

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 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

- 7:30

PM

Final Hearing By The Commissioners For The McNamara Watershed #582 Ditch Petition Project
- 8:30

PM

Public Hearing To Discuss The Possible Issuance By The County Of Delaware, Ohio Of Its Adjustable Rate Demand Economic Development Revenue Bonds, Series 2008 (The Columbus Zoological Park Association Project) For The Purpose Of Financing A Portion Of A Polar Frontier Exhibit Area For The Benefit Of The Columbus Zoological Park Association, At 9990 Riverside Drive, County Of Delaware, Ohio

PUBLIC COMMENT

RESOLUTION NO. 08-1410

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 24, 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 November 24, 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. 08-1411

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1201 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR1201:

It was moved by Mr. Evans, seconded by Mr. Ward to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1201, memo transfers in batch numbers MTAPR1201 and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO’s			
Pizzuti Solutions	Courts Building Design	40411414-5410	\$ 48,000.00
Moodys Investors	Analytical Services Courts Build	40411414-5410	\$ 10,980.00
McGraw Hill	Analytical Services Courts Build	40411414-5410	\$ 8,820.00
McGraw Hill	Analytical Services Courts Build	40411414-5410	\$ 9,170.00
Design Group	Courts Building Design	10011102-5301	\$ 50,000.00
Decreases			
Beech Brook	Residential Treatment	22511607-5342	\$ 5,000.00
Cornel Abraxas	Residential Treatment	22511607-5342	\$ 9,000.00
Kokomo	Residential Treatment	22511607-5342	\$ 7,000.00
ENA	Residential Treatment	22511607-5342	\$ 3,000.00
Rosemont	Residential Treatment	22511607-5342	\$ 1,000.00
Berea	Residential Treatment	22511607-5342	\$ 2,000.00
Pomegranate	Residential Treatment	22511607-5342	\$ 140,000.00
United Methodist Children	Residential Treatment	22511607-5342	\$ 90,000.00
Ohio Mentor	Residential Treatment	22511607-5342	\$ 1,600.00
Richmeier	Residential Treatment	22511607-5342	\$ 11,500.00
Increases			
Maryhaven	Residential Treatment	22511607-5342	\$ 4,500.00
Village Network	Residential Treatment	22511607-5342	\$ 5,000.00
LHS	Residential Treatment	22511607-5342	\$ 51,000.00
UMCH	Residential Treatment	22511607-5342	\$ 15,000.00
Village Network	Residential Treatment	22511607-5342	\$ 200,000.00
Sojourners	Residential Treatment	22511607-5342	\$ 13,000.00
House of New Hope	Residential Treatment	22511607-5342	\$ 5,000.00
Advantage	Residential Treatment	22511607-5342	\$ 13,000.00
Christians Children’s Home	Residential Treatment	22511607-5342	\$ 4,000.00
Starr Common Wealth	Residential Treatment	22511607-5342	\$ 55,000.00
Queen Automotive	Job Family Program Assistance	22411602-5348	\$ 1,500.00

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

Farm Plan	Fuel	10011303-5228	\$ 4,000.00
Bound Tree Medical	Drug Supplies	10011303-5243	\$ 3,000.00
Delaware Area Career	Job and Family Services Program	22311611-5348	\$ 3,200.00
Vouchers			
Motoral Inc	Radios	21411306-5260	\$ 34,887.00
Liberty Township	Return Over Pays Basiger	40311419-5319	\$ 9,983.96
Advantage Adoption	Residential Treatment	22511607-5342	\$ 8,366.30
House of New Hope	Residential Treatment	22511607-5342	\$ 8,678.45
Bair Foundation	Residential Treatment	22511607-5342	\$ 20,374.61
Trident	Security	10011102-5301	\$ 7,026.19
Child Care Unlimited	Day Care	22411610-5318	\$ 5,095.52
Central Ohio Contractors	Sewage Disposal	66290403-5380	\$ 7,267.43
Ohio Cat	Generator Repairs	66690302-5328	\$ 7,028.47

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

RESOLUTION NO. 08 -1412

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Sheriff’s Office is requesting that Kevin Savage attend an Instructors Update Training in Summit County December 10-11, 2008, at the cost of \$272.40.

The Environmental Services Department is requesting that Chad Antle, Matt Lambert and Ken Rosenbaum attend a 2008 Biosolids Specialty Workshop in Columbus, Ohio December 11, 2008, at the cost of \$400.00.

The EMS Department is requesting that Scott Gano and Ben Berger attend a Weapons of Mass Destruction Training at the Center for Domestic Preparedness November 30-December 6, 2008, at no cost.

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

RESOLUTION NO. 08-1413

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONERS, ROBERT A. MEYER JR., PORTER, WRIGHT, & ARTHUR LLP., REQUESTING ANNEXATION OF 2.045 ACRES OF LAND IN BERLIN TOWNSHIP TO THE CITY OF DELAWARE:

It was moved by Mr. Evans, seconded by Mr. Ward to acknowledge that on November 21, 2008, the Clerk to the Board of Commissioners received an annexation petition request to annex 2.045 acres from Berlin Township to the City of Delaware.

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

RESOLUTION NO. 08-1414

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONERS, ROBERT A. MEYER JR., PORTER, WRIGHT, & ARTHUR LLP., REQUESTING ANNEXATION OF 0.412 ACRES OF LAND IN BERLIN TOWNSHIP TO THE CITY OF DELAWARE:

It was moved by Mr. Ward, seconded by Mr. Evans to acknowledge that on November 21, 2008, the Clerk to the Board of Commissioners received an annexation petition request to annex 0.412 acres from Berlin Township to the City of Delaware.

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

RESOLUTION NO. 08-1415

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONERS, ROBERT A. MEYER JR., PORTER, WRIGHT, & ARTHUR LLP., REQUESTING ANNEXATION OF 11.372 ACRES OF LAND IN BERLIN TOWNSHIP TO THE CITY OF DELAWARE:

It was moved by Mr. Evans, seconded by Mr. Ward to acknowledge that on November 21, 2008, the Clerk to the Board of Commissioners received an annexation petition request to annex 11.372 acres from Berlin Township to the City of Delaware.

