

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

**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**

**9:30 AM Public Hearing #2 To Consider Using Revolving Loan Funds (RLF) To Assist The City Of Powell With ADA Renovations**

**RESOLUTION NO. 09-1467**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 23, 2009:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on November 23, 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  
(Refer To Cd Minutes For Entire Record)**

**Jerry Tinianow, Director Center for Energy and Environment-Mid-Ohio Regional Planning Commission; Here to answer questions for later agenda item requesting support for MORPCs Olentangy Watershed Planning Partnership application.**

**Sara Marie Brenner, Here As A Citizen To Speak In Favor Of Later Agenda Item Supporting The Use Of The Delaware County Revolving Loan Fund (Rlf) To Assist The City Of Powell With ADA Renovation To A Municipal Owned Building That Will Be Used To House A Business Incubator That Promotes Start-Up Businesses**

**Davis Betz, With The City Of Powell Here To Answer Questions For Later Agenda Item Supporting Use Of The Delaware County Revolving Loan Fund (Rlf) To Assist The City Of Powell With ADA Renovation To A Municipal Owned Building That Will Be Used To House A Business Incubator That Promotes Start-Up Businesses**

**RESOLUTION NO. 09-1468**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1125:**

It was moved by Mr. Hanks, seconded by Mr. O'Brien to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1125 and Purchase Orders as listed below:

<b>Vendor</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
<b>Decrease</b>			
Board Developmental Disabilities	Family Children's First (Line 2)	70161602-5301	\$ 10,821.00
Byers Automotive	Vehicle Main/Parts	10011106-5228	\$ 1,700.00
Germain Automotive	Vehicle Main/Parts	10011106-5228	\$ 1,000.00
Washington Auto	Vehicle Main/Parts	10011106-5228	\$ 2,000.00
BP North America	Gasoline	10011106-5228	\$ 19,900.00
McWherter	Gasoline	10011106-5228	\$ 17,000.00
Atlas Oil	Gasoline	10011106-5228	\$ 4,450.00
AZ Zone	Vehicle Parts	10011106-5228	\$ 3,750.00
Geer Gas	Oxygen	10011303-5243	\$ 2,000.00
Village of Ashley	Water/Sewer Medic Station	10011303-5338	\$ 100.00
Delaware Hardware	EMS Supplies	10011303-5201	\$ 150.00
<b>PO Increase</b>			
Board Developmental Disabilities	Council Manager Payment Line 3	70161603-5301	\$ 10,821.00
Don Towing	Vehicle Main/Parts	10011106-5228	\$ 500.00
S.M. Miller Construction	Vehicle Main/Parts	10011106-5228	\$ 250.00

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009

Delaware Motive	Vehicle Main/Parts	10011106-5228	\$ 2,500.00
Chesrown Auto motive	Vehicle Main/Parts	10011106-5228	\$ 250.00
Beem's BP	Gasoline	10011106-5228	\$ 10,000.00
Boundtree Medical	EMS Supplies	10011303-5243	\$ 2,000.00
Del-Water	Water Service	10011303-5338	\$ 600.00
B&C Communications	Repeaters	21411306-5250	\$ 500.00
Buckeye Power Sales	911 Towers	21411306-5325	\$ 5,000.00
Building Trades	Tuition	22311614-5348	\$ 70,000.00
Columbus State	Tuition	22311611-5348	\$ 3,000.00
Queen Automotive	Car Repairs	22411602-5348	\$ 500.00
Queen Automotive	Car Repairs	22411602-5348	\$ 1,000.00

**Memo Transfer**

From	To		
Family Children's First 70161603-5301	Board Development Disabilities 2951900-4740	Council Manager Payment	\$10,821.00

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

**RESOLUTION NO. 09 -1469**

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

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

The Environmental Services Department is requesting that Jack Smelker, Matt Lambert, David Finney, Tiffany Jenkins attend an Olentangy Permit and General Water Update by the EPA at Floyd Browne December 9, 2009, at the cost of \$20.00. (Fund Number 66211902).

The Environmental Services Department is requesting that Brian McGinniss participate in a Wastewater Course on line at the cost of \$336.00 (Fund Number 6629031-66290401).

