. Licensor hosts this site for the purposes of allowing citizens to add their contact information to the CRWW database via the Internet. Subscribers shall be subject to the terms and conditions of the CRWW service, which can be reviewed at: <http://www.coderedweb.com/codereddataentry/terms.cfm>. ONLY THOSE CITIZENS WHO OPT-IN TO THE CRWW SERVICE WILL BE ELIGIBLE TO RECEIVE WEATHER WARNING CALLS. LICENSEE MUST APPROVE ALL SUBSCRIBER ENTRIES PRIOR TO THEIR BEING ACTIVATED AND ENTERED INTO THE CALLING DATABASE. All subscriber data is the sole and exclusive property of Licensor.

**3. Limits on Calling Database:** Citizens are allowed to enter up to two (2) telephone contact numbers for each CRWW address. Only addresses falling within the geographical boundaries listed in paragraph 2 are eligible to receive CRWW calls. Licensee is responsible for removing subscriber addresses that fall outside of their covered municipality prior to approving records via the on-line Residential Update approval process.

**4. Ownership:** The "CRWW Service" is owned and copyrighted by Licensor. The Licensee's limited license confers no title or ownership in the "CRWW Service" whatsoever.

**5. Copyright:** United States copyright laws and international treaty provisions protect the "Service". Except for the limited license provided, Licensor reserves all rights in and to the "Service" and all underlying data, compilations, and information maintained by Licensor relating to the "Service", including but not limited to, the source or object code.

**6. Cost For CodeRED® Weather Warning Service:** Licensee shall pay to Licensor **Eighteen Thousand Seven Hundred and Fifty dollars (\$18,750)** for the initial of the term of the Agreement. Thereafter Licensee shall pay **Eighteen Thousand Seven Hundred and Fifty dollars (\$18,750)** for each successive term of the Agreement. Licensee will be notified of any price change for CRWW a minimum of 30 days in advance of annual renewal date. Finance charges at a rate of 1% per month (12% per annum) will be charged on all balances outstanding beyond 60 days. If a law which applies to this finance charge is interpreted so that the interest or other finance charges collected or to be collected in connection with this Agreement exceed the permitted limits, then (i) any such interest charge shall be reduced by the amount necessary to reduce the charge to the permitted limit, and (ii) any sums already collected from Licensee which exceed permitted limits will be refunded to Licensee. All payments due under this Agreement shall be paid to: Emergency Communications Network, Inc. at 9 Sunshine Blvd., Ormond Beach, FL 32174.

**7. Term of Service Agreement:** The License will extend for a period of *one (1) year* beginning on the last date this Agreement is signed by both Licensee and Licensor. On the date this Agreement terminates, Licensee agrees to cease advertising the service.



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**8. Contract Extension:** Upon each annual anniversary of the effective date of this Agreement, the term of this Agreement will extend for additional one-year periods. This contract extension provision (the “extension provision”) will continue to extend the contract period by one additional year annually. **Either party may cancel this extension provision by submitting notice to the other no less than 30 days prior to the annual anniversary of the effective date of the Agreement.**

**9. Warranty:** (a) Licensee acknowledges that software and the US telecommunication system in general is not error-free and agrees that the existence of such errors encountered with the “Service” shall not constitute a breach of this License.

(b) In the event that Licensee discovers a material error, which substantially affects performance of the “Service” and notifies Licensor of the error, Licensor shall use reasonable measures to correct the “Service”.

**10. Warranty Disclaimer:** To the extent permitted by the applicable law, Licensor disclaims all other warranties with respect to the “Service”, either express or implied, including but not limited to any implied warranties of merchantability or fitness for any particular purpose. In no event (even should circumstances cause any or all of the exclusive remedies to fail of its/their essential purpose and even if Licensor has been advised of the possibility of such damages) shall Licensor be liable for any special, indirect, incidental or consequential damages of any nature (regardless of whether such damages are alleged to arise in contract, tort or otherwise), including, but not limited to, loss of anticipated profits or other economic loss in connection with or ensuing from the existence, furnishing, function, or Licensee’s use of any item of products or services provided for in this Agreement. Licensee understands that the cumulative liability of Licensor for any and all claims relating to the “Service” provided by Licensor, in contract, tort or otherwise, shall not exceed that total amount paid by Licensee for the most recently purchased block of Prepaid System Minutes.

**11. Non-Disclosure:** (a) Licensee acknowledges and agrees that in providing the “Service”, Licensor may disclose to Licensee certain confidential, proprietary trade secret information of Licensor (“Confidential Information”). Confidential Information may include, but is not limited to, the “Service”, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. During this Agreement and for a period of three (3) years thereafter, Licensee agrees that it will not, without the express prior written consent of Licensor, disclose any Confidential Information or any part thereof to any third party. At the termination of this Agreement, Licensee will cease promoting the “Service” and will return all Confidential Information to Licensor unless Licensee renews the “Service” as outlined in this Agreement. Nothing in this Agreement will be deemed to prohibit the disclosure of any information in response to a subpoena or other similar order by a court or agency with jurisdiction to issue it relevant to the resolution of any dispute between the parties. The Licensee will promptly notify the Licensor of the receipt of any subpoena or other similar order and of any request under the Public Information Act or any other similar law. The Licensee will cooperate with the Licensor in defending against disclosure of any confidential information under any such subpoena, order or request.

