

Commissioners' Journal
January 18, 2018

The Geauga County Board of Commissioners met in session on January 18, 2017 at 9:00 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, Ralph Spidalieri opened the meeting at 9:02 a.m. by leading the Board and audience in reciting the Pledge of Allegiance.

MEETING MINUTES

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the minutes for the work session of December 19, 2017.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the minutes for the emergency meeting of December 21, 2017.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Abstain*</i>

**Commissioner Spidalieri was absent from this meeting.*

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the minutes for the meeting of December 28, 2017.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the minutes for the meeting of January 4, 2018.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the minutes for the meeting of January 9, 2018.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

FINANCIALS

County Administrator David Lair reported on financials from January 9, 2018, Resolution #18-006, that included a Cash transfer from the General Fund to Court Technology to pay a portion of their 2018 funding; a Contract purchase order from Maintenance to Geauga Mechanical for a furnace in the Dog Warden's kennel and January 10, 2018, Resolution #18-007, that included a Travel request for the Juvenile Court for a supervised child protection visit; as approved by the County Administrator pursuant to the motion approved December 28, 2017 to authorize the County Administrator to execute, in the case of a lack of quorum of Commissioners and / or if session is cancelled on a regular financial day or on a day when financials need to be approved, the required approvals for county financials on behalf of the Board during the Year 2018, as authorized by O.R.C. 305.30.

Commissioners' Journal
January 18, 2018

COMMISSIONERS' OFFICE- COUNTY ADMINISTRATOR'S REPORT

Mr. Lair reported on the items approved January 16, 2018 by the County Administrator, that included concurring with Chester Township Trustees in not requesting a hearing on the Liquor License requested by Spence Petroleum, LLC d.b.a. Sunmart located at 8247 Mayfield Road, Chesterland, Ohio (C TRFO 8429745), authorized by Resolution #18-003 under the direction and supervision of the County Commissioners that was approved January 4, 2018 pursuant to O.R.C. 305.30.

APPROVE FINANCIALS

Budget and Finance Manager Adrian Gorton explained the financials for today as including Revenue Certifications for the Probate Court and Transit Department; Supplemental Appropriation for the Sheriff's Rotary Account for equipment in the amount of \$5,000.00; Cash Transfers from the General Fund for the December Windstream Bill in the amount of \$9,301.33, Local match for the 2018 Sheriff VOCA grant in the amount of \$14,843.50, for Community Development in the amount of \$45,845.62 to cover 2nd, 3rd and 4th quarter payroll administration and a portion of 2018 funding; to the Transit Administration Fund as an advance for reimbursement grant funds not yet received from the State in the amount of \$82,280.00 which shall be paid back once grant funds are available or no later than December 31, 2018; and for gas well proceeds in the amount of \$111.75 for Developmental Disabilities from the 4th quarter 2017; Then and Nows from the Building Department for 2017 expenses not carried over; Travel requests for the Department of Emergency Services, Job and Family Services, and CASA; a Purchase Order from Water Resources for the purchase of a 2018 Dodge Ram Cargo Van; a payment from the Auditor's REAF Fund to Integrity Appraisal Services for 2017 Retainage in the amount of \$60,280.00; a payment to Ravenwood Center for Youth Center Funding in the amount of \$104,105.00; and a payment from Water Resources to CSJ Tech for contracted computer repair services in the amount of \$29,960.00.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute Resolution #18-008 itemizing the financials for the meeting of January 18, 2018.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

COMMISSIONERS' OFFICE – REQUEST COUNTY AUDITOR DISTRIBUTE BALANCE IN DOMESTIC VIOLENCE FUND TO WOMENSAFE

Mr. Gorton stated that annually the balance of the domestic violence fund is distributed to WomenSafe.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to request the County Auditor to distribute the balance in the Domestic Violence Fund (2070) to WomenSafe, the local agency designated by the Commissioners to receive such monies. This allocation is to be paid pursuant to Section 3113.34 of the O.R.C. for the 2017 year, in the amount of \$14,116.72.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

COMMISSIONERS' OFFICE – REVIEW AND DECIDE VARIANCE REQUEST

The Board will review and decide the Variance Request for Site: 8279 Mayfield Road, Chesterland, Ohio – Commercial Office Building, Owner: GM Cocca Development LLC.

Caterina Cocca-Fulton thanked the Board, Ms. Shale and Ms. LaChapelle. Ms. Fulton asked for a minute of rebuttal if there is anything to be said. Ms. Fulton noted an age old adage about if the law is on your side, pound the law, if the facts are on your side, pound the facts, feeling that both of these are on her side, she will be doing that, but added that it also says, if you don't have either, then pound the table. Ms. Fulton stated that a variance was submitted to the Board and Soil and Water that provided a simple way to grant final approval on the project, that is in regards to a building that was recently built. Ms. Fulton stated that after she read the law, she feels that Soil and Water cannot enforce the regulations the way they are written and cannot condition the final approval on the project in that way. She feels that it is a taint on the title of

