

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 9, 2009**

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

**Present: Todd Hanks, Ken O'Brien, Tommy Thompson**

**RESOLUTION NO. 09-1394**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 5, 2009:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on November 5, 2009; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

**PUBLIC COMMENT**

**RESOLUTION NO. 09-1395**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1106, MEMO TRANSFERS IN BATCH NUMBERS MTAPR1106:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1106, memo transfers in batch numbers MTAPR1106, and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
Beem's BP	Gasoline	10011106-5228	\$ 30,000.00
National City	Pro Cards	10011105-5201	\$ 7,500.00
Identisys	Badge Supplies	10011108-5201	\$ 1,000.00
Identisys	Badge Supplies (line 2)	10011108-5260	\$ 3,000.00
EMT Reimbursements	Reimbursements	22411601-5348	\$ 2,000.00
<b>Decreases</b>			
Sears	Supplies	10011105-5201	\$ 75.00
Sears	Supplies	10011105-5250	\$ 225.00
Loeb Electric	Supplies	10011105-5201	\$ 475.00

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

**RESOLUTION NO. 09 -1396**

**IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

The Administrative Services Department is requesting that Dawn Huston attend a Seminar on Managing the Workforce during a Pandemic, in Columbus, Ohio November 16, 2009, at no cost.

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

**RESOLUTION NO. 09-1397**

**IN THE MATTER OF AUTHORIZING THE USE OF A PROCUREMENT CARD FOR THE AUDITOR'S OFFICE:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following:

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WHEREAS, pursuant the Ohio Revised Code Section 301.29, the Board of Commissioners of Delaware County by Resolution No. 04-1193 dated September 30<sup>th</sup>, 2004, has adopted a policy for the use of County Procurement Cards. And;

WHEREAS, the appointing authority for the procurement card being the County Auditor, George Kaisa has adopted the procurement card policy for the use of the card to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant ORC 301.29 (F)(2).

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, authorize the use of the following procurement cards to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses:

Appointing Authority:	County Auditor George Kaisa
Office/Department:	Auditor
Daily spending per card:	\$2,500
Monthly spending per card:	\$5,000
Single transaction limit:	\$2,500
Daily number of transactions per card:	10
Monthly number of transactions per card:	50
Name on Card:	Janice Roller

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1398**

**IN THE MATTER OF ACCEPTING ROADS AND APPROVING RECOMMENDED SPEED LIMITS FOR ORANGE CENTRE DEVELOPMENT PHASE I:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to release bonds and letters of credit and accept roads within the following:

**Orange Centre Development Phase 1**

Please be advised we have reviewed the roadway construction of the roads within the referenced subdivision and find them to be constructed in accordance with the approved plans. Therefore, it is my recommendation that the roadways within the referenced subdivision be accepted into the public system and that the **Orange Township Trustees** be notified of your action.

The roadways to be accepted are as follows:

- ? An addition of 0.38 mile to **Township Road Number 658, East Hidden Ravines Drive**
- ? **Orange Centre Drive**, to be known as **Township Road Number 1609**

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, The Glimcher Company.

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

**RESOLUTION NO. 09-1399**

**IN THE MATTER OF ESTABLISHING STOP CONDITIONS FOR ORANGE CENTRE DEVELOPMENT PHASE I:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to establish stop conditions for the following:

**Stop Conditions – Orange Centre Development Phase 1**

It is hereby requested that a stop condition be established at the following roads within the above referenced subdivision:

- ? On Township Road Number 658, East Hidden Ravines Drive, at its intersection with Township Road Number 426, Highfield Drive
- ? On Township Road Number 1609, Orange Centre Drive, at its intersection with Township Road Number 658, East Hidden Ravines Drive

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? On Township Road Number 1609, Orange Centre Drive, at its intersection with Township Road Number 114, East Orange Road

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1400**

**IN THE MATTER OF APPROVING THE ADDITION OF A DRAINAGE EASEMENT IN ESTATES AT MEDALLION:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following:

**Drainage Easement Lot 7465 –Estates at Medallion**

To better facilitate the maintenance of the drainage facilities associated with the above referenced project, it was determined that an additional drainage easement on Lot 7465 within the referenced project would be beneficial. The Engineer has, therefore, been granted the additional easement by the property owner per the attached description. The Engineer asks for your acceptance of this additional easement which will be recorded upon your acceptance.

