

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017

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

Present:
Jeff Benton, President
Gary Merrell, Vice President
Barb Lewis, Commissioner

8:30 AM Special Session: Adjourning Into Executive Session For Consideration Of Appointment, Employment and Compensation of a Public Employee or Public Official (17-1118)

9:30 AM Regular Session

1
RESOLUTION NO. 17-1120

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD OCTOBER 23, 2017:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on October 23, 2017; 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. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

2
PUBLIC COMMENT

3
ELECTED OFFICIAL COMMENT

4
RESOLUTION NO. 17-1121

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1025:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1025 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
P1701183 /Heavy Duty Truck	Water Rec. Department Parts	66211903-5228	\$ 3,000.00
P1701183 /Heavy Duty Truck	Water Rec. Department Parts	66211904-5228	\$ 3,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R1705502	VASU COMMUNICATIONS INC	8 KENWOOD PORTABLE RADIOS	21411306-5260	\$17239.92
R1705494	AMERICAN PRODUCERS SUPPLY CO INC	SHELVING FOR ASSET MANAGEMENT WAREHOUSE	66211901-5201	\$5000.00
R1705494	AMERICAN PRODUCERS SUPPLY CO INC	SHELVING FOR ASSET MANAGEMENT WAREHOUSE	66211901-5260	\$5000.00
R1705524	DUDE SOLUTIONS INC OECC	CLOUD BASE SOFTWARE PROGRAM OEC	66211901-5320	\$24805.00

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

5
RESOLUTION NO. 17-1121

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

The Facilities Department is requesting that Jon Melvin attend the 2017 CCAO Winter Conference in Columbus, Ohio on December 11, 2017 at the cost of \$65.00 (fund number 10011105).

The Facilities Department is requesting that Lance Haersperger attend a Variable Frequency Drive Operation & Maintenance Training in Columbus, Ohio on December 7, 2017 at the cost of \$275.00 (fund number 10011105).

The Facilities Department is requesting that Norm Smith attend an ICentrifugal Chiller Owner/Operator Training in Columbus, Ohio on November 15, 2017 at the cost of \$295.00 (fund number 10011105).

The Facilities Department is requesting that Scott Amrine, Kevin Miller and Norm Smith attend an Intellipak Packaged Rooftop Operations & Maintenance Training in Columbus, Ohio on November 16, 2017 at the cost of \$825.00 (fund number 10011105).

The Facilities Department is requesting that Scott Amrine, Lance Hauerperger, Kevin Miller, Gregg Rittenhouse and Norm Smith attend a Cooling Tower Operations & Maintenance Training in Columbus, Ohio on November 17, 2017 at the cost of \$1250.00 (fund number 10011105).

The Economic Development Department is requesting that Bob Lamb and Jenna Jackson attend a ED411 Event in Columbus, Ohio on December 1, 2017 at the cost of \$70.00 (fund number 21011113).

The Child Support Enforcement Agency is requesting that Mindy Kunce attend a Butler County CSEA "Employers Workshop" in Butler County at no cost.

The Child Support Enforcement Agency is requesting that Christina Le Long attend an October 2017 "Cost of Poverty Workshop" in Franklin County; at the cost of \$5.00 (fund 23711630).

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

**6
RESOLUTION NO. 17-1123**

IN THE MATTER OF A STOCK REQUEST FROM DNL 2012 LLC (DBA WATERS EDGE SPORTS GRILL LOCATED AT 5192 CHESHIRE ROAD & PATIO) GALENA, OHIO 43021 AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following resolution:

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Berlin Township Trustees that a stock request from DNL 2012 LLC DBA Waters Edge Sports Grill located at 5192 Cheshire Road & Patio, Galena, Ohio 43021;

Whereas, the Delaware County Board of Commissioners has found no reason to file an objection,

Therefore Be It Resolved, The Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

**7
RESOLUTION NO. 17-1124**

IN THE MATTER OF SCHEDULING THE SPECIAL COMMISSIONERS' SESSIONS FOR THE 2018 BUDGET HEARINGS STARTING AT 1:30PM MONDAY OCTOBER 30, 2017 AND CONTINUING THRU FRIDAY NOVEMBER 17, 2017:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve scheduling the Special Commissioners' sessions for the 2018 budget hearings starting at 1:30pm Monday October 30, 2017 And Continuing Thru Friday November 17, 2017.