Commissioners' Journal
January 18, 2018

the property, it's un-constitutional, illegal, unfair, unjust, as well as anti-business to do that, because it is not required in the law. The question that needs to be addressed, is whether Soil and Water can withhold final approval and demand to forever encumber real property. She feels that they are asking for perpetual restrictive covenants on an individual's right to own property. She added that the law is this; the State of Ohio has law in place that says the County through its agent (Soil and Water), may inspect a property upon agreement of the owner, stating that this is not what they were asking for, but rather much, much more which is not supported by Ohio law. Ms. Fulton stated that the easy, simple way to grant this final approval based on the facts is that this is a single property, that it is a hardship to require someone to give up their rights in property in exchange for absolutely nothing. Ms. Fulton stated that the property is unique, has a large frontage and is zoned both commercial and residential, because of the nature of the property itself, adding that the owner did not create it, it's simply the way it is. For those reasons, under the variance, it would qualify. She has explained the law supports final approval. She objects to the deed restrictions Soil and Water wants on the title of the property, who the owner is, which she feels is evident, the maintenance schedule, which she claimed has already been filed, that Soil and Water wants to enter the property and have ingress and egress on the property forever, adding that it is not required by Ohio and they want to encumber the property. She feels that this is not supported and that it is unconstitutional to require someone to give up their rights without due process. Ms. Fulton stated that as long as we live in a free country where your mom and pop business owners are not having their constitutional rights stripped away and as long as the law is followed, she feels that the final approval can be issued today. Soil and Water should not be allowed to enter the property without the owner's agreement and that the property owner reserves all claims and defenses asserted here, in the letter or to be raised in the future.

Assistant County Prosecutor Laura LaChapelle stated that the purpose of the proceedings today is to determine whether a variance would be appropriate. Ms. LaChapelle was unsure if the Board had reviewed the information she had sent them, but went on to review the three items that they have to consider in order to determine whether to grant a variance which are set forth in Section 8.02 of the Soil and Water Management and Control Regulations and they include:

1: That exceptional topographic or other physical conditions exist that are peculiar to the particular parcel of land

Ms. LaChapelle stated that we may or may not have any issues with this case in regards to that.

2: That the peculiar condition (issue) did not result from previous actions by the owner.

Ms. LaChapelle stated that this may or may not be present in this case as well.

3: That a literal interpretation of these regulations would deprive the owner of rights enjoyed by other property owners.

Ms. LaChapelle stated that these items are to be determined by the Board, but it seems in her opinion that this request for a variance may not be appropriate under the circumstances. The issue that Ms. Fulton has raised, the constitutionality of these regulations, is outside the scope of this variance request and if she wants to challenge that in another forum she can do so, but for the purposes of this proceeding, to remind the Board, we are here for the variance request and the regulations in place to help make that determination.

Soil and Water Conservation District Director Carmella Shale, noted that the Board of County Commissioners approved and adopted the amendments to the regulations September, 2017. Ms. Shale stated that in those regulations there is a requirement to submit the long term maintenance agreement, identifies that the owner of record, which can change, that it identifies the long term maintenance requirements that the owner is responsible for on the property and the storm water basin, which is what is being discussed. It also identifies that Soil and Water has the right to inspect with 10 days prior notice before entering the property, there is no easement being granted for the operation of the maintenance agreement. It is required that they be inspected once a year under the MS4 permit, in order to comply with the EPA. If permission is not granted, then we would have to go to the Board to then take it to the Prosecutor's Office for legal action to get access.

Commissioners' Journal
January 18, 2018

Ms. Shale stated that the purpose of the construction of the Storm Water Basin is for public protection, not just the property it's on but all downstream property locations within the drainage area. The basin was created due to the construction that occurred and the excess drainage that would leave the property. The requirements were met for construction as set forth in the regulations. The last step is to make sure these documents are in place to protect, as a disclosure for future owners to know that there is a basin on the property, the purpose of it, that it will be inspected annually and what the maintenance requirements would be.

Ms. Shale stated that they could consider a modification, which would be an operation and maintenance agreement that would include all the pieces needed but would need to be recorded so subsequent property owners would have clear definition as to what the responsibilities of the maintenance requirements would be.

Commissioner Claypool stated that he had spoken with Ms. Shale, Ms. Fulton and the Prosecutor's Office, and it's not very often a constitutional question comes before the Board. Mr. Claypool expressed that he was having trouble processing this, noting the regulations and stated that there is a uniqueness to this property because its zoned both residential and commercial. If he as a landowner and a private citizen puts a retention pond on his property he is not required to file anything, adding that he felt it is a hardship to modify your deed. Ms. LaChapelle stated that it isn't modifying the deed but is more of filing something in the chain of title.

There was discussion about the differences in requirements for residential and commercial properties. Ms. Fulton kept citing that these regulations were way broader in scope than what Ohio law requires, adding that the final approval of this project is being conditioned by the regulations. She noted that the owner is an immigrant and his wife who is the daughter of two immigrants, they live and work in this county and are citizens like everyone else. Ms. Fulton stated that taking away their rights is a total miscarriage of justice, adding that the 8.02 section notes that this one single parcel is peculiar because it is residential and commercial. She feels the regulations strip away rights, are a hardship, are a violation of due process, and are unconstitutional. Ms. Fulton added that if this does go to court, the County will be spending money on an unwinnable case. Every property owner coerced into forking over their rights will be knocking on the door and any person doing a future project will be armed with this case law. She does not see what the benefit of that is for the County. The variance is an easy way for the County to resolve this issue and that there is a lot more than that to be said if this is not settled today.