**DRAINAGE EASEMENT  
0.016 ACRE**

Situated in the State of Ohio, County of Delaware, Township of Genoa, located in Farm Lot 2, Quarter Township 4, Township 3, Range 17, United States Military Lands being across Lot 7465 of that subdivision entitled "Estates at Medallion" of record in Official Record 736, Page 1928, conveyed to Romanelli and Hughes Building Company by deed of record in Official Record 572, Page 1720 (all references refer to the records of the Recorder's Office, Delaware County, Ohio), and being described as follows:

Beginning, for reference, at a westerly corner of said Lot 7465, a northerly corner of Lot 7464 of said "Estates at Medallion" conveyed to Charles R. and Joan M. Wisler by deed of record in Official Record 817, Page 492, an easterly line of that 54.108 acre tract conveyed to Medallion Group Ltd., by deed of record in Deed Book 643, Page 539;

thence South 45° 02' 15" East, with the line common to said Lots 7465 and 7464, a distance of 72.84 feet to a point on the northerly line of an existing 10' Drainage Easement of record in Official Record 736, Page 1928;

thence South 79° 21' 47" East, with the northerly line of said existing 10' Drainage Easement, a distance of 17.73 feet to the TRUE POINT OF BEGINNING;

thence across said Lot 7465, the following courses and distances:

South 79° 21' 47" East, a distance of 17.73 feet to a point;

South 45° 02' 15" East, a distance of 38.16 feet to a point; and

South 33° 36' 58" East, a distance of 50.50 feet to a point in the northerly line of said existing 10' Drainage Easement;

thence North 45° 02' 15" West, with the northerly line of said existing 10' Drainage Easement, a distance of 102.30 feet to the TRUE POINT OF BEGINNING, and containing 0.016 acre of land, more or less.

EVANS, MECHWART, HAMBLTON, & TILTON, INC.  
Edward J. Miller Registered Surveyor No. 8250

**EASEMENT FOR DRAINAGE PURPOSES**

**ROMANELLI AND HUGHES BUILDING COMPANY**, ("Grantor") whose tax mailing address is 148 W. Shrock Road, Westerville, Ohio 43081, for valuable consideration paid by the **DELAWARE COUNTY COMMISSIONERS** ("Grantee"), the receipt and sufficiency of which is hereby acknowledged, grants to Grantee, its successors and assigns forever, a non-exclusive, perpetual easement in, over, under and through the real estate described in Exhibit A and depicted on Exhibit B, attached hereto and made a part hereof (the "Easement Area"), for the purpose of constructing, installing, reconstructing, replacing, removing, repairing, maintaining and operating storm water drainage swales and other storm water drainage facilities (the "Improvements").

All Improvements shall be located underground except for those Improvements which are, by their nature and design, intended to be located at or above the surface of the ground (e.g., drainage swales, manholes, and the like). Grantee shall, as soon as practicable after use of the Easement Area for any purpose permitted hereby, restore the Easement Area to its former condition as nearly as is reasonably possible. Grantor may use the surface of the Easement Area provided such use does not unreasonably interfere with Grantee's rights and privileges under this

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Easement. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within the drainage easement area as delineated in Exhibit "B".

The Grantor hereby covenants with Grantee to be the true and lawful owner of the Easement Area by virtue of a deed of record in Official Record Volume 736, page 1928, in the office of the Recorder, Delaware County, Ohio, subject to taxes and assessments not yet due and payable; easements, conditions and restrictions of record, legal highways and zoning ordinances. Grantor has the full power and authority to grant this Easement.

This Easement shall run with the land and be binding upon and inure to the benefit of the respective heirs, personal representatives, successors, transferees, and assigns of the Grantor and the Grantee.