The Environmental Services Department is requesting that Chad Antle and Blake Jordon attend a Sanitary Sewer Evaluation Survey in Columbus, Ohio December 9, 2009, at no cost.

The Code Compliance Department is requesting that Joseph Amato, Duane Matlack, Bill Johnson, Joe Scherler attend an Ohio Building Officials Association Disaster Assistance Training in Reynoldsburg, Ohio December 3, 2009, at no cost.

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

**RESOLUTION NO. 09-1470**

**IN THE MATTER OF RECOGNIZING A WORLD WAR I MEMORIAL FUND EXHIBIT AT BUCKEYE VALLEY HIGH SCHOOL:**

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

Whereas, World War I also known as the First World War or the Great War or the War to End all Wars, was a world conflict lasting from 1914 to 1919. No previous conflict had mobilized so many soldier or involved so many in the field of battle, and

Whereas, President Woodrow Wilson on February 4, 1917, asked the House of Representatives to declare war on Germany. The United States was in actual combat for only seven and a half month, but during that time 116,000 were killed and 204,000 were wounded, and

Whereas, in 2014 the centennial of World War I will be marked by our nation and the world, and

Whereas, it is the dream of Frank Buckles, the last surviving World War I Veteran, to restore and re-dedicate the World War I Memorial in Washington DC to be a National World War I Memorial dedicated to all those Americans who served in the Great War.

Whereas, Buckeye Valley High School is hosting a World War I Memorial Fund Exhibit from November 30 through December 4, 2009, and

Therefore, the Delaware County Commissioners wish to encourage all residents of Delaware County to attend this memorial exhibit, and to take the time to honor these great Americans who made the ultimate sacrifice so that we may enjoy the freedoms we have today.

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

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009

**RESOLUTION NO. 09-1471**

**RESOLUTION OF INTENTION TO PARTICIPATE IN A WATERSHED PLANNING PARTNERSHIP TO DEVELOP A BALANCED GROWTH PLAN FOR THE OLENTANGY RIVER WATERSHED:**

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

WHEREAS, Delaware County has learned that the Mid-Ohio Regional Planning Commission (MORPC) is applying for a grant from the Ohio Lake Erie Commission to facilitate the development of a balanced growth plan for the watershed of the Olentangy River; and

WHEREAS, thirty-three percent of the Olentangy River Watershed acreage is located within the boundaries of Delaware County and sixteen percent of the population; and

WHEREAS, should MORPC receive said grant, it will form a Watershed Planning Partnership (WPP) of jurisdictions with planning authority within the Olentangy River Watershed, and the WPP will then work collaboratively to seek broad public input and develop a balanced growth plan for the Olentangy River Watershed based on that input; and

WHEREAS, the balanced growth plan developed with said grant would identify Priority Conservation Areas within the Olentangy River Watershed with recommendations to protect critically important ecological, recreational, agricultural, heritage, public access, and other areas, the preservation of which would enhance the quality of life of the citizens of Delaware County; and

WHEREAS, the balanced growth plan would also identify Priority Development Areas within the Olentangy River Watershed, which will be areas in which growth or redevelopment may be promoted and through which the economy of the region encompassed by the Olentangy River Watershed will be enhanced; and

WHEREAS, the balanced growth plan would also identify a variety of recommended tools and programs through which Priority Conservation Areas can be protected and enhanced while sustainable development can be driven to Priority Development Areas; and

WHEREAS, the final balanced growth plan would contain recommendations only, and would not impose any mandatory requirements or limitations on Delaware County; and

WHEREAS, Delaware County desires to participate actively in the development of a balanced growth plan for the Olentangy River Watershed, should MORPC be awarded a grant to facilitate that development,

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

SECTION 1: That Delaware County supports MORPC’s application for funding to facilitate the development of a balanced growth plan for the Olentangy River Watershed.

SECTION 2: That if MORPC receives the requested grant, Delaware County may participate actively in the Watershed Planning Partnership to develop a balanced growth plan for the Olentangy River Watershed,.