Starting times for each day are as follows:

- Monday October 30, 2017-1:30pm
- Tuesday October 31, 2017-9:30am
- Wednesday November 1, 2017-9:30am

- Wednesday November 8, 2017-9:30am

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

Monday November 13, 2017-1:30pm
 Tuesday November 14, 2017-9:30am
 Wednesday November 15, 2017 -9:30am
 Thursday November 16, 2017-1:00pm
 Friday November 17, 2017-9:30am

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

8

RESOLUTION NO. 17-1125

SETTING DATE AND TIME FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF THE KINGSTON TOWNSHIP #2017-1 DRAINAGE IMPROVEMENT PETITION FILED BY MARIBETH MELUCH AND OTHERS:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to adopt the following resolution:

WHEREAS, on September 1, 2017, the Clerk of this Board gave notice to the Board of County Commissioners and the County Engineer of Delaware County, Ohio, on the filing with her of a petition signed by Maribeth Meluch and Others, to:

-generally improve the drainage, both surface and subsurface, to a good and sufficient outlet by replacing or repairing, and/or altering the existing improvement as required and/or creating new surface and subsurface drainage mains or laterals as requested by this petition.

-in Delaware County, Kingston Township within the Kingston Township #2017-1 watershed and generally following but not limited to the course and termination of existing improvements.

WHEREAS, the proper bond has been filed with the clerk, approved, conditioned for the payment of costs of notices, plus any other incidental expenses, except the cost incurred by the Engineer in making his preliminary reports, if the prayer of this petition is not granted, or if the petition is for any cause dismissed, unless the Board decides to pay the Engineer’s cost from the bond in accordance with Section 6131.09 of the Revised Code;

THEREFORE, BE IT RESOLVED, BY THE Board of County Commissioners, that the **Monday November 20, 2017 at 1:30P.M. starting in the vicinity of 8908 Kilbourne Road Sunbury, Ohio 43074**, be and the same is hereby fixed as the time and place for the view thereon, and

BE IT FURTHER RESOLVED, That the **Thursday February 22, 2018 at 10:00A.M.** at the Office of the Board of County Commissioners, 101 North Sandusky Street Delaware, Ohio be and the same is hereby fixed as the time and place for the first hearing on the petition, and

BE IT FURTHER RESOLVED, that notice of said view and hearing be given, as required by law.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

9

RESOLUTION NO. 17-1126

IN THE MATTER OF DECLARING COUNTY PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve the following:

WHEREAS, section 307.12(E) of the Revised Code authorizes the Delaware County Board of Commissioners (the “Board”) to sell, by internet auction, county personal property that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired; and

WHEREAS, on August 1, 2016, the Board adopted Resolution No. 16-749, declaring its intent to sell unneeded, obsolete, or unfit personal property by internet auction and establishing general guidelines for such sale; and

WHEREAS, pursuant to section 307.12(I) of the Revised Code, if the Board determines that county personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the Board may discard or salvage that property; and

WHEREAS, the Delaware County Sheriff has determined that the personal property listed in Addendum A, attached hereto and by this reference incorporated herein, is no longer needed for public use, is obsolete, or is unfit for the use for which it was acquired (hereinafter collectively referred to as the “Property”);

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

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

Section 1. The Board hereby declares that the Property is not needed for public use, is obsolete, or is unfit for the use for which it was acquired and authorizes the sale of the Property by internet auction, in accordance with the guidelines set forth in Resolution No. 16-749.

Section 2. The Board hereby determines that any of the Property that is not sold by internet auction within a reasonable period of time has no value and may be discarded or salvaged.

ADDENDUM "A"

This document identifies the Property referred to in the above Resolution.

