

COMMISSIONERS JOURNAL NO. 58 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD DECEMBER 6, 2012

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

Present:
 Dennis Stapleton, President
 Ken O'Brien, Vice President
 Tommy Thompson, Commissioner

10:15AM Public Hearing To Consider The Request Of Mr. Walt Benson's Development Plan Change And Zoning Amendment Application Requesting Approval For A Development Plan Amendment To An Existing Planned Commercial And Office District (PC) Zoning Classification And To Rezone 0.354 Acres From The Current Farm Residential District (FR-1) To Planned Commercial And Office District (PC), For The Purpose Of Operating A Fire/Arson Insurance Investigation Service On A 2.101 Acre Tract Identified As 8350 US 23 North, Marlboro Township, Delaware County, Owned By Bensen Fire & Safety Consulting, Ltd.

RESOLUTION NO. 12-1335

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD DECEMBER 3, 2012:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on December 3, 2012; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 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. Stapleton Aye Mr. O'Brien Aye

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

RETIREMENT TRIBUTE, ROBERT FERGUSON

National Weather Service Storm Ready Panel:
 Mary Jo Parker - NWS
 Brian Castner - Ohio EMA
 Helen Norris - Logan County EMA
 Presentation: Delaware County's Storm Ready Recognition

RESOLUTION NO. 12-1336

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1205:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1205 and Purchase Orders as listed below:

	<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>	
PO' Increase					
	AEP Retail Energy	Service	10011105-5338	\$ 18,000.00	
PR Number	Vendor Name	Line Desc	Line Account	Amount	Line
R1206618	SMITH AND ASSOC EXCAVATING INC	SHERBOURNE MEWS AND GOLF VILLAGE PUMP STATIONS	66611903 - 5410	\$22,590.00	0001
R1206634	ANDRITZ SEPARATION INC	PARTS AND SERVICE TO REPAIR CENTRIFUGE	66611903 - 5450	\$19,647.63	0001
R1206648	SMITH AND ASSOC EXCAVATING INC	PUMP STATION	66611904 - 5410	\$13,000.00	0001
R1206650	SMITH AND ASSOC EXCAVATING INC	INSTALLATION OF BY PASS CONNECTION AT TILLINGHAST	66611906 - 5410	\$20,484.00	0001

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R1206651 SMITH AND ASSOC RESERVE 66611907 - 5410 \$6,258.00 0001
EXCAVATING INC

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

RESOLUTION NO. 12-1337

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Child Support Enforcement Agency is requesting that Sherry Fleury attend an Attorney Networking Meeting December 15, 2012 in Lancaster, Ohio; at the cost of \$35.00 (fund number 23711630)

Environmental Services is requesting that Marc Counts, Scott Nichols and Todd Ward attend the Gorman-Rupp Centrifugal Pumping Systems, Applications, Operations & Maintenance, Troubleshooting Course in Mansfield, Ohio on December 17, 2012 at a total cost of \$225.00 from org key 66211901-5305.

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

RESOLUTION NO. 12-1338

IN THE MATTER OF DECLARING AN EMERGENCY FOR IMMEDIATE REPAIRS OF A 16-INCH FORCEMAIN LOCATED BETWEEN THE NORTHSTAR PUMP STATION AND TREATMENT PLANT:

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

WHEREAS, Delaware County owns a 16" Sanitary Force Main located along Wilson Road between the Northstar pump station and treatment plant; and

WHEREAS, an excavator acting behalf of a public utility struck the force main, causing damage, which required Delaware County to initiate emergency repairs via a third party vendor, Flowline, LLC, for the protection of public health and welfare by cleaning up spilled sewage and preventing further sewage to leak onto the ground; and

WHEREAS, the total expense of the repairs was \$25,209.05;

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

Section 1. The Board hereby finds and determines that the damage to the forcemain located between the Northstar pump station and treatment plant constitutes a real and present emergency due to the physical disaster to county-owned structures, necessitating immediate emergency repairs via a third party vendor to repair the pipe and clean up the spilled sewage.

Section 2. This Resolution shall take immediate effect upon passage.