Mr. Claypool stated that there could be grounds for a variance, adding that the only issue is the modification to the deed. Mr. Claypool stated that as an owner of a property you have to do due diligence when you sell the property, the buyer has a duty to discover facts about that property and to ask questions. Mr. Claypool appreciates that this came up, that this regulation is in place, asking if this is necessary to do this, this way. Ms. LaChapelle reminded them that the regulations in place are being followed, that she doesn't have any issue with them, and the Board is following the proceedings, and that it is not unusual for people to disagree with regulations and challenge them. Mr. Claypool asked what the harm was in approving the variance. Ms. Shale responded that there are approximately 400 basins on file in the County, and this could set a precedent. When the EPA phase II was enacted in 2003, the law requires the County of the MS4 to provide rules and regulations to enforce the long term maintenance plan. They don't tell you how, just that you need to do it. Ms. Shale stated that they do have inspection and maintenance agreements for basins post 2003, and they have had to chase a few down from transfer of ownership that the new owner is required to maintain the basin. Ms. Shale stated that we are not alone in the State of Ohio doing it. This is the new requirement because it is the best, most effective way to enforce retention basin maintenance. Ms. Shale used a scenario of the property being sold, and while there are a lot of ponds on properties that aren't for storm water and the new owner chose to not keep it and filled it in, now they have to go back and pay for it to be put back in. This is put in place as a protection for property owners in addition to the owner of basin. This agreement is a full disclosure of what is required and is being attached to the deed, not modifying the deed.

Ms. Fulton stated again that they want to affect the deed, and feels that this is taking away the rights of the property owner, and doesn't feel it is right to take away these rights. She stated that it is clear that this is not required under Ohio law, that you cannot take rights without due process, final approval needs to be issued, and a variance is the easiest way to do it. Ms.

Commissioners' Journal
January 18, 2018

Fulton stated that if we go to court over this that will be precedent that they won't like.

Ms. LaChapelle indicated again that attacks on the constitutionality of these regulations is outside the scope of these proceedings, and the Board needs to look at Section 8.02 regarding the determination of the variance. If Ms. Fulton or her clients want to challenge the law they can file in a different forum. Ms. Shale stated that they feel the three conditions are not met to be granted a variance. This is not anything specific or different from other property owners.

Mr. Claypool expressed that he has mixed emotions over this, explaining his opinion and that when this is over that they should take a step back and re look at the regulations. Ms. Shale stated that these regulations were in place prior to the homeowner deciding to move forward with the project and that they were disclosed to them ahead of time.

Ms. Shale stated that the Soil and Water Conservation District Board met and recommended to the Board of Commissioners they would accept the variance with amendment and agree to modify the title of the document of Declarations and Covenants to an Inspection and Maintenance Agreement but that the specifications would still need to be in there and be recorded.

Commissioner Lennon inquired if Ms. Shale had spoken to Ms. Fulton. She stated that she had not.

Ms. Fulton stated that when she had spoken to Ms. LaChapelle it was mentioned, but added that this is becoming an issue of principle because the law does not require this. Ms. Fulton stated that everyone who was involved in this very costly process, understanding that this is being created for the benefit of multiple property owners on one person's property, but if you look at what the law of Ohio states, and what they are requesting, they are inconsistent, adding that what they are requiring has already been submitted by the engineer and everyone already knows what is required. You are taking away a person's right to a free and clear title by recording something against it. You are bound by Ohio law if there is a storm water basin on your property. Mr. Lennon asked where she suggests recording this, if not on the title. Ms. Fulton stated that Ohio law does not require this. This is something that was invented here, and this is more restrictive than what Ohio law says you are required to do.

Ms. Fulton stated that you can look at the basin and know it's for storm water and you are required to do due diligence when you sell property. Mr. Lennon added that he thought the point of a deed was to keep record of unique things on the property. We are not here to argue the constitutionality of the regulations today, adding that he was torn today, that a deed is the avenue or tool describing a property. Ms. LaChapelle added that it's really a chain of title issue. Ms. Fulton added again that it is not required by Ohio law.

Ms. LaChapelle noted that the ORC Ms. Fulton keeps referencing, 307.79, states that the "Board of County Commissioners may adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices...". The Board knows there are procedures when the rules are adopted for public hearings that allows the public to comment on the rules. Today we are here for variance proceedings and under Section 8.02 of the sediment control regulations, what we have to look at is whether or not to grant a variance. Mr. Lennon asked if Ms. Fulton had time to review the modifications from Ms. Shale. Mr. Lennon stated that at this point they should deny the variance due to a threat of legal action, unless they can agree to the modification. Ms. Fulton stated that you would want this modification recorded against the title of the property.