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1401**

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

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following work permits:

Whereas, The Below Requests To Perform Work Within The Right Of Way Have Been Reviewed And Approved By The Delaware County Engineer;

Now Therefore Be It Resolved, That The Following Permits Are Hereby Approved By The Board Of Delaware County Commissioners :

Permit #	Applicant	Location	Type of Work
U09-063	AEP	Orange Road	Relocate Facilities

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

**RESOLUTION NO. 09-1402**

**IN THE MATTER OF ACCEPTING AND AWARDING THE BID TO B & L PACKRAT LLC FOR ITB #09-05 SNOW REMOVAL AND ICE MELTING AGENT APPLICATION SERVICES FOR DELAWARE COUNTY:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following:

WHEREAS, Delaware County received bids for snow removal and ice melting agent application services for various Delaware County parking lots and driveways on October 12, 2009; and,

WHEREAS, after carefully reviewing the bids received, the bid submitted by B & L Packrat LLC has been determined to be the lowest and best bid.

WHEREAS, the Facilities Supervisor recommends the bid submitted by B & L Packrat LLC;

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, accept and award the bid submitted by B & L Packrat LLC for ITB #09-05 snow removal and ice melting agent application services for Delaware County.

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1403**

**IN THE MATTER OF PROCLAIMING NOVEMBER, 2009 AS ADOPTION MONTH IN DELAWARE COUNTY:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

Whereas, every child deserves to have a loving, nurturing and permanent family to provide a stable, caring and supportive environment; and

Whereas, a growing number of Ohioans are building families through adoption enabling hundreds of individual children and siblings of all ages, races, cultures, mental and physical conditions and emotional needs, to become members of the community; and

Whereas, adoptive parents are rewarded by the joy of nurturing and supporting these children as they become happy and productive adult members of the community; and

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Whereas, citizens should be encouraged to demonstrate their respect and gratitude for adoptive parents who unselfishly share their lives; and

Whereas, The Delaware County Department of Job and Family Services, public and private child care agencies and adoption support groups work diligently for Delaware County's children in need of permanent, safe and loving homes; and strive to increase public awareness of the importance of adoptions.

Now Therefore Be It Resolved, that, the Commissioners of Delaware County do hereby proclaim November 2009, as adoption Month in Delaware County and encourage citizens to observe this month by honoring adoptive families and to participate in efforts to find permanent homes for waiting children.

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1404**

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

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

<b>Appropriation Transfer</b>			
<b>FROM</b>	<b>TO</b>		
22411603/5001 JFS Workforce/Salaries	22411603/5101 JFS Workforce/Health Insurance	\$	3,000.00
22411606/5102 JFS Social Services/Workers Comp	22411606/5001 JFS Social Services/Salaries	\$	500.00
<b>Supplemental Appropriation</b>			
70161603/5348 FCF ADM/Client Services		\$	10,000.00
70161606/5348 FCF Help Me Grow General Revenue/Client Services		\$	133,156.00
70161607/5348 FCF Help Me Grow TANF/Client Services		\$	(66,835.91)

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

**RESOLUTION NO. 09-1405**

**IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND THE DELAWARE COUNTY CHILD SUPPORT ENFORCEMENT AGENCY FOR OFFICE SPACE AT 140 N. SANDUSKY STREET, DELAWARE, OHIO 43015:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

Whereas, the Director of the Child Support Enforcement Agency recommends approval of the following lease agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following lease agreement:

**LEASE AGREEMENT**

This Lease Agreement is entered into this 1<sup>st</sup> day of January, 2009 by and between the Delaware County Board of Commissioners ("Delaware County") whose address is 101 N. Sandusky Street, Delaware, Ohio 43015 and the Delaware County Child Support Enforcement Agency ("DCCSEA"), whose address is 140 N. Sandusky Street, Delaware, Ohio 43015.

1. Description of Premises: Delaware County hereby leases to DCCSEA total square feet within a building known as the Rutherford B. Hayes Building. 3,712 square feet is leased to DCCSEA. The parties to this Lease Agreement acknowledge that figures referenced above may change upon completion of planned renovation of the Rutherford B. Hayes Building.