SECTION 3: That Delaware County is not committed to implementing any of the plans or recommendations of the study and will make determination of which applicable recommendations of the balanced growth plan to implement based on the best interests of Delaware County, the laws of the State of Ohio and the wishes of its own citizens.

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

**RESOLUTION NO. 09-1472**

**9:30AM- IN THE MATTER OF OPENING THE PUBLIC HEARING #2 TO CONSIDER USING REVOLVING LOAN FUNDS (RLF) TO ASSIST THE CITY OF POWELL WITH ADA RENOVATIONS:**

It was moved by Mr. Hanks, seconded by Mr. O’Brien to open the hearing.

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

**RESOLUTION NO. 09-1473**

**IN THE MATTER OF CLOSING THE PUBLIC HEARING # 2 TO CONSIDER USING REVOLVING LOAN FUNDS (RLF) TO ASSIST CITY OF POWELL WITH ADA RENOVATIONS:**

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

---

It was moved by Mr. Hanks, seconded by Mr. O'Brien to close the hearing.

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

**RESOLUTION NO. 09-1474**

**IN THE MATTER OF AUTHORIZING THE USE OF THE DELAWARE COUNTY REVOLVING LOAN FUND (RLF) TO ASSIST THE CITY OF POWELL WITH ADA RENOVATION TO A MUNICIPAL OWNED BUILDING THAT WILL BE USED TO HOUSE A BUSINESS INCUBATOR THAT PROMOTES START-UP BUSINESSES:**

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

WHEREAS, the Ohio Department of Development provides financial assistance to Delaware County under the Community Development Block Grant (CDBG) Program, and Delaware County has a Revolving Loan Fund, which is capitalized with Community Development Block Grant (CDBG) funds, with use of these funds having a National Objective of assisting eligible low-moderate income households; and

WHEREAS, The City of Powell is creating a Business Incubator Program in downtown Powell, and

WHEREAS, the purpose of this program is to create a business incubator that promotes and locates start up businesses, provide training for the start-up businesses, and help businesses grow, and

WHEREAS, the City of Powell needs to renovate a municipal owned building to be used to house the program in downtown Powell, and

WHEREAS, Powell Incubator Program will be designed to create many new jobs for low-moderate income people, and

WHEREAS, the City of Powell is requesting a RLF grant from the Delaware County Commissioners to bring the building up to ADA compliance in the amount of \$80,000, and

WHEREAS, Powell has agreed to adhere to the requirements and regulations for the CDBG/RLF funds, and

WHEREAS, the Director of the Economic Development Department recommends approval.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Delaware County Commissioners, State of Ohio, as follows:

Section 1. The Delaware County Commissioners authorize the use of the Delaware County's RLF in the amount up to \$80,000, to assist the City of Powell, with ADA renovations to the building that will be used for the Incubator Program.

Section 2. That this resolution shall take effect and be in force immediately after its passage.

Supplemental Appropriations

23111709-5365	Delaware County Revolving Loan Fund	\$80,000.00
---------------	-------------------------------------	-------------

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

**RESOLUTION NO. 09-1475**

**IN THE MATTER OF APPROVING PLAT FOR OLENTANGY CROSSINGS SECTION 2:**

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

Whereas, the plat for the following developments have been approved by the County Engineer, and

Whereas, the County Engineer recommends that the Commissioners approve the following plat;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following Plat.

**Olentangy Crossings Section 2, Lot 7523, Division #1**

Plat Cabinet 4, Slide 9 And Official Record Volume 871, Page 1940-1941, Situated In The State Of Ohio, County Of Delaware, Township Of Orange, Being Part Of Farm Lot 8, Section 2, Township Of Orange Being Part Of Farm Lot 8, Section 2, Township 3, Range 18, United States Military Lands. Cost \$3.00.