There was discussion on the purpose of rules and regulations, and how the County feels is the best way to maintain, operate and manage the basin. Ms. Fulton stated that she had a fundamental problem because it does not indicate that under the administrative rules. Mr. Claypool stated that he was confused about the deed, and what the objective was. Ms. Shale stated that we are going back to the deed to make sure there is clarity for all owners. Ms. Shale stated that this is a template, that there just needs to be a document, it's an inspection and maintenance agreement that is filed with the Recorder's office, and if anyone looks at the property, they will see anything that is filed with it. There was discussion that the Recorder records deeds, and whether having the agreement filed with the deed or with Soil and Water, can we accomplish the same objective in a different way. Mr. Lennon inquired if a decision had to be made today. It was noted that it was the 20th day, so the answer is yes.

Commissioners' Journal
January 18, 2018

Ms. Fulton expressed that she is demonstrating the hardship, because the County is taking away the rights of the property owner, again referencing what the requirements are within the regulations and stating that what they are asking for is redundant. The agreement being filed includes the ingress and egress of doing the inspection of the basin and going on the property with 10 days prior notice. Ms. Fulton stated that it is outside the scope of the law, and all these things are hardships and burdens, adding that the owner knows the requirements so the agreement doesn't need to be agreed to. Mr. Lennon wanted it clarified that if the agreement is not agreed upon that there is no final approval. This was confirmed. Mr. Claypool brought back again that the mixed zoning makes it unique, and because of that a variance might be warranted. Ms. Shale stated that it is a single parcel that is a residential lot that has commercial frontage. Ms. Fulton added again that the property owners did not create it.

Mr. Lair stated that today we are talking about a variance that is based on the regulations that have been in place, and that they were amended in September of 2017. A variance must be granted based on a hardship. He is not hearing that there is a hardship. Ms. Fulton restated that criteria within 8.02 citing that it does have topographic and peculiar conditions.

It was clarified that the regulations were amended based on the MS4 permit requirements from the Ohio EPA.

Ms. LaChapelle asked Ms. Fulton if she was amenable to any document being filed in the chain of title. Ms. Fulton stated that it would be a document that lists facts and be recorded. She feels it doesn't need to be filed, and that is why she filed the variance.

Mr. Lennon stated that she had specifics about the property that she is arguing along with the constitutionality of the regulations, and wanted to know if it's the hardship or just the requirement of having to do this, or all of the above. Ms. Fulton stated all of the above. Mr. Lennon stated that this will set precedent if this variance is granted, and while he appreciates what she is doing, he asked if she had an issue with it for the general public or just her situation. Ms. Fulton stated she was trying to bring this to the Board because it could be an issue for the County going forward, but today she is here for the specific case. Ms. Fulton stated that the easy way to deal with it is with a variance.

Mr. Spidalieri inquired if the Chester zoning and the uniqueness of the lot wouldn't be an issue if the entire parcel was commercial, to which Ms. Fulton replied, that he was correct. Ms. Fulton stated that there is a house on the property, that it is staying and the basin is on the portion where the house is, but it is servicing the commercial side of the parcel. It was questioned whether the lot could be split, to which it was noted that it may not meet lot requirements.

Ms. Fulton expressed that she was not aware that Ms. LaChapelle wasn't representing Soil and Water. Ms. Shale noted that they had sent a recommendation to the Board of Commissioners, and Ms. LaChapelle represents the Commissioners who have to make the decision. Ms. Fulton reiterated that she is objecting to anything being recorded against the title of the property.

There was discussion about the requirements for granting the variance. While the lot could be considered unique, the Board doesn't feel the property owner is giving away rights by recording something that meets the regulations. Ms. Shale stated that there are ponds that are on residential subdivision property that serve other homeowners.

Mr. Spidalieri stated that this is a unique case and he can see both sides of the case, but the legal position remains to enforce what is needed whether its filed on the deed or not. Mr. Claypool stated that if they do issue a variance today that it won't cause any issues. Mr. Claypool stated that the law says you need to do x, y and z. Ms. Shale says yes you have to do x, y and z but the law doesn't tell you what you have to do to get to x, y and z. Mr. Spidalieri stated that if we take away the deed issue, and next week a landscape company brings in dirt, Soil and Water still has the legal ability to pursue this. Ms. Shale stated that they do, but when the question is raised by downstream landowners as to why this happened, the purpose of the regulations is to protect your constituents, those downstream landowners.

Mr. Lennon asked Ms. Fulton if she was agreeing, even if not on record, to allow the inspectors on the property. Ms. Fulton said ingress and egress is giving them the right to come on the property forever, which has never been denied in the past. By agreeing, you are giving up a right because someone else has rights against your property.

Commissioners' Journal
January 18, 2018

Ms. Shale stated that all of the basins must be inspected annually according to the permit and with the size staff she has, the requirement to have this in place makes the job easier. Also, having them in place makes it less likely things happen. Ms. Shale stated that the county requires something for the protection of the public and having it recorded ensures that there is full disclosure.

Ms. Fulton stated that this is an exceptional condition particular to this parcel of land that was there, not created by the owner, and would deprive the owner of the right to own their property freely because you are asking them to give up something that other property owners don't have to.

Mr. Claypool stated that he was leaning towards allowing the variance, but is swayable. Mr. Lennon stated that the only reason he would go along with it is because of the residential and commercial zoning, and he is also on the fence. Mr. Spidalieri stated that he would support the other two on that decision. Mr. Claypool moved to agree to approve the variance, Mr. Lennon seconded it. Ms. LaChapelle asked them to specify why and what they are granting the Variance for.