Item #	Description	Brand/Model	Serial #
1	4 dog collars 1" width adjusts 11"-14" (2 - black, pink,white)	East Side	
2	xbox 360 guitar hero 5 games	Microsoft	
3	apple ipod touch 8gb	Apple	1A933ZVB75J
4	socket set in red case	Husky	
5	ipad mini 16gb, white	Apple	F4NK849SF196
6	ipad mini 16gb, white	Apple	F4KKCJC7F19F
7	5 watches	Kareena	
8	misc jewelry - charms/pendants/etc		
9	14kt gold, .25tw diamond earrings		
10	double bass drum pedal regular	Drum Workshop	
11	poker chip set in silver case		
12	LOT OF 18 BICYCLES (Items 13-30)		
13	free spirit bike, mens, blue, w/navy storage bag	Free Spirit	
14	roadmaster element mountain bike, 18 speed, womens, light blue	Roadmaster	BC1FO44330
15	trek 220 mountain track bike, youth, red/black/silver/white	Trek	
16	magna excitor xp3000 bike, 21 speed, red/black/yellow	Magna	
17	huffy loma mountain bike, kids, 18 speed, teal	Huffy	
18	huffy snake rock mountain bike, 10 speed, black/pink, w/water bottle	Huffy	
19	mountain bike, black/white	Unknown	GS120406768
20	mongoose ledge 23 bike, silver	Mongoose	SNFSD15K64213
21	genesis V2100 bike, white/green	Genesis	GS121120776
22	next mountain bike, blue	Next	
23	gt outpost trail mountain bike, blue	GT	
24	firmstrong urban bike, lime green	Firmstrong	TMSJ1501375
25	huffy newport 26378 bike, single speed, gold/white	Huffy	
26	rallye 20" bike, pink/white, w/green rims	Rallye	
27	bike, silver	Unknown	
28	magna glacier point bike, 15 speed, purple, w/black basket on front	Magna	
29	magna excitor xp5000 bike, 21 speed, yellow/green	Magna	
30	true princess bike, girls, pink/grey, w/handlebar tassels	Huffy	

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

10

RESOLUTION NO. 17-1127

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR HEATHER RIDGE SECTIONS 1 & 2:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following sanitary sewer improvement plans for submittal to the Ohio EPA for their approval.

WHEREAS, the Sanitary Engineer recommends approval of the sanitary sewer improvement plans.

THEREFORE BE IT RESOLVED, that the Board of Commissioners approve the sanitary sewer improvement plans for Heather Ridge Sections 1 & 2 for submittal to the Ohio EPA for their approval.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017

11

RESOLUTION NO 17-1128

IN THE MATTER OF ACCEPTING THE AWARD FOR THE VICTIMS OF CRIME AND STATE VICTIMS ASSISTANCE GRANT (VOCA/SVAA) FOR VICTIM SERVICES:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

Grant # 2018 VOCA
 Source: VOCA- Ohio Attorney General
 Grant Period: October 1, 2017 – September 30, 2018

Federal Grant Requested Amount: \$ 136,662.21
 Local Match: \$ 34,165.55
 Total VOCA Grant Amount: \$ 170,827.76

Grant # 2018 SVAA
 Source: SVAA- Ohio Attorney General
 Grant Period: October 1, 2017 – September 30, 2018

Federal Grant Requested Amount: \$ 2,106.00
 Local Match: 0.00
 Total SVAA Grant Amount: \$ 2,106.00

Total Grant Amount: \$ 172,933.76

The acceptance of this grant allows us to continue to employ our victim services director, victim services assistant and civil order protection specialist. Without these positions our Victim Services Unit would be unable to sustain the amount of victims and would in turn be a disservice to the community of Delaware County. Unfortunately the federal government cut funding for the Victim of Crimes Unit this year and that caused us to not receive the full funding we requested along with a slight reduction from last year.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

12

RESOLUTION NO. 17-1129

IN THE MATTER OF APPROVING TRANSFER OF FUNDS FOR JOB AND FAMILY SERVICES:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve the following:

Transfer of Funds

From	To	
22311611-5801 Workforce Investment Act/Transfers	22411603-4601 JFS Workforce/Interfund Revenues	\$ 26,121.53
22511607-5801 Children Services Fund/Transfers	22411604-4601 JFS Child Protection/Interfund Revenues	\$ 447,737.32
10011110-5801 Human Services/Transfers	22511607-4601 Children services /Interfund Revenues	\$ 700,000.00