In addition to the square feet referenced above, DCCSEA shall also have the right to use the common facilities, entrances, hallways, parking lots and sidewalks located within the building.

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2. Term: This Lease Agreement shall be effective January 1, 2009 for a one year period and shall be automatically renewed for additional one year terms unless and until written notice is given by either party to the other party thirty (30) days in advance of the desired non-renewal date. Non-renewal of this Lease Agreement, however, shall be wholly contingent upon Delaware County providing other space to DCCSEA.
3. Cost Recovery: Delaware County shall recover from DCCSEA all costs associated with it's tenancy at the Rutherford B. Hayes Building. Such costs will be assessed and reimbursed based on calculations conducted by MAXIMUS, Cost Services Division or such other entity selected by Delaware County.
  - a. Use of Premises: DCCSEA shall use the premises as a business office. DCCSEA shall occupy the Rutherford B. Hayes Building in accordance with the laws, rules and ordinances of the City of Delaware, Ohio.
  - b. Delaware County's Right of Entry: Delaware County shall have the right to enter and examine the space occupied by DCCSEA within the Rutherford B. Hayes Building at any time, without notice.
  - c. Assignment/Sublease: Any funds collected as the result of an assignment/sublease shall be reimbursed to the County General Fund.
  - d. Surrender of Premises: DCCSEA shall surrender the space occupied within the Rutherford B. Hayes Building upon the non-renewal of this Lease Agreement.
4. Covenants of Delaware County:
  - a. Insurance: Delaware County shall insure the real property against casualty or premises liability and shall procure insurance on county owned equipment.
  - b. Cleaning Service: Delaware County shall provide to DCCSEA the standard cleaning services provided to the rest of County properties from the Delaware County Facilities Department.
  - c. Repairs: Delaware County shall be responsible for all maintenance and necessary repairs to the Rutherford B. Hayes Building.
  - d. Quiet Enjoyment: Delaware County shall provide DCCSEA with quiet enjoyment of the Rutherford B. Hayes Building as long as DCCSEA complies with all terms and covenants in this Lease Agreement.
5. Mutual Covenants of Delaware County, and DCCSEA.
  - a. Successors and Assigns: All of the legal representatives, successors and assigns of Delaware County and DCCSEA are bound by the terms and covenants of this Lease Agreement.
  - b. Entire Agreement: This Lease Agreement contains the entire agreement between Delaware County and DCCSEA. This Lease Agreement may only be modified if the modification is expressed in writing and signed by Delaware County and DCCSEA.
  - c. Notices: All notices or correspondence required under this Lease Agreement shall be sent to the following.
    - i. For the Landlord-to each member of the Delaware County Board of Commissioners, 101 N. Sandusky Street, Delaware, Ohio 43015, with copies to the Delaware County Administrator at the same address and to the Delaware County Prosecutor's Office, 140 N. Sandusky Street, Delaware, Ohio 43015.
    - ii. For the Tenant-to the Director of the DCCSEA, 140 N. Sandusky Street, Delaware, OH 43015.
6. Severability: If any term or provision of this Lease Agreement shall be rendered invalid by the decision of a court competent jurisdiction or by enactment of any law, ordinance or regulation, the remainder of this Lease Agreement shall not be affected thereby and each term and provision of this Lease Agreement shall be valid and enforceable to the full extent permitted by law.

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1406**

**IN THE MATTER OF APPROVING PERSONNEL ACTIONS:**

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It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

The 911 Communications Director recommends to accept the resignation of Cheryl VanGundy as a Dispatcher with the Emergency Communications; effective November 13, 2009.

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1407**

**IN THE MATTER OF RE-APPOINTING JOHN BERNER AS A DELAWARE BOARD OF COUNTY COMMISSIONERS' REPRESENTATIVE TO THE COUNCIL FOR OLDER ADULTS OF DELAWARE COUNTY:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following

Whereas, The Board of Commissioners of Delaware County is responsible to make appointments from the public to various boards, councils and committees, and

Whereas, The Board of Commissioners of Delaware County shall appoint individuals to the Council for Older Adults of Delaware County. John Berner shall be re-appointed as a citizen member effective January 1, 2010 and ending December 31, 2012;

Therefore, be it resolved that the Board of Commissioners at Delaware County, State of Ohio, re-appoint John Berner as a citizen member effective January 1, 2010 and ending December 31, 2012.