Ms. Fulton proposed that the Board grant the variance to the owner, to enter land if necessary without the need to encumber the title of the real property, that Geauga Soil and Water has all other items in the owner's application, final plans and records of the single lot building, and that final approval be granted to the owner.

Mr. Claypool stated that relative to the variance request, it doesn't give you the right to vary from the requirements of the law or with Soil and Water. You are obligated to disclose during sale, but that nothing will be recorded. Ms. LaChapelle stated that the Board is agreeing to grant the variance, and that the agreement still needs to be in place just not filed in the chain of title. Ms. Shale stated that since 1979 the regulations have been in place, and while things have been amended and evolved through the years, that documents get lost and that was why they went to having these agreements filed with the Recorder's office.

Motion language was being discussed as to what was being granted and it was questioned whether the agreement would be complied with but just not recorded. Ms. Shale asked for clarification if they would have an agreement that would just not be recorded, to which Ms. Fulton stated that she would only enter an agreement that is authorized by the law, she is not going to bind or take away any person's rights, which is why she is here.

The Board wanted confirmation that there would be an agreement with Soil and Water to comply with maintenance and permission to inspect the retention basin. The only variance today is that the agreement will not be recorded. Mr. Claypool wanted her to state that she agreed.

Ms. LaChappelle stated that the Board is moving to grant the variance request with the condition that the property owner must still complete a maintenance and inspection agreement and that the agreement shall be binding on successors and assigns and that it doesn't need to be recorded with the Geauga County Recorder, to which Ms. Shale replied that they must comply with Section 4.02 (0) except for the filing of the agreement.

Mr. Lennon asked if Ms. Fulton was ok with the agreement except for the filing. Ms. Fulton stated that it is not required for residential lots and they already have on file from the Surveyor and Engineer what is required for maintenance on the property, adding that it was submitted and approved. Ms. Shale stated that it was just put together for the property owner to agree to. Ms. Shale stated that they provided a sample of an agreement. Ms. Shale stated that the as built plans were submitted, and approved, but the agreement of maintenance and inspection is what is waiting to be completed. Ms. Shale expressed that she feels Ms. Fulton is not agreeing to completing the agreement, and that Soil and Water will go on record that they do not agree to not record, but if variance is granted, the maintenance and inspection agreement must be completed and on file, and comply with all other regulations.

Ms. Fulton stated that she would agree to the not recording and to what the surveyor and engineer submitted for maintenance schedule and provided on the final plat. Ms. Shale stated that it was not the same and they needed an agreement. Mr. Claypool asked for a variance to the deadline to sort through the agreement, to which Ms. LaChappelle stated that they needed to

Commissioners' Journal
January 18, 2018

make a decision.

Mr. Lennon stated that his big issue was that she didn't want to have anything attached to the deed and that it was a detriment to the property owner's rights and an encumbrance to future property owners. Mr. Lennon stated that they are agreeing to grant a variance to not record, but that she was agreeing to the regulations, including the agreement. Ms. LaChapelle stated that the Board is approving to grant the variance with the condition that the owner will complete the maintenance and inspection agreement as specified in section 4.02(0) and the agreement will not have to be recorded with the Geauga County Recorder, but will have to comply with all other requirements in 4.02(0). All procedural specifics need to be in the agreement, which needs to be completed. Mr. Claypool asked if they needed to put a claw back clause that if the agreement is not complied with the variance is null and void, to which Ms. LaChapelle stated that the variance is granted upon the condition that the owner will execute a maintenance and inspection agreement and all the requirements in section 4.02(0), except for the filing with the Recorder.

The condition is that the owner agrees to an agreement that will not be recorded. Ms. Fulton stated that she had included a letter that she would be willing to do that was of a Notice to Owner of Request by Authorized Representative for Agreement to Enter Land that stated it was an Agreement between the landowner and duly authorized representative of the Board of Geauga County Commissioners, Pursuant to O.R.C. 307.79 (D) Administrative rules: may enter upon the land to do the inspection. Ms. Shale stated that they want all the pieces in the agreement that is signed. Something on a plan that the Engineer has stamped and certified does not constitute the owner agreeing to it. Mr. Lennon added that the variance is vague, that they still need to meet requirements of the Geauga Soil and Water District, and that's in the agreement, you just don't have to attach it to the deed. Ms. Fulton stated that she had a problem with it, so she wasn't going to follow that because that talks specifically about agreements/deed restrictions/restrictive covenants for which she's asking for a variance. Ms. Shale stated that it is one of those three things and are you are removing the requirement of the recording. Ms. Fulton kept going back to the letter that was included with the application, and that she feels everything is completed. Ms. Shale replied that Ms. Fulton is not agreeing the Soil and Water pieces that they want included. Mr. Lennon stated that he feels that the regulations and requirements need to be met, but that it's not being recorded. Mr. Claypool stated that we are not giving you a pass on following the rules, and if those are not in place then the variance is null and void.

