

St. Clairsville, Ohio

September 20, 2023

The Board of Commissioners of Belmont County, Ohio, met this day in regular session. Present: J. P. Dutton, Jerry Echemann and Josh Meyer, Commissioners and Bonnie Zuzak, Clerk of the Board.

MEETINGS ARE NOW BEING RECORDED
ALL DISCUSSIONS ARE SUMMARIZED. FOR COMPLETE PROCEEDINGS
PLEASE SEE CORRESPONDING CD FOR THIS MEETING DAY.

IN THE MATTER OF APPROVING RECAPITULATION
OF VOUCHERS FOR THE VARIOUS FUNDS

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve and sign all bills that have been certified in the Auditor's office and considered by the Board. It is hereby ordered that the County Auditor issue her warrant on the County Treasurer in payment of the bills allowed:

IN THE TOTAL AMOUNT OF \$3,790,919.83

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF TRANSFERS WITHIN FUND

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve the following transfers within fund for the following funds:

A00 GENERAL FUND

FROM	TO	AMOUNT
E-0048-A002-K02.010 Supplies	E-0048-A002-K03.012 Equipment	\$1,807.67
E-0051-A001-A15.012 Sheriff's Cruisers	E-0051-A001-A20.012 Equipment	\$146,804.00
E-0051-A001-A20.012 Equipment	E-0051-A001-A51.000 Oil & Gas-Cmmrs	\$119,937.14

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF TRANSFERS BETWEEN FUND

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve the following transfers between funds as follows:

A00 GENERAL FUND AND O54 DEBIT SERVICES-COUNTY ISSUES

FROM	TO	AMOUNT
E-0257-A015-A15.074 Transfers Out	R-9256-O054-O21.574 Transfers In	\$234,808.61

T10 WATER & SEWER GUARANTEE DEPOSIT AND P05 WATER WORKS FUND/BCWSD

FROM	TO	AMOUNT
E-3711-T010-T04.074 Transfers Out	R-3702-P005-P15.574 Transfers In	\$2,624.96

T10 WATER & SEWER GUARANTEE DEPOSIT AND P53 SANITARY SEWER DISTRICT FUNDS/BCWSD

FROM	TO	AMOUNT
E-3711-T010-T04.074 Transfers Out	R-3705-P053-P08.574 Transfers In	\$1,050.29

W80 PROSECUTOR'S-VICTIM ASSISTANCE PROGRAM

FROM	TO	AMOUNT
E-1511-W080-P01.002 Salary	R-0040-A000-A47.574 Transfers In	\$2,664.22

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATIONS

Motion made by Mr. Dutton, seconded by Mr. Echemann to make the following additional appropriations, in accordance with the Official Certificate of Estimated Resources as approved by the Budget Commission, under the following dates:

**** JANUARY 10, 2023****

E-0257-A015-A15.074	Transfers -Out	\$234,808.61
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****SEPTEMBER 20, 2023****

A00 GENERAL FUND

E-0111-A001-E02.002	Salary	\$2,203.72
E-0111-A001-E09.003	PERS	\$460.39
E-0131-A006-A04.002	Salaries-Road	\$1,000.00
E-0151-A002-F09.000	Other Expenses	\$1,233.54

E10 911 FUND

E-2200-E010-E07.000	Other Expenses	\$2,174.70
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E11 9-1-1 WIRELESS

E-2301-E011-E01.011	Contract Services	\$12,231.22
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S30 OAKVIEW JUVENILE REHABILITATION

E-8010-S030-S54.000	Food	\$3,648.31
E-8010-S030-S55.010	Supplies	\$200.00

S49 MENTAL HEALTH/MHRB

E-2310-S049-S54.011	Contract Services	\$500,000.00
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S86 NORTHERN COURT-GEN SPEC PROJECTS

E-1561-S086-S06.010	Other Expenses	\$10,000.00
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W20 LAW LIBRARY

E-9720-W020-W03.003	PERS	\$1,600.00
E-9720-W020-W05.005	Medicare	\$60.00
E-9720-W020-W07.010	Supplies	\$8,487.87

W80 PROSECUTOR'S-VICTIM ASSISTANCE PROGRAM

E-1511-W080-P01.002	Salary	\$2,664.22
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Y41 INDIGENT APPLICATION FEES/AUDITOR

E-9841-Y041-Y01.000	Remit to State	\$195.00
E-9841-Y041-Y02.000	Remit to County	\$780.00

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes

Mr. Meyer Yes

IN THE MATTER OF AMENDING THE TRANSFER OF FUNDS
FOR THE WAIVED HOSPITALIZATION CHARGEBACKS FOR
THE MONTHS OF JANUARY, FEBRUARY AND MARCH 2023

Motion made by Mr. Dutton, seconded by Mr. Echemann to make the following amendment to the transfer of funds for Waived Hospitalization Chargebacks for the months of January, February and March 2023.