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

---

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

**RESOLUTION NO. 09-1476****IN THE MATTER OF APPROVING AN OWNER'S AGREEMENT FOR ORANGE CORPORATE CENTER:**

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

Whereas, the County Engineer recommends approval of the following Owner's Agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following Owner's Agreement:

**Agreement Orange Corporate Center**

## OWNER'S AGREEMENT

THIS AGREEMENT made and entered into this 30<sup>th</sup> day of November 2009 by and between the COUNTY OF DELAWARE (acting through its BOARD OF COUNTY COMMISSIONERS), hereinafter called the COUNTY, and 7991 COLUMBUS PIKE, LLC, hereinafter called the OWNER, as evidenced by the Engineering and Construction Plan entitled "ORANGE CORPORATE CENTER" which was approved by the County Engineer, hereinafter called the PLAN, is governed by the following considerations to wit:

- 1) The OWNER is to construct, install or otherwise make all of the improvements as shown and set forth to be performed and completed on the PLAN, which is part of this AGREEMENT.
- 2) The OWNER shall pay the entire cost and expenses of said improvements.
- 3) The OWNER shall deposit inspection fees in the amount of ELEVEN THOUSAND NINE HUNDRED DOLLARS (\$11,900) estimated to be necessary to pay the cost of inspection by the Delaware County Engineer. Upon completion of the project and acceptance of the improvements by the Delaware County Commissioners, the remaining amount in the fund shall be returned to the OWNER.
- 4) The OWNER is to complete all construction to the satisfaction of the COUNTY as evidenced by an approval letter from the Delaware County Engineer.
- 5) The OWNER shall hold the COUNTY free and harmless from any and all claims for damages of every nature arising or growing out of the construction of said improvements.
- 6) The OWNER will at all times during the construction of said improvements maintain through traffic on the public roadway and keep the same free of unreasonable hazards to the public. Said roadway shall not be closed to traffic except as approved by the Delaware County Engineer. Construction signs, barricades and lights shall be placed as needed on the job site as needed in accordance with the Ohio Department of Transportation "Uniform Traffic Control Devices" and "Traffic Control for Construction and Maintenance, current edition".
- 7) The OWNER further agrees that any violation of or noncompliance with any of the provisions as stipulations of this AGREEMENT shall constitute a breach of contract, and the Delaware County Engineer shall have the right to stop work forthwith. No other sites in this tract will be permitted to develop until the conditions of this agreement have been fulfilled.
- 8) If the OWNER should become unable to carry out the provisions of this AGREEMENT, the OWNER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this AGREEMENT.
- 9) Upon approval and acceptance of the improvements, the original copy of the PLAN shall become the property of the COUNTY and shall be filed in the office of the Delaware County Engineer.
- 10) In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants to the OWNER or his agent the right and privilege to make the said improvements stipulated herein.

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

**RESOLUTION NO. 09-1477****IN THE MATTER OF APPROVING PERSONNEL ACTIONS:**

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

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

---

The Director of Job and Family Services recommends to end the probationary period and approval of the end-of-probationary pay raise for Jessica Allen an Income Maintenance Worker III with Job and Family Services; effective date November 14, 2009.

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

**RESOLUTION NO. 09-1478**

**IN THE MATTER OF AUTHORIZATION FOR DIRECTOR OF JOB AND FAMILY SERVICES TO ENTER INTO WORKFORCE INVESTMENT CONTRACTS AND AGREEMENTS; ON THE JOB TRAINING, AND OTHER TRAINING AND WORK SUBSIDIES TO EMPLOYERS; INDIVIDUAL TRAINING ACCOUNTS, PRC CONTRACTS AND AGREEMENTS FOR WORK RELATED ACTIVITIES AND EMPLOYER SUBSIDIES; CHILDREN SERVICES INDIVIDUAL CHILD CARE AGREEMENTS AND MEMORANDUMS OF UNDERSTANDING TO DOCUMENT RESPONSIBILITIES FOR REFERRAL PROCESSES AND CORE SERVICES WITH VARIOUS COMMUNITY PARTNERS:**

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

WHEREAS, in the course of providing services Delaware County Job and Family Services provides services and supports daily operations through various contracts, agreements, and memorandum's of understandings; and

WHEREAS, these various contracts, agreements, and memorandums of understanding include Workforce Investment contracts and agreements ;On the Job Training and other Training and work subsidies to employers; Individual Training Accounts; PRC contracts and agreements for work related activities and employer subsidies; Children Services Individual Child Care Agreements and Memorandums of Understandings to document responsibilities for referral processes and core services with various community partners; and

Whereas, an Attorney Generals Opinion NO. 2004-031 dated August 25, 2004, affirming that: "a Board of County Commissioners may, by resolution pursuant to R.C. 329.04 (A) (7) and (B) or R.C. 329.05, assign to the County Department of Job and Family Services authority for the County Director of Job and Family Services to enter into contracts and agreements necessary to perform these powers and duties."