Deputy Engineer Nick Gorris asked if the regulations were in place when the owner took on the project, to which Ms. Shale stated, yes they were. Mr. Gorris asked if the pond that is on the residential side was put in due to the expansion of the commercial, and it is all one parcel. The owners knew when they chose to do the construction that they would need to record it. Ms. Shale added that it is part of the due diligence of the property owner. Mr. Lennon added that he felt what Soil and Water has in place is necessary and he is not willing to challenge the regulations today, so either Ms. Fulton needs to agree to the variance being offered with the deed restriction or not. Mr. Lennon added that he feels she doesn't want to agree to anything Soil and Water has proposed. While she may agree, it's the next owners that may not. Ms. Shale wants everything agreed to in one document so they don't need to go finding papers in multiple places. Mr. Lennon stated that the reason the retention pond is there is due to the commercial building and they didn't surprise you with this at the end, you knew the regulations were in place when you started this project. Ms. Fulton agreed to look at the agreement, but added that whatever the surveyor and engineer put together needs to be looked at.

Commissioners' Clerk Christine Blair noted that they had come up with some tentative language and asked if the Board wanted it read and then any changes can be made to it.

The Commissioners' Office is requesting the Board approve and grant the variance request with the requirement that the property owner of site 8279 Mayfield Road, Chesterland will comply with Soil and Water Management District Code of Regulations, 4.02(0) and any other applicable regulations with the exception that the property owner will not be required to file the maintenance and inspection agreement with the Geauga County Recorder.

Mr. Claypool added that any final approvals that are pending won't happen until the agreement is finalized and in place. Ms. Shale asked that it be changed to the Geauga County Water Management and Sediment Control Regulations. Ms. Shale stated that she wanted it on record that Soil and Water does not agree, that their recommendation is that the variance be approved

Commissioners' Journal
January 18, 2018

with modification, that the name of the agreement be changed from restrictive covenants to maintenance and inspection agreement and be recorded. Ms. Shale stated that they can change the name of the document and the Board is agreeing to not record it. Ms. Shale stated that there has to be an agreement, that is part of the 4.02(0). Mr. Lennon stated that they could put that the variance is contingent upon the maintenance and inspection agreement.

Ms. Burhenne inquired if the motion needed to include anything about waiting until the agreement is completed or final approval will not be granted. Ms. LaChapelle stated that 4.02(0) requires several items and that would be part of it. Mr. Gorris asked that the parcel number be included in the motion.

Ms. Blair continued the motion to include:

This variance is contingent upon the property owner agreeing to the Soil and Water Maintenance and Inspection Agreement that will then close the project.

So the full motion would read:

The Commissioners' Office is requesting the Board approve and grant the variance request with the requirement that the property owner of site 8279 Mayfield Road, Chesterland (Parcel #) will comply with Geauga County Water Management and Sediment Control Regulations Section 4.02(0) and any other applicable regulations with the exception that the property owner will not be required to file the Maintenance and Inspection Agreement with the Geauga County Recorder.

This variance is contingent upon the property owner agreeing to the Soil and Water Maintenance and Inspection Agreement that will then allow the project to be closed.

Mr. Claypool asked if there should be a time cutoff for getting the agreement completed. Ms. Blair asked if they wanted to limit it to thirty days.

Upon looking for the parcel number, the address for the property is 8299 Mayfield Road, parcel #11-028200.

Ms. Fulton stated that the site inspection report does state that the site location address is 8279 Mayfield Road. Ms. Fulton agreed that it could be completed within thirty days.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and grant the variance request with the requirement that the property owner of site: 8299 Mayfield Road, Chesterland (Parcel #11-028200) will comply with Geauga County Water Management and Sediment Control Regulations 4.02(0) and any other applicable regulations with the exception that the property owner will not be required to file the Maintenance and Inspection agreement with the Geauga County Recorder.

This variance is contingent upon the property owner agreeing to the Soil and Water Maintenance and Inspection Agreement that will then allow the project to closed. The agreement must be completed within thirty days.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

AUDITOR / TREASURER – MONTHLY STATEMENT OF COUNTY FINANCES – JUNE THROUGH DECEMBER 2017

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to accept, execute and file the monthly Statement of County Finances filed by the County Auditor for the months of June - December, 2017 pursuant to O.R.C. 319.15.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

Commissioners' Journal
January 18, 2018

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to accept, execute and file the monthly Statement of County Finances filed by the County Treasurer for the months of June - December, 2017 pursuant to O.R.C. 319.15.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

COMMON PLEAS COURT / ADULT PROBATION – ADDENDUM TO COMMUNITY BASED CORRECTIONS PROGRAM 408 SUBSIDY GRANT AGREEMENT

Adult Probation, Chief Probation Officer Ryan Franklin explained that when the grant was initially submitted it included a decrease. We did not hear from them that we received a cut, and so they are ideally giving us the amount that had been decreased from last year, so this is an increase to the original grant amount by \$35,975.00.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the Addendum to the Community Based Corrections Program 408 Subsidy Grant Agreement increasing the grant award \$35,975.00 for FY2018 bringing the total grant amount to \$179,874.00 with no local match.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

COUNTY ENGINEER'S OFFICE – RESOLUTION TO DECLARE A ROAD NAME CHANGE FOR A PORTION OF NORTHVIEW DRIVE (TR 850) TO CLAYTON TRAIL (TR 1071) IN BAINBRIDGE TOWNSHIP

Mr. Gorris explained that, based on the Public Hearing, and with no comments received, this resolution would declare the road name change.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute Resolution #18-009 to Declare a Road Name Change for a portion of Northview Drive (TR 850) to Clayton Trail (TR 1071) in Bainbridge Township, Geauga County, Ohio.