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

13

RESOLUTION NO. 17-1130

IN THE MATTER OF APPROVING DELAWARE COUNTY CODE COMPLIANCE TO BEGIN THE ADMINISTRATION OF THE 2017 OHIO BUILDING CODE (OBC), THE 2017 OHIO MECHANICAL CODE (OMC) AND THE 2017 OHIO PLUMBING CODE (OPC):

It was moved by Mr. Merrell, seconded by Mrs. Lewis to adopt the following:

WHEREAS, the Ohio Board of Building Standards has established November 1, 2017, as the effective date of the code update; and

WHEREAS, such code update shall require non-residential construction documents to be reviewed and approved for designs that comply with the 2017 codes starting November 1, 2017; and

WHEREAS, by virtue of the update to the Ohio codes, Delaware County Code Compliance shall enforce the non-

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

residential codes as adopted by the Ohio Board of Building Standards for all of Ohio; and

NOW THEREFORE, WE THE DELAWARE COUNTY BOARD OF COMMISSIONERS DO HEREBY ACKNOWLEDGE THE REQUIREMENT FOR THE COUNTY TO ADMINISTER THE 2017 OHIO BUILDING CODE, THE 2017 OHIO MECHANICAL CODE & THE 2017 OHIO PLUMBING CODE.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

14

RESOLUTION NO. 17-1131

IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN DELAWARE COUNTY, OHIO AND THE OHIO DEPARTMENT OF AGRICULTURE FOR THE LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

MEMORANDUM OF UNDERSTANDING
BETWEEN
DELAWARE COUNTY, OHIO
AND
THE OHIO DEPARTMENT OF AGRICULTURE

This Memorandum of Understanding (“MOU”) is entered into by the State of Ohio, acting by and through the Ohio Department of Agriculture (hereinafter “ODA”), 8995 East Main Street, Reynoldsburg, Ohio 43068-3399 and **the County of Delaware, Ohio** (hereinafter “Delaware County”), 101 North Sandusky Street, Delaware, Ohio 43015 (collectively referred to as the “Parties”). Both Parties agree as follows:

RECITALS

WHEREAS, ODA is authorized to acquire real property used predominately in agriculture and agricultural easements pursuant to Ohio Revised Code (“ORC”) § 901.21;

WHEREAS, land encumbered by an agricultural easement pursuant to ORC § 5301.67 is often also encumbered by right-of-way easements held by various governmental entities;

WHEREAS, ODA acknowledges that public safety concerns may periodically require that these right-of-way easements held by various governmental entities be expanded; and

WHEREAS, ODA acknowledges that various governmental entities may be entitled to pursue a cause of action for eminent domain to expand these right-of-way easements;

NOW THEREFORE, ODA and Delaware County agree to enter into this MOU to efficiently resolve situations where an existing right-of-way easement may need to be expanded for public safety purposes.

Article I – Authority

Pursuant to O.R.C. § 901.051, ODA has the authority to enter into cooperative agreements with any subdivision of the state. Specifically, ODA and Delaware County enter into this MOU to establish a working relationship that allows all parties to meet their responsibilities under O.R.C. Chapter 901, et seq. and associated rules, as well as meet the requirements for future improvements. The Parties mutually acknowledge and agree that (1) certain properties subject to farmland preservation or conservation easements are or may be encumbered by easements or rights-of-way held by governmental or public utility entities; (2) the public health, safety, and welfare may periodically require the expansion of these easements or rights-of-way; and (3) such entities may be entitled to pursue a cause of action for eminent domain to secure or expand these rights. Delaware County acknowledges that this MOU does not provide any required consent in any project which may be needed from the landowner, a local sponsor as defined in Ohio Administrative Code (“OAC”) § 901-2-01(W), or from the United States Department of Agriculture, Natural Resources Conservation Service (“NRCS”).

