

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD FEBRUARY 4, 2010

**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. 10-162**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD FEBRUARY 1, 2010:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on February 1, 2010; 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. Hanks Aye Mr. O'Brien Aye

**PUBLIC COMMENT**

**RESOLUTION NO. 10-163**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0203, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0203:**

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0203, memo transfers in batch numbers MTAPR0203, and Purchase Orders as listed below:

PR Number	Vendor Name	Line Desc	Line Account	Line Amount	Line Number
R1002425	BBC AND M ENGINEERING INC	ENGINEERING SERVICES FOR TRANSFER STATION FLOOR	68011916 - 5301	\$5,360.00	0001
R1002440	FLOWLINE LLC	EMERGENCY SEWER SERVICE REPAIRS	66211903 - 5328	\$12,500.00	0001
R1002440	FLOWLINE LLC	EMERGENCY SEWER SERVICE REPAIRS	66211904 - 5328	\$12,500.00	0002
R1002489	OHIO EPA	FINANCIAL ASSURANCE FOR THE TRANSFER STATION	68011916 - 5370	\$19,500.00	0001
R1002490	EMH AND T INC	ENGINEERING SERVICES FOR CENTRAL ALUM CREEK SEWER	66711904 - 5301	\$130,103.98	0001

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

**RESOLUTION NO. 10-164**

**IN THE MATTER OF CANCELING THE TUESDAY FEBRUARY 16, 2010 COMMISSIONERS' SESSION:**

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

Whereas, Resolution No. 09-1538 established the regular session meeting days for The Board of Commissioners for Year 2010, as Mondays and Thursdays of each week; and

Whereas, the resolution states that when Monday or Thursday is a legal holiday, The Board of Commissioners shall meet at the scheduled time on the next regular working day thereafter, and

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Whereas, Monday February 15, 2010 is a legal holiday, and

Whereas, The Board of County Commissioners will not have a quorum available on Tuesday February 16, 2010;

Therefore be it resolved, that The Board of Delaware County Commissioners cancel the Tuesday February 16, 2010 Commissioners' Session.

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

**RESOLUTION NO. 10-165**

**IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE OHIO DEPARTMENT OF TRANSPORTATION AND THE DELAWARE COUNTY COMMISSIONERS FOR THE PURPOSE OF INSTALLING AND MAINTAINING A PRE-EMPTED SYSTEM INSTALLATION LOCATED AT UNITED STATES ROUTE 23 AND OLENTANGY CROSSINGS:**

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

Whereas, the County Engineer recommends approval of the contract with ODOT;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract with ODOT;

**AGREEMENT**

This Agreement, made this 4<sup>th</sup> day of February, 2010 by and between the Ohio Department of Transportation whose address is 400 East William Street, Delaware Ohio 43015 (hereinafter referred to as "ODOT"), and the Delaware County Commissioners and whose address is 101 North Sandusky Street, Delaware, Ohio 43015 hereinafter referred to as the "Local Authority".

**WITNESSETH THAT:**

In consideration of the mutual covenants hereinafter contained and for the purpose of installing and maintaining a pre-empted system installation located at United States Route 23 ; and Olentangy Crossings.

WHEREAS: a need for a preempted system exists to efficiently control traffic at the intersection of United States Route 23 and Olentangy Crossings; when emergency vehicles approach and

WHEREAS: the State cannot install the proposed pre-emption system at State expense;

WHEREAS: the Local Authority wishes to have the proposed pre-emption system.

NOW THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

**I. INSTALLATION**

The Local Authority shall prepare the necessary plans for the proposed pre-emption system and they shall be in accordance with the standards set forth in the Ohio Manual of Uniform Traffic Control Devices Section 4D. 13. Said plans shall be reviewed and approved by ODOT prior to release to the vendor and prior to installation.

The Local Authority agrees that the design and installation of the subject pre-emption system will conform to the plan included in this Agreement as Exhibit "A".

The Local Authority shall furnish all material, labor, tools and equipment necessary to install the pre-emption system so it is complete and ready for operation. Such material shall be subject to approval by ODOT prior to installation.