FROM		TO	
E-2210-E001-E15.006	COUNTY HEALTH	R-9891-Y091-Y03.500	-155.01
E-2210-E001-E15.006	COUNTY HEALTH	R-9891-Y091-Y03.500	56.77
			-98.24
E-2227-F074-F06.000	HOME SEWAGE TREATMENT	R-9891-Y091-Y03.500	-117.51
E-2227-F074-F06.000	HOME SEWAGE TREATMENT	R-9891-Y091-Y03.500	108.87
			-8.64
E-2213-F075-F02.003	VITAL STATISTICS	R-9891-Y091-Y03.500	-270.00
E-2213-F075-F02.003	VITAL STATISTICS	R-9891-Y091-Y03.500	239.88
			-30.12
E-2215-F077-F01.002	REPRODUCTIVE HEALTH	R-9891-Y091-Y03.500	-287.52
E-2215-F077-F01.002	REPRODUCTIVE HEALTH	R-9891-Y091-Y03.500	250.00
			-37.52
E-2231-F083-F01.002	PHEP	R-9891-Y091-Y03.500	0.00
E-2231-F083-F01.002	PHEP	R-9891-Y091-Y03.500	2.52
			2.52
E-2232-F084-F02.008	Nursing	R-9891-Y091-Y03.500	-90.00
E-2232-F084-F02.008	Nursing	R-9891-Y091-Y03.500	0.00
			-90.00
E-2218-G000-G06.003	FOOD SERVICE	R-9891-Y091-Y03.500	-47.49
E-2218-G000-G06.003	FOOD SERVICE	R-9891-Y091-Y03.500	309.50
			262.01
E-2219-N050-N05.000	WATER SYSTEMS	R-9891-Y091-Y03.500	-17.45
E-2219-N050-N05.000	WATER SYSTEMS	R-9891-Y091-Y03.500	32.46
			15.01
E-2220-P070-P01.002	POOLS	R-9891-Y091-Y03.500	-15.00
E-2220-P070-P01.002	POOLS	R-9891-Y091-Y03.500	0.00
			-15.00
E-2238-F090-F01.002	WORKFORCE	R-9891-Y091-Y03.500	0.00
E-2238-F090-F01.002	WORKFORCE	R-9891-Y091-Y03.500	250.00
			250.00
E-4110-T075-T52.008	WIC FRINGES	R-9891-Y091-Y03.500	-500.02
E-4110-T075-T52.008	WIC FRINGES	R-9891-Y091-Y03.500	250.00
			-250.02
		TOTAL	0.00

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF APPROVING
THEN AND NOW CERTIFICATE/AUDITOR’S

Motion made by Mr. Dutton, seconded by Mr. Echemann to execute payment of Then and Now Certification dated September 20, 2023, presented by the County Auditor pursuant to O.R.C. 5705.41(d)1, and authorizing the drawing of warrant(s) in payment of amounts due upon contract to order.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF GRANTING PERMISSION
FOR COUNTY EMPLOYEES TO TRAVEL**

Motion made by Mr. Dutton, seconded by Mr. Echemann granting permission for county employees to travel as follows:

911-Bryan Minder to Columbus, OH, on October 23, 2023, to attend the NG9-1-1 Road Show at the Department of Administrative Services. Estimated expenses: \$150.00.