Article II – ODA Responsibilities

Notwithstanding any other provision of the deed of agricultural easement in question, ODA will permit Delaware County to expand easements or rights-of-way along or across the subject properties for the purposes of roads, bridges, electric, water, sanitary sewer, storm sewer or gas lines, or similar public infrastructure involving transportation for public use or utilities (hereinafter “Project”). Any such Project must benefit the landowner’s property, as defined in any Deed of Agricultural Easement as held ODA. ODA shall hereby consent to such Project so long as at least one or more of the following conditions are met:

1. Project does not require any change to the existing right-of-way easement;

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

2. In any Project for bridge, culvert or storm sewer replacement, repair or reconstruction, the easement expansion to accommodate culvert or storm sewer ends, bridge piers, wing walls, or approach work is less than one (1) acre of the subject property;
3. In any Project for road widening, the easement expansion does not expand the total width of the right-of-way easement, as it existed at the time that the Deed of Agricultural Easement was executed, beyond sixty (60) feet from the relevant center line;
4. In any Project for intersection improvements, the easement expansion is less than one (1) acre of the subject property;
5. In any Project for public utility installations, the easement expansion does not expand the total width of the right-of-way easement, as it existed at the time that the Deed of Agricultural Easement was executed, beyond ninety (90) feet from the relevant center line; or
6. Any Project that requires a temporary expansion of an existing right-of-way or easement or use of a new right-of-way or easement so long as any undeveloped land being so used is returned to land of equal or greater agricultural productive capability following completion of the project.

ODA further agrees to execute any instrument necessary to expand any existing right of way or easement pursuant to this MOU. All other projects involving the use of land that exceeds the criteria of this MOU will be referred to ODA for consent as required in any Deed of Easement.

Article III – Delaware County Responsibilities

Delaware County agrees to:

1. Negotiate in good faith with the current landowner of any property encumbered by an agricultural easement and whose consent is required to expand the relevant existing right-of-way easement; and
2. Provide ODA notice, plans, and explanation of the public safety issue(s) that the proposed right-of-way easement expansion would address in writing at least sixty (60) days prior to construction.

Article IV – Responsibilities of the Parties

Each Party assumes responsibility and liability for the acts and omissions of their respective employees and contractors. Each Party assumes sole and separate responsibility for any costs, losses, judgments, equipment, attorney fees or other liability arising from the acts and omissions of their respective employees and contractors under this MOU.

Article V – Compliance with Law

The Parties agree to comply with all applicable federal, state and local laws in the conduct of the work hereunder, including but not limited to O.R.C. § 125.111. In the event that any provision of this MOU conflicts with any law, rule or regulation, said law, rule or regulation shall prevail.

Article VI – Public Records; Recording

Delaware County acknowledges that this MOU and other records in the possession or control of Delaware County regarding this MOU are public records under Ohio Revised Code § 149.43 and are open to public inspection unless a legal exemption applies. The Parties agree that this MOU may be recorded in the appropriate records of the Delaware County Recorder and that Delaware County shall bear the expense of recording, if any.

Article VII – Designated Contacts

Any notices, bills, invoices or reports required by this MOU shall be in writing and sent by the Parties via United States mail, postage paid, to the address below:

Ohio Department of Agriculture
Division of Plant Health
Attention: Office of Farmland Preservation
8995 E. Main Street
Reynoldsburg, Ohio 43068

Delaware County Board of Commissioners
101 North Sandusky Street
Delaware, Ohio 43015

Article VIII – Excuse of Performance

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017

The performance of this MOU may be suspended by either Party for cause or causes beyond the reasonable control of such Party. Such causes shall include, but are not limited to, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; unforeseeable or unpreventable lack of adequate fuel, power, raw materials, labor or transportation facilities; unforeseeable changes in governmental laws, regulations, requirements, orders or actions; unforeseeable or preventable breakage or failure of machinery or apparatus; national defense requirements; injunctions or restraining orders; unforeseeable or unpreventable labor trouble, strike, lockout or injunction, provided that neither Party shall be required to settle or prevent a labor dispute against its own best judgment.

Article IX – Entire Agreement

This written MOU constitutes the entire agreement between Parties, and there are no other agreements between them, either oral or written, which relate to the work to be performed under this MOU.

Article X – Construction, Applicable Law and Headings

1. This MOU and any claims arising in any way out of this MOU shall be governed by the laws of the State of Ohio. Any provision of this MOU prohibited by the law of Ohio shall be deemed void *ab initio*.
2. Any provision of this MOU found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the MOU.
3. The headings used in this MOU are for convenience only and shall not be used in interpreting this MOU.