**II. BONDS AND ASSURANCES**

The Local Authority shall obtain or cause to be obtained a performance bond in the amount of Thirty thousand dollars (30,000) which shall indemnify the State of Ohio and ODOT against all damages suffered by the failure of the Local Authority to perform the Agreement according to its provisions and in accordance with the plan contained in Exhibit "A", Ohio Revised Code (R.C.) §4511.10, and other requirements deemed necessary for the acceptance by the State of Ohio of the completed traffic control device(s).

The performance bond described in Paragraph 1 of Section II of this Agreement, shall include, in addition to the obligation to faithfully perform this Agreement, the obligation to pay all lawful claims of subcontractors, material people and laborers for labor performed and materials furnished in the carrying forward, performing or

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completion of the construction and erection of the traffic control device(s).

The form of this Bond shall be in accordance with R.C. §153.57.

Nothing in this Agreement, including Paragraphs I and 2 of Section II, shall be construed as to release the Local Authority in pad or whole, to the State of Ohio and ODOT from any liability, arising from a failure to perform this contract properly.

### III. INDEMNIFICATION

The Local Authority shall or cause to be procured an insurance policy in the amount necessary to adequately cover damage to persons or property resulting from work on the construction of the pre-emption system. The minimum amount of insurance shall be One Million Dollars (\$1,000,000.00).

In no event shall the Local Authority, its contractors, subcontractors, workers or agents be considered agents or employees of the State of Ohio or ODOT.

### IV. INSPECTIONS

The Local Authority shall permit the State of Ohio, ODOT or its authorized agent to enter upon the site for the purposes of inspection at any reasonable time or times during the time of this Agreement.

### V. COMPLETION OF INSTALLATION

When the pre-emption system construction has been completed and before it is placed in operation, it shall be inspected by ODOT, which will determine whether the pre-emption system conforms to plans and Exhibit "A", as well as any relevant statute or regulation.

If the pre-emption system is found to be in conformity with all plans, regulations and statutes, the State will accept the pre-emption system, at which time the State shall assume ownership for all pre-emption system equipment and traffic control devices related to the project governed by this Agreement. Although the state will assume ownership the Local Authority shall maintain the pre-emption system equipment.

The pre-emption system shall operate under the jurisdiction of the State of Ohio, including the phasing and timing as provided by R.C. §4511.10.

### VI. MODIFICATION OF PRE-EMPTION SYSTEM

If, after the initial installation or modification of the pre-emption system, either party determines or believes that additional or modified equipment or modified timing of the equipment is necessary to improve the flow of traffic at the location, the parties shall consult on the modification felt necessary and, to the extent reasonably possible, shall agree on the modifications to be made and the payment of the costs attendant thereto, if any. If agreed to by the Local Authority and ODOT the work may be performed by ODOT forces. An invoice to recover the actual cost of materials, labor and equipment for the modification will be submitted to the Local Authority for payment. The invoice will be presented to the Local Authority for payment within 30 days after the completion of the work. Payment of the invoice by the Local Authority shall be made within 30 days after receiving the invoice. ODOT reserves the right to alter the pre-emption system, the roadway or other appurtenances as it deems necessary if the parties do not agree.

### VII. NORMAL MAINTENANCE

The Local Authority shall provide all normal maintenance required at all times, hereafter, for the efficient operation of subject traffic control pre-emption system. Normal maintenance guidelines shall incorporate those functions necessary for maintaining the pre-emption system operation at all times; i.e., replacement of all malfunctioning pre-emption system components or those that may be damaged either by accident or deterioration. It shall be the responsibility of the Local Authority to maintain a stock of spare pre-emption equipment and/or pay for repairs to malfunctioning equipment. If changes to vehicle traffic volumes or patterns require an update to the system equipment the Local Authority shall be responsible for the cost of improvements. The county shall notify the head of ODOT's electrical section 48 hours prior to entering ODOT property and accessing the controller for the purpose of maintenance.