SSOBC-Stacy Zimmer to Pittsburg, PA, on September 26, 2023, to attend the U.S. Foods Food Show. Senior Centers of Belmont County to Wheeling, WV, on all Tuesdays and Thursdays for the month of October, 2023, for senior outings to the Howard Long Wellness Center to participate in the Silver Sneakers Program. Dorothy Burkhart to Pittsburgh, PA, on October 11, 2023, for a senior outing for a boat ride on the Gateway Clipper. Kay Driscoll to Sugarcreek, OH, on October 13, 2023, for a senior outing. Melissa Finne to Moundsville, WV and Wheeling, WV, on October 16, 2023, for a senior outing to Moundsville Dollar Store and Uncle Pete’s. Tish Kinney, Donna Steadman and Karen Rebecca to Marietta, OH, on October 19, 2023, for a senior outing to ride the Valley Gem Sternwheeler. Chuck Davis to Wheeling, WV, on October 26, 2023, for a senior outing to Oglebay Park. County vehicles will be used for travel.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING MINUTES OF REGULAR
BOARD OF COMMISSIONERS MEETING**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve the minutes of the Belmont County Board of Commissioners regular meeting of September 13, 2023.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

Mr. Dutton made the following announcement:

The Belmont County Board of Commissioners is accepting applications to fill a position on the Belmont County District Library Board. Applications will be accepted through September 29, 2023. Interested parties may stop in or contact the Commissioners’ office at (740-699-2155) to request an application.

**IN THE MATTER OF ACCEPTING RETIREMENT OF DENNIS LUCAS,
FULL-TIME MEDICAL DRIVER/SSOBC**

Motion made by Mr. Dutton, seconded by Mr. Echemann to accept the retirement of Dennis Lucas, full-time Medical Driver at Senior Services of Belmont County, effective September 29, 2023.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF HIRING STACIE CORDERY
AS FULL-TIME DIVISIONAL COURT DEPUTY
CLERK AT NORTHERN DIVISION COURT**

Motion made by Mr. Dutton, seconded by Mr. Echemann to hire Stacie Cordery as full-time Divisional Court Deputy Clerk at Belmont County Northern Division Court, effective October 2, 2023.

Note: This is a replacement position.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING QUOTE NUMBER 1420 FROM
DIGITAL DATA COMMUNICATIONS, INC/RECORDS DEPARTMENT**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve Quote Number 1420 from Digital Data Communications, Inc., in the amount of \$1,807.67 for one Lenovo PC, one Lenovo Monitor and one Microsoft Office 2021 for the Belmont County Records Department.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING PROPOSAL FROM
KALKREUTH ROOFING AND SHEET METAL/DJFS**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve the proposal from Kalkreuth Roofing and Sheet Metal in the amount of \$9,275.00 to furnish labor and materials for necessary repairs for partial roof restoration at the Belmont County Department of Job and Family Services building located at 68145 Hammond Road, St. Clairsville, Ohio.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING THE AMENDMENT TO THE VENDOR AGREEMENT BETWEEN
BELMONT COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES AND NEFFS FIRE DEPARTMENT**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve and sign the amendment to the Vendor Agreement between the Belmont County Department of Job & Family Services and Neffs Fire Department, effective, January 1, 2023 to December 31, 2023 for the provision of Title XIX (19) transportation services.

Note: This amendment increases the amount from \$550,000 to \$850,000.

**Amendment to the Medicaid Non-Emergency Transportation Services
Vendor Agreement Between**

The Belmont County Department of Job and Family Services and
The Neff Volunteer Fire Department

Purchaser: Belmont County Department of Job and Family Services
68145 Hammond Road
St. Clairsville OH 43950
Provider: The Neff Volunteer Fire Department
54044 Pike Street
Neffs OH 43940

This amendment is entered into on **20th** day of **September 2023** and amends the original contract entered into on December 7, 2022 to amend Article V, Paragraph B and increase the maximum billable amount to **\$850,000.00** in order to cover for the increased services provided during calendar year 2023.

All other terms and conditions of the original agreement signed on December 7, 2022, remain unchanged.

This amendment shall only cover for services provided up to and including December 31, 2023

Our signatures below signify acceptance of the amendments of the original contract as stated herein:

<u>Jeffery Felton /s/</u>	<u>9/12/2023</u>
Jeffery Felton, Director	Date
Belmont County Department of Job and Family Services	
<u>J. P. Dutton /s/</u>	<u>9/20/23</u>
J. P. Dutton, Belmont County Commissioner	Date
<u>Jerry Echemann /s/</u>	<u>9-20-23</u>
Jerry Echemann, Belmont County Commissioner	Date
<u>Josh Meyer /s/</u>	<u>9/20/23</u>
Josh Meyer, Belmont County Commissioner	Date
<u>Michael Wallace /s/</u>	<u>9/13/2023</u>
Michael Wallace, President	Date
The Neff Volunteer Fire Department	
Approved as to form:	
<u>Jacob Manning /s/</u>	<u>9/12/2023</u>
Jacob Manning, Assistant Prosecutor	Date
Belmont County Prosecutor’s Office	