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

RESOLUTION NO. 12-1339

IN THE MATTER OF APPROVING A RELEASE IN FULL IN FAVOR OF MILLER PIPELINE LLC AND COLUMBIA GAS OF OHIO:

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

WHEREAS, on or about July 27, 2012, Miller Pipeline, LLC, an excavator acting on behalf of Columbia Gas of Ohio, struck and damaged a county-owned sanitary sewer force main; and

WHEREAS, the damage to the force main necessitated emergency repairs at an expense of \$25,209.05; and

WHEREAS, Miller Pipeline, LLC, has agreed to pay to Delaware County the full amount of the emergency repairs in exchange for a release in full in favor of Miller Pipeline LLC and Columbia Gas of Ohio;

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

Section 1. The Board hereby approves the following Release in Full in favor of Miller Pipeline LLC and Columbia Gas of Ohio:

RELEASE IN FULL

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For the sole and only consideration of twenty five thousand, two hundred nine dollars and five cents, \$25,209.05 to me paid, receipt of which is hereby acknowledged, the Delaware County Board of Commissioners, for and on behalf of the Delaware Ohio Regional Sewer District, hereby releases and discharge Miller Pipeline LLC and Columbia Gas of Ohio, its successors and assigns, and all other persons, firms or corporations who are or might be liable, from all claims of any kind or character which I have or might have against them because of all damages, losses or injuries to person or property, or both, whether developed or undeveloped, resulting or to result from the incident occurring on or about July 27, 2012 near the intersection of Northstar and Wilson Rd. in Berkshire Township, Delaware County, OH. I hereby acknowledge full settlement and satisfaction of all claims of whatever kind or character which I may have against them by reason of the above mentioned losses or damage.

In making this release and agreement, it is understood and agreed that I rely wholly upon my own judgment, belief and knowledge of the nature, extent and duration of said damages and that no representation or statements regarding said damages or regarding any other matters made by persons, firms or corporations who are hereby released or any person or persons representing them has influenced me to any extent whatever in making this release.

It is further understood and agreed that the payment of said amount is not to be construed as an admission of liability upon the part of said persons firm or corporation but merely a compromise for peace on all issues concerning this matter.

All agreements and understanding between the parties hereto are embodied and expressed herein and the terms of this release are contractual and not a mere recital.

Section 2. The Board hereby directs the Clerk of the Board to cause delivery of an executed copy of the Release in Full, via certified mail, upon Miller Pipeline, LLC.

Section 3. This Resolution shall take effect immediately upon adoption.

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

RESOLUTION NO. 12-1340

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR ENVIRONMENTAL SERVICES DEPARTMENT’S NORTHSTAR ORGANIZATIONAL KEY:

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

Supplemental Appropriations		Amount
66211911-5328	Northstar/Maintenance and Repair	\$25,209.05

Further Be It Resolved, that the Board of Commissioners approve a purchase order to Flowline LLC. in the amount of \$25,209.05 (66211911 – 5328).

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

RESOLUTION NO. 12-1341

IN THE MATTER OF APPROVING A PARTIAL RELEASE AND VACATION OF SANITARY SEWER EASEMENT FOR LOT 7577 LITTLE BEAR VILLAGE, SECTION 2, ORANGE TOWNSHIP, DELAWARE COUNTY, OHIO (OFFICIAL RECORD 960, PAGE 2007):

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

Whereas, the Sanitary Engineer has received a request to vacate a portion of an existing sanitary sewer easement located within Lot 7577 of Little Bear Village, Section 2 Subdivision; and

Whereas, since the time of recording the plat for this project, it has been determined that there was a discrepancy in the easement shown in the construction plans and the platted easement, and that the platted easement is in conflict with the placement of a condominium constructed by the developer of said lot; and

Whereas, the Sanitary Engineer has determined that a portion of the sanitary sewer easement can be released and vacated without adversely affecting Delaware County.

Therefore, the Sanitary Engineer recommends approving the following Partial Release and Vacation of Sanitary Sewer Easement.

PARTIAL RELEASE AND VACATION OF
SANITARY SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS, the Delaware County Board of Commissioners (“Grantor”), for

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and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it paid by Epcon Little Bear, LLC ("Grantee"), the receipt whereof is hereby acknowledged, does hereby release any and all easement rights in and vacate that portion of the easement for sanitary sewer purposes that encumbers Lot Number Seven Thousand Five Hundred Seventy-Seven (7577), in LITTLE BEAR VILLAGE, SECTION 2, as delineated upon the recorded plat thereof, of record in Official Record 960, Page 2007, Recorder's Office, Delaware County, Ohio, (the "Sanitary Sewer Easement"), being further described in the legal description and plat attached as Exhibit A hereto, which is, by this reference, fully incorporated herein. The Delaware County Sanitary Engineer has determined the partial release and vacation of the Sanitary Sewer Easement will not adversely affect the County of Delaware, Ohio;

**SANITARY SEWER EASEMENT VACATION
0.002 ACRE**

Situated in the State of Ohio, County of Delaware, Township of Orange, located in Farm Lot 4, Quarter Township 3, Township 3, Range 18, United States Military Lands, being out of Lot 7577, of that subdivision entitled "Little Bear Village Section 2" of record in Official Record 960, Page 2007 as conveyed to Epcon Little Bear LLC by deed of record in Official Record 1118, Page 1777, and being part of an existing Sanitary Sewer Easement as shown on said "Little Bear Village Section 2" (all references, refer to the records of the Recorder's Office, Delaware County, Ohio), and being described as follows:

Beginning, for reference, at an iron pin set at a northwesterly corner of said Lot 7577, a southwesterly corner of Lot 7486 of that subdivision entitled "Little Bear Village Section 1 Phase B" of record in Official Record 757, Page 709, being the easterly right-of-way line of Little Bear Loop;

thence South 02° 47' 24" West, with the westerly line of said Lot 7577, the easterly right-of-way line of said Little Bear Loop, a distance of 161.13 feet to a point;

thence South 87° 12' 36" East, across said Lot 7577, a distance of 30.00 feet to a point in the easterly line of an existing Sanitary Sewer Easement of record in Official Record 960, Page 2007, being the TRUE POINT OF BEGINNING;

thence across said Lot 7577, the following courses and distances:

South 84° 33' 31" East, with the northerly line of said existing Sanitary Sewer Easement, a distance of 47.63 feet to a point;

North 89° 46' 45" West, a distance of 36.13 feet to a point;

North 73° 23' 29" West, a distance of 11.83 feet in the easterly line of said Existing Easement;

thence North 02° 47' 24" East, with said easterly line, a distance of 1.00 feet to the TRUE POINT OF BEGINNING, and containing 0.002 acre of land, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Edward J. Miller
Registered Surveyor No. 8250

11/14/12

Date

EJM:tb/November 14, 2012
0_002 ac 20121691ESMT_SSWR_VACT

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

RESOLUTION NO. 12-1342

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

The Director of Administrative Services and the Records Center Manager recommend hiring Darlene Tommelleo as the Record's Technician; effective December 17, 2012;

Therefore the Board of Commissioners approve hiring Darlene Tommelleo as the Record's Technician; effective December 17, 2012.

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

Commissioner O'Brien's Motion For Proposed Resolution No. 12-1343 (In The Matter Of Approving An Intergovernmental Cooperation Agreement For Emergency Medical Services Within Liberty Township)

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Died For Lack Of A Seconded.)

RESOLUTION NO. 12-1344

PUBLIC HEARING FOR THE REQUEST OF MR. WALT BENSON’S DEVELOPMENT PLAN CHANGE AND ZONING AMENDMENT APPLICATION REQUESTING APPROVAL FOR A DEVELOPMENT PLAN AMENDMENT TO AN EXISTING PLANNED COMMERCIAL AND OFFICE DISTRICT (PC) ZONING CLASSIFICATION AND TO REZONE 0.354 ACRES FROM THE CURRENT FARM RESIDENTIAL DISTRICT (FR-1) TO PLANNED COMMERCIAL AND OFFICE DISTRICT (PC), FOR THE PURPOSE OF OPERATING A FIRE/ARSON INSURANCE INVESTIGATION SERVICE ON A 2.101 ACRE TRACT IDENTIFIED AS 8350 US 23 NORTH, MARLBORO TOWNSHIP, DELAWARE COUNTY, OWNED BY BENSEN FIRE & SAFETY CONSULTING, LTD.:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to open the hearing at 10:18AM.

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

RESOLUTION NO. 12-1345

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. Thompson, seconded by Mr. Stapleton 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

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

RESOLUTION NO. 12-1346

IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR THE REQUEST OF MR. WALT BENSON’S DEVELOPMENT PLAN CHANGE AND ZONING AMENDMENT APPLICATION REQUESTING APPROVAL FOR A DEVELOPMENT PLAN AMENDMENT TO AN EXISTING PLANNED COMMERCIAL AND OFFICE DISTRICT (PC) ZONING CLASSIFICATION AND TO REZONE 0.354 ACRES FROM THE CURRENT FARM RESIDENTIAL DISTRICT (FR-1) TO PLANNED COMMERCIAL AND OFFICE DISTRICT (PC), FOR THE PURPOSE OF OPERATING A FIRE/ARSON INSURANCE INVESTIGATION SERVICE ON A 2.101 ACRE TRACT IDENTIFIED AS 8350 US 23 NORTH, MARLBORO TOWNSHIP, DELAWARE COUNTY, OWNED BY BENSEN FIRE & SAFETY CONSULTING, LTD.:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to close the hearing at 10:47AM.