### VIII. REMOVAL

When it is determined by the State that said pre-emption system or its appurtenances are no longer essential to the safety, convenience or welfare of the traveling public, or any individuals traveling to or from the Local Authority's property, or any individuals traveling near the Local Authority's property, or that the maintenance of traffic in general would be better served by the discontinuance of the pre-emption system, then all such equipment, material and devices shall be removed by the State at no expense to the Local Authority. All salvageable materials and equipment shall be returned to the Local Authority and the parties shall be relieved of all obligations under this Agreement.

The determination that the pre-emption system is no longer useful or desirable shall be made by the State of Ohio, ODOT, in any reasonable manner, including, but not limited to, findings based on a traffic engineering study.

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IX. NOTICES

Notices given under the terms of this Agreement shall be deemed sufficiently received if in the case of notice to either party, such notice is mailed by certified or registered United States Mail or is personally delivered to either party's above referenced address.

X. GOVERNING LAW

This Agreement and the performance thereof shall be governed and interpreted, where applicable, solely by the laws of the State of Ohio.

XI. SEVERABILITY

If, and to the extent that any court of competent jurisdiction holds any provisions or part thereof of this Agreement to be invalid or unenforceable as a final non-appeal able order, such holding shall in no way affect the validity of the remainder of this Agreement.

XII. ENTIRE AGREEMENT

This Agreement and the attachments hereto, if any, constitute the entire agreement between the Local Authority and ODOT and supersede all previous written and oral negotiations, commitments and understandings. Its terms, conditions and covenants shall not be altered or otherwise amended except pursuant to an instrument in writing signed by each of the parties hereto and making specific reference to this Agreement.

XIII. CONSIDERATION

Each party to this Agreement recognizes that the rights and benefits received by the respective parties to this Agreement are valuable and substantial; enforcement of this Agreement cannot be challenged for lack of consideration.

This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

XIV TERM

This agreement shall terminate if the following events occur: ODOT makes a determination that the pre-emption system is no longer needed in accordance with Section X.

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

**RESOLUTION NO. 10-166**

**IN THE MATTER OF APPROVING THE DKMM COUNTY RECYCLING AND LITTER PREVENTION OFFICE 2009 4<sup>th</sup> QUARTER CONTRACT REPORT:**

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

**Report of DKMM District Funds Spent**

REPORTING PERIOD: October through December, 2009

CRLPO: Delaware County General Health District

DATE OF REPORT: January 25, 2010

September CONTRACT BALANCE:	\$24,107.65
AMOUNT OF FINANCIAL ASSISTANCE RECEIVED:	\$ 0.00

**TOTAL FUNDS AVAILABLE \$24,107.65**

EXPENDITURES:

Salaries	\$ 10,987.68
Fringe Benefits	\$ 8,232.78
Travel	\$ 184.44 Jenifer mileage year
Contracts	\$ 1,500.00
Advertising	\$ 1,389.59
Equipment	\$
Supplies	\$ 334.11 award event/ KBA Supplies
Other (Explain)	\$545.68
	(127.43 Copies) (42.00 signs) (126.25 LD phone) (250.00all year postage)

TOTAL EXPENDITURES \$23,174.28

**CONTRACT BALANCE \$933.37**

2007 Carryover	\$8.83
2008 Carryover	\$5,471.57

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2009 Contract Balance -\$4,547.03 February Payment Pending

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

**RESOLUTION NO. 10-167****IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE LITTER GRANT:**

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

**Supplemental Appropriation**

2211502-5001	Litter Grant/Compensation	\$ (893.00)
2211502-5101	Litter Grant/Insurance	\$ 10,720.00
2211502-5102	Litter Grant/Workers Comp	\$ (196.20)
2211502-5103	Litter Grant/Dental Insurance	\$ 290.00
2211502-5120	Litter Grant/PERS	\$ (11,590.68)
2211502-5131	Litter Grant/Medicare	\$ 111.88
2211502-5201	Litter Grant/General Supplies	\$ (250.00)
2211502-5215	Litter Grant/Program Supplies	\$ 200.00
2211502-5228	Litter Grant/Vehicle Maint.	\$ 150.00
2211502-5301	Litter Grant/Professional Services	\$ (5,875.00)
2211502-5308	Litter Grant/Membership	\$ 300.00
2211502-5309	Litter Grant/Travel	\$ 350.00
2211502-5312	Litter Grant/Advertising	\$ 1,800.00
2211502-5313	Litter Grant/Printing	\$ 1,700.00
2211502-5330	Litter Grant/Communication	\$ 100.00
2211502-5331	Litter Grant/Postage	\$ 300.00

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

**RESOLUTION NO. 10-168****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 Job and Family Services recommends Leave-With-Out-Pay for April Riley with Job and Family Services; effective January 26, 2010 thru May 27, 2010.