WHEREAS, such authority serves to increase efficiency and enhance services to county citizens;

BE IT THEREFORE RESOLVED, that the Director of Delaware County Job and Family Services is given authority to enter Workforce Investment contracts and agreements: on the Job Training and other Training and work subsidies to employers, Individual Training Accounts , PRC agreements for work related activities and employer subsidies; Children Services Individual Child Care Agreements and Memorandums of Understandings to document referral process and core services with community partners.

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

**RESOLUTION NO. 09-1479**

**IN THE MATTER OF RETAINING LUKAS, NACE, GUTIERREZ, & SACHS, LLP, AND SPECIFICALLY ELIZABETH R. SACHS, TO REPRESENT DELAWARE COUNTY IN THE MATTER OF RE-BANDING THE 800 MHZ SYSTEM:**

MOTION: by Mr. Hanks, Seconded by Mr. Thompson to approve and execute Resolution No. 09-1479, retaining the law firm of Lukas, Nace, Gutierrez, & Sachs, LLP, and specifically, Elizabeth R. Sachs.

WHEREAS, the County is in the process of re-banding of the 800 Mhz communications system, and

WHEREAS, the process is being done by a federal mandate issued by the FCC, and

WHEREAS, the process requires Sprint Nextel to pay the costs of the re-banding,

WHEREAS, one of the provisions of the order requires that Sprint Nextel to provide a consultant to Delaware County, and

WHEREAS, RCC is the consultant on Delaware County's behalf, and

WHEREAS, the order requires Sprint Nextel to pay the legal fees of Delaware County incurred by the process of re-banding, and

WHEREAS, RCC has recommended securing outside counsel due to the nature of the technical

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

---

information and processes involved in re-banding, and

WHEREAS, RCC has recommended Elizabeth R. Sachs as an attorney that specializes in the field, and

WHEREAS, the Board of Commissioners wishes to retain the law firm of Lukas, Nace, Gutierrez, & Sachs, LLP, to act as legal counsel for Delaware County in the matter of re-banding, and

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

1. The Board of Commissioners wishes to retain the law firm of Lukas, Nace, Gutierrez, & Sachs, LLP, specifically, Elizabeth R. Sachs, to act as legal counsel for Delaware County in the matter of re-banding, and has executed an engagement letter to that effect, reflected in Exhibit A, attached hereto and incorporated herein.

LUKAS, NACE,  
GUTIERREZ & SACHS, LLP

November 19, 2009

VIA MAIL AND E-MAIL: krohrer@co.delaware.oh.us

Delaware County Board of Commissioners  
c/o: Kyle E. Rohrer, Esq. Assistant County Prosecutor  
Delaware County Prosecutor's Office  
140 N. Sandusky St., 3rd Floor  
Delaware, Ohio 43015

Dear Mr. Rohrer:

This letter sets forth the terms and conditions under which Lukas, Nace, Gutierrez & Sachs, LLP ("Firm") will perform legal services on behalf of the Delaware County Board of Commissioners ("County"). This letter is prompted by ethical considerations as well as our desire to have a clear understanding with you in regard to legal services to be performed.

The Firm specializes in telecommunications matters, primarily those in the wireless services. We represent a broad range of licensees before the Federal Communications Commission ("FCC") and in related strategic, transactional and litigation matters. We also offer technical support to our clients through our on-staff engineering group.

My specific expertise is in the Part 90 radio services, including the 800 MHz band. I have practiced in this area for more than thirty years, first as in-house counsel with Motorola, Inc. and, since 1982, in private practice. I have been involved in policy and licensing matters relating to the 800 MHz band since it was reallocated to the private services in the mid-1970s, and have represented every type of eligible entity on a broad range of 800 MHz-related issues. Many of my clients were subject to the original 800 MHz rebinding in which Nextel Communications, Inc., now Sprint Nextel Corporation, ("Nextel") relocated incumbent systems from channels in the so-called "upper 200" portion of the band to lower 800 MHz frequencies. Therefore, I have negotiated many agreements with Nextel that involved the reconfiguration of 800 MHz systems and have been involved in the range of business, operational and legal questions that arise in the process of migrating a large 800 MHz system to different channels.