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

RESOLUTION NO. 12-1347

IN THE MATTER OF GRANTING APPROVAL OF A DEVELOPMENT PLAN AMENDMENT TO AN EXISTING PLANNED COMMERCIAL AND OFFICE DISTRICT (PC) ZONING CLASSIFICATION AND TO REZONE 0.354 ACRES FROM THE CURRENT FARM RESIDENTIAL DISTRICT (FR-1) TO PLANNED COMMERCIAL AND OFFICE DISTRICT (PC), FOR THE PURPOSE OF OPERATING A FIRE/ARSON INSURANCE INVESTIGATION SERVICE ON A 2.101 ACRE TRACT IDENTIFIED AS 8350 US 23 NORTH, PARCEL 61920001088000, MARLBORO TOWNSHIP, DELAWARE COUNTY, OWNED BY BENSEN FIRE & SAFETY CONSULTING, LTD.:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to adopt the following:

WHEREAS, the advertised hearing in this matter was held on December 6, 2012, at 10:15AM, and

WHEREAS, all parties were given an opportunity to express their views thereto, and

WHEREAS, the appropriate review, comment and recommendation by the Delaware County Regional Planning Commission was for approval, and

WHEREAS, the appropriate review, comment and recommendation by the Delaware County Rural Zoning Commission was for approval.

WHEREAS, the following is a list of the exhibits for the zoning district file (available for review in the Delaware

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County Commissioners' Office until no longer of administrative value)

- ___A___ Notification Letter Of Zoning Amendment
- ___B___ Procedure for a County Zoning District Change
- ___C___ Application
- ___D___ Development Plan
- ___E___ Aerial photograph(s)
- ___F___ Legal/Public Notice(s)
 - ___F.1___ Notice to surrounding property owners
 - ___F.2___ Published legal notices
- ___G___ Zoning District Map
- ___H___ Delaware County Regional Planning Commission Staff Recommendation and Meeting Minutes
- ___I___ Rural Zoning Commission Meeting Agenda(s)
- ___J___ Rural Zoning Commission Attendance Sheet(s)
- ___K___ Rural Zoning Commission Meeting Exhibits(s)
- ___L___ Rural Zoning Commission Meeting Minutes
- ___M___ Draft Resolution
- ___N___ Delaware County Board of Commissioners Meeting Agenda-setting date
- ___O___ Delaware County Board of Commissioners Meeting Minutes-setting date
- ___P___ Delaware County Board of Commissioners Resolution-setting date
- ___Q___ Published legal notice
- ___R___ Notice to applicant
- ___S___ Notice to township

EXHIBITS TO BE ADDED TO FILE FOLLOWING HEARING DECISION BY DELAWARE COUNTY BOARD OF COMMISSIONERS:

- ___T___ Map for reference of area during discussion at hearing
- ___U___ Delaware County Board of Commissioners Meeting Agenda(s)-hearing
- ___V___ Delaware County Board of Commissioners Attendance Sheet(s)
- ___W___ *Delaware County Board of Commissioners Resolution*
- ___X___ *Delaware County Board of Commissioners Meeting Minutes-hearing*

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners, Delaware County, State of Ohio, the development plan amendment to the existing Planned Commercial and Office District (PC) and the rezoning of 0.354 acres from the current Farm Residential District (FR-1) to Planned Commercial and Office District be approved. This action results in the entire 2.101acre tract, known as 8350 US Highway 23 North, Parcel No. 61920001088000, being zoned Planned Commercial and Office District (PC) to allow for the operation of a fire/arson insurance investigation service, owned by Bensen Fire & Safety Consulting, Ltd.

The Clerk shall send certified copies of this action to the Delaware County Regional Planning Commission and Delaware County Code Compliance with a request to change the official maps to reflect this action. This action effective the earliest date allowable by law.

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

COMMISSIONERS' COMMITTEES REPORTS

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Commissioner O'Brien

-Attended And Participated The Facilities Needs Assessment Meeting; Interview 4 Companies After First Of The Year

Commissioner Thompson

-EMA Follow-Up From Presentation

Commissioner Stapleton

-Cell Phone Surcharge Going For A Vote At 25 Cents; Down From 28 Cents

-Friday Economic Development Summit Meeting

-No Meeting On 10th

RESOLUTION NO. 12-1348

IN THE MATTER OF ADJOURNING INTO EXECUTIVE FOR THE CONSIDERATION OF EMPLOYMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:

It was moved by Mr. Thompson, seconded by Stapleton to adjourn into Executive Session at 10:50AM.

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

RESOLUTION NO. 12-1349

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Thompson, seconded by Mr. O'Brien to adjourn out of Executive Session at 11:05AM.

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Stapleton Absent

***Due To A Prior Commitment Commissioner Stapleton Was Absent For The Adjourning Of Executive Session**

There being no further business, the meeting adjourned.

Ken O'Brien

Dennis Stapleton

Tommy Thompson