

Commissioners' Journal
August 19, 2010

The Geauga County Board of Commissioners met in session on August 19, 2010 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, Mary E. Samide opened the meeting at 10:06 a.m. by leading the Board and audience in reciting the Pledge of Allegiance.

APPROVE MINUTES

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute the minutes for the meeting of August 17, 2010.

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

APPROVE FINANCIALS

Budget Specialist Heidi Delaney explained the financials as including a supplemental for the General Obligations Note Retirement fund to appropriate for the Safety Center note pay down and a travel request for the Treasurer's Office.

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute Resolution 10-161 itemizing the financials for the meeting of August 19, 2010.

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

OFFICE OF COMMUNITY AND ECONOMIC DEVELOPMENT – LETTER OF COMMITMENT – WATER STAR INCORPORATED

Director Anita Stocker stated that the Revolving Loan Committee reviewed this last week and agreed to approve the \$50,000 and the Commissioners' Office will take a second position on the machinery and equipment, personal guarantee's and corporate guarantee of Water Star Incorporated.

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute the Letter of Commitment for Water Star Incorporated for the purchase of machinery and equipment for the leased facility located at 12369 Kinsman Road, Newbury, by lending \$50,000.00 in CDBG Revolving Loan Funds for a period of five years (60 months) at a fixed interest rate of three percent (3.0%), upon the recommendation of the Revolving Loan Fund Committee.

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

OFFICE OF COMMUNITY AND ECONOMIC DEVELOPMENT – REVOLVING LOAN FUND GRANT / LOAN REVIEW REPORT – WATER STAR INCORPORATED

Ms. Stocker reported that this company has three employees but will probably add two or more.

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and authorize the President of the Board to execute the Revolving Loan Fund Grant/Loan Review Report Form for Water Star Incorporated for a loan in the amount of \$50,000.00 in CDBG Revolving Loan Funds for a period of five years (60 months) at a fixed interest rate of three percent (3.0%).

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

OFFICE OF COMMUNITY AND ECONOMIC DEVELOPMENT – LEGAL BINDING DOCUMENTS – THE RIGHT CUT LANDSCAPING INCORPORATED (D.B.A. TRC LANDSCAPING SERVICES INCORPORATED)

Ms. Stocker explained that they are lending the money for equipment and they will put a third on the equipment and a mortgage on the holding company that owns the property to further secure the loan of \$217,400. This company will create nine jobs. There is an existing mortgage on Gibney Management from Chase Bank, so the county is behind the original mortgage made a couple of years ago. The county will be behind Wells Fargo on the equipment. Ms. Stocker commented that they have done trickier loans than this one. Ms. Stocker added that the intent of the Revolving Loan Fund committee is to make at-risk loans and to be the gap-financer that makes it happen with the outcome being additional jobs. If a client gets into trouble with these loans, the RLF Committee does have the means to extend or defer but the clients are never "let off the hook".

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute the following legal binding documents between the Geauga County Board of Commissioners, The Right Cut Landscaping Services Incorporated (d.b.a. TRC Landscaping Services Incorporated and Gibney Property Management Incorporated), Beau Gibney and Brad Gibney for a Revolving Loan Fund loan in the amount of \$217,400.00 for seven years (84 months) at three and one half percent 3.5%) interest; Participation Agreement, Mortgage, Promissory Note, Security Agreement, Personal Guaranty of Beau Gibney, Personal Guaranty of Brad Gibney, Corporate Guaranty of Gibney Property Management Incorporated, Loan Servicing Letter.

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

OFFICE OF COMMUNITY AND ECONOMIC DEVELOPMENT – SUBORDINATION AGREEMENT – WELLS FARGO EQUIPMENT FINANCE INCORPORATED

Ms. Stocker explained that they have never worked with Wells Fargo before as a lender and they wanted an inter-creditor agreement which they could not come to terms on, but Wells Fargo did agree to accept a subordination.

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute the Subordination Agreement between the Geauga County Board of Commissioners and Wells Fargo Equipment Finance Incorporated allowing the subordination to the first position superior lien of \$246,375.00 to Wells Fargo Equipment Finance Incorporated for new machinery and equipment including the Morbark Wood Hog and the McClosky Wheeled Trommel.