Board of County Commissioners, Geauga County, Ohio

Date: January 18, 2018

Resolution: #18-009

**RESOLUTION TO DECLARE A ROAD NAME CHANGE FOR
A PORTION OF NORTHVIEW DRIVE, TR 850 TO CLAYTON TRAIL, TR 1071
IN BAINBRIDGE TOWNSHIP, GEAUGA COUNTY, OHIO**

WHEREAS, the Geauga County Board of Commissioners was requested by the Geauga County Engineer to enact a resolution changing the name of a portion of Northview Drive to Clayton Trail in Bainbridge Township as further described in Exhibit A, and;

WHEREAS, the Geauga County Engineer received a request from the Bainbridge Township Zoning Department requesting the name change, and;

WHEREAS, local Bainbridge officials, the Geauga County Sheriff's Office (911) and the Geauga County Engineer have determined that the road name change will not be detrimental to the general interest of the county or township, and;

WHEREAS, Northview Drive in its current alignment will be extended within public lands to facilitate future private development, and;

WHEREAS, the future development will cause confusion among local safety forces, governmental agencies and the public, and;

WHEREAS, the Geauga County Engineer believes that the road number for said portion of Northview Road to be renamed should also be changed to Township Road 1071, and;

Commissioners' Journal
January 18, 2018

WHEREAS, the Geauga County Board of Commissioners on their own motion initiated proceedings for the name change and held a hearing on January 9, 2018 in accordance with Section 5541.04 of the Ohio Revised Code and heard no objections to the proposed road name change, and;

WHEREAS, the Geauga County Engineer and local Bainbridge Township officials have determined that the road name change will not be detrimental to the general interest of the county, and;

WHEREAS, the Geauga County Board of Commissioners are satisfied that there is good cause for such a road name change and it will not be detrimental to the general interest of the county.

NOW, THEREFORE, BE IT RESOLVED and declared by the Geauga County Board of Commissioners, that the name of the portion of Northview Drive, as described in Exhibit A in Bainbridge Township shall be changed to Clayton Trail (Township Road 1071).

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 Geauga County Engineer, County Recorder, the County Auditor and the Bainbridge Township Board of Trustees who shall all change their records accordingly, but still retain in some manner the old name of the road.

Roll Call Vote:	Commissioner Claypool	Aye
	Commissioner Lennon	Aye
	Commissioner Spidalieri	Aye

**OFFICE OF COMMUNITY AND ECONOMIC DEVELOPMENT –ACKNOWLEDGE
JONATHOM FERGUSON AND ROGER ANDERSON AS APPOINTMENTS TO THE TAX
INCENTIVE REVIEW COUNCIL FOR PARKMAN TOWNSHIP**

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to acknowledge Jonathon Ferguson and Roger Anderson as appointments to the Tax Incentive Review Council as representatives for Parkman Township for a three year term ending December 31, 2020.

Roll Call Vote:	Commissioner Claypool	Aye
	Commissioner Lennon	Aye
	Commissioner Spidalieri	Aye

**JOB AND FAMILY SERVICES – APPROVE SUBMISSION OF PY2018 PERCENTAGE OF
INCOME PAYMENT PLAN PROGRAM**

Executive Director Craig Swenson asked the Board to approve having the President initial the list of assurances for Job and Family Services to receive the administration grant for Job and Family Services to administer the PIPP grant program.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve the submission of the PY2018 Percentage of Income Payment Plan Program (PIPP) Administrative Grant in the amount of \$7,257.00 and further approve and authorize the President of the Board to initial the Assurances for the PIPP.

Roll Call Vote:	Commissioner Claypool	Aye
	Commissioner Lennon	Aye
	Commissioner Spidalieri	Aye

**JOB AND FAMILY SERVICES – GEAUGA COUNTY FAMILY FIRST COUNCIL MUTUAL
FUNDING AGREEMENT**

Mr. Swenson asked the Board to execute the mutual funding agreement for Family First Council for the first half of the year 2018.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute the Geauga County Family First Council Mutual Funding Agreement between the Geauga County Board of Commissioners, Geauga County Job and Family Services, Geauga County Board of Developmental Disabilities, and the

Commissioners' Journal
January 18, 2018

Geauga County Board of Mental Health and Recovery Services for funding of the Geauga County Family First Council for the period January 1, 2018 through June 30, 2018. This Agreement commits the Board of County Commissioners to provide a support payment of \$42,484.00 from the General Fund.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

Nancy Seelbach thanked the Board for continued support.