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

**RESOLUTION NO. 10-169**

**IN THE MATTER OF AMENDING THE DATE AND TIME FOR A PUBLIC HEARING #2 TO CONSIDER USING CDBG REVOLVING LOAN FUNDS (RLF) FOR A COLUMBUS ZOO HOTEL ECONOMIC IMPACT STUDY TO EVALUATE THE ECONOMIC IMPACT ON DELAWARE COUNTY AND THE SURROUNDING AREA FOR A NEW HOTEL AT THE COLUMBUS ZOO. THIS STUDY WILL FURTHER EVALUATE THE RECOMMENDATIONS MADE IN THE "COLUMBUS ZOO FEASIBILITY STUDY" FUNDED WITH CDBG RLF FUNDS:**

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

Whereas, amending Resolution No. 10-143 dated February 1, 2010, setting public hearing #2 for the Columbus Zoo Impact Study from **Tuesday, February 16, 2010, at 9:30 a.m.** to **Monday, February 22, 2010, at 9:30 a.m.** The Public Hearing will be held in the County Commissioners Office located at 101 North Sandusky Street in Delaware, Ohio. This hearing is to consider an Impact Study to evaluate the economic impact on Delaware County and the surrounding area for a new hotel at the Columbus Zoo. .

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

**RESOLUTION NO. 10-170****IN THE MATTER OF APPROVING AN ADVANCE OF FUNDS AND SUPPLEMENTAL APPROPRIATIONS FOR THE SHERIFF'S LEAP GRANT:**

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

**Advance of Funds**

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<b>From</b>	<b>To</b>	
10011102	28631329	\$89,400.00
Comm General	LEAP FORWARD	

**Supplemental Appropriation**

28631329-4509	LEAP Forward/Federal Grant	\$ 89,400.00
28631329-4720	LEAP Forward/Other Reimbursements	\$ 29,800.00
28631329-5260	LEAP Forward/Inventoried Tools	\$ 10,000.00
28631329-5365	LEAP Forward/Grant Services	\$ 64,200.00
28631329-5450	LEAP Forward/Machinery & Equipment	\$ 45,000.00

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

**RESOLUTION NO. 10-171**

**IN THE MATTER OF AMENDING THE ALLOCATION OF REVENUES FROM THE HOUSING OF  
FEDERAL PRISONERS**

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

Whereas, the Delaware County Board of County Commissioners approved an agreement with the United States Marshall's Service for the confinement of federal prisoners, and

Whereas, the Delaware County Board of County Commissioners desires to amend the allocate of revenues from the housing of federal prisoners

THEREFORE BE IT RESOLVED by the Board of Commissioners of Delaware County:

1. That in accordance with resolution 09-779 the first \$15,000 of revenues derived under resolution 09-290 from the housing of federal prisoners has been allocated to the County Sheriff to fund salaries for current employees of the jail.
2. All funds deposited in the Jail Expansion Fund (Fund #412) a capital projects fund, prior to December 31, 2009 shall be appropriated and expended for construction and equipment purchases associated with the 2010 jail expansion.
3. All revenues from the housing of federal prisoners received on or after January 1, 2010 shall be deposited in the General Fund to the credit of the County Sheriff in Org Key 10031328.
4. All such revenues deposited in Org Key 10031328 will be used for the purpose of paying personnel costs associated with the 2010 jail expansion, uniforms, training, and equipping of such personnel, other operating costs associated with the 2010 jail expansion, necessary equipment for the 2010 jail expansion, costs associated with the transportation of federal prisoners or any bond service payments associated with the 2010 jail expansion.
5. For purposes of calculating the share of the bond service payments associated with the jail expansion, the final actual construction costs of the jail expansion shall be used to determine the amount of funding from the revenues from housing the federal prisoners that will go towards the bond service payments.
6. All revenues from the housing of federal prisoners in excess of any expenditure described in item #4 will be reserved for use by the County Sheriff. The County Sheriff may, at his discretion, authorize the use of excess funds from the housing of federal prisoners to be used to fund current operations of the Sheriff's Office. Excess funds shall be those revenues from the housing of federal prisoners that exceed the amount expended on items described in #4 in Org Key 10031328.
7. No revenues from the housing of federal prisoners shall be used to decrease any current or future General Fund appropriations for operations of the Sheriff's Office which includes maintaining at least the current staffing numbers of the entire Sheriff's Office as of this date, unless at the Sheriff's discretion, he authorizes the use of revenues from the housing of federal prisoners to decrease the current funding level of the Sheriff's Office.
8. The Board of County Commissioners approves the following transfer and supplemental appropriations:

**Establish New Org Key**

<b>10031328</b>	Federal Prisoners
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**Supplemental Appropriations**

41211434-4240	Jail Expansion/Board & Care	\$ (100,400.00)
41211434-5268	Jail Expansion/Building Improv	\$ (60,000.00)
41211434-5410	Jail Expansion/Capital Improvements	\$ (40,390.81)
10031328-4240	Federal Prisoners/Board & Care	\$ 71,175.00
10031328-5001	Federal Prisoners/Compensation	\$ 69,842.94
10031328-5120	Federal Prisoners/PERS	\$ 12,480.93
10031328-5131	Federal Prisoners/Medicare	\$ 1,012.73

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10031328-5102	Federal Prisoners/Workers Comp	\$ 1,396.86
10031328-5101	Federal Prisoners/Hospital Insurance	\$ 61,540.00
10031328-5224	Federal Prisoners/Uniforms	\$ 19,800.00
10031328-5250	Federal Prisoners/Minor Tools	\$ 13,050.00
10031328-5305	Federal Prisoners/Training	\$ 7,500.00

**Transfer of Appropriations**

<b>From</b>	<b>To</b>	
41211434-5268 Jail Expansion Fund/Building Improv	41211434-5250 Jail Expansion Fund/Minor Tools	\$ 20,000.00
41211434-5268 Jail Expansion Fund/Building Improv	41211434-5260 Jail Expansion Fund/Inventoried Tools	\$ 20,000.00
10031303-4240 Sheriff Jail/Federal	10031328-4240 Federal Prisoners /Board & Care	\$ 711,750.00
10031303-5001 Sheriff Jail/Compensation	10031328-5001 Federal Prisoners/Compensation	\$ 398,560.93
10031303-5120 Sheriff Jail/PERS	10031328-5120 Federal Prisoners/PERS	\$ 71,222.84
10031303-5131 Sheriff Jail/Medicare	10031328-5131 Federal Prisoners/Medicare	\$ 5,779.13
10031303-5102 Sheriff Jail/Workers Comp	10031328-5102 Federal Prisoners/Workers Comp	\$ 7,971.22
10031303-5101 Sheriff Jail/Health Insurance	10031328-5101 Federal Prisoners/Health Insurance	\$ 114,570.00

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

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

**Commissioner Hanks**

-3<sup>rd</sup> frontier project House and Senate

- Forbes Article on Delaware County ranking second best place to live in the country

**Commissioner O'Brien**

-Attended 911 Board Meeting On Tuesday

- Forbes Article on Delaware County ranking second best place to live in the country

**Commissioner Thompson**

-New DKMM Director Meetings

**RESOLUTION NO. 10-172**

**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 AND COLLECTIVE BARGAINING UNIT:**

It was moved by Mr. Hanks, seconded by Mr. O'Brien to adjourn into Executive Session at 9:35AM.

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

**RESOLUTION NO. 10-173**

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

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

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

**RESOLUTION NO. 10-174**

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

It was moved by Mr. Hanks, seconded by Mr. O'Brien 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