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**THE MATTER OF ADOPTING RESOLUTION GRANTING
AUTHORITY TO THE DIRECTOR OF BELMONT COUNTY
DEPARTMENT OF JOB AND FAMILY SERVICES TO TRANSFER
FUNDS FROM THE PA FUND TO THE CSEA FUND FOR SFY 2023**

Motion made by Mr. Dutton, seconded by Mr. Echemann to adopt the following:

RESOLUTION

Whereas, the Child Support Enforcement Agency (CSEA) of Belmont County operates an administrative fund for the operation of a child support enforcement program; and

Whereas, the activities of the child support enforcement program are allowable activities as defined by Ohio Administrative Code 5101:9-6-83; and

Whereas, in order to properly access these fund for this purpose, the funds must be transferred from the Public Assistance (PA) Fund in which they are received from the Ohio Department of Job and Family Services into the CSEA Fund of the Belmont County Department of Job and Family Services.

Now, Therefore Be It Resolved, the Board of Commissioners of Belmont County on this 20th day of September 2023, do hereby grant to Jeffery Felton, Director of the Belmont County Department of Job and Family Services, the authority to approve the transfer of up to \$203,150.28 of Income Maintenance money from the PA Fund to the CSEA Fund. This transfer is made available due to a balance remaining in the Income Maintenance allocation at the end of the State Fiscal Year which ended on June 30, 2023.

Upon roll call the vote was as follows:

Mr. Dutton	<u>Yes</u>
Mr. Echemann	<u>Yes</u>
Mr. Meyer	<u>Yes</u>

**IN THE MATTER OF APPROVING THE MULTI LOCATION
ADDENDUM TO SERVICE AGREEMENT WITH CINTAS**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve and sign the Multi Location Addendum to service agreement with Cintas for rental of floor mats at various locations.

Note: The original agreement did not have all of the locations listed.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING CHANGE ORDER NO. 1 FROM
OHIO-WEST VIRGINIA EXCAVATING COMPANY FOR ENGINEER’S PROJECT 23-5**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve Change Order No. 1 from Ohio-West Virginia Excavating Company for Engineer’s Project 23-5 BEL-CR5-7.45/8.18 (Ramsey Ridge Road) Slide Repair for a net change of \$1,100.00 for a new contract total of \$317,254.00.

Note: The additional cost is due to a change in quantities.

**CHANGE ORDER NO. 1
SUPPLEMENTAL CONTRACT WITH BELMONT COUNTY COMMISSIONERS
BELMONT COUNTY ENGINEER'S
PROJECT #23-5: BEL-CR5-7.45/8.18 SLIDE REPAIR
OPWC PROJECT CR05AA / CR06AA**

Auditor's Office, Belmont County, Ohio

This contract made and entered into this 20th day of September, 2023 between **OHIO - WEST VIRGINIA EXCAVATING COMPANY**, P.O. Box 128, Powhatan Point, Ohio 43942, and Jerry Echemann, Josh Meyer and J.P. Dutton, Commissioners of Belmont County, WITNESSETH that said **OHIO - WEST VIRGINIA EXCAVATING COMPANY** hereby agrees to furnish all labor, materials, equipment, tools, transportation, supplies, and other incidentals and all tasks necessary to repair roadway embankment failures and pavement damage areas along CR5 (Ramsey

Ridge Road) and all related Work described by the Contract Documents.

CHANGE ORDER
* ADDITIONAL QUANTITIES *

ROAD NO.	APPROXIMATE QUANTITY	ITEM	UNIT PRICE	TOTAL AMOUNT
CR5	LUMP SUM	CONCRETE, MISC.: CAST-IN-PLACE CONCRETE LAGGING	\$1,500.00	+ \$1,500.00
		TOTAL ADDITIONS		+ \$1,500.00

* NON-PREFORMED QUANTITIES *

ROAD NO.	APPROXIMATE QUANTITY	ITEM	UNIT PRICE	TOTAL AMOUNT
CR5	2 EACH	CONCRETE, MISC.: PRECAST CONCRETE LAGGING	\$200.00	- \$400.00
		TOTAL DEDUCTIONS		- \$400.00
TOTAL AMOUNT OF CHANGE ORDER				+ \$1,100.00

Reason for contract: Culvert extension required cast-in-place lagging at MP7.45. Quantities based on field measurements.