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

BOARD OF DEVELOPMENTAL DISABILITIES – CHANGE ORDER #1 AND CHANGE ORDER #2 (AIA DOCUMENT G701-2001) LESKO ASSOCIATES INCORPORATED – HUMMEL CONSTRUCTION – TRANSPORTATION FACILITY AT METZENBAUM CENTER

Donald L. Rice II, Superintendent Metzenbaum Center explained that this change order came about because the subcontractor was able to acquire a Peerless boiler, which is stainless steel and has a higher efficiency rating, for the same price and is a better piece of equipment. The second change order was due to wetlands infringement on an area of the parking lot so fencing had to be moved as well as losing some parking spaces which reduced the cost.

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute the Owner's Signature Page for Change Order #1 and to further authorize the President of the Board to execute Change Order #1 (AIA Document G701-2001) with Lesko Associates Incorporated and Hummel Construction for

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the Transportation Facility at Metzenbaum Center Project substituting specified boilers with Peerless boilers as per the CSI form dated May 18, 2010 and mechanical engineer's review, and approval date of May 27, 2010, with no change to contract pricing. The date of Substantial Completion therefore is now November 19, 2010.

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

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute the Owner's Signature Page for Change Order #2 and to further authorize the President of the Board to execute Change Order #2 (AIA Document G701-2001) with Lesko Associates Incorporated and Hummel Construction decreasing the contract for the Transportation Facility at Metzenbaum Center Project due to work revisions on the northeast corner of the bus parking lot as detailed in Proposal Request #001, in the amount of \$3,701.00.

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

**COMMISSIONERS' OFFICE – RELEASE – PROPERTY DAMAGE CLAIM ONLY FORM
ACCEPTING SETTLEMENT – SHERIFF'S OFFICE CRUISER PROPERTY DAMAGE**

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and authorize the President of the Board to execute a Release – Property Damage Claim Only (#APV001152350) accepting \$7,500.00 as settlement for property damage only from Grange Insurance for damage to Sheriff's cruiser G-82 that occurred on July 21, 2010.

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

COMMISSIONERS' OFFICE – BURTON PUBLIC LIBRARY 100TH BIRTHDAY RESOLUTION

Motion: by Commissioner Young, seconded by Commissioner Jemison to approve and execute Resolution #10-163 in Recognition of the 100th Birthday of the Burton Public Library.

Board of County Commissioners, Geauga County, Ohio

*Resolution: 10-163
Date: August 19, 2010*

**A RESOLUTION IN RECOGNITION OF THE 100TH BIRTHDAY OF
THE BURTON PUBLIC LIBRARY**

WHEREAS, The Burton Public Library was established by the Civic Improvement Society, an organization of Burton Women, in 1910; and

WHEREAS, The Burton Public Library had many homes including the Crittenden Drug Store in the East Block, the Johnson Store building at the north end of the East Block, to Webster Building on Kirtland Street and then to the basement of the Olds Block.; and

WHEREAS, The Burton Public Library finally settled in a permanent home in 1937 to the location known as the "Second High School" which was built in 1884; and

WHEREAS, The Burton Public Library was organized in 1937 as a school district library and became the Burton Public Library; and

WHEREAS, ground was broken in August of 1981 to start work on the Helen K. Merritt Reading Room as well as the newly renovated Burton Public Library; and

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NOW, THEREFORE, BE IT RESOLVED, that the Geauga County Board of Commissioners does hereby celebrate, with the rest of the community and the county, the ONE HUNDRETH BIRTHDAY of The Burton Public Library; and

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

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

OTHER

Commissioner Samide explained that the Board will give Mr. Todd Tornstrom five more minutes to show up before beginning the hearing on the rock obstruction.

Commissioners' Clerk Claudine Kozenko inquired if the Board would be interested in doing a resolution on "Power It Down Day", that suggests powering down your computers to save electricity, at the next session. Ms. Kozenko mentioned that Commissioner Jemison sent out an email on this last year and the Board hadn't acted on anything at that point. The Board agreed to put it on the agenda for the next meeting.