Article XI – Assignment

Neither this MOU nor any rights, duties, or obligations described herein shall be assigned by either Party to this MOU without the prior express written consent of the other Party.

Article XII – Counterparts

Electronic Signatures Copies of signatures sent by facsimile transmission or provided electronically in portable document format (“PDF”) shall be deemed to be originals for purposes of execution and proof of this Agreement.

Article XIII – Termination

1. Either Party may terminate this MOU, in whole or in part, at any time and for any reason by giving thirty (30) calendar days written termination notice to the other Party.
2. Except in the case of delay or failure resulting from circumstances beyond the control and without the fault of negligence of either Party, either Party shall be entitled, by written or oral notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms, and to have all other rights against the other Party by reasons of that Party’s breach as provided by law. A breach shall mean, but shall not be restricted to, any one or more of the following events:
 - a. Either Party fails to perform the services by the date required or by such later date as may be agreed to in a written amendment to the MOU, signed by both Parties;
 - b. Either Party breaches any warranty, or fails to perform or comply with any terms of this MOU.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

15
RESOLUTION NO. 17-1132

**IN THE MATTER OF APPROVING AMENDMENT NUMBER ONE TO AGREEMENT FOR 2016
LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) COOPERATIVE
AGREEMENT BETWEEN THE OHIO DEPARTMENT OF AGRICULTURE AND DELAWARE
COUNTY COMMISSIONERS:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

**AMENDMENT TO AGREEMENT
FOR
2016 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP)
COOPERATIVE AGREEMENT
BETWEEN
THE OHIO DEPARTMENT OF AGRICULTURE
AND
DELAWARE COUNTY COMMISSIONERS**

AMENDMENT I

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

This is an Amendment to an existing Agreement, by and between the State of Ohio, acting by and through the OHIO DEPARTMENT OF AGRICULTURE ("ODA"), located at 8995 East Main Street, Reynoldsburg, Ohio 43068 and DELAWARE COUNTY COMMISSIONERS, 101 North Sandusky Street; Delaware, OH 43015 (hereinafter "Local Sponsor"), who hereby agree as follows:

Recitals

1. The original Cooperative Agreement was executed on July 1, 2016 (hereinafter "Agreement") granting funds to the Local Sponsor to purchase easements under the Local Agricultural Easement Purchase Program ("LAEPP") 2016.
2. Subsequent to the original Cooperative Agreement, a new biennium occurred. Therefore, Amendment 1 is necessary. Amendment 1 outlines the distribution of funds to specific landowners and increases obligated funds.
3. Prior to Amendment 1, total funds obligated equaled \$263,506. An additional \$67,099 became available to this local sponsor resulting in a new total of \$330,605. The available funds shall be dispersed as outlined in "Exhibit B -Property/Funds."

Pursuant to Article III of the Agreement which is attached hereto and incorporated herein as "Exhibit A," the parties agree in writing to amend this Agreement as follows:

II. SCOPE OF WORK

Delete paragraph 2.5, insert the following:

"The closing ("Closing") for the agricultural easements in connection with each Property shall occur on a time and date mutually agreed to by the parties, but in no event later than June 30, 2019. Local Sponsor may receive an extension to this deadline with the prior written approval of ODA."

III. TIME OF PERFORMANCE

Delete paragraph 3.1, insert the following:

"The services as stated in "Exhibit A - Scope of Work," shall be commenced by the Local Sponsor on July 1, 2017 and shall cease on June 30, 2019. Prior to the expiration of this Agreement, the parties may mutually agree to renew this Agreement as indicated in Section 3.1(b) below."

Delete paragraph 3.1 (a), insert the following:

"This Agreement shall remain in effect until the work described in "Exhibit A - Scope of Work," is completed to the satisfaction of ODA or until terminated as provided in Article VIII, Termination of Local Sponsor's Services, whichever is sooner. However, in no event will this Agreement continue beyond June 30, 2019. It may be renewed as provided for herein."

Delete paragraph 3.1(b), insert the following:

"As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire no later than June 30, 2019. This contract may be renewed, at ODA's option, for a period of one (1) year upon the same terms contained herein."