SUMMARY

ORIGINAL CONTRACT		\$316,154.00
ADDITIONS - CHANGE ORDER NO. 1		+ \$1,500.00
DEDUCTIONS - CHANGE ORDER NO. 1		- \$400.00
NET CHANGE		+ \$1,100.00
TOTAL WORK PERFORMED		\$317,254.00
TOTAL AMOUNT OF SUPPLEMENTAL CONTRACT PERFORMED		\$1,100.00

BELMONT COUNTY COMMISSIONERS

Jerry Echemann /s/
J. P. Dutton /s/

Josh Meyer /s/

OHIO-WEST VIRGINIA EXCAVATING COMPANY

By: Shawn Starr/jc /s/
Shawn Starr
Print/Type Signature
VP of Operations
Title

RECOMMENDED BY:

Terry Lively /s/
TERRY D. LIVELY, P.S., P.E.
BELMONT COUNTY ENGINEER
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING CHANGE ORDER NO. 1 FROM
OHIO-WEST VIRGINIA EXCAVATING COMPANY FOR ENGINEER’S PROJECT 23-8**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve Change Order No. 1 from Ohio-West Virginia Excavating Company for Engineer’s Project 23-8 BEL-C42-1.14/1.55 (Fulton Hill Road) Slide Repair for a net change of \$21,575.00 for a new contract total of \$439,884.00.
Note: The additional cost is due to a change in quantities.

CHANGE ORDER NO. 1
SUPPLEMENTAL CONTRACT WITH BELMONT COUNTY COMMISSIONERS
BELMONT COUNTY ENGINEER'S
PROJECT #23-8: BEL-CR42-1.14/1.55 (PW#292) SLIDE REPAIR

Auditor's Office, Belmont County, Ohio
This contract made and entered into this 20th day of September, 2023 between **OHIO - WEST VIRGINIA EXCAVATING COMPANY**, P.O. Box 128, Powhatan Point, Ohio 43942, and Jerry Echemann, Josh Meyer and J.P. Dutton, Commissioners of Belmont County, WITNESSETH that said **OHIO - WEST VIRGINIA EXCAVATING COMPANY** hereby agrees to furnish all labor, materials, equipment, tools, transportation, supplies, and other incidentals and all tasks necessary to repair two roadway embankment failures and pavement damage areas on CR42 (Fulton Hill Road) and all related Work described by the Contract Documents.

CHANGE ORDER
* ADDITIONAL QUANTITIES *

ROAD NO.	APPROXIMATE QUANTITY	ITEM	UNIT PRICE	TOTAL AMOUNT
CR42	215 SY	PAVEMENT REMOVED, ASPHALT	\$27.00	+ \$5,805.00
CR42	74 CY	EXCAVATION	\$38.00	+ \$2,812.00
CR42	28 CY	ASPHALT CONCRETE BASE, PG64-22 (301)	\$267.00	+ \$7,476.00
CR42	62 CY	AGGREGATE BASE	\$125.00	+ \$7,750.00
CR42	235 SY	SUBGRADE COMPACTION	\$7.00	+ \$1,645.00
		TOTAL ADDITIONS		+ \$25,488.00

* NON-PREFORMED QUANTITIES *

ROAD NO.	APPROXIMATE QUANTITY	ITEM	UNIT PRICE	TOTAL AMOUNT
CR42	59 SY	SUBGRADE COMPACTION	\$7.00	- \$413.00
CR42	20 CY	EXCAVATION OF SUBGRADE	\$50.00	- \$1,000.00
CR42	10 CY	GRANULAR MATERIAL, TYPE B	\$125.00	- \$1,250.00
CR42	10 CY	GRANULAR MATERIAL, TYPE E	\$125.00	- \$1,250.00
		TOTAL DEDUCTIONS		- \$3,913.00
TOTAL AMOUNT OF CHANGE ORDER				+ \$21,575.00

Reason for contract – Road damage from construction equipment. Quantities based on field measurements.