PROSECUTOR'S OFFICE AND ENGINEER'S OFFICE – PUBLIC HEARING REGARDING TODD TORNSTROM REMOVAL OF ROCK OBSTRUCTIONS

Commissioner Samide opened the public hearing continuance on the issue of the removal of the rock obstructions (specifically large rocks) in the Sperry Road right-of-way pertaining to the Todd Tornstrom property located at 13140 Sperry Road, Chesterland, at 10:37 a.m., after waiting for a short period for Mr. Tornstrom to appear. At this point Mr. Tornstrom had not appeared. Those present for this public hearing included Diane Ryder, Anita Stocker, Don Rice, Glen Miller, Robert Zulant Jr., Bridey Matheney, and Robert Phillips. Commissioner Samide recognized the previous hearing dates of June 24, July 22, August 3, and August 10, 2010. Commissioner Samide inquired of Mr. Robert Zulant Jr., legal counsel for Todd Tornstrom, if Mr. Tornstrom had been notified of this hearing. Mr. Zulant replied that he was notified and that he had talked to him yesterday and was planning on being here today. Commissioner Samide asked all those who wish to speak at the hearing to stand up, get sworn in and to spell their name if they speak. Commissioner Samide invited County Engineer R.L. Phillips and legal counsel Bridey Matheney, APA to come forward and asked Mr. Phillips to give his report on the rock obstruction. Mr. Phillips stated that they have observed new landscaping and large rocks some time during the summer and made efforts to contact the owner of the property. After several dialogues and a meeting on the side with one of his employees and Mr. Tornstrom, several promises were made to address the issue. Sometime around Christmas a significant number of rocks were moved, enough to let it pass. This spring the rocks were moved back and it was decided that this is a more serious issue that needs to be addressed and to get all the stuff in the right-of-way removed. This is when these proceedings were started. Ms. Matheney asked Mr. Phillips to explain what kind of road Sperry Road is and who maintains it. Mr. Phillips replied that it is a county highway maintained by his department. Ms. Matheney mentioned the agreement with Mr. Tornstrom to move the rocks and that they have since been put back. Mr. Phillips explained why the rocks are an obstruction to the county road by stating that the closeness to the road and their size is the hindrance. Mr. Phillips stated that he is not sure if the same rocks were placed back in the right-of-way but the size was significant enough that if a vehicle strikes them it would damage the vehicle. The department tries to keep a clear zone off the edge of the pavement in case a car goes off the pavement there is some area of recovery. The rocks are right along the edges of the pavement, the white line is maybe two feet from the rocks. Ms. Matheney presented four pictures as evidence taken May 4 by an employee in the Engineer's Office. The right of way is thirty feet off the center of the pavement. The majority of the large rocks are within the right-of-way. As of yesterday those rocks were still in place. Ms. Matheney asked who was responsible for removing those rocks to which Mr. Phillips replied that they believe the homeowner is as he placed them there or had them placed and they had informed him that is not the proper way to deal with the right-of-way which has to be open for public use. Mr. Phillips stated that maintenance of Sperry Road is hindered by the rocks if there were ditching required in the area and snow plowing. With the rocks right up against the berm they would get caught with the snowplow which would be a problem for the plow driver, it could damage the plow and a safety hazard to the oncoming traffic if the rock was to be lifted by the snow plow and thrown in the line of traffic. Mr. Phillips stated that rocks are an obstruction on the Sperry Road