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

**RESOLUTION NO. 09-1408**

**IN THE MATTER OF RE-APPOINTING KENT KRAMER AND GREG ROY AS THE DELAWARE BOARD OF COUNTY COMMISSIONERS' REPRESENTATIVE TO THE DELAWARE COUNTY PORT AUTHORITY:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following

Whereas, The Board of Commissioners of Delaware County is responsible to make appointments from the public to various boards, councils and committees, and

Whereas, The Board of Commissioners of Delaware County shall appoint individuals to the Delaware County Port Authority. Kent Kramer and Greg Roy shall be re-appointed as citizen members to serve on the Delaware County Port Authority term beginning January 1, 2010, ending December 31, 2013; and

Therefore, be it resolved that the Board of Commissioners at Delaware County, State of Ohio, re-appoint Kent Kramer and Greg Roy as citizen members to the Delaware County Port Authority term beginning January 1, 2010, ending December 31, 2013.

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

**RESOLUTION NO. 09-1409**

**IN THE MATTER OF APPROVING A MODIFICATION AND EXTENSION OF LEASE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND BROWN RODMAN PARTNERSHIP FOR DELAWARE COUNTY JUVENILE COURT SPACE:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following:

Whereas, the current lease is unclear as to the expiration date of the agreement; and

Whereas, both parties desire to commit to extending the lease to December 31, 2010, and

Whereas, the County Administrator recommends approval of the following lease agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following lease agreement:

**MODIFICATION AND EXTENSION OF LEASE**

This Agreement is made and entered into by and between Brown Rodman Partnership, an Ohio General Partnership, hereinafter referred to as the Lessor, and The Board of County Commissioners of Delaware

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County, Ohio, hereinafter referred to as the Lessee, for the purpose of modifying and extending the terms and conditions of a Lease and Lease Addendum entered into by and between the Lessor and the Lessee on or about April 23, 2007 ("original Lease" herein).

WITNESSETH:

WHEREAS, the Lessor and the Lessee are mutually desirous of modifying the terms and conditions of the original Lease;

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties agree as follows:

1. Original Lease Provisions to Remain in Effect. Except as expressly provided herein, all of the provisions, terms and conditions of the original Lease (including the Lease Addendum) dated on or about April 23, 2007 shall continue to apply in full force and effect throughout the term of the Lease as modified and extended herein ("the Lease" herein) and each and all of its terms are herein incorporated by reference as fully and completely as if set out at length herein.
2. Payment of Rent. Immediately upon execution of this Agreement, the Lessee shall continue through calendar year 2009 (inclusive of the December 1, 2009 rent) to pay the current adjusted base rent under the original Lease of \$22,126.77 and the additional monthly parking rent under the Lease Addendum of \$300.00 per month for total monthly base rent of \$22,426.77. Commencing on January 1, 2010, the base monthly rent, pursuant to the provisions of paragraph 4 of this Agreement, may increase and monthly rent for parking spaces specified in the Lease Addendum, which has not previously been increased during the term of the original Lease, shall be increased to \$450.00 per month. The two amounts shall be added together to establish total of the monthly base rent payable during the final year of the Lease commencing on January 1, 2010.
3. Modification of Term of Lease. The Lease term which under the terms of the original Lease would terminate on December 31, 2009 is hereby extended and shall run until December 31, 2010 and shall thereupon, unless the parties agree in writing, terminate and expire. There are no options to renew or extend the Lease for any additional term and the Lease shall not continue on a month to month basis after December 31, 2010.
4. Consumer Price Index Adjustment ("CPIA") of Rent. Paragraph 4 of the original Lease is modified and superseded by the following provision:

Effective on January 1, 2010 the base monthly rent payable during the immediately preceding twelve (12) month period shall be adjusted as provided herein based upon changes in the Consumer Price Index as herein defined ("CPI" herein). January 1, 2010 shall be referred to as an "the Adjustment Date." The rental rate for January 1, 2010 upon which the calculations are to be made is \$21,010.32. On the Adjustment Date (or as soon thereafter as the CPI for the immediately preceding November becomes available), the Lessor shall make the calculation of the Consumer Price Index Adjustment ("CPIA" herein). For the Adjustment Date, the CPIA shall be computed by multiplying \$21,010.32 times the percentage increase in the CPI from the level of the Index for November, 2006 to the level of that Index for the month of November, 2009. However, the base monthly rent shall not be less than \$22,126.77.

The applicable Consumer Price Index or CPI shall be the Consumer Price Index - All Urban wage Earners and Clerical Workers All Items U.S. City Average (Base Period: 1982-84=100) as published by the Bureau of Labor Statistics of the United States Department of Labor. In the event that at any time during this lease the United States Bureau of Labor Statistics shall discontinue the issuance of the CPI as defined above, then in such event the parties hereto agree to use the most comparable other standard, nationally recognized cost of living index then issued and available, which is published by the United States Government.

5. Showings of the Leased Premises. After January 1, 2010, the Lessor shall, with reasonable notice and during normal business hours, have the right to exhibit or show the leased premises to prospective tenants and to any prospective purchaser, mortgagee, or assignee of any mortgagee on the Property and to others having a reasonable need to inspect the leased premises including, but not limited to, engineers, contractors, and appraisers; however, the Lessee shall have the right to have a representative present during any exhibition or showing.
6. Miscellaneous. Except as modified herein, all other provisions of the original Lease shall remain in full force and effect. This modification shall not be effective until executed by all parties. Thereafter, this modification shall be binding upon the parties and their respective successors and assigns.

Vote on Motion Mr. Thompson Aye Mr. Hanks Aye Mr. O'Brien Aye

**RESOLUTION NO. 09-1410**

**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE SHEETS DITCH PROJECT:**



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It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

**Supplemental Appropriations**

40311425-5328                                      Sheets Ditch/1st Year Maintenance              \$            115.00

Vote on Motion   Mr. Thompson   Aye   Mr. O'Brien   Aye   Mr. Hanks   Aye

**COMMISSIONERS' COMMITTEES REPORTS**  
**(Refer To Cd Minutes For Entire Record)**

**Commissioner O'Brien**

- attended the Veterans Parade
- DKMM Policy Meeting has been canceled
- There are upcoming workforce meetings; check calendars

**Commissioner Hanks**

- attended the Veterans Parade

**Commissioner Thompson**

- Board Of Revision Meeting in December
- will attend the Wednesday Veterans Dedication
- attended the Arts Castel Event

**RESOLUTION NO. 09-1411**

**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. O'Brien, seconded by Mr. Hanks to adjourn into Executive Session at 9:30AM.

Vote on Motion   Mr. Hanks   Aye   Mr. Thompson   Aye   Mr. O'Brien   Aye

**RESOLUTION NO. 09-1412**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn out of Executive Session at 10:50AM.

Vote on Motion   Mr. Thompson   Aye   Mr. O'Brien   Aye   Mr. Hanks   Aye

**RESOLUTION NO. 09-1413**

**IN THE MATTER OF APPROVING PERSONNEL ACTIONS:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

Recommendation to terminate the employment of Earl Johnston, a probationary employee with the 911 Communications Center; effective November 9, 2009.

Vote on Motion   Mr. O'Brien   Aye   Mr. Thompson   Aye   Mr. Hanks   Aye

**RESOLUTION NO. 09-1414**

**IN THE MATTER OF ADJOURNING THE MEETING:**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn the meeting.

Vote on Motion   Mr. O'Brien   Aye   Mr. Thompson   Aye   Mr. Hanks   Aye

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Todd Hanks

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Ken O'Brien

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Tommy Thompson

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Letha George, Clerk to the Commissioners