SUMMARY

ORIGINAL CONTRACT		\$418,309.00
ADDITIONS - CHANGE ORDER NO. 1		+ \$25,488.00
DEDUCTIONS - CHANGE ORDER NO. 1		- \$3,913.00
NET CHANGE		+ \$21,575.00
TOTAL WORK PERFORMED		\$439,884.00
TOTAL AMOUNT OF SUPPLEMENTAL CONTRACT PERFORMED		\$21,575.00

BELMONT COUNTY COMMISSIONERS

Jerry Echemann /s/
J. P. Dutton /s/

Josh Meyer /s/

OHIO-WEST VIRGINIA EXCAVATING COMPANY

By: Shawn Starr/jc /s/
Shawn Starr
Print/Type Signature
VP of Operations
Title

RECOMMENDED BY:

Terry Lively /s/
TERRY D. LIVELY, P.S., P.E.
BELMONT COUNTY ENGINEER
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF APPROVING SUBMITTING THE NOTICE OF INTENT LETTER TO THE OHIO DEPARTMENT OF DEVELOPMENT IDENTIFYING THE BELMONT COUNTY LAND REUTILIZATION CORPORATION AS LEAD ENTITY DESIGNATION FOR DEMOLITION AND SITE REVITALIZATION PROGRAM AND BROWNFIELD REMEDIATION PROGRAM

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve submitting the Notice of Intent letter to the Ohio Department of Development identifying the Belmont County Land Reutilization Corporation as the Lead Entity Designation for Demolition and Site Revitalization Program and Brownfield Remediation Program.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

OPEN PUBLIC FORUM-Frank Papini, St. Clairsville, inquired about the Courthouse Plaza project. Mr. Dutton said it will entail changes to the outside of the courthouse, adjacent buildings and sidewalks. The federal funding through ODOT will cover 95% of costs and will be available next year.

Joyce Hartley, Shadyside, feels the letter (regarding ditch issue) she received from the Belmont County Prosecutor’s office is bogus with no clear answer. Mr. Dutton said the Prosecutor acts as legal counsel for the county. He read part of the last paragraph of the letter (entire letter below). It states, *In conclusion, as to the main question we were asked to consider, it is our opinion that the board of township trustees is responsible for the maintenance and repair of ditches that run alongside township roads.* Mr. Dutton said at one time Ms. Hartley said this was her neighbor’s fault. Mr. Dutton said she needs to consider the options she has. They are following the ORC. Ms. Hartley still maintains the Commissioners own the ditch and are responsible to make Ed Good, Mead Township Trustee, repair the damage. Mr. Dutton said they have no authority over the Township Trustees.



KEVIN FLANAGAN
BELMONT COUNTY PROSECUTING ATTORNEY
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JOSEPH E. RINE
JOSEPH A. VAVRA

APPELLATE COUNSEL
JACOB A. MANNING

VICTIM ADVOCATE
PAMELA S. BOWMAN

September 12, 2023

Belmont County Commissioners
101 W. Main Street
St. Clairsville, OH 43950

Mead Township Trustees
51554 Wegee Road
Bellaire, OH 43906

Re: Analysis of Obligation to Maintain and Repair Ditches

Dear Commissioners and Trustees:

This will provide our office’s analysis of the question posed by Joyce Hartley, concerning a ditch running adjacent to a township road in front of her property. Ms. Hartley alleges that her property has been damaged by water that has been allowed to back up onto her property, and has asked either the township or the county to fix the issue. The initial question posed is whether maintenance and repair of a ditch running adjacent to a township road is the responsibility of the township or the county. In other words, we are not being asked to opine whether either political subdivision is liable to Ms. Hartley for damages, but only the initial question of which entity is responsible for maintenance and repair of a ditch adjacent to a township road.

The Ohio Revised Code does not directly answer this question. Revised Code Section 5535.01 does provide that county roads are to be maintained by the board of county commissioners, and township roads are to be maintained by the board of township trustees. Ohio Rev. Code Ann. § 5535.01 (2023). Revised Code Section 5535.08 provides a similar statement that each of the state, county, and township maintain their own roads. Ohio Rev. Code Ann. § 5535.08 (2023). Revised Code Section 5535.01 permits – but does not require – the board of county commissioners to assist the board of township trustees in maintaining such roads. Ohio Rev. Code Ann. § 5535.01 (2023).

The Revised Code is not as clear, though, when it comes to responsibility for maintenance of the roadside ditches. The board of township trustees is authorized to bring and maintain a lawsuit concerning injury to the township road, ditch, drain, or watercourse in the township’s jurisdiction. Ohio Rev. Code Ann. § 5571.09 (2023). The board of county commissioners has the same authority with respect to

ditches established by the county. Ohio Rev. Code Ann. § 305.12 (2023). But, to our knowledge, there is no statute that states that one entity or the other is responsible for the ditches alongside such roads.