IV. ODA'S OBLIGATION TO FUND

Delete paragraph 4.1, and insert the following:

"Subject to the terms and conditions of this Agreement, upon execution of this Agreement, ODA shall obligate the sum of \$330,605.00 (Three Hundred Thirty Thousand Six Hundred Five and 00/100 Dollars) for the acquisition by Local Sponsor of agricultural easements for the parcels approved by the Director of ODA and added by amendment to "Exhibit B -Property/Funds."

Exhibit A - Scope of Work

Delete paragraph F, insert the following:

"The parties shall mutually agree to a closing date, but in no event later than June 30, 2019 unless otherwise agreed in writing by ODA."

Exhibit B - Property/Funds

Delete the template and insert the following item(s) attached:

- Sherman -Farm ID #10069

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017

- Newhouse Family -Farm ID #10096

Entire Agreement

This Amendment 1 and the existing Agreement, attached hereto and incorporated herein as "Exhibit A," constitute the entire Agreement between the Local Sponsor and ODA, and there are no other Agreements between them, either oral or written, which relate to the work to be performed under this Agreement.

EXHIBIT B
PROPERTY/FUNDS
(1)

Farm ID: 10069
Owner: Sherman
Main Contact Information: James Sherman
16140 Peerless Road
Centerburg, OH 43011
Property Location: 9436 Moody Road
Centerburg, OH 43011
County: Delaware
Township: Porter
Parcel Number - Acres: 51610001022000 - 85.260 ac
51610001017000 - 78.700 ac
51610001018000 - 13.440 ac
Total 177.400 ac

ODA Contribution Not to Exceed: \$217,755.00

EXHIBIT B
PROPERTY/FUNDS
(continued)
(2)

Farm ID: 10096
Owner: Newhouse Family
Main Contact Information: Gary Newhouse
2303 Wynbend Drive
Powell, OH 43065
Property Location: 1335 Ostrander Road
Ostrander, OH 43061
County: Delaware
Township: Scioto
Parcel Number - Acres: 200-400-04-020-000 - 82.34 ac
Total 82.34 ac

ODA Contribution Not to Exceed: \$112,850.00

A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

16
RESOLUTION NO. 17-1133

RESOLUTION OF NECESSITY FOR PURCHASE OR LEASE OF AUTOMOBILE FOR THE USE OF THE COUNTY DRAINAGE MAINTENANCE PROGRAM:

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

WHEREAS, pursuant to section 307.41 of the Revised Code, the Board of Commissioners of Delaware County, Ohio (the "Board") may find, by resolution of necessity, that it is necessary to expend county monies for the purchase or lease of a new automobile to be used by the County Commissioners, by any county department, board, commission, office or agency, or by any elected county official or his or her employees; and

WHEREAS, the Board has before it a request from the Drainage Maintenance Program, administered by the Delaware Soil and Water Conservation District Board of Supervisors, to expend county monies for the purchase of new automobiles;

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

Section 1. The Board hereby declares that it is necessary to expend county monies for the purchase of automobiles to be used by the Delaware Soil and Water Conservation District employees for the following reasons: (a) existing automobiles have reached the end of their useful service lives; (b) new automobiles are necessary to provide safe and reliable transportation for the Delaware Soil and Water Conservation District employees; and (c) new automobiles will ensure optimal service to the citizens of Delaware County.

Section 2. The Board hereby approves the purchase of three (3) vehicles:

- (a) 2012 Ford F250 vehicle at a cost of \$15,600.00 from the Delaware Soil and Water Conservation District;
- (b) 2015 Ford F-450 Dumptruck vehicle at a cost of \$38,000.00 from the Delaware Soil and Water Conservation District; and
- (c) 2012 Kubota L5240 Tractor w/loader and accessories at a cost of \$33,500.00 from the Delaware Soil and Water Conservation District.

Section 3. The Board hereby approves the purchase order(s) from fund number 21911401-5450.