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right-of-way that must be removed and is requesting the Board direct Mr. Tornstrom to remove the rocks. If he does not do so within five days of the notice from the Board that the law allows the Board to incur the expense of removing the rocks and assessing that to his debt. Ms. Matheney stated that pursuant to O.R.C. 5547.03 it is the request and formal opinion of the Geauga County Engineer to ask the Board to direct Mr. Tornstrom to remove the rocks within five days. Commissioner Samide asked Mr. Zulantt if he wished to speak. Mr. Zulantt asked to review the pictures as he had not seen them yet. Mr. Zulantt thanked the Board for the number of continuances as it was due mostly to scheduling issues. Mr. Zulantt stated that the larger rocks seem to be towards the back and asked if any measurements had been taken to verify that those rocks were actually in the right of way. Mr. Phillips replied "No". Mr. Zulantt asked if Mr. Phillips has a problem with the smaller rocks being in that area, such as the six inch range of rocks. Mr. Phillips stated that to some degree he does have a problem due to their closeness to the pavement and that they could still be lifted by the snow plow. Mr. Zulantt commented that the rocks are a natural curbing. Mr. Phillips replied that they were not natural curbing because they are not tied together or a continuous curb, they are loose stones. Todd Tornstrom entered the hearing at this point and was sworn in by Commissioner Samide. Mr. Zulantt stated that there are many areas around the county that have rocks around their mailboxes and driveways as well as other areas on Sperry Road that have large rocks in the right-of-way. Mr. Phillips replied that they made a pass up and down Sperry Road last year to address as many of those issues as they could find. Mr. Tornstrom commented that he pointed out these large rocks last year when they discussed this issue. The rocks that were out there last year were sizable and after the meeting he agreed that he would move the large rocks back. The problem is a water issue and you cannot plant grass on this spot so Mr. Tornstrom and his mother put smaller rocks back out to maintain the soil and the bushes that were planted in this area. Mr. Tornstrom talked to the plow drivers about the rocks who commented that when pushing massive amounts of snow, especially at 50 MPH, those rocks might be in Mr. Tornstrom's woods. The driver asked if he has a problem with that to which Mr. Tornstrom said he commented that he did not. Mr. Tornstrom commented that all the rocks are set in the dirt and added that if a car went off the road the rocks would not stop the car as they are smaller than what was originally there. Mr. Tornstrom presented pictures he had taken of large rocks in the right-of-way, some from right up the road. If a car drove off the road at those places the driver would not survive as they are anywhere from six to twelve feet tall, not to mention the telephone poles and trees. Mr. Zulantt questioned the spacing of the telephone poles to which Mr. Phillips stated that in some cases they are very close to the road. Mr. Phillips added that telephone poles are allowed to be within the right-of-way, although it would be desirable to have them back farther. Mr. Zulantt discussed several of the pictures presented by Mr. Tornstrom, some of large rock mailboxes. Mr. Zulantt commented that some of these large items are attractive frontage to the home, which is what the people are trying to do. There are a number of places in Chester Township that homeowners have put in curbing to make their property attractive. Many are trying to landscape and some to prevent washouts which are not attractive. Mr. Tornstrom put in these rocks to control this washout and to make the entrance to his property attractive, which is a benefit to all of Geauga County. Commissioner Samide asked if there were ditches on Mr. Tornstrom's property. Mr. Tornstrom replied there are some before the area with the stones and past that area, and he had put in forty feet of culvert pipe. Mr. Zulantt stated that the larger rocks toward the back pose the problem. Mr. Zulantt stated the rocks that may be in the right-of-way are not really a problem and no snow plow or car will go in the area where the large rocks are. Mr. Zulantt added that it would be better that the plow or driver were to hit the rocks than to go into the forest that is past that rock area. Mr. Zulantt stated that Mr. Tornstrom has attempted to work with the county and has asked for some assistance so they can maintain appropriate landscaping and rocks in that area that will not cause a problem. Mr. Zulantt added that if some are too large than they can be placed in the back but the smaller ones could be left in the front. Mr. Tornstrom added that he did that in the spring due to the slope to try to maintain the soil and plantings in that area, grass seed does not work. Commissioner Jemison asked Mr. Phillips what would be acceptable. Mr. Phillips stated that a car would get hung up on some of those smaller rocks. The answer is that there should be some reasonable clear zone that if a car should leave the pavement there should be some reasonable width. This not really a maintenance issue it is the issue of a clear zone for cars that may leave the pavement. Commissioner Jemison asked Mr. Tornstrom if he had ever plowed snow to which he replied he had. Commissioner Jemison asked him if he would mind hitting those rocks with his plow at the road speed. Mr. Tornstrom replied that it would be a problem like hitting a mailbox. Commissioner Jemison inquired as to why Mr. Tornstrom moved the rocks last year and then put them back this spring. Mr. Tornstrom stated that it looked horrible and the he put smaller rocks back not the same sized rocks. These rocks or all mid-calf or lower in height and are laid flat