The Ohio Attorney General was asked to answer this question in 1981. The Attorney General concluded that the political subdivision with responsibility for the repair or maintenance of a particular road would have responsibility for the repair or maintenance of the ditches that run alongside such roads. 1981 Ohio Op. Att’y Gen. No. 39. Thus, the county has responsibility for the ditches that run alongside the county’s roads, and the township has responsibility for the ditches which run alongside its roads. *Id.* Based on the foregoing, we believe that maintenance and repair of a ditch running alongside a township road, as is the situation here, would be the responsibility of the township.

We are aware of a statement in the Ohio Township Handbook that appears to state otherwise. In the 2019 version of the Handbook (the most recent version available), the following is stated:

- Q. Who has the responsibility of cleaning and repairing township ditches?

A. The county commissioners have the sole authority as to both township and county ditches, but the commissioners are authorized to delegate this duty to the county engineer, who may execute the necessary work or employ a ditch supervisor to perform the job. O.R.C. 305.12.

To be candid, we believe this is incorrect, and in the very least, the statutory cite given is not applicable to the question and answer given. For the sake of clarity, we paste below the entirety of Section 305.12:

The board of county commissioners may sue and be sued, and plead and be impleaded, in any court. It may bring, maintain, and defend suits involving an injury to any public, state, or county road, bridge, ditch, drain, or watercourse in the county with respect to which the county has the primary responsibility to keep in proper repair, and for the prevention of injury to them. The board shall demand and receive, by suit or otherwise, any real estate or interest in real estate, legal or equitable, belonging to the county, or any money or other property due the county. The money so recovered shall be paid into the county treasury, and the board shall take the county treasurer’s

receipt for it and file it with the county auditor. The board of county commissioners may enter into contracts with municipal corporations and townships pursuant to division (D) of section 715.72 of the Revised Code.

Ohio Rev. Code Ann. § 305.12 (2023).

As is clear from the statutory language, the county commissioners are given authority to bring and maintain a lawsuit involving injury to any road or ditch which the county commissioners have the responsibility to maintain and repair. But the statutory language does not require the county commissioners to assume responsibility for ditches alongside township roads. Indeed, the statute does not discuss who has responsibility for maintaining and repairing ditches at all – it simply states that if the county commissioners do have such responsibility, and there is an injury to the ditch, the county commissioners may maintain a suit over it. Clearly, the possible delegation of responsibility to the county engineer is not mentioned at all.

We would note also that the Ohio Attorney General was aware of Section 305.12 when the above-mentioned opinion was issued – it was cited for the purpose of pointing out that the county commissioners do have authority to sue over damages to a ditch when maintenance of the ditch is the county commissioners’ responsibility. Even though the Attorney General was aware of the statute, he still opined that responsibility for maintenance and repair of the ditch is with whichever entity has responsibility or maintenance and repair of the road.

We agree with the Attorney General’s analysis. Thus, it is our view that the political subdivision that is responsible for maintenance and repair of the road is also responsible for maintenance and repair of the ditch.

We did contact the Ohio State Auditor’s Office regarding the statement in the Ohio Township Handbook. The Office indicated that the Handbook should be viewed as a resource only and cannot supersede other law. The Office did indicate that it would review the issue, but at this point, we do not have a further opinion regarding this particular issue.

We would note two ancillary issues, because they do seem to be relevant to this discussion. In 2018, Ms. Hartley sued Robin R. Maskivish and Keith A. Gulley, in the Belmont County Court of Common Pleas. In that suit, she alleged that she purchased her home from Ms. Maskivish in 2016, and that Ms. Maskivish concealed from Ms. Hartley the fact that runoff from the road caused damage to the

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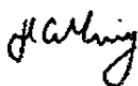
home. She alleged that Mr. Gulley owns property above the grade of Ms. Hartley's property, and that he directed water runoff from his property towards hers. The suit was voluntarily dismissed by Ms. Hartley in 2019.