I have been actively involved in the current 800 MHz reconfiguration proceeding (WT Docket No. 02-55) since its inception, and am representing public safety, business/industrial and commercial incumbents that are required to negotiate frequency reconfiguration agreements with Nextel. I am familiar with the various decisions adopted by the FCC in this proceeding, as well as the policies and procedures that have been established by the Transition Administrator ("TA") charged with overseeing the 800 MHz reconfiguration process. I have been involved in all aspects of the negotiation process and have represented several incumbents in the FCC-mandated Alternative Dispute Resolution process that follows unsuccessful negotiations.

In its decisions in WT Docket No. 02-55 the FCC confirmed that incumbents are entitled to have their "reasonable, prudent and necessary" educational and legal costs paid by Nextel, except legal costs related to litigation before the Commission or in court. The FCC also has stated that legal fees and other so-called "transactional costs" will be given a "hard look" by the TA if they exceed two percent (2%) of the hard costs of reconfiguration, although it does not appear that the FCC intended to apply that standard to public safety systems.

The Firm agrees to seek compensation only from Nextel in respect to services provided herein and not from the County, except in one specific instance. The FCC has determined that licensees are responsible for their own costs of filing and prosecuting requests for *de novo* review of disputed issues and the costs of pursuing any subsequent administrative or judicial review. Thus, if the County and Nextel do not reach agreement

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

---

during mediation, our costs for preparing the Proposed Resolution Memorandum for the mediator's consideration and our review of the mediator's Recommended Resolution ("RR") for the FCC's evaluation are reimbursable by Nextel. However, if the County determines that we need to file a Statement of Position with the FCC in response to the mediator's RR or pursue any other activity at the FCC or in court with respect to this matter, Nextel will not be responsible for reimbursing those costs and they will be the obligation of the County.

Please note that all costs to be paid by Nextel must be included in the Planning Funding Agreement and/or the Frequency Reconfiguration Agreement negotiated between the County and Nextel (collectively, the "Nextel Agreements"), or in a subsequent Change Order to one of the Nextel Agreements, and approved by the TA, either as an original, estimated cost or as a documented, final cost. The County agrees to include the Firm's costs in the Nextel Agreements. However, except for the cost of pursuing FCC or judicial review, neither the failure to include the Firm's costs in the Nextel Agreements nor the TA's failure to approve the Nextel Agreements, nor any other circumstance or eventuality, shall in any way obligate the County or the County to compensate the Firm for its services. The Firm's sole and exclusive remedy for compensation for those services shall be to seek compensation from Nextel.

Upon termination of our representation, all files, documents, materials or other property which may come into our possession in connection with our services in this matter ("Files"), with the exception of attorney work product which we may elect to retain, will be returned to or retrieved by you at your cost. You will arrange for such return or retrieval within thirty (30) days of our written notice to you that the Files are available. Additionally, you consent to the Firm's disposal or destruction of any such Files remaining at our premises after the expiration of the thirty (30) day notice period.

If the arrangements set forth above are agreeable, please acknowledge your understanding thereof and agreement thereto by executing and dating this letter in the space provided below.

Sincerely,  
 LUKAS, NACE, GUTIERREZ & SACHS, LLP  
 By Elizabeth R. Sachs

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

**RESOLUTION NO. 09-1480**

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

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

The Director Of Environmental Services recommends to approve paid military leave (176 hours) for Brian McGinniss; effective January 1, 2010 thru February 1, 2010.

The Director Of Environmental Services recommends to approve unpaid military leave for Brian McGinniss; effective February 2, 2010 thru December 31, 2010.