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and it would not stop a car. Commissioner Jemison asked why he did not consult with the Engineer's Office again to see what could be done rather than to put the rocks back. Mr. Tornstrom replied that their answer was "Nothing". Mr. Tornstrom stated that his issue is that all up and down Sperry Road many others have large rocks or whatever in the right-of-way and if everyone else has it why can't he. That is his issue and that is why he asked Mr. Zulandt to attend the meeting today. Mr. Zulandt commented that in driving here today he saw many areas in the county that were higher and bigger than what Mr. Tornstrom has and they are mostly natural curbing. Mr. Tornstrom is trying to make his property look nice and put something in that is natural curbing. He was given the directive to get rid of all the rocks, while many others have the same issue. There should be some happy medium to this issue that is acceptable to everyone. If these rocks must be removed than it has to be done all the way up and down Sperry Road and throughout the whole county, on all county roads. Commissioner Samide asked if they couldn't bring the rocks back three feet. Mr. Zulandt replied that if they did that he would have an area that will washout. Commissioner Young commented that he had concerns that in the winter this area with the rocks is a risky area and they should be pushed back. Mr. Tornstrom asked if, for the winter time, he moved the rocks back three feet to prevent dislodging of the rocks and any danger to the snowplow drivers. Ms. Matheney asked Mr. Phillips what his opinion was on moving the rocks in winter. Mr. Phillips stated that it is riskier in the winter but the issue is still there of a clear zone whether it be summer or winter. There was a brief discussion on sizes of rocks. Mr. Phillips stated that there should be a clear zone where traffic has some ability to recover and those rocks are in that area. Commissioner Samide stated she did not understand why Mr. Tornstrom could not plant a small strip of grass and then have the rocks behind it. Mr. Tornstrom responded that he shovel up silt from what comes off the road for snow and ice control. He has tried grass many times. In closing, Mr. Zulandt stated that if the Board requires Mr. Tornstrom to remove every rock then the Board will have to require everyone in the county to do the same. There should be a happy ground in between that is manageable for everyone not just "no rock" for anyone. There is also the issue of the acceptable size of a rock. Mr. Tornstrom and Mr. Zulandt thanked the Board for listening and for their time. Mr. Tornstrom added that he would be happy to move the rocks back during the winter. Commissioner Samide closed the public hearing at 11:19 a.m.

Motion: by Commissioner Young, seconded by Commissioner Jemison to move into a deliberation session with County Engineer R.L. Phillips and Bridey Matheney, legal counsel for the County Engineer's Office.

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

The Board returned at 11:34 a.m. No action was taken as a result of this deliberation session.

ACKNOWLEDGEMENTS

- a) A weekly report filed by the County Dog Warden of all dogs seized, impounded, redeemed or destroyed for the week ending August 11, 2010 as required by O.R.C. 955.12.*

MEETINGS

Thu., 8/19 A public hearing continuance on the issue of the removal of the rock obstructions (specifically large rocks) in the Sperry Road right-of-way pertaining to the Todd Tornstrom property located at 13140 Sperry Road, Chesterland, to be held at 10:30 a.m.

Thu., 8/19 Burton Public Library 100th Birthday Party at 7:00 p.m. in the Reading Garden.

Fri., 8/20 TAC meeting.

Tue., 8/24 The Commissioners will hold regular session.

Wed., 8/25 The Commissioners will participate in the Perry Dry-Run Exercise.

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Thu., 8/26 *The Commissioners will hold regular session.*

Tue., 8/31 *The Commissioners will hold regular session.*

Tue., 8/31 *A public hearing for the CY 2011 ODOT Operating Grant Proposal and the CY 2011 ODOT Capital Grant Proposal to be held on August 31, 2010 at 10:30 a.m.*

Thu., 9/2 **The Commissioners will hold regular session to be held at the Geauga County Fairgrounds Junior Fair stage. NOTE DIFFERENT LOCATION.**

9/2 thru 9/6 *The Great Geauga County Fair.*

Mon., 9/6 *County offices will be closed for general business due to the Labor Day holiday.*

Tue., 9/7 **The Regularly scheduled Commissioners' meeting is cancelled.**

Thu., 9/9 *The Commissioners will hold regular session.*

BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, COMMISSIONER SAMIDE ADJOURNED THE MEETING AT 11:35 A.M.

Geauga County Board of Commissioners

William S. Young

Tracy A. Jemison

Mary E. Samide

Claudine Kozenko, Commissioners' Clerk