**JOB AND FAMILY SERVICES – APPOINTMENT TO OHIO CHILDREN'S TRUST FUND
CHILD ABUSE AND CHILD NEGLECT REGIONAL PREVENTION COUNCIL**

Mr. Swenson asked the Board to appointment Ms. Seelbach and himself to continue on the committee for the Ohio Children's Trust Fund Child Abuse and Child Neglect Regional Prevention Council. Ms. Seelbach added that while they are probably the most vocal, the committee is making progress. This regional council includes Ashtabula, Cuyahoga and Lake Counties.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve the appointment of Craig A. Swenson and Nancy Seelbach to the Ohio Children's Trust Fund Child Abuse and Child Neglect Regional Prevention Council for a two year term, January 1, 2018 through December 31, 2019.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

**MAINTENANCE – SERVICE CONTRACT AGREEMENT – SHEPHERD LIGHTING
SOLUTIONS**

Director Glen Vernick stated that the Safety Center is a building that we know will be around, so we are looking at upgrading the outdoor lighting to LEDs. They received three quotes and this company came in with the lowest cost including the rebate. Mr. Vernick stated that we are looking at a 4.6 to 5.9 payback in years of savings. Mr. Lennon added that the LED lighting is better with the security cameras.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve and execute a service Contract Agreement with Shepherd Lighting Solutions to Retrofit and Upgrade the Outdoor Lighting to LED at the Geauga County Safety Center during the Year 2018 in an amount not to exceed \$27,157.00.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

TRANSIT – ACCEPT RESIGNATION OF DAN MUEHLHAUSER, FULL-TIME DRIVER

Director Mike Kasper asked the Board to accept Mr. Muehlhauser's resignation. Mr. Kasper noted that next week he would be asking the Board for internal and external postings to do the replacement.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to accept the resignation of Dan Muehlhauser, Full-time Driver (#2210) to be effective January 26, 2018.

<i>Roll Call Vote:</i>	<i>Commissioner Claypool</i>	<i>Aye</i>
	<i>Commissioner Lennon</i>	<i>Aye</i>
	<i>Commissioner Spidalieri</i>	<i>Aye</i>

**COMMISSIONERS' OFFICE – APPOINT NICK GORRIS AS ALTERNATE FOR THE NOACA
PLANNING AND PROGRAMMING COMMITTEE MEETING**

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to appoint Nick Gorris, as Alternate for Ralph Spidalieri at the NOACA Planning and Programming Committee meeting on Friday, January 19, 2018.

Commissioners' Journal
January 18, 2018

Roll Call Vote:	Commissioner Claypool	Aye
	Commissioner Lennon	Aye
	Commissioner Spidalieri	Aye

COMMISSIONERS' OFFICE – APPROVE FEASIBILITY ANALYSIS, PHASE 1 FINAL REPORT

Mr. Lair asked the Board to approve what Richard L. Bowen and Associates had completed for the Phase 1 Final Report.

Motion: by Commissioner Claypool, seconded by Commissioner Lennon to approve the Feasibility Analysis, Phase 1 Final Report.

Roll Call Vote:	Commissioner Claypool	Aye
	Commissioner Lennon	Aye
	Commissioner Spidalieri	Aye

ACKNOWLEDGEMENTS

- a) A weekly report filed by the County Dog Warden of all dogs seized, impounded, redeemed or destroyed for the weeks ending January 3, 2018 and January 10, 2018 as required by O.R.C. 955.12.*
- b) The Monthly Inventory Report, Consolidated Investment Portfolio and Obligations and Securities monthly reports filed by the Treasurer's Office for Geauga County for the Month of December, 2017, pursuant to ORC 135.35(L).*
- c) The Annual Statement of Unpaid Fees for the calendar year 2016 filed by the Sheriff's Office of an accurate account of all fees, costs, penalties, percentages, allowances and prerequisites that have remained unpaid for more than one year pursuant to ORC 325.31.*

OTHER

The Board reviewed upcoming events.

MEETINGS

Fri., 1/19 NOACA External Affairs, 8:30 a.m., Policy, 10:00 a.m., Planning & Programming, 11:30 a.m.

Mon., 1/22 Family First Council, 1:30 p.m. Job and Family Services

Tue., 1/23 The Commissioners' will hold regular session at 9:00 a.m.

Tue., 1/30 The Commissioners' will hold regular session at 9:00 a.m.

Mon., 2/5 Board of Revision, Auditor's Office, 9:00 a.m.

Tue., 2/6 The Commissioners' will hold regular session at 9:00 a.m.

Wed., 2/7 NOC COG, OMJ Center, Portage County, 1:30 p.m.

Fri., 2/9 NOACA, Finance & Audit 8:30 a.m., Governance 10:00 a.m., and Executive 11:30 a.m. Cleveland

Tue., 2/13 Planning Commission meeting at 7:30 a.m. in the Planning Commission meeting room, Bldg. #1C, 470 Center Street, Chardon

Tue., 2/13 The Commissioners' will hold regular session at 9:30 a.m.

There was a brief discussion about the current vacant positions for Planning and Mental Health.

Commissioners' Journal
January 18, 2018

BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD

Motion: *by Commissioner Claypool, seconded by Commissioner Lennon to adjourn the meeting at 11:37 a.m.*

Geauga County Board of Commissioners

Ralph Spidalieri

Timothy C. Lennon

Walter M. Claypool

Christine Blair, Commissioners' Clerk

Commissioners' Journal
January 18, 2018

THIS PAGE INTENTIONALLY LEFT BLANK