Section 4. The Clerk of the Board is hereby directed to certify a copy of this Resolution to the Delaware Soil and Water Conservation District and the County Auditor.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

17

RESOLUTION NO. 17-1134

IN THE MATTER OF APPROVING THE APPLICATIONS FOR DESIGNATION OF CHARITABLE AGENCIES UNDER THE DELAWARE COUNTY CHARITABLE AGENCIES SUPPORT POLICY:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

WHEREAS, the Delaware County Board of Commissioners adopted a Charitable Agencies Support Policy (the "Policy") via Resolution No. 13-424; and

WHEREAS, the Charitable Agency Committee met and reviewed the applications submitted for designation in 2018-2019 and provided a written recommendation to designate United Way of Delaware County and People In Need, Inc., Emergency Services Program as Charitable Agencies under the Policy, both agencies having met all the eligibility requirements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves designating United Way of Delaware County and People In Need, Inc., Emergency Services Program as Charitable Agencies for the 2018 and 2019 calendar years and hereby authorizes a payroll deduction plan in support of said agencies, all in accordance with the Policy.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

18

RESOLUTION NO. 17-1135

IN THE MATTER OF THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO, APPROVING A RESOLUTION SUPPORTING THE OHIO DEPARTMENT OF TRANSPORTATION'S FEDERAL INFRA GRANT APPLICATION:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve the following

Mr. Jerry Wray Director, Ohio Department of Transportation
1980 W. Broad St.

**COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017**

Columbus, OH 43223

RE: Federal INFRA grant application

Please regard this letter from the Delaware County Board of Commissioners as an expression of firm support for the Ohio Department of Transportation’s application to the INFRA Grant program. The funds would be used for the improvement of the Interstate 71 and U.S. Route 36/State Route 37 interchange in Delaware County.

The project is a high-priority transportation and safety project that will impact the entire Central Ohio region, a fact recently affirmed by the Mid-Ohio Regional Planning Commission when it designated the project as one of the top-ranking projects in its Competitive Advantage Project program.

The planned interchange improvements, which include ramps at the proposed Sunbury Parkway, are critical to the safe and efficient operation of our transportation system and would enable the County to continue developing economically in a prudent and thoughtful manner. We believe these improvements would also address current safety and congestion issues that exist already at the current interchange.

We encourage you to approve the funding that will assist in the completion of this necessary public improvement because we firmly believe it is a project that will yield long-term benefits not just for those who live and work in the vicinity of this interchange, but for the County and region as a whole.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

19

ADMINISTRATOR REPORTS

Ferzan Ahmed, County Administrator

- Gave a brief history of TRAC
- This coming Monday, we will be hosting the second group of Legislative Fellows
- Attended the Orange Township Business Appreciation Day this week. There is a route that COTA has that goes to the Polaris & Africa Road area.

20

COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Merrell

- Attended the Business Appreciation Day this week at Orange Township
- There is Regional Planning tonight

Commissioner Lewis

- Attended the Bridges Community Action meeting yesterday. They have expanded to 45 employees.

Commissioner Benton

- Spoke at the Ohashi Technica, Inc. yesterday at the 35th anniversary.
- PIN will be at the American Bistro opening today
- Congrats to the Orange High School Girl’s Golf team for winning the State Championship
- Working with CCAO on the SALT (State and Local Tax) deduction

21

RESOLUTION NO. 17-1136

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT; EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR COLLECTIVE BARGAINING:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to adjourn into Executive Session at 10:09 AM.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

RESOLUTION NO. 17-1137

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to adjourn out of Executive Session at 10:52 AM.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

22

RESOLUTION NO. 17-1138

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF CONFIDENTIAL INFORMATION RELATED TO ECONOMIC DEVELOPMENT:

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 26, 2017

It was moved by Mr. Merrell, seconded by Mrs. Lewis approve the following:

WHEREAS, pursuant to section 121.22(G)(8) of the Revised Code, a public body may hold an executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project; and

(2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project;

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

Section 1. The Board hereby adjourns into executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance.

Section 2. The Board hereby finds and determines that the information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

Section 3. The Board hereby finds and determines that the executive session is necessary to protect the interests of an applicant for economic development assistance or the possible investment or expenditure of public funds to be made in connection with the economic development project.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

RESOLUTION NO. 17-1139

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn out of Executive Session at 12:28 PM.

Vote on Motion Mrs. Lewis Absent Mr. Benton Aye Mr. Merrell Aye

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners