

Commissioners' Journal
April 4, 2013

The Geauga County Board of Commissioners met in session on April 4, 2013 at 10:00 a.m. in the Commissioners' Chambers located at 470 Center Street in Chardon, Ohio.

It is declared and determined that all formal actions of the Board of County Commissioners concerning and relating to the adoption of all resolutions that were adopted in this meeting, and that all deliberations of the Board of County Commissioners that resulted in such formal action were open to the public and were in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.

The President of the Board, Tracy A. Jemison opened the meeting at 10:01a.m. by leading the Board and audience in reciting the Pledge of Allegiance.

OFFICE OF COMMUNITY AND ECONOMIC DEVELOPMENT – NOTICE OF AWARD – SMOLEN ENGINEERING – PROFESSIONAL SERVICES AT COUNTY HOME

Program Coordinator Kelly Belconis explained they were asking the Board to approve a Notice of Award to Smolen Engineering for professional services for the project at the County Home to do upgrades to the bathrooms. Ms. Belconis added that the proposal amount \$7,600.00 is within the ten to twelve percent (10-12%) of the total project cost.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve and authorize the President of the Board to execute a Notice of Award to Smolen Engineering for professional services for upgrades to be performed at the Pleasant Hill County Home located at 13211 Aquilla Road, Chardon under Grant #B-F-12-1AZ-1 in the amount of \$7,600.00 as they represented the lowest and best proposal.

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

COUNTY HOME – ACCEPT RESIGNATION – RICHARD SURCKLA – PART-TIME ATTENDANT

Director Karen DeCola explained that Mr. Surckla had a rough start and had only been working for the last three weeks. Ms. DeCola noted that Mr. Surckla had accepted a full-time position with the Board of Developmental Disabilities.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to accept the resignation of Richard Surckla, Part-time Attendant (#1504-1) to be effective April 12, 2013.

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

COUNTY HOME – APPROVE HIRE – JENNIFER MCDOUGALL – PART-TIME ATTENDANT

Ms. DeCola stated that Ms. McDougall would be a replacement for Mr. Surckla, adding that Ms. McDougall has a degree in psychology and the position will be a good fit for her.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve hiring Jennifer McDougall for the position of Part-time Attendant (#1504-1) to be effective April 9, 2013 at a rate of \$9.12 per hour. After the successful completion of a 1,000 hour probationary period the rate will increase to \$9.60 per hour.

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

DEPARTMENT OF EMERGENCY SERVICES – WENS SERVICE AGREEMENT – DEPARTMENT OF EMERGENCY SERVICES (DES) - LOCAL EMERGENCY PLANNING COMMITTEE (LEPC) – SHERIFF'S OFFICE

Deputy Director of Planning Brian Laney explained that originally they started with a basic package and last year upgraded to the current package. Mr. Laney stated that they were asking to continue with it for an additional year, that the vendor has been less expensive, offers more

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capability and is a local business. Commissioner Jemison asked Mr. Laney to explain what the WENS system was for the audience. Mr. Laney stated that WENS stood for Wireless Emergency Notification System and started with an internal notification process that was used to alert county employees and others that have a role with the emergency operations center if an event is needed for response or to send an advisement; it includes tracking on the messages which is used for accountability. Mr. Laney explained that citizens can also sign up to receive alerts via cell phone for incidents or for boil alerts, or if something is happening in their township or in a geographical area around their address. Mr. Laney stated that system is used for internal and external notifications and has been a success. Mr. Jemison inquired if a lot of residents were on the list. Mr. Laney explained that a lot of information was 'dumped' from the 9-1-1 database but that an additional 1,000 people had voluntarily added their information. Local resident Walter "Skip" Claypool asked if this was a software or outside service and if the data being stored was secure. Mr. Laney explained that it was an outside service and that they had not done any audit or assessment on security, that the vendor is very reputable and only works with government type agencies. Mr. Laney stated that they are based out of Akron and deal with multiple counties and municipalities across the country. There was discussion about the information being public information and those numbers that are not public, and whether they would be secured from being sold, hacked or used for another purpose.

Another resident expressed concern about having to pay for flood insurance to FEMA as he lives within a flood zone and upon trying to find information out about the insurance discovered that the county is not tied to FEMA in any way, questioning if this system could be tied to FEMA. Mr. Laney explained that FEMA is not currently tied in at all, that it is 100% locally activated and that FEMA is currently working on a separate system that will be able to do large notifications. Mr. Laney stated that he believed it to be in beta testing now, adding that Inspiron Logistics is working to be compliant with them so that when FEMA does become fully active with their system that the systems will be integrated into each other.

The resident continued expressing his concern about having trouble obtaining information about this insurance requirement and was referred to the Building Department, adding that residents should have a place they can go to obtain information about this stuff, and maybe through the local EMA (Emergency Management Agency). Mr. Jemison expressed a need to move on, that what was being discussed was a notification system and offered to speak with him about it after session and assist in contacting the Building Department. One resident inquired about the hours of notification to people, that recently she had received an "Amber Alert" on her cell phone at 6:00 a.m. that she had not signed up for. Mr. Laney expressed that "Amber Alerts" are totally different and that one she received was out of West Virginia and they have different policies, adding the time of the notification would be dependent upon the type of incident and depended upon what they signed up to receive and whether it's a cell phone or landline. Mr. Claypool inquired about why this was not being done through the county IT department and being maintained by the county. Mr. Laney explained that a variety of departments and people were involved including the IT department to make this decision and this was considered to be the most prudent and cheapest; other options were Reverse 9-1-1 and Code Red which are both trademarked. Mr. Laney added that IT had to be involved in the process because the system required ADP approval. A brief discussion was held regarding the old system being done through a third party vendor that became outdated with technology changes.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve and authorize the President of the Board to initial and execute the WENS Service Agreement between the Department of Emergency Services (DES), Geauga County Local Emergency Planning Committee (LEPC), the Geauga County Sheriff's Office, Geauga County Board of Commissioners and Inspiron Logistics for an emergency response notification system for emergency responders and the general public for the period April 1, 2013 through March 31, 2014 in the amount of \$19,350.00 (\$6,450.00 paid by the Local Emergency Planning Committee (LEPC), \$6,450.00 paid by the Department of Emergency Services (DES), and \$6,450.00 paid by the Sheriff's Office).

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

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COUNTY ENGINEER'S OFFICE – UNIT PRICE CONTRACT – C.I.R., INCORPORATED –
REPLACE HEATH ROAD BRIDGES (STRUCTURE #105-3.15 AND #105-3.42)

County Engineer Joe Cattell explained that they were asking for approval of the unit price contract with C.I.R., Incorporated for the Heath Road Bridge structures located between Sherman and Wilson Mills Roads. Mr. Cattell noted that there would be a detour during construction.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve and execute the Unit Price Contract with C.I.R., Incorporated for the Replacement of the Heath Road Bridges (Structure #105-3.15 and #105-3.42) in Chester and Munson Townships in the amount of \$255,081.33.

<i>Roll Call Vote:</i>	Commissioner Spidalieri	Aye
	Commissioner Samide	Aye
	Commissioner Jemison	Aye

Mr. Cattell explained the next items were for Drainage Easements for various bridge projects being done this year, adding that often the sixty foot right of way of the bridge is not enough room to get the work done. Mr. Cattell noted that these projects have been presented previously and have gone to bid. Mr. Jemison inquired if the easements were permanent or just in place during the project. Mr. Cattell stated that they were permanent with the exception of one on Heath Road that will only be temporary for the length of the project.

COUNTY ENGINEER'S OFFICE – EASEMENTS FOR DRAINAGE PURPOSES –
REPLACEMENT OF AUBURN ROAD BRIDGE (STRUCTURE #4-3.01)

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and Edward James Richardson and Wanda Lou Richardson (Parcel #01-085350) in connection with the Replacement of the Auburn Road Bridge (Structure #4-3.01) in Auburn Township in the amount of \$100.00.

<i>Roll Call Vote:</i>	Commissioner Spidalieri	Aye
	Commissioner Samide	Aye
	Commissioner Jemison	Aye

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and James E. Sigh and Jennifer Sigh (Parcel #01-117202) in connection with the Replacement of the Auburn Road Bridge (Structure #4-3.01) in Auburn Township in the amount of \$100.00.

<i>Roll Call Vote:</i>	Commissioner Spidalieri	Aye
	Commissioner Samide	Aye
	Commissioner Jemison	Aye

COUNTY ENGINEER'S OFFICE – EASEMENTS FOR DRAINAGE PURPOSES – REPLACE
BUNDYSBURG ROAD BRIDGE (STRUCTURE #311-6.60)

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and Chester M. Miller and Anna J. Miller (Parcel #16-703138) in connection with the Replacement of the Bundysburg Road Bridge (Structure #311-6.60) in Parkman Township in the amount of \$100.00.

<i>Roll Call Vote:</i>	Commissioner Spidalieri	Aye
	Commissioner Samide	Aye
	Commissioner Jemison	Aye

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and Gregory P. Jones and Shawna S. Jones (Parcel #61-010-00-021-01) in connection with the Replacement of the Bundysburg Road Bridge (Structure #311-6.60) in Parkman Township in the amount of \$100.00.

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Roll Call Vote: *Commissioner Spidalieri* *Aye*
 Commissioner Samide *Aye*
 Commissioner Jemison *Aye*

COUNTY ENGINEER'S OFFICE – EASEMENT FOR DRAINAGE PURPOSES – REPLACE HEATH ROAD BRIDGE (STRUCTURE #105-3.15)

Motion: *by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and John R. Reed and Ashley A. Reed (Parcel #22-017400) in connection with the Replacement of the Heath Road Bridge (Structure #105-3.15) in Chester and Munson Townships in the amount of \$200.00.*

Roll Call Vote: *Commissioner Spidalieri* *Aye*
 Commissioner Samide *Aye*
 Commissioner Jemison *Aye*

COUNTY ENGINEER'S OFFICE – EASEMENTS FOR DRAINAGE PURPOSES – REPLACE HEATH ROAD BRIDGE (STRUCTURE #105-3.42)

Motion: *by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and Jon J. Rowles and Douglas L. Bowen (Parcel #11-367500) in connection with the Replacement of the Heath Road Bridge (Structure #105-3.42) in Chester and Munson Townships in the amount of \$100.00.*

Roll Call Vote: *Commissioner Spidalieri* *Aye*
 Commissioner Samide *Aye*
 Commissioner Jemison *Aye*

Motion: *by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and the Sugar Shack Farm, LLC (Parcel #11-138800) in connection with the Replacement of the Heath Road Bridge (Structure #105-3.42) in Chester and Munson Townships in the amount of \$200.00.*

Roll Call Vote: *Commissioner Spidalieri* *Aye*
 Commissioner Samide *Aye*
 Commissioner Jemison *Aye*

Motion: *by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and Theodore A. Berr and Mary O. Berr (Parcel #22-000680) in connection with the Replacement of the Heath Road Bridge (Structure #105-3.42) in Chester and Munson Townships in the amount of \$150.00.*

Roll Call Vote: *Commissioner Spidalieri* *Aye*
 Commissioner Samide *Aye*
 Commissioner Jemison *Aye*

COUNTY ENGINEER'S OFFICE – EASEMENT FOR DRAINAGE PURPOSES – REPLACE MUSIC STREET BRIDGE (STRUCTURE #146-3.17)

Motion: *by Commissioner Spidalieri, seconded by Commissioner Samide to accept and execute the Easement for Drainage Purposes between the Geauga County Board of Commissioners and Robert A. Zimmermann and Marsha A. Zimmermann (Parcel #26-213908) in connection with the Replacement of the Music Street Bridge (Structure #146-3.17) in Russell Township in the amount of \$100.00.*

Roll Call Vote: *Commissioner Spidalieri* *Aye*
 Commissioner Samide *Aye*
 Commissioner Jemison *Aye*

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COUNTY ENGINEER'S OFFICE – RESOLUTION TO ORDER THE VACATION OF NON-MAINTAINED PORTION OF NORTON STREET (TR746) PARKMAN TOWNSHIP – VACATION PLAT

Mr. Cattell explained that a Public Hearing to vacate the non-maintained portion of Norton Street had been held last Tuesday and there was no objection. Mr. Cattell added that this resolution once approved would order the section to be vacated.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve and execute Resolution #13-067 to Order the Vacation of the Non-Maintained Portion of Norton Street (TR476) in Parkman Township.

This resolution also requests the Board approve and execute the Vacation Plat that depicts the parcels of land created as a result of the vacation.

Board of County Commissioners, Geauga County, Ohio

Date: April 4, 2013

Resolution: 13-067

RESOLUTION TO ORDER THE VACATION OF THE NON-MAINTAINED PORTION OF NORTON STREET, TR 476 IN PARKMAN TOWNSHIP, GEAUGA COUNTY, OHIO

WHEREAS, the Parkman Board of Township Trustees in Resolution #13-46 petitioned the Geauga County Board of Commissioners for the vacation of the non-maintained portion of Norton Street (TR 476) from its southerly terminus point to the southerly margin of a twelve foot (12') wide alley; and

WHEREAS, the County Engineer issued to the Geauga County Board of Commissioners a written report similar in content to reports required under Ohio Revised Code Section 5553.06 stating that the Engineer believes the vacation is for the public convenience and welfare; and

WHEREAS, the Parkman Township Board of Trustees voted unanimously on March 3, 2009 to place the southerly portion of Norton Street on non-maintained status in accordance with Ohio Revised Code Section 5571.20; and

WHEREAS, the Geauga County Board of Commissioners held a public hearing held on April 2, 2013 regarding the vacation of the non-maintained portion of Norton Street and heard no objections; and

WHEREAS, the portion of non-maintained road under consideration for vacation is not used to calculate distributions of the auto registration funds under division (E) of Section 4501.04 of the Ohio Revised Code.

NOW, THEREFORE, BE IT RESOLVED by the Geauga County Board of Commissioners that the non-maintained portion of Norton Street (TR 476) from its southerly terminus point to the southerly margin of a twelve foot (12') wide alley being nineteen and eight tenths feet (19.8') wide is hereby ordered vacated in accordance with Section 5553.045 of the Ohio Revised Code.

BE IT FURTHER RESOLVED that the vacated portion of road shall pass in fee to abutting landowners subject to the preservation of any existing easement in, over, or under such roadway by any public utility or electric cooperative in accordance with Ohio Law.

BE IT FURTHER RESOLVED that the Board acknowledges a plat map depicting the resulting parcels of land created and remaining roadway will be prepared by the County Engineer and orders the plat to be recorded in the Recorder's Office and in the proper road records of the county.

BE IT FURTHER RESOLVED that the Clerk of the Geauga County Board of Commissioners is hereby instructed to transmit a certified copy of this resolution to the Parkman Township Board of Trustees, the Geauga County Recorder, the Geauga County Auditor and the Geauga County Engineer.

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Roll Call Vote:	Commissioner Spidalieri	Aye
	Commissioner Samide	Aye
	Commissioner Jemison	Aye

Mr. Jemison inquired about how long it would take for it to revert to the property owners. Mr. Cattell added that it would be done once the plat is recorded, that it is a pretty quick process.

OTHER – QUESTIONS ABOUT THE EASEMENTS

Several residents inquired about the extent of the easements and the difference in the amounts given. Mr. Cattell explained that it is very minimal; generally the range is between twenty and thirty feet. Mr. Cattell added that a drainage easement is different from a highway easement in the land is evaluated and drainage only pays half the value, that it only gives rights under drainage, erosion and storm water. Mr. Cattell noted that the minimum you can pay is \$100.00 and the larger amounts could be either the size of the property or it was negotiated based on an object like a tree on the property. Mr. Cattell offered to get into more specifics if they wanted to stop into his office.

DEPARTMENT OF WATER RESOURCES – EXTEND PROBATIONARY PERIOD – TODD PALIVEC – FULL-TIME MAINTENANCE WORKER (#2330)

Director Doug Bowen explained that he was asking to extend the probationary period for Mr. Palivec for thirty days. Mr. Bowen explained that he needed to take his CDL test, noting that it had been scheduled for March 23rd and had to be re-scheduled to April 9th, adding that Mr. Palivec's probation ends on April 7th. Mr. Bowen stated that the test is located in Carroll County and is hard to get scheduled, noting that Mr. Palivec covers the expense of the test and the rental of a truck for the test.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve with the consent of the employee and in accordance with Article Seventeen of the Labor Agreement to extend the probationary period of Todd Palivec, Full-time Maintenance Worker – Water / Wastewater Systems (#2330) for thirty days.

Roll Call Vote:	Commissioner Spidalieri	Aye
	Commissioner Samide	Aye
	Commissioner Jemison	Aye

COMMISSIONERS' OFFICE – RESOLUTION HONORING DEBBIE PATERNO – CHESTERLAND CHAMBER OF COMMERCE BUSINESS PERSON OF THE YEAR

Commissioner Spidalieri inquired about what business Ms. Paterno had or who she was, adding that he had received no information about this. Commissioner Samide stated that Ms. Paterno owned a Graphic Design business in Chesterland. County Administrator David Lair asked if the resolution had been emailed to the Board. Commissioners' Clerk Christine Blair explained that it hadn't been as this was given to her late as an added item. Mr. Spidalieri questioned about how the Board was notified to do this. Ms. Samide stated that the Chamber had called and asked for a resolution. Ms. Blair noted that Marc Habbouche from Danny Boys had been recognized last year as Chesterland Business Person of the year. Mr. Spidalieri inquired about the criterion for selection. Mr. Jemison stated that Chester Chamber was awarding this lady as Business Person for the Year and that the Board was just passing a resolution to honor this business person. Mr. Jemison then read the following resolution.

Board of County Commissioners, Geauga County, Ohio

Resolution: 13-068
Date: April 4, 2013

**A RESOLUTION HONORING DEBBI PATERNO
CHESTERLAND CHAMBER OF COMMERCE BUSINESS PERSON OF THE YEAR**

WHEREAS, Debbi Paterno established her Graphic Design business in Chesterland in 2002 and from her very first appearance at a Chamber event began donating her time and talent; and

WHEREAS, Debbi Paterno is a hard working team player that arranges networking events, breakfast and luncheon meetings with topics and speakers beneficial to the membership

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and the community, participates with many events like the Night at the Races, Andrew's Spirit of Hope, and the Littlest Heroes; and

WHEREAS, Debbi Paterno Graphic Design generously has donated auction items, centerpieces, business cards, banners, signs, certificates and more to the many activities and events throughout the years, exemplifying the term "small business can make a big difference"; and

WHEREAS, Debbi Paterno not only gives her time and expertise to Chesterland, but also finds the time to help the Willoughby Junior Women's Club in supporting families and also providing local scholarships; and

NOW, THEREFORE, BE IT RESOLVED, that the Geauga County Board of Commissioners do hereby honor Debbi Paterno on being the Chesterland Chamber of Commerce Business Person of the Year.

BE IT FURTHER RESOLVED, that this Resolution becomes part of the permanent record of the Board of Commissioners of Geauga County, Ohio.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve and execute Resolution #13-068 Honoring Debbi Paterno Chesterland Chamber of Commerce Business Person of the Year.

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

COMMISSIONERS' OFFICE – RESOLUTION DECLARING COUNTY PROPERTY SURPLUS AND DIRECTING TRANSFER TO GEAUGA COUNTY AIRPORT AUTHORITY

Mr. Lair explained that back around the year 2007 the Board approved to provide a surplus county vehicle, which at the time was an old Sheriff cruiser with a lot of miles to the Airport Authority, which he believed to be a 2004 Chevy Impala as a courtesy car for people coming in to the airport the ability to use once providing insurance information that would allow them to go to town. Mr. Lair added that service is done on the vehicle at the Sheriff Post 2 and after recent service the Airport Authority was advised that they should consider a replacement. Mr. Lair explained that this resolution allows the Board to transfer a 2007 Chevy Impala, again with high miles to the Airport Authority which makes sure the vehicle being used is safe. Mr. Lair noted that since all vehicles are titled to the Commissioners they are required to approve the transfer.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to approve and execute Resolution #13-069 Declaring County Property as Surplus and Directing Transfer to the Geauga County Airport Authority, As Authorized by O.R.C. 307.12(D).

Board of County Commissioners, Geauga County, Ohio

Resolution: 13-069
Date: April 4, 2013

RESOLUTION DECLARING COUNTY PROPERTY AS SURPLUS AND DIRECTING TRANSFER TO THE GEAUGA COUNTY AIRPORT AUTHORITY, AS AUTHORIZED BY O.R.C. 307.12(D).

WHEREAS, The County of Geauga has equipment that has served the intended use for the County and is hereby declared "not needed for public use, is obsolete or is unfit for the use for which it was acquired" by the County; and

WHEREAS, The Geauga County Airport Authority has a current need for a vehicle to conduct airport business, courtesy vehicle and operations and it has been determined that such equipment that has been declared by Geauga County as no longer needed can be put to productive use by the airport; and

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WHEREAS, *The Office of the Board of Geauga County Commissioners has identified a specific vehicle suitable for transfer to Geauga County Airport Authority, namely a 2007 Chevrolet Impala with the serial number of 2G1WS58RX79406204, at no charge; and*

NOW, THEREFORE, BE IT RESOLVED, that the Geauga County Board of Commissioners, hereby transfers the above-specified equipment to the Geauga County Airport Authority.

BE IT FURTHER RESOLVED, that this Resolution becomes part of the permanent record of the Board of Commissioners of Geauga County, Ohio.

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

COMMISSIONERS' OFFICE – CANCEL SESSION

Mr. Jemison stated that he and Ms. Samide are required to attend an Auditor of State Regional Advisory Meeting which starts at 10:00 a.m. in North Ridgeville and therefore need to cancel session on April 11th.

Motion: by Commissioner Spidalieri, seconded by Commissioner Samide to cancel session for Thursday, April 11, 2013.

<i>Roll Call Vote:</i>	<i>Commissioner Spidalieri</i>	<i>Aye</i>
	<i>Commissioner Samide</i>	<i>Aye</i>
	<i>Commissioner Jemison</i>	<i>Aye</i>

PROSECUTOR JIM FLAIZ – POSITION RETIRE/REHIRE POLICY

County Prosecutor Jim Flaiz started by thanking Commissioner Spidalieri for inviting him to talk about the Prosecutor's Office position on the retire/rehire issue. Mr. Flaiz stated that before he spoke about the legal opinion of his office he wanted to say that he personally agrees with Mr. Spidalieri. Mr. Flaiz stated that he had attended the presentation given by Mr. Spidalieri in February at the Commissioners meeting. Mr. Flaiz stated that he agreed with that position, knowing there is arguments on both sides of the issue, he believes retire/rehire hurts organizations because it really prevents upward mobility, hurts the public pension system and feels that a lot of the claimed cost savings is an illusion. Mr. Flaiz stated that most importantly he is a public servant and believes that the public does not like retire/rehire and that is what has always guided him. Mr. Flaiz continued by stating that personally he has a record when he was a South Russell councilman where they did not allow this practice, that four different employees had asked to retire and be rehired back into the same position and stated that he voted no all four times. Mr. Jemison asked if any of their patrolman had ever entered the 'drop' program. Mr. Flaiz stated that they have no control over the 'drop' program, that under the Ohio Police and Fire pension system they allow their employees to begin collecting their pension while they are still working and are not required to notify the employer they are doing so. Mr. Flaiz stated that their chief and lieutenant were in the 'drop' program and coincidentally as they got near their drop date they asked to retire and be rehired, noting that both times he said no.

Mr. Flaiz explained that one of the difficult parts of being an attorney is that no matter what your personal opinion is, you have to give legal advice to your clients, letting the law guide you and not your personal feelings. Mr. Flaiz explained that several months ago Mr. Spidalieri approached him and the Prosecutor's office about the Commissioners creating a policy limiting retire/rehire. Mr. Flaiz looked into it and found that Mr. Spidalieri was the first to approach the office and to ask for legal assistance in creating a policy prohibiting retire/rehire. Mr. Flaiz explained that the Assistant Prosecuting Attorney assigned to the Commissioners' office found in doing research a case that was decided last April that raised some concerns to them. Mr. Flaiz stated that while he believes in Mr. Spidalieri's position, his job as Prosecutor, the job he was elected to do, is give legal advice to the Board and other Elected Officials and to save tax payer money, by avoiding litigation. That is his job, what he was elected to do and no matter what his personal feelings are, he has to stick to that mission, to save tax payer money and keeping the county out of legal trouble. Mr. Flaiz explained that the case was Warden vs. ODNR and can be googled as 2012-OHIO-3854, and that this is the only legal authority out there that causes the office concern and it is a Court of Claims case. Mr. Flaiz explained that the ODNR

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has a policy that is similar to what was being thought about being proposed in the county. Mr. Flaiz stated that an employee filed a claim against the ODNR in the Court of Claims saying that it was discriminating. Mr. Flaiz stated that the employee was over the age of 40 that he had retired and applied for a position at ODNR and wasn't hired because of the policy. Mr. Flaiz expressed that the trial court judge found that the policy prohibiting retire/rehire was age discrimination. Mr. Flaiz stated that this is the only legal authority on that issue but it is a recent case, it is on appeal to the 10th District Court of Appeals, adding that in his experience is a pretty conservative appellate panel, and expects it will go to the Ohio Supreme Court if they choose to hear it depending on what the 10th District does. Mr. Flaiz stated that the case is on appeal and expects that a decision will be decided by the Court of Appeals before the fall. Mr. Flaiz expressed that he wanted everyone to know that this issue is not over, that their advice to the county was given this case let's wait, see what happens and then once the case is decided the Prosecutors office will issue a legal opinion to the Board of Commissioners on whether or not it is legally defensible to have a retire/rehire prohibition or limit and at that point it will then be up to the Commissioners to decide what to do.

Mr. Flaiz stated that he felt that given recent comments at the last meeting and in the newspapers that he should clarify the Prosecutor's office's position and his own personal position, but to also explain that is what makes his job challenging, that he has to put aside his personal opinions and feelings and look at what the law says and make sure that the county doesn't get sued. A local resident made the statement that he was waiting for someone else to set a precedent. Mr. Flaiz responded by stating that the only precedent on this issue is this case. Mr. Flaiz added that the case was decided in the trial and would cause concern, that it would potentially expose the county to an age discrimination suit. That case is on appeal and he stated he wants to wait and see what the appellate district is going to do before his office will advise the Board of Commissioners; it will then be up to the Board to decide to not or to adopt a policy. Mr. Claypool expressed that this is not unsettled law, that there are lots of court cases regarding discrimination out in the private sector in our country. Mr. Claypool stated that his wife is an HR Director and companies set policies all the time that deal with this specific situation, that you can set hiring criteria that doesn't discriminate against the protected classes and yet protects what you're trying to do. Mr. Claypool stated that in the case there was a statement made to this individual that they were trying to hire younger people, that violates the norm of what you tell people about they are hired or not being hired. By setting a policy that conforms with the industry standard practice you limit risk but never avoid a lawsuit. Mr. Flaiz added that he can't stop people from suing the county, but it is his job to make sure the county never loses and that is his concern with this case. Mr. Flaiz stated that the issue of what this judge found is based on the public pension system, that in Ohio when you start to get to age discrimination at 40, it seems young, but 40 is the threshold. The issue the judge had was that under Ohio's pension system it is possible for anybody who is a retiree under that pension system to be under 40 years old, so that is where he took a little leap and since this rule only applies by definition to people who are over 40, its prima facie discrimination, that means its discrimination on its face. A local resident stated that it would not be discrimination if all the candidates were 50 and over or if no other candidates even have the option to apply for the position. Mr. Flaiz stated that in this case the individual that was hired was in his 30's, and the person who lost the position was older, and was retired; if the county has a policy on a case by case basis with truly open competition for a position – candidates A & B, both 55 years old and qualified and a factor in hiring was that A was retired and collecting a public pension and they chose B that would be ok, but the issue was a policy for the county. Mr. Flaiz stated that this was not over, he is not saying that the county cannot have a policy, he is just stating that he wants to be cautious and wait to see what happens with the case. Brief discussion took place regarding the decision on that case and if a policy could then be put into place. Currently there is no written policy in place in the county that it is more of a precedent of a ten percent reduction in pay, that the 'policy' in place is a past practice. A resident voiced concern that a written policy might be more of an opportunity for a lawsuit and stated that it was an ethical practice that the people don't like and that it should be stopped. Mr. Flaiz added that it was not his job to get involved in the hiring practices of the Commissioners and it was not their job to get involved in his hiring. Mr. Flaiz added that due to the changes in OPERS being done last year he doesn't foresee anyone retiring before the end of the year so he doesn't feel there is a problem with waiting on the case. Mr. Claypool expressed that the public should start speaking with their state representatives and that this issue should be changed at the state, that while the Commissioners only have say over ten departments, the state changing the policy would then require all Elected Officials to follow the same policy. This comment was followed by audience members stating that it would take too long, but agreed that it needed to be changed. Mr. Flaiz stated that his office has advised that no

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policy be adopted until after this case is resolved.

OTHER – FOLLOW UP ON MEETING SCHEDULE

A resident inquired if a decision had been made regarding two meetings a month being held in the evening. Mr. Jemison stated that each Commissioner had submitted an email to the Clerk on how they wanted to proceed, adding that he was ready to start on June 4th. Mr. Spidalieri requested that not having time to read them yet if the Clerk would read them aloud. Commissioners' Clerk stated that on Wednesday afternoon she had sent an email to the Commissioners with a proposed schedule that was based on the feedback heard during the meeting on Tuesday, the public input and what she had received so far from the Board. The email stated the following:

Based on the feedback heard during the meeting I propose the following schedule:

Tuesday / Thursday at 10:00 a.m.

Tuesday evenings at 6:30 p.m. on the following dates (noting that the dates work around holidays and other meetings scheduled)

June 4th, June 18th, July 16th, July 30th, August 6th, August 20th, September 17th and October 1st.

These could be proposed on a trial basis through October to see how it works. Let me know what your thoughts, feelings, conflicts are with the dates before we put it on session for a final vote.

Ms. Blair stated that she had received the following responses:

Ms. Samide stated that she would think about it and did not want to go farther out than a month.

Mr. Jemison stated that he was fine with it.

Upon arriving this a.m., Ms. Blair received the following response from Mr. Spidalieri in which he stated "I think that the idea of having a meeting on Tuesday morning and returning at night is REDICULOUS!!! If the excuse is that we have to have a meeting on Tuesday morning as was stated for the auditors deadline for 1pm then Monday night is the only sensible choice. If the next excuse is that there is not enough time to get things together then make the meeting at 7pm on Monday night. Third choice is leave it like it is and January of 2015 the entire commissioners office will change and new policies will take effect".

Mr. Jemison stated that as you can see we're split. Ms. Samide added let's try it, start in June and see how it works.

ACKNOWLEDGEMENTS

- a) *A weekly report filed by the County Dog Warden of all dogs seized, impounded, redeemed or destroyed for the week ending March 27, 2013 as required by O.R.C. 955.12.*

OTHER

The Board reviewed upcoming events.

MEETINGS

Tues., 4/9 The Commissioners' will hold regular session

Tues., 4/9 Planning Commission meeting at 7:00 p.m. in the Planning Commission meeting room, Bldg. #1C, 470 Center Street, Chardon

Wed., 4/10 Child Abuse Prevention Month Kick-off, 11:30 a.m. Job and Family Services

Wed., 4/10 Geauga County Township Association Dinner, 6:30 p.m. at Legend Lake

Thu., 4/11 The Commissioners' will hold regular session

Fri., 4/12 NOACA meeting, 10:00 a.m. Cleveland

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- Mon., 4/15 Family First Council, 2:00 p.m. Mental Health & Recovery Services*
Tues., 4/16 The Commissioners' will hold regular session, which will include an update on the Juvenile Court By Judge Timothy J. Grendell
- Wed., 4/17 Geauga Trumbull Solid Waste District Board of Directors meeting, 1:30 p.m. in Warren*
- Thu., 4/18 The Commissioners' will hold regular session*

BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, COMMISSIONER SPIDALIERI ADJOURNED THE MEETING AT 10:53 A.M.

Geauga County Board of Commissioners

Tracy A. Jemison

Mary E. Samide

Ralph Spidalieri

Christine Blair, Commissioners' Clerk

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