**12. Termination:** Licensee may terminate this Agreement by notifying the Licensor in writing no less than 30 days in advance of desired termination. Licensee will return all Confidential Information and copies to Licensor. Licensee will forfeit all Pre-Paid money upon termination of this Agreement. Licensee understands that Licensor reserves the right to terminate Licensee’s account at any time for reasons including, but not limited to, failure to abide by the terms of this Agreement or failure to pay any fees or charges when due. In the event that Licensor terminates this Agreement for reasons other than Licensee’s failure to abide by this Agreement, Licensor will refund to Licensee an amount equal to the prorated amount of time in Licensee’s account. Upon termination, Licensee agrees to cease any advertising or promotion related to the “Service”.

**13. Merger:** This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. Only a further writing that is duly executed by both parties may modify this Agreement.

**14. Confidential Data:** Licensor agrees that in view of the confidential nature of Licensee supplied data and files that it is to prepare, process or maintain under this Agreement, it will perform its duties in such a manner as to prevent the disclosure to any persons not employed by Licensor of any such data and files unless Licensor and Licensee mutually agree in writing otherwise.

**15. Integrity of Data:** Licensor cannot guarantee the integrity of any Licensee supplied data. As such, any errors, duplications, or inaccuracies related to Licensee supplied data will ultimately reside with Licensee.

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**16. Severability:** If any provision of this Agreement shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement, and such other provisions shall continue in full force and effect.

**17. Notices:** All notices or requests, demands and other communications hereunder shall be addressed to the parties as follows:

As to **Licensor:** Emergency Communications Network, Inc. 9 Sunshine Blvd. Ormond Beach, FL 32174

As to **Licensee:** *Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, OH 43015*

**18. General:** Each party to this Agreement agrees that any dispute arising under this Agreement shall be submitted to binding arbitration according to the rules and regulations of the American Arbitration Association. If any dispute arises the prevailing party shall be entitled to the costs and attorney’s fees from the losing party for enforcement of any right included in this Agreement, both a Court of first jurisdiction and all Courts of Appeal. This Agreement and all disputes arising therefrom or related thereto shall be governed by the laws of the State of Ohio. Any and all disputes submitted to a court shall be filed in and heard before the courts of Delaware County, Ohio. Any and all disputes submitted to arbitration shall be heard in a locale within fifty (50) miles of the Licensee’s location as indicated in the Agreement.

**19. Findings for Recovery:** Licensor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

**20. Homeland Security:** Licensor certifies that it does not provide material assistance to any organization on the United States Department of State Terrorist Exclusion list. Pursuant to R.C. § 2909.33, Licensor agrees to make such certification by completing the declaration of material assistance/nonassistance described in R.C. § 2909.33(A) and understands that this Agreement is contingent upon full completion of such certificate and “No” being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Agreement and by this reference made a part of this Agreement.

**21. Campaign Finance:** Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Licensor, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

**Further Be It resolved,** that the Commissioners approve the following Supplemental Appropriations:

<b>Supplemental Appropriation</b>			
21411306-5320	911/Data Processing Services	\$	18,750.00

**Further Be It resolved,** that the Commissioners approve a Purchase Order Request to Emergency Communications Network, Inc. in the amount of 18,750. (21411306-5320).

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

**RESOLUTION NO. 08-588**

**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE COUNCIL FOR OLDER ADULTS PROJECT:**

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

<b>Supplemental Appropriation</b>			
43111424-4555	CFOA/Other Government Reimbursement	\$	50,000.00

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43111424-5410	CFOA/Building & Improvements				\$	50,000.00
Vote on Motion	Mr. Evans	Aye	Mr. Jordan	Aye	Mr. Ward	Aye

RESOLUTION NO. 08-589

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

Jill Bowen with the Public Defender Department will require Leave-with-out-pay for the Pay Periods 0801012,0801013, and 0801014; effective May 19, 2008.

Vote on Motion	Mr. Jordan	Aye	Mr. Evans	Aye	Mr. Ward	Aye
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COMMISSIONER WARD WOULD LIKE A COURTHOUSEMEMORIAL FOR THE VETERANS WHO  
HAVE LOST THEIR LIVES FIGHTING AGAINST TERRORISM

PROSECUTOR DAVE YOST ASKED COMMISSIONERS TO RESCIND A RESOLUTION

RESOLUTION NO. 08-590

IN THE MATTER OF RESCINDING RESOLUTION NO. 08-501 (APPROVING A CONTRACT BETWEEN  
THE DELAWARE COUNTY COMMISSIONERS AND DEVELOPMENT SITE SOLUTIONS FOR THE  
PURPOSE OF ECONOMIC DEVELOPMENT ASSISTANCE):

It was moved by Mr. Evans, seconded by Mr. Jordan to rescind resolution no. 08-501 (Approving a contract between the Delaware County Commissioners and Development Site Solutions For The Purpose Of Economic Development Assistance).

Vote on Motion	Mr. Evans	Aye	Mr. Jordan	Aye	Mr. Ward	Nay
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RESOLUTION NO. 08-591

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 AND FOR PENDING OR IMMINENT  
LITIGATION:

It was moved by Mr. Jordan, seconded by Mr. Evans to adjourn into Executive Session at 11:00AM.

Vote on Motion	Mr. Jordan	Aye	Mr. Evans	Aye	Mr. Ward	Aye
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RESOLUTION NO. 08-592

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Evans, seconded by Mr. Ward to adjourn out of Executive Session at 12:08AM.

Vote on Motion	Mr. Ward	Aye	Mr. Jordan	Absent	Mr. Evans	Aye
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There being no further business the meeting adjourned.

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Glenn A. Evans

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Kristopher W. Jordan

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James D. Ward

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Letha George, Clerk to the Commissioners