In the Complaint, Ms. Hartley alleged that Mr. Gulley's actions violated Revised Code Section 3767.13 and 3767.17 because he had obstructed a "collection of water" at the site of his mailbox in a 'ditch or watercourse' constructed by order of the County Board of Commissioners." It is unclear to us why Ms. Hartley alleged that the ditch was constructed by order of the board of commissioners; we are not aware of evidence that supports that it was the board of commissioners that did construct the ditch. The Code section she cited does also reference ditches constructed by the board of township trustees, so the same statutory provision may have applied. But in any event, unless we were provided evidence that the board of county commissioners did construct the ditch, we believe this is simply a misunderstanding of which entity constructed the ditch, stated in a private lawsuit to which the board of commissioners was not a party.

Second, though, we would note that the crux of Ms. Hartley's suit was that she has been aware of an issue involving drainage of the water on her property since 2018, and has previously alleged that the cause of the damage to her property was Mr. Gulley's actions – not the board of commissioners' or the board of township trustees'. It is true that Ms. Hartley voluntarily dismissed her suit, so there has been no finding as to Mr. Gulley's responsibility (or Ms. Maskivish's). But it was certainly her assertion at the time that it was his responsibility (and Ms. Maskivish's for failing to disclose the issue in 2016). That would not necessarily preclude the responsible political subdivision from having some responsibility for cleaning, maintenance, and repair, but it is noteworthy that she had not alleged either entity had responsibility to fix the issue then.

In conclusion, as to the main question we were asked to consider, it is our opinion that the board of township trustees is responsible for the maintenance and repair of ditches that run alongside township roads. Please let us know if we can be of further assistance.

Sincerely,



Jacob A. Manning,
Assistant Prosecutor

RECESS

IN THE MATTER OF ENTERING EXECUTIVE SESSION AT 9:48 A.M.

Motion made by Mr. Dutton, seconded by Mr. Echemann to enter executive session with Katie Bayness, HR Administrator, pursuant to ORC 121.22(G)(1) Personnel Exception to consider the employment and discipline of public employees.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF ADJOURNING EXECUTIVE SESSION AT 10:17 A.M.

Motion made by Mr. Dutton, seconded by Mr. Echemann to exit executive session at 10:17 a.m.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

Mr. Dutton said there are several motions to be considered as a result of executive session.

**IN THE MATTER OF APPROVING THE PROMOTION OF
HALEIGH LITTLE FROM FULL-TIME COOK TO
FULL-TIME UNIT SUPPORT WORKER-FLOATER/SSOBC**

Motion made by Mr. Dutton, seconded by Mr. Echemann to promote Haleigh Little from full-time Cook to full-time Unit Support Worker - Floater at Senior Services of Belmont County, effective September 15, 2023.
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF ACCEPTING RESIGNATION OF KRIS CHINI,
FULL-TIME EQUIPMENT OPERATOR/WATER & SEWER DISTRICT**

Motion made by Mr. Dutton, seconded by Mr. Echemann to accept the resignation of Kris Chini, full-time Equipment Operator at Belmont County Water & Sewer District, effective September 29, 2023.
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING NORRIS MITCHELL,
PART-TIME DRIVER-MEDICAL TO CONTINUE
AUTHORIZED UNPAID PERSONAL LEAVE/SSOBC**

Motion made by Mr. Dutton, seconded by Mr. Echemann to approve Norris Mitchell, part-time Driver - Medical at Senior Services of Belmont County, to continue authorized unpaid personal leave, not to exceed December 31, 2023.
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING TO MOVE CALIESYN BRUDZINSKI
FROM PART-TIME DISPATACHER TO FULL-TIME DISPATCHER/911**

Motion made by Mr. Dutton, seconded by Mr. Echemann to move Caliesyn Brudzinski from part-time Dispatcher to full-time Dispatcher at Belmont County 911, effective September 24, 2023.
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

IN THE MATTER OF ADJOURNING
COMMISSIONERS MEETING AT 10:30 A.M.

Motion made by Mr. Dutton, seconded by Mr. Echemann to adjourn the meeting at 10:30 a.m.
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Echemann	Yes
Mr. Meyer	Yes

Read, approved and signed this 27th day of September, 2023.

J. P. Dutton /s/_____

Jerry Echemann /s/_____ COUNTY COMMISSIONERS

Josh Meyer /s/_____

We, J. P. Dutton and Bonnie Zuzak, President and Clerk respectively of the Board of Commissioners of Belmont County, Ohio, do hereby certify the foregoing minutes of the proceedings of said Board have been read, approved and signed as provided for by Sec. 305.11 of the Revised Code of Ohio.

J. P. Dutton /s/_____ PRESIDENT

Bonnie Zuzak /s/_____ CLERK