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

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

RESOLUTION NO. 08-1416

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS; THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES AND POMEGRANATE FOR CHILD PLACEMENT SERVICES:

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

Child Placement Service	Per diem cost and per diem reimbursement for the following categories
Pomegranate 60691 Southgate Roads Byesville, Ohio 43723	A. Maintenance B. Administration C. Case Management D. Transportation E. Other Direct Services (e.g., special diets, clothing, insurance, respite care) F. Behavioral Healthcare G. Other costs - (any other cost the Agency has agreed to participate in)

(A copy of this contact is available in the Commissioners’ Office until no longer of administrative value).

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

RESOLUTION NO. 08-1417

IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND TRANSFERRING EXCESS PROPERTY TO THE CENTRAL OHIO YOUTH CENTER:

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

WHEREAS, Delaware County has personal property not needed for public use, or is obsolete or unfit for use which it was acquired; and

WHEREAS, Delaware County may transfer such property to any political subdivision of the state in accordance to the Ohio Revised Code, Section 307.12(D).

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Delaware County, State of Ohio, declare that the following excess property is not needed for public use and transfer it to Central Ohio Youth Center, 18100 State Rt 4, Marysville, OH 43040;

2001 Ford Crown Vic Police Interceptor, VIN number 2FAFP71WX1X160395.

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

RESOLUTION NO. 08-1418

IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND TRANSFERRING EXCESS PROPERTY TO THE VILLAGE OF OSTRANDER, DELAWARE COUNTY, OHIO:

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

WHEREAS, Delaware County has personal property not needed for public use, or is obsolete or unfit for use which it was acquired; and

WHEREAS, Delaware County may transfer such property to any political subdivision of the state in accordance to the Ohio Revised Code, Section 307.12(D).

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Delaware County, State of Ohio, declare that the following excess property is not needed for public use and transfer it to the Village of Ostrander, Delaware County, Ohio;

2003 Ford Crown Vic Police Interceptor, VIN number 2FAHP71W73X186609.

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

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

RESOLUTION NO. 08-1419

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS FOR THE COURT OF COMMON PLEAS:

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

Transfer of		Amount
From	To	
10022201-5315	10022201-5260	\$3,000.00
Common Pleas/Subscription	Common Pleas/Tools >500 less than 4,999	
10022201-5320	10022201-5260	\$1,900.00
Common Pleas/Data Processing	Common Pleas/ Tools >500 less than 4,999	
10022201-5320	10022201-5250	\$100.00
Common Pleas/Data Processing	Common Pleas/Minor tools	
Vote on Motion	Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye	

RESOLUTION NO. 08-1420

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND GARDNER ARCHITECTS FOR IMPROVEMENTS TO THE RUTHERFORD B. HAYES SERVICES BUILDING FOR DELAWARE COUNTY:

It was moved by Mr. Evans, seconded by Mr. Ward to approve a contract between The Delaware County Commissioners And Gardner Architects For Improvements To The Rutherford B. Hayes Services Building For Delaware County.

(A copy of the agreement is available in the Commissioners’ Office until no longer of administrative value).

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

RESOLUTION NO. 08-1421

IN THE MATTER OF ACCEPTING ROADS AND APPROVING RECOMMENDED SPEED LIMITS FOR LITTLE BEAR VILLAGE SECTION 1:

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

Little Bear Village Section 1

The roadways to be accepted are as follows:

- An addition of 0.04 mile to **Township Road Number 646, Cottonwood Drive**
- **Bear Trail**, to be known as **Township Road Number 1598**
- **Little Bear Loop**, to be known as **Township Road Number 1599**

The Engineer also recommends that 25 mile per hour speed limits be established throughout the project.

The Engineer also request approval to return the Letter of Credit being held as maintenance surety to the developer, Little Bear Development, LLC.

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

RESOLUTION NO. 08-1422

IN THE MATTER OF ESTABLISHING STOP CONDITIONS FOR LITTLE BEAR VILLAGE SECTION 1:

It was moved by Mr. Ward, seconded by Mr. Evans to establish stop conditions for the following:

Stop Conditions –Little Bear Village Section 1

- On Township Road Number 646, Cottonwood Drive, at its intersection with Township Road Number 1599, Little Bear Loop
- On Township Road Number 1598, Bear Trail, at its intersection with County Road Number 10, S. Old State Road

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

- On Township Road Number 1598, Bear Trail, at its intersection with Township Road Number 1599, Little Bear Loop

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

RESOLUTION NO. 08-1423

IN THE MATTER OF APPROVING BID SPECIFICATIONS AND SETTING BID OPENING DATE AND TIME FOR THE FOLLOWING 2009 ENGINEERING MATERIALS: LIMESTONE AND COLD MIX; 2009 GUARDRAIL INSTALLATION CONTRACT; READY MIX CONCRETE; CORRUGATED POLYETHYLENE TUBING & PIPE MATERIALS (INCLUDING SMOOTH LINED PIPE); REINFORCED CONCRETE PIPE SPECIFICATIONS; VARIOUS SIZES, LENGTHS AND SHAPES OF REINFORCING STEEL FOR CONCRETE REINFORCEMENT; AND VARIOUS ROLLED STEEL SHAPES :

It was moved by Mr. Evans, seconded by Mr. Ward to approve specifications and set bid opening date and time for the above mentioned items.

Sealed bids will be received by the Delaware County Commissioners **at the office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015 until 10:00 a.m. on Monday, December 22, 2008**, at which time said bids will be opened. Bids will be awarded at the discretion of the County Commissioners and each bidder will be notified accordingly.

Copies of the General Specifications may be obtained at the Delaware County Engineer’s Office, 50 Channing Street, Delaware, Ohio 43015. The County reserves the right to make non-exclusive bid awards for materials to be used by the Delaware County Engineer throughout the year of 2009.

Prices on all materials shall also be extended to the 18 Townships within Delaware County, the Delaware County Preservations Parks District and the Delaware County Agricultural Society.

Bids will be submitted in a sealed envelope. Said bids shall be addressed to the Delaware County Commissioners, c/o the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015.

This Invitation to Bid is hereby made a part of the Specifications. The Delaware County Commissioners reserve the right to reject any and/or all bids.

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

RESOLUTION NO. 08-1424

IN THE MATTER OF APPROVING THE RENAMING OF AN ORGANIZATIONAL KEY FOR THE ENGINEER’S OFFICE:

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

Organization key 29440408
It is hereby requested that organization key number 29440408 be renamed as “Road and Bridge Permanent Sales Tax”. This change is requested to track Revenues and Expenditures from the Permanent Sales Tax for the Engineer’s Budget

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

RESOLUTION NO. 08-1425

7:30 PM FINAL HEARING FOR THE MCNAMARA WATERSHED #582 DITCH PETITION PROJECT:

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

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

RESOLUTION NO. 08-1426

IN THE MATTER OF APPROVING, FOR A SPECIFIC OCCURRENCE, A SUSPENSION OF RULE 3-SPEAKER REGISTRATION; RULE 4-LIMITATIONS AND RULE 7-PUBLIC COMMENT PROCEDURE FROM THE RULES GOVERNING PUBLIC COMMENT BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:

It was moved by Mr. Ward, seconded by Mr. Evans to approve, for a specific occurrence, a suspension of Rule 3-Speaker Registration; Rule 4-Limitations; Rule 7-Public Comment Procedure from the Rules Governing Public Comment Before The Board Of County Commissioners Of Delaware County, Ohio

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

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

RESOLUTION NO. 08-1427

IN THE MATTER OF CLOSING THE PUBLIC HEARING TO ADDRESS THE MCNAMARA WATERSHED #582 DITCH PETITION PROJECT:

It was moved by Mr. Ward, seconded by Mr. Evans to close the Hearing at 7:47PM.

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

RESOLUTION NO. 08-1428

IN THE MATTER OF COMMISSIONERS FINDING AFFIRMING ORDER FOR THE MCNAMARA WATERSHED #582 DITCH PETITION PROJECT:

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

Whereas, on October 29, 2004, a Ditch Petition For The McNamara Watershed #582 Ditch Petition Project was filed with the Board of Commissioners of Delaware County (the “Board”); and

Whereas, the Board on March 1, 2004 with Resolution 04-290 directed The Delaware County Engineer To Proceed With Preparation Of Plans, Reports, And Schedules For The McNamara Watershed #582 Ditch Petition Project, and

Whereas, the Board on Monday the 1st day of December 2008, held a final public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for The McNamara Watershed #582 Ditch Petition Project; and

Whereas, after hearing testimony from property owners; considering the schedules, plans, and reports filed by the County Engineer; and-considering the cost of location and construction, the compensation for land taken, the effect on land along or in the vicinity of the route of the improvement, the effect on land below the lower terminus of the improvement that may be caused by constructing the improvement, the sufficiency of the outlet, the benefits to the public welfare, and the special benefits to land needing the improvement, the Board is prepared to issue its findings on the proposed improvements.

Therefore, Be It Resolved, by the Board of Commissioners of Delaware County, Ohio as follows:

The Board hereby finds that the proposed improvement is necessary and that it will be conducive to the public welfare. The Board also finds that it is reasonably certain that the cost of the proposed improvement will be less than the benefits. Accordingly, the Board hereby grants the prayer of the petition and approves the maps, profiles, plans, schedules and reports prepared by the Delaware County Engineer, and

This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

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

RESOLUTION NO. 08-1429

IN THE MATTER OF COMMISSIONERS CONFIRMING THE ASSESSMENTS; APPROVING THE PAYMENT SCHEDULE AND ORDERING THE LETTING OF THE CONTRACTS FOR THE MCNAMARA WATERSHED #582 DITCH PETITION PROJECT:

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

Whereas, the Board on Monday the 1st day of December 2008, held a final public hearing and with resolution NO. 08-1428 found affirming order for The McNamara Watershed #582 Ditch Petition Project; and

Whereas, after hearing testimony from property owners on the assessments for the improvement, the Board is prepared to issue its findings on the assessments.

Therefore, Be It Resolved, by the Board of Commissioners of Delaware County, Ohio as follows:

The Board hereby approves The McNamara Watershed #582 Ditch Petition Project assessments prepared by

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

the Delaware County Engineer, and

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

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

FURTHER BE IT RESOLVED, That the County Engineer be and he is hereby directed to give at least two weeks public notice as required by law of the time when and the place where bids will be received for furnishing any material for the improvement, or for the construction of the improvement, and

FURTHER BE IT RESOLVED, That the Board fixes 10:00AM on the 19th day of January, 2009 as the date and time for the County Engineer to receive bids for the construction of the improvement , and all bids shall be received at the office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio, and

FURTHER BE IT RESOLVED, That county borrow funds to pay for the improvement, and that eight years shall be the period of time, in semi-annual installments, as taxes are paid, given the owners of land benefited, to pay the assessments that may be made for the improvement, and that interest shall be charged on the installments at the same rate charged to the Commissioners for the borrowing of the money, if after the deadline for the landowners to pay their assessments upfront passes and the total remaining construction cost to be borrowed is less than \$10,000.00 then the County will up front the remaining cost of the Construction and Commissioners will no longer borrow the money.

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

RESOLUTION NO. 08-1430

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. Evans to adjourn into Executive Session at 7:50PM.

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

RESOLUTION NO. 08-1431

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Jordan, seconded by Mr. Ward to adjourn out of Executive Session at 8:00PM.

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

RESOLUTION NO. 08-1432

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

Recommendation to hire Catherine Hogan as a Children Services Intake Unit Social Service Worker III; with the Department of Job and Family Service; effective date December 15, 2008.

Recommendation to hire Stephanie Acker as an Income Maintenance Worker III; with the Department of Job and Family Service; effective date December 15, 2008.

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

RESOLUTION NO. 08-1433

8:30PM OPENING PUBLIC HEARING FOR THE PROPOSED ISSUANCE BY THE COUNTY OF DELAWARE, OHIO (THE “ISSUER”) OF ITS \$6,000,000 ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION PROJECT) (THE “BONDS”) FOR THE PURPOSE OF ASSISTING THE ASSOCIATION IN FINANCING A PORTION OF THE COSTS OF A PROJECT CONSISTING GENERALLY OF THE CONSTRUCTION AND EQUIPPING OF THE ASSOCIATION’S POLAR FRONTIER EXHIBIT AREA, INCLUDING, AMONG OTHER THINGS, NEW POLAR BEAR, BROWN BEAR AND ARCTIC FOX

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

EXHIBITS AND RELATED ANIMAL HOLDING BUILDINGS, FOUR VIEWING STRUCTURES, A WATER FILTRATION AND LIFE SUPPORT SYSTEM BUILDING AND THE ADAPTION OF AN EXISTING BUILDING TO HOUSE EDUCATIONAL EXHIBITS, A VIEWING DECK, RESTROOMS, A GIFT SHOP, FOOD CONCESSION AREA AND OTHER ZOO GUEST AMENITIES, TO BE LOCATED AT ITS EXISTING ZOOLOGICAL PARK AT 9990 RIVERSIDE DRIVE, POWELL, OHIO, IN THE AREA OF THE PARK DIRECTLY SOUTH OF A NOW VACATED PORTION OF POWELL ROAD AND WEST OF THE BUILDING THAT FORMERLY HOUSED THE NEW HOPE REFORMED CHURCH:

It was moved by Mr. Ward, seconded by Mr. Evans to open the hearing at 8:00pm.

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

RESOLUTION NO. 08-1434

IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR THE PROPOSED ISSUANCE BY THE COUNTY OF DELAWARE, OHIO (THE “ISSUER”) OF ITS \$6,000,000 ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION PROJECT):

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

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

RESOLUTION NO. 08-1435

OPENING THE PUBLIC HEARING FOR THE PROPOSED ISSUANCE BY THE DELAWARE COUNTY PORT AUTHORITY (THE “ISSUER”) OF ITS \$10,000,000 ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION PROJECT) (THE “BONDS”) FOR THE PURPOSE OF ASSISTING THE ASSOCIATION IN FINANCING A PORTION OF THE COSTS OF A PROJECT CONSISTING GENERALLY OF THE CONSTRUCTION AND EQUIPPING OF THE ASSOCIATION’S POLAR FRONTIER EXHIBIT AREA, INCLUDING, AMONG OTHER THINGS, NEW POLAR BEAR, BROWN BEAR AND ARCTIC FOX EXHIBITS AND RELATED ANIMAL HOLDING BUILDINGS, FOUR VIEWING STRUCTURES, A WATER FILTRATION AND LIFE SUPPORT SYSTEM BUILDING AND THE ADAPTION OF AN EXISTING BUILDING TO HOUSE EDUCATIONAL EXHIBITS, A VIEWING DECK, RESTROOMS, A GIFT SHOP, FOOD CONCESSION AREA AND OTHER ZOO GUEST AMENITIES, TO BE LOCATED AT ITS EXISTING ZOOLOGICAL PARK AT 9990 RIVERSIDE DRIVE, POWELL, OHIO, IN THE AREA OF THE PARK DIRECTLY SOUTH OF A NOW VACATED PORTION OF POWELL ROAD AND WEST OF THE BUILDING THAT FORMERLY HOUSED THE NEW HOPE REFORMED CHURCH:

It was moved by Mr. Evans, seconded by Mr. Ward to open the hearing at 8:43PM.

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

RESOLUTION NO. 08-1436

IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR THE PROPOSED ISSUANCE BY THE DELAWARE COUNTY PORT AUTHORITY (THE “ISSUER”) OF ITS \$10,000,000 ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION PROJECT):

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

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

RESOLUTION NO. 08-1437

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$6,000,000 AGGREGATE PRINCIPAL AMOUNT OF ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION PROJECT) IN ONE OR MORE SERIES OF THE COUNTY OF DELAWARE, OHIO, THE PROCEEDS OF WHICH REVENUE BONDS ARE TO BE LOANED TO THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION FOR A PROJECT AS DEFINED IN CHAPTER 165 OF THE OHIO REVISED CODE, AS AMENDED; PROVIDING FOR THE ASSIGNMENT OF REVENUES FOR THE PAYMENT OF THOSE REVENUE BONDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LOAN AGREEMENT, BOND PURCHASE AGREEMENT AND TAX CERTIFICATE, AND THE TAKING OF OTHER ACTIONS, ALL IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF THOSE REVENUE BONDS:

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

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008**

WHEREAS, the County of Delaware, Ohio, a county and political subdivision duly organized and validly existing under the laws of the State of Ohio (the "County"), is authorized and empowered, by virtue of the laws of the State of Ohio, including without limitation, Chapter 165 of the Ohio Revised Code, as amended (the "Act"), (a) to issue its revenue bonds for the purpose of assisting in the financing of eligible costs of constructing and equipping facilities of The Columbus Zoological Park Association constituting a "project" within the meaning of the Act for industry, commerce, distribution, or research and located within the boundaries of the County, (b) to enter into a loan agreement with The Columbus Zoological Park Association with respect to those facilities and to provide for "revenues" sufficient to pay the principal and purchase price of and interest and any premium on those revenue bonds, (c) to secure those revenue bonds by an Indenture and by an assignment of those revenues for the benefit of the owners of those revenue bonds, and (d) to enact this resolution (the "Bond Legislation") and to enter into the Indenture, the Loan Agreement, the Bond Purchase Agreement and the Tax Certificate, all as defined herein, upon the terms and conditions provided herein and therein; and

WHEREAS, at the request of The Columbus Zoological Park Association (the "Columbus Zoo"), an Ohio nonprofit corporation and an organization described in Section 501(c)(3) of the Code, this Board has determined that it is necessary and proper and in the best interest of the County to issue revenue bonds in the aggregate principal amount of \$6,000,000 at this time to finance a "project" within the meaning of the Act for industry, commerce, distribution, or research and located within the boundaries of the County by loaning the proceeds thereof (the "Loan") pursuant to the Loan Agreement to the Columbus Zoo for the Project Purposes as described herein;

NOW, THEREFORE, Be It Resolved by the Board of County Commissioners of the County of Delaware, Ohio:

Section 1. Definitions. In addition to the words and terms elsewhere defined in this Bond Legislation, the following words and terms as used in this Bond Legislation shall have the following meanings unless otherwise provided and unless the context or use indicates another or different meaning or intent:

"Act" shall have the meaning given to this term in the recitals to this Bond Legislation.

"Alternate Credit Facility" means an Alternate Credit Facility as defined in the Indenture.

"Authorized Denominations" shall mean (a) for any Bond in the Daily Rate Mode, the Weekly Rate Mode, the Flex Private Placement Rate Mode, or the Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less, the denomination of \$100,000 or any integral multiple of \$5,000 in excess thereof; and (b) for any Bond in the Adjustable Rate Mode with an Adjustable Rate Period of more than 365 days or the Fixed Rate Mode, the denomination of \$5,000 or any integral multiple thereof.

"Bond Fund" means the Bond Fund created under the Indenture and held by the Trustee.

"Bond Legislation" shall have the meaning given to this term in the recitals hereto.

"Bond Purchase Agreement" means, with respect to the Flex Private Placement Rate Period commencing on the Closing Date, the bond purchase agreement for the Bonds entered into on or about the Closing Date, among the County, the Columbus Zoo and the Initial Purchaser, including all amendments thereof and supplements thereto, and, should a Flex Private Placement Conversion Date thereafter occur, the bond purchase agreement entered into among the County, Columbus Zoo and the Flex Private Placement Purchaser in connection with the conversion of the Bonds to the Flex Private Placement Mode, including all amendments thereof and supplements thereto.

"Bonds" means the \$6,000,000 County of Delaware, Ohio Adjustable Rate Demand Economic Development Revenue Bonds, Series 2008 (The Columbus Zoological Park Association Project), issued by the County pursuant to this Bond Legislation and the Indenture, including any portion thereof or any beneficial interest therein, as applicable.

"Closing Date" means the date the Bonds are delivered to the Initial Purchaser against payment therefor pursuant to the initial Bond Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor sections of a subsequent income tax statute or code, including the regulations, rulings and proclamations promulgated and proposed thereunder or under the predecessor code.

"Columbus Zoo" means The Columbus Zoological Park Association, an Ohio nonprofit corporation and an organization described in Section 501(c)(3) of the Code, and its lawful successors and assigns, including without limitation any surviving, resulting or transferee corporation or entity, as permitted under the Loan Agreement.

"Construction Fund" means the Construction Fund created under the Indenture.

"Credit Facility" means the Initial Credit Facility or any Alternate Credit Facility then in effect.

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008**

"Credit Provider" means with respect to the Initial Credit Facility, if any, the bank or other financial institution issuing the Initial Credit Facility, and its successors in such capacity and its assigns; or, if an Alternate Credit Facility, if any, is issued, the issuer or issuers thereof, and their successors in such capacity and their assigns.

"Fiscal Officer" means the County Auditor of the County.

"Indenture" means the Trust Indenture securing the Bonds, between the County and the Trustee, as amended or supplemented from time to time.

"Initial Credit Facility" means the irrevocable transferable direct pay letter of credit to be issued by the Credit Provider and delivered by Columbus Zoo to the Trustee on the Conversion Date of the interest rate on the Bonds to a Daily Rate, Weekly Rate or Adjustable Rate Mode, including extensions thereto, against which the Trustee shall be entitled to draw, in accordance with the terms thereof, up to (a) an amount sufficient to pay, with respect to the Bonds then outstanding supported by such Credit Facility, (i) the aggregate principal amount of such Bonds, plus (if requested by Columbus Zoo) an amount equal to the maximum optional redemption premium payable on such Bonds subsequent to the Conversion Date or Adjustable Rate Reset Date, as appropriate, or (ii) the purchase price or a portion of the purchase price equal to the aggregate principal amount of such Bonds delivered for purchase pursuant to Article III of this Indenture; plus (b) an amount equal to (A) at least 51 days' accrued interest on the Bonds then outstanding in the Daily Rate Mode or the Weekly Rate Mode calculated at an assumed rate per annum established in such Initial Credit Facility and no greater than the Maximum Rate, or (B) at least the number of days of interest computed at an assumed rate per annum established in such Credit Facility and no greater than the Maximum Rate per annum on all Bonds at the time Outstanding that are in the Adjustable Rate Mode sufficient for the Bonds to obtain a rating from a Rating Agency (whether or not the Bonds are to be rated by a Rating Agency).

"Initial Purchaser" means U.S. Bank National Association or its designee

"Interest Payment Date" means an Interest Payment Date as defined in the Indenture.

"Legislative Authority" means the Board of County Commissioners of the County.

"Loan" shall have the meaning given to this term in the recitals to this Bond Legislation.

"Loan Agreement" means the Loan Agreement between the County and the Columbus Zoo, as amended or supplemented from time to time.

"Maximum Rate" means the lesser of (a) 12.0% per annum or (b) the annual interest rate used in determining the interest portion of the Credit Facility, if any.

"Mode" means the Daily Rate Mode, the Weekly Rate Mode, the Adjustable Rate Mode, the Flex Private Placement Rate Mode or the Fixed Rate Mode, as appropriate.

"Note" means the promissory note delivered by the Columbus Zoo to the Trustee pursuant to the Loan Agreement evidencing the Columbus Zoo's payment obligations under the Loan Agreement.

"Project" means the project for the construction and equipping of facilities of the Columbus Zoo as described in greater detail in Exhibit A to the Loan Agreement, and constituting a "project" as defined in the Act.

"Project Purposes" means financing costs of the Project.

"Record Date" means (a) with respect to any Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date, Flex Private Placement Rate Interest Payment Date or Adjustable Rate Interest Payment Date when the Adjustable Rate Period is 365 days or less, the close of business on the Business Day next preceding such Interest Payment Date, and (b) with respect to any Adjustable Rate Interest Payment Date when the Adjustable Rate Period is more than 365 days, or Fixed Rate Interest Payment Date, the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date.

"Remarketing Agent" means initially RBC Capital Markets Corporation, or any successor Remarketing Agents meeting the qualifications set forth in the Indenture and appointed to serve as Remarketing Agent by the Columbus Zoo pursuant to the Indenture.

"Revenues" means (a) the payments by the Columbus Zoo on the Loan, (b) all of the moneys received or to be received by the County or the Trustee in respect of the Loan, including, without limitation, all moneys and investments in the Bond Fund, (c) all moneys and investments in the Construction Fund and Bond Fund, and (d) all income and profit from the investment on the foregoing moneys. The term "Revenues" does not include any moneys or investments in the Rebate Fund.

"State" means the State of Ohio.

"Tax Certificate" means the Arbitrage and Tax Compliance Certificate, among the Authority, the Trustee and the

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008**

Columbus Zoo, including all amendments thereof and supplements thereto.

"Trustee" means the Trustee under the Indenture, originally U.S. Bank National Association, a national banking association duly organized and validly existing under the laws of the United States of America, and any successor Trustee, as determined or designated under the Indenture.

The captions and headings in this Bond Legislation are solely for convenience of reference and do not define, limit or describe the scope or intent of any provisions or Sections of this Bond Legislation. Words or terms used herein with initial capital letters and not defined herein shall have the meanings given to them in the Indenture.

Section 2. Determinations by Legislative Authority. This Legislative Authority determines, based on representations of the Columbus Zoo, that the construction and equipping of the Project and the financing and refinancing of the Project by the issuance of the Bonds will benefit the health and general welfare of the County, are consistent with the purposes of the Constitution of State of Ohio and the Act and will benefit the people of the County by creating or preserving jobs and employment opportunities and promoting the industrial, commercial and economic development of the County and the State of Ohio.

This Legislative Authority also determines that, following reasonable notice, and prior to delivery of the Bonds, a public hearing shall be held with respect to the issuance of the Bonds, as required by Section 147(f) of the Code.

Section 3. Terms and Provisions of the Bonds. The Bonds will be delivered in one series in the principal amount of \$6,000,000. The Bonds shall initially bear interest at a Flex Private Placement Rate, not to exceed the Maximum Rate, as shall be established in the Bond Purchase Agreement, which may be a fixed or variable rate. Thereafter, the interest rate on the Bonds may be converted to a Daily Rate, Weekly Rate, an Adjustable Rate, a Flex Private Placement Rate or a Fixed Rate, all as provided in the Bonds and in Section 2.02 of the Indenture and as may be elected by the Columbus Zoo from time to time.

All Bonds will be dated and initially bear interest from the Closing Date, and thereafter shall bear interest from the Interest Payment Date next preceding the date of authentication, unless (a) authenticated prior to the first Interest Payment Date, in which event such Bond shall bear interest from the Closing Date, (b) authenticated on an Interest Payment Date, in which event such Bond shall bear interest from the date of authentication, or (c) authenticated after a Record Date and before the following Interest Payment Date, in which event such Bond shall bear interest from the following Interest Payment Date.

The Bonds shall mature not later than December 1, 2015. Bonds may be exchanged at the designated corporate trust operations office of the Trustee for a like aggregate principal amount of Bonds of Authorized Denominations and of the same Mode.

Bonds will be numbered as provided for in the Indenture and the Bonds. The Bonds shall be in fully registered form and shall be payable at the times, places, manner and from the sources provided in the Indenture.

The Bonds shall be subject to optional and mandatory redemption in the amounts, under the conditions, at the times and at the prices set forth in the Indenture and the Bonds. In addition, under the circumstances described in the Indenture, the Bonds may be tendered for purchase by the owners thereof, or may be required to be tendered for purchase, under the conditions, at the times and at the prices set forth in the Indenture and the Bonds. Pursuant to the Indenture, RBC Capital Markets Corporation is appointed as Remarketing Agent for the Bonds, and the County grants to the Columbus Zoo the right to designate any successor or replacement entity or entities as Remarketing Agent for the Bonds in accordance with the Indenture.

Bonds bearing interest in the Daily Rate Mode, the Weekly Rate Mode, the Adjustable Rate Mode and the Fixed Rate Mode shall be initially issued in the name of Cede & Co., as nominee for The Depository Trust Company, as the initial securities depository and registered owner of the Bonds, as provided in Section 2.11 of the Indenture. The County is hereby authorized to enter into the standard letter of representations or other standard documents required by such securities depository, and make such other arrangements with such securities depository from time to time as needed.

The Bonds shall be signed by at least two members of this Legislative Authority, provided that one or both of such signatures may be a facsimile.

Section 4. Sale of the Bonds. The Bonds are awarded and sold to the Initial Purchaser as provided in the initial Bond Purchase Agreement. The purchase price of the Bonds, expressed as a percentage of the principal amount of the Bonds, shall be established in the Bond Purchase Agreement. The members of this Legislative Authority, the Clerk of this Legislative Authority and the Fiscal Officer are directed to make the necessary arrangements on behalf of the County to establish the date, location, procedure and conditions for the delivery of the Bonds to the Initial Purchaser. Those officers are further directed to take all actions necessary to effect due execution, authentication and delivery of the Bonds under the terms of this Bond Legislation, the Bond Purchase Agreement and the Indenture.

It is determined by this Legislative Authority that the price for and the terms of the Bonds, and the sale thereof, all

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008**

as provided in this Bond Legislation, the Bond Purchase Agreement and the Indenture, are in the best interests of the County and are in compliance with all legal requirements.

Section 5. Application of Proceeds of the Bonds. The proceeds of sale of the Bonds shall be allocated and deposited as follows: (a) to the Expense Account created under the Indenture, the amount specified by the Columbus Zoo in a certificate to the Trustee, which amount shall not exceed the amount of the Bond proceeds that may be allocated for issuance expenses under the Code; and (b) to the Construction Fund, the balance of the proceeds.

Section 6. Security for Bonds. To the extent provided in, and except as otherwise permitted under the Indenture, the Bonds shall be equally and ratably payable solely from the Revenues and shall be secured by a pledge and assignment of the Revenues and certain rights under the Loan Agreement and by the Indenture. The obligation of the Columbus Zoo to make loan payments under the Loan Agreement is evidenced and secured by the Note. While the Bonds are in the Daily, Weekly or Adjustable Rate Mode, the Bonds will be secured by the Initial Credit Facility provided by the Credit Provider or an Alternate Credit Facility. Nothing in this Bond Legislation, the Bonds or the Indenture shall constitute a general obligation, debt, a pledge of the faith and credit, or bonded indebtedness of the County, the State or any other political subdivision of the State; neither the general resources of the County shall be required to be used, nor the general credit of the County pledged, for the performance of any duty under this Bond Legislation, the Bonds and the Indenture; and further, nothing therein gives the holders of the Bonds, and they do not have, the right to have excises or taxes levied by this Legislative Authority, or by the State or the taxing authority of any other political subdivision, for the payment of principal or purchase price of, redemption premium, if any, and interest on the Bonds, but the Bonds are payable from the Revenues and the funds established under the Indenture as provided herein and in the Indenture, and each Bond shall contain a statement to that effect; provided, however, that nothing herein shall be deemed to prohibit the County, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Indenture, this Bond Legislation or the Bonds.

Section 7. Covenants of County. The County, by issuance of the Bonds, covenants and agrees with the holders of the Bonds that:

(a) Transcript of Proceedings. The Clerk of the Legislative Authority, or other appropriate officer of the County, will furnish to the Initial Purchaser and to the Trustee a true transcript of proceedings, certified by the Clerk or other officer, of all proceedings had with reference to the issuance of the Bonds together with such information from the County's records as is necessary to determine the regularity and validity of such issuance.

(b) Further Actions and Delivery of Instruments. The County will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purpose of the Bonds and this Bond Legislation or as may be required by the Act and will comply with all requirements of law applicable to the Bonds.

(c) Observance and Performance of Agreements and Obligations. The County will observe and perform all its agreements and obligations provided for by the Bonds, the Indenture and this Bond Legislation. All of the obligations under this Bond Legislation and the Indenture are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the County within the meaning of Section 2731.01, Ohio Revised Code.

(d) Arbitrage Provisions and Information Return. The County covenants that it will, in the Loan Agreement, require the Columbus Zoo to restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Fiscal Officer, or any other officer of the County having responsibility for the issuance of the Bonds alone or in conjunction with the Columbus Zoo or any officer, employee, agent of or consultant to the Columbus Zoo shall give:

(i) an appropriate certificate of the County for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the County regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Bonds, as provided by the Columbus Zoo, all as of the date of delivery of and payment for the Bonds; and

(ii) the statement setting forth the information required by Section 149(e) of the Code, which shall be based on the relevant information provided by the Columbus Zoo.

The County covenants that it (a) will, at the sole expense of the Columbus Zoo, take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions that would adversely affect that exclusion under the provisions of the Code. Each member of this Legislative Authority, the Clerk of this Legislative Authority and the Fiscal Officer are hereby authorized and directed to take, at the sole expense of the Columbus Zoo, any and all actions, and make or give reports and certifications, as may be appropriate to assure such

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008**

exclusion of that interest.

Notwithstanding the foregoing, the County shall not be required to pay any amount as part of a closing agreement with the Internal Revenue Service, or otherwise, for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, except from Revenues.

Section 8. Indenture, Loan Agreement, Bond Purchase Agreement and Tax Certificate. To secure the payment of the principal of (whether on an Interest Payment Date, at stated maturity, by mandatory sinking fund redemption, if any, by acceleration or otherwise) and premium, if any, and interest on the Bonds as the same shall become due and payable and the performance of the County as provided in this Bond Legislation, the Bonds, the Indenture and the Loan Agreement, and to provide for the sale of the Bonds and to set forth certain expectations and covenants with respect to the tax exempt status of interest on the Bonds, any two members of the Legislative Authority are hereby authorized and directed, for and in the name of the County and on its behalf and as security for the Bonds, to execute and deliver (a) to the Trustee, the Indenture, (b) to the Trustee and the Columbus Zoo, the Loan Agreement and the Tax Certificate and (c) to the Initial Purchaser, the initial Bond Purchase Agreement, all in substantially the forms on file with the Legislative Authority. The forms of the aforesaid documents are approved with such changes therein as are not inconsistent with this Bond Legislation and not substantially adverse to the County and which are permitted by the Act and shall be approved by the officers executing those documents. The approval of such changes, and that such changes are not substantially adverse to the County, shall be conclusively evidenced by the execution of those documents by those officials.

Section 9. Other Documents. Each member of the Legislative Authority and the Fiscal Officer are authorized and directed to execute any certifications, financing statements, assignments, agreements and instruments which are necessary or appropriate to perfect the assignments contemplated in the Indenture and to consummate the transactions contemplated in this Bond Legislation, the Indenture, the Loan Agreement, the Bond Purchase Agreement and the Tax Certificate.

Section 10. Construction. It is hereby determined by this Legislative Authority that the Columbus Zoo shall undertake the construction and equipping of the Project, including those activities paid from the proceeds of the Bonds. The County directs that wages paid to laborers and mechanics employed on the Project shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the class of work called for by the Project, which wages shall be determined in accordance with the requirements of Chapter 4115, Ohio Revised Code, for determination of prevailing wage rates; provided, that should a nonpublic user of the Project undertake, as part of the Project, construction to be performed by its regular bargaining unit employees who are covered under a collective bargaining agreement which was in existence prior to the date of the commitment instrument undertaking to issue the Bonds, then, in that event, the rate of pay provided under the collective bargaining agreement may be paid to those employees.

Section 11. Severability. Each section of this Bond Legislation and each subdivision or paragraph of any section thereof is hereby declared to be independent and the finding or holding of any section or any subdivision or paragraph of any section thereof to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this Bond Legislation.

Section 12. Designation under Section 265(b)(3) of the Code. The Bonds are hereby designated as a "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, this Legislative Authority hereby represents and covenants that it and the County, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which this Legislative Authority issues obligations, in or during the calendar year in which the Bonds are issued, (a) have not issued and will not issue tax-exempt obligations designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, including the Bonds, in an aggregate amount in excess of \$10,000,000, and (b) have not issued, do not reasonably anticipate issuing, and will not issue, tax-exempt obligations (including the Bonds, but excluding obligations, other than qualified 501(c)(3) Bond as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code) in an aggregate amount exceeding \$10,000,000, unless the County first obtains a written opinion of Bond Counsel that such designation or issuance, as applicable, will not adversely affect the status of the Bonds as "qualified tax-exempt obligations." Further, this Legislative Authority represents and this Legislative Authority and the County covenant that, during any time or in any manner as might affect the status of the Bonds as "qualified tax-exempt obligations," it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. This Legislative Authority further represents that the Bonds are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

Section 13. Sunshine Law. This Legislative Authority hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with the law, including Section 121.25, Ohio Revised Code.

Section 14. Compliance with IRC Section 147(f). For purposes of complying with Section 147(f) of the Code this

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

Legislative Authority hereby approves the issuance of the Bonds in the maximum aggregate principal amount of \$6,000,000 the proceeds of which will be loaned to Borrower for a project consisting generally of the construction and equipping of the Association's Polar Frontier exhibit area, including, among other things, new polar bear, brown bear and arctic fox exhibits and related animal holding buildings, four viewing structures, a water filtration and life support system building and the adaption of an existing building to house educational exhibits, a viewing deck, restrooms, a gift shop, food concession area and other zoo guest amenities, to be located at its existing zoological park at 9990 Riverside Drive, Powell, Ohio, in the area of the park directly south of a now vacated portion of Powell Road and west of the building that formerly housed the New Hope Reformed Church.

Section 15. Effective Date. This Bond Legislation shall be in full force and effect upon its adoption.

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

RESOLUTION NO. 08-1438

A RESOLUTION APPROVING, SOLELY FOR THE PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE ISSUANCE OF SPECIAL ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (THE COLUMBUS ZOOLOGICAL PARK ASSOCIATION PROJECT) BY THE DELAWARE COUNTY PORT AUTHORITY TO FINANCE CERTAIN "PORT AUTHORITY FACILITIES" LOCATED WITHIN DELAWARE COUNTY, OHIO:

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

WHEREAS, the Delaware County Port Authority (the "Port Authority") has been requested to authorize the issuance of special Adjustable Rate Demand Economic Development Revenue Bonds, Series 2008 (The Columbus Zoological Park Association Project) in an aggregate principal face amount not to exceed \$10,000,000 (the "Bonds"), for the purpose of assisting in the financing of costs of constructing and equipping facilities of the Columbus Zoological Park Association which facilities will be located in Liberty Township, Delaware County, Ohio, constituting "port authority facilities" for economic development purposes (collectively, the "Project");

WHEREAS, the Bonds will be special obligations of the Port Authority and will not constitute a debt or pledge of the faith and credit or the taxing power of the Port Authority or the County, and principal of and interest and any premium on the Bonds will be secured by and payable from payments to be made by the Columbus Zoological Park Association, an Ohio nonprofit corporation, under a loan agreement with the Port Authority;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires, as a prerequisite to the issuance of the Bonds, that this Board approve the issuance of the Bonds after a public hearing following public notice published in advance of said hearing;

WHEREAS, a public hearing was held at 8:30 p.m. on this date by this Board in its offices at 101 North Sandusky Street, Delaware, Ohio, with respect to the proposed issuance of the Bonds, following public notice published at least 14 days in advance of the hearing, and this Board was present at that hearing; and

WHEREAS, the Port Authority has requested that this Board, as the "applicable elected representative" of the County within the meaning of Section 147(f) of the Code, approve the issuance of the Bonds for purposes of said Section 147(f);

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

Section 1. This Board hereby approves the issuance of the Bonds, in accordance with and solely for the purpose of satisfying the requirements of Section 147(f) of the Code, including applicable United States Treasury regulations, in a principal amount not to exceed \$10,000,000 for the purpose of financing the Project. This approval is final and conclusive for such purpose and is given as of the date of adoption of this resolution.

Section 2. The various County officers and employees are authorized and directed to take all actions necessary to effectuate the purposes of this resolution.

Section 3. It is hereby found and determined that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with the law, including Section 121.22 of the Ohio Revised Code, and the rules of this Board in accordance therewith.

Section 4. This resolution shall take effect and be in force immediately upon its adoption.

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

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 1, 2008

There being no further business the meeting adjourned.

Glenn A. Evans

Kristopher W. Jordan

James D. Ward

Letha George, Clerk to the Commissioners