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

**RESOLUTION NO. 09-1481**

**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR ADULT COURT SERVICES:**

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

**Supplemental Appropriation**

25422301-4521	Community Corrections Grant/State Reimbursements	\$	7,805.74
25422301-5001	Community Corrections Grant/Compensation	\$	3,341.06
25422301-5101	Community Corrections Grant/Insurance	\$	1,548.00
25422301-5102	Community Corrections Grant/Workers Comp	\$	66.83
25422301-5120	Community Corrections Grant/PERS	\$	467.75
25422301-5131	Community Corrections Grant/Medicare	\$	48.45
25422301-5201	Community Corrections Grant/General Supplies	\$	300.00
25422301-5215	Community Corrections Grant/Program Supplies	\$	1,534.65
25422301-5319	Community Corrections Grant/Reimbursements	\$	499.00
25422308-4521	Comm Non Residential/State Reimbursements	\$	4,121.10
25422308-5001	Comm Non Residential/Compensation	\$	2,047.75
25422308-5101	Comm Non Residential/Insurance	\$	916.00
25422308-5102	Comm Non Residential/Workers Comp	\$	40.96
25422308-5120	Comm Non Residential/PERS	\$	286.69



**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009**

25422308-5131	Comm Non Residential/Medicare	\$	29.70
25422308-5201	Comm Non Residential/General Supplies	\$	100.00
25422308-5215	Comm Non Residential/Program Supplies	\$	500.00
25422308-5319	Comm Non Residential/Reimbursements	\$	200.00

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

**RESOLUTION NO. 09-1482****IN THE MATTER OF ESTABLISHING A NEW ORGANIZATIONAL KEY AND APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE SHERIFF'S PROJECT LIFESAVER GRANT:**

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

**Establish New Fund**

10031327                      Project Lifesaver

**Supplemental Appropriation**

10031327-4230	Project Lifesaver/Charges A	\$	14,995.25
10031327-5250	Project Lifesaver/Minor Tools	\$	5,450.25
10031327-5260	Project Lifesaver/Inventoried Tools	\$	7,245.00
10031327-5270	Project Lifesaver/Equipment Parts	\$	1,530.00
10031327-5308	Project Lifesaver/Membership	\$	770.00
10031301-4701	Sheriff Deputies/Donation	\$	6,000.00
10031301-5450	Sheriff Deputies/Equipment	\$	6,000.00

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

**RESOLUTION NO. 09-1483****IN THE MATTER OF APPROVING DISCONTINUANCE OF LONG TERM DISABILITY COVERAGE:**

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

Whereas Delaware County Board of County Commissioners provide long term disability coverage for interested employees; and

Whereas the Department of Administrative Services administers the long term disability coverage for Delaware County; and

Whereas the given the budgetary considerations and financial concerns of the County, the Department of Administrative Services reviewed all optional benefits for ways to cut costs; and

Whereas long term disability coverage, which is available after an employee is disabled for a period of six months, cost the County approximately \$90,000 per year and has not been utilized for the last several years; and

Whereas the Director of Administrative Services and the Insurance and Risk Technician recommend discontinuing the Long Term Disability Coverage; and

Therefore, be it resolved that the Board of County Commissioners of Delaware County Ohio hereby approve the discontinuance of the Long Term Disability Coverage;

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

**BUDGET DISCUSSION****COMMISSIONERS' COMMITTEES REPORTS  
(Refer To CD Minutes For Entire Record)****Commissioner Hanks**

-Article on expanded services for the DATA Bus Services

-Thoughts With Family And Friends Of Dublin High School Students Killed In A Delaware Co. Car Accident

-Article on Food Stamps

**Commissioner O'Brien**

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2009

---

- Article on expanded services for the DATA Bus Services
- Email from Barb Lewis-Law Library Board information;-Interested in haveing other boards update commissioners

**Commissioner Thompson**

- Would Be In Favor Of Other Boards Updating Commissioners But Not As A Forced Issue
- Thanks Again To Buckeye Valley Students On WWI Effort
- Will Be Writing A Letter To ODNR On Handicapped Accessibility In Hocking Hills Area

**RESOLUTION NO. 09-1484**

**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. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

---

Todd Hanks

---

Ken O'Brien

---

Tommy Thompson

---

Letha George, Clerk to the Commissioners