



**BOARD OF COUNTY COMMISSIONERS  
WARREN COUNTY, OHIO**

*406 Justice Drive, Lebanon, Ohio 45036*

*www.co.warren.oh.us*

*commissioners@co.warren.oh.us*

*Telephone (513) 695-1250*

*(513) 261-1250*

*(513) 925-1250*

*(937) 425-1250*

*Facsimile (513) 695-2054*

***C. MICHAEL KILBURN***

***PAT ARNOLD SOUTH***

***DAVID G. YOUNG***

**BOARD OF COUNTY COMMISSIONERS  
WARREN COUNTY, OHIO**

**MINUTES: Regular Session – September 16, 2008**

The Board met in regular session pursuant to adjournment of the September 15, 2008, meeting.

Pat Arnold South - present

C. Michael Kilburn - absent

David G. Young - present

Tina Davis, Clerk – present

Minutes of the August 21, 26, and 28, 2008, and September 2, and 4, 2008, meetings were read and approved.

08-1344 A resolution was adopted to accept the Petition, Statement and Waiver of Keever Creek, LLC. Vote: Unanimous

08-1345 A resolution was adopted to approve Appointment of Bud Leonard to the Children's Trust Fund Board. Vote: Unanimous

08-1346 A resolution was adopted to approve an Emergency Repair to the Sewer Line on US 22&3. Vote: Unanimous

08-1347 A resolution was adopted to approve and authorize the President and/or Vice President of this Board to sign the FY 2009 Elderly and Disabled Transit Fare Assistance Grant Contract by and between the Ohio Department of Transportation and the Warren County Board of Commissioners. Vote: Unanimous

08-1348 A resolution was adopted to approve and enter into a Contract between the Warren County Commissioners on behalf of the Warren County Department of Human Services and Warren County Children Services. Vote: Unanimous

- 08-1349 A resolution was adopted to acknowledge payment of Bills. Vote: Unanimous
- 08-1350 A resolution was adopted to enter into Contract with Carr Concrete Corporation for the Gustin Rider Road – Prestressed Concrete Box Beams. Vote: Unanimous
- 08-1351 A resolution was adopted to designate Family and Medical Leave of Absence to Deanna Campbell, Administrative Support, within the Warren County Garage. Vote: Unanimous
- 08-1352 A resolution was adopted to approve Notice of Intent to Award Contract for the FY2006 Union Township Highland Park Storm Sewer CDBG Project. Vote: Unanimous
- 08-1353 A resolution was adopted to approve and authorize the President and/or Vice President of this Board to sign a Grant Agreement between Warren County and the State of Ohio Relative to the Fiscal Year 2008 Small Cities Community Development Block Grant (CDBG) Community Development Program. Vote: Unanimous
- 08-1354 A resolution was adopted to approve various Refunds. Vote: Unanimous
- 08-1355 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Gallenstein Brothers, Inc. for the Reserves at Indian Lake in Hamilton Township. Vote: Unanimous
- 08-1356 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Gallenstein Brothers, Inc. for the Reserves at Indian Lake Section 2 in Hamilton Township. Vote: Unanimous
- 08-1357 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Gallenstein Brothers, Inc. for the Reserves at Indian Lake Section 3 in Hamilton Township. Vote: Unanimous
- 08-1358 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Gallenstein Brothers, Inc. for the Reserves at Indian Lake Section 6 in Hamilton Township. Vote: Unanimous
- 08-1359 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Gallenstein Brothers, Inc. for the Reserves at Indian Lake Section 7 in Hamilton Township.

Vote: Unanimous

08-1360 A resolution was adopted to approve Bond Release for Design Properties X, LLC. for improvements in Applecreek Reserve, Phase IV situated in Clearcreek Township. Vote: Unanimous

08-1361 A resolution was adopted to approve Bond Release for Springboro Station LLC. for improvements in Springboro Station, Phase I situated in Clearcreek Township. Vote: Unanimous

08-1362 A resolution was adopted to approve Bond Release for Cypress Ridge, LLC for improvements in Cypress Ridge Phase II situated in Clearcreek Township. Vote: Unanimous

08-1363 A resolution was adopted to approve Bond Release for Cypress Ridge, LLC for improvements in Cypress Ridge Phase III situated in Clearcreek Township. Vote: Unanimous

08-1364 A resolution was adopted to approve Bond Release for Cypress Ridge, LLC for improvements in Cypress Ridge Phase IV situated in Clearcreek Township. Vote: Unanimous

08-1365 A resolution was adopted to approve Bond Reduction for Cypress Ridge Ltd. for completion of improvements in Cypress Ridge Phase V situated in Clearcreek Township. Vote: Unanimous

08-1366 A resolution was adopted to approve Street and Appurtenances Bond Reduction for D.J. Kahmann, Developer, Inc. for completion of improvements in Crown Pointe, Section 5 situated in Clearcreek Township. Vote: Unanimous

08-1367 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with Kurlmann Homes of Mason, LLC for installation of certain improvements in Meadowbrook Estates, Section 1 situated in Deerfield Township. Vote: Unanimous

08-1368 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with Classicway Development Company LLC for installation of certain improvements in the Villages of Classicway Subdivision, Section 2 situated in Hamilton Township. Vote: Unanimous

08-1369 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Classicway Development Company LLC for the Villages of Classicway Subdivision, Section II in Hamilton Township. Vote: Unanimous

- 08-1370 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with Classicway Development Company LLC for installation of certain improvements in the Villages of Classicway Subdivision, Section 3 situated in Hamilton Township. Vote: Unanimous
- 08-1371 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Classicway Development Company LLC for the Villages of Classicway Subdivision, Section 3 in Hamilton Township. Vote: Unanimous
- 08-1372 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with Classicway Development Company LLC for installation of certain improvements in the Villages of Classicway Subdivision, Section 4, situated in Hamilton Township. Vote: Unanimous
- 08-1373 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Classicway Development Company LLC for the Villages of Classicway Subdivision, Section 4 in Hamilton Township. Vote: Unanimous
- 08-1374 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with Classicway Development Company LLC for installation of certain improvements in the Villages of Classicway Subdivision, Section 5, situated in Hamilton Township. Vote: Unanimous
- 08-1375 A resolution was adopted to approve a Subdivision Public Improvement Performance and Maintenance Security Agreement Release with Classicway Development Company LLC for the Villages of Classicway Subdivision, Section 5 in Hamilton Township. Vote: Unanimous
- 08-1376 A resolution was adopted to enter into a New Streets and Appurtenances Security Agreement with the Classicway Development Company LLC. for the Villages of Classicway, Section 2, in Hamilton Township, replacing the current Street and Appurtenances Security Agreement #06-002(P). Vote: Unanimous
- 08-1377 A resolution was adopted to enter into a New Streets and Appurtenances Security Agreement with the Classicway Development Company LLC for the Villages of Classicway, Section 3, in Hamilton Township, replacing the current Street and Appurtenances Security Agreement #06-003(P). Vote: Unanimous

- 08-1378 A resolution was adopted to enter into a New Sidewalk Security Agreement with Classicway Development Company, LLC for the Villages of Classicway, Section 3 in Hamilton Township, replacing the current Sidewalk Security Agreement #06-003(S). Vote: Unanimous
- 08-1379 A resolution was adopted to enter into a New Streets and Appurtenances Security Agreement with the Classicway Development Company LLC for the Villages of Classicway, Section 4, in Hamilton Township, replacing the current Streets and Appurtenances Security Agreement #06-027(P). Vote: Unanimous
- 08-1380 A resolution was adopted to enter into a New Sidewalk Security Agreement with Classicway Development Company, LLC for the Villages of Classicway, Section 4 in Hamilton Township, replacing the current Sidewalk Security Agreement #06-027(S). Vote: Unanimous
- 08-1381 A resolution was adopted to approve a Street and Appurtenances Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section II, situated in Hamilton Township.  
Vote: Unanimous
- 08-1382 A resolution was adopted to approve a Street and Appurtenances Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section 3, situated in Hamilton Township.  
Vote: Unanimous
- 08-1383 A resolution was adopted to approve a Street and Appurtenances Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section 4, situated in Hamilton Township.  
Vote: Unanimous
- 08-1384 A resolution was adopted to approve a Street and Appurtenances Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section 5, situated in Hamilton Township.  
Vote: Unanimous
- 08-1385 A resolution was adopted to approve a Sidewalk Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section 3, situated in Hamilton Township. Vote: Unanimous
- 08-1386 A resolution was adopted to approve a Sidewalk Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section 4, situated in Hamilton Township. Vote: Unanimous

- 08-1387 A resolution was adopted to approve a Sidewalk Bond Release for Classicway Development Company, LLC for completion of improvements for the Villages of Classicway, Section 5, situated in Hamilton Township. Vote: Unanimous
- 08-1388 A resolution was adopted to enter into Erosion Control Bond Agreement with Grand Communities Ltd for improvements in Shaker Run Section Three Phase A situated in Turtlecreek Township. Vote: Unanimous
- 08-1389 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with Grand Communities, Ltd. for installation of certain improvements in Shaker Run, Section Three, Phase A (Pod 5 Multi-Family) situated in Turtlecreek Township. Vote: Unanimous
- 08-1390 A resolution was adopted to approve following Record Plats. Vote: Unanimous
- 08-1391 A resolution was adopted to approve Repayment of Cash Advances within Caesar Creek Estates Sewer Improvement Project, Fund No. 449-3316.  
Vote: Unanimous
- 08-1392 A resolution was adopted to accept an Amended Certificate and approve a Supplemental Appropriation for Family and Children First Council Fund 990.  
Vote: Unanimous
- 08-1393 A resolution was adopted to approve Appropriation Adjustment in Grants Administration Fund #265. Vote: Unanimous
- 08-1394 A resolution was adopted to approve Appropriation Adjustments from Commissioners Fund #101-1110 into Common Pleas Court Fund #101-1220 and Common Pleas Court Probation Fund #101-1223 and approve Appropriation Adjustments within Common Pleas Court Fund #101-1220. Vote: Unanimous
- 08-1395 A resolution was adopted to approve Appropriation Adjustment within Fund #101-1600. Vote: Unanimous
- 08-1396 A resolution was adopted to approve Appropriation Adjustments within the Water Revenue Fund No. 510. Vote: Unanimous
- 08-1397 A resolution was adopted to approve Appropriation Adjustment within Fund #101-1600. Vote: Unanimous
- 08-1398 A resolution was adopted to approve Appropriation Adjustment within Fund #467. Vote: Unanimous

- 08-1399 A resolution was adopted to approve Appropriation Adjustments within Probate/Juvenile Funds #101-2600 & #101-1240, Sheriff's Office Fund #267, Building Department Fund #101-2300, Board of Elections Fund #101-1301 and Children Services Fund #273. Vote: Unanimous
- 08-1400 A resolution was adopted to approve Supplemental Appropriations into Probate/Juvenile Fund #247. Vote: Unanimous
- 08-1401 A resolution was adopted to authorize payment of Bills. Vote: Unanimous
- 08-1402 A resolution was adopted to Remove Probationary Employee from employment within the Emergency Services Department. Vote: Unanimous
- 08-1403 A resolution was adopted to support the City of Loveland in its application for Clean Ohio Conservation Funds. Vote: Unanimous
- 08-1404 A resolution was adopted to authorize the Establishment of a County Employee Precinct Election Official Leave Program as authorized by Section 3501.28 (G)(1)(a) of the Ohio Revised Code. Vote: Unanimous
- 08-1405 A resolution was adopted to approve Appointment to the Community Corrections Board Members. Vote: Unanimous
- 08-1406 A resolution was adopted to approve Annexation of 103.606 acres to the City of Mason, Jeff Forbes, agent, pursuant to Ohio Revised Code Section 709.023 [a.k.a. Expedited Type 2 Annexation]. Vote: Unanimous
- 08-1407 A resolution was adopted to enter into an Ohio Public Works Commission Cooperation Agreement with the Village of Maineville. Vote: Unanimous
- 08-1408 A resolution was adopted to Modify the General Plan of Water Supply prepared by the Warren County Sewer District to include Water Service to Butler County Parcel Number Q6511049000007, 4736 Riviera Drive. Vote: Unanimous
- 08-1409 A resolution was adopted to approve Addendum to the Warren County Prevention Retention and Contingency Plan for the Warren County Department of Human Services. Vote: Unanimous
- 08-1410 A resolution was adopted to Cancel Regularly Scheduled Commissioners' Meeting of September 18, 2008. Vote: Unanimous
- 08-1411 A resolution was adopted to enter into a New Streets and Appurtenances Security Agreement with the Classicway Development Company LLC. for the Villages of Classicway, Section 5, in Hamilton Township, replacing the current Street and

Appurtenances Security Agreement #06-034 (P). Vote: Unanimous

08-1412 A resolution was adopted to enter into a New Sidewalk Security Agreement with Classicway Development Company, LLC for the Villages of Classicway, Section 5, in Hamilton Township, replacing the current Sidewalk Security Agreement #06-034 (S). Vote: Unanimous

#### DISCUSSIONS

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On motion, upon unanimous call of the roll, the Board accepted and approved the consent agenda.

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Jerry Spurling and Tom Maloney, Building Department, and Dan Collins, Warren County Combined Health Department, were present for a work session to discuss the desire of the Warren County Building Department to begin inspections of manufactured homes within the unincorporated areas of Warren County.

Mr. Collins presented a packet of information to the Board relative to the new set of rules within the State Law. He stated that the Ohio Mobile Home Park Association originated the new rules stating that the Ohio Department of Health has right of first refusal relative to electric and footer inspections. He stated that the Warren County Health Department does not provide those services and that they only inspections they provide are health related issues. He then stated that they complete between 50 and 75 inspections per year. He then stated that Warren County Combined Health District declined the electrical and footer inspections and is recommending the State of Ohio contract with the Warren County Building Department to provide those services. He then stated that if the Warren County Building Department declined to agree, the State of Ohio has the ability of contracting with a private company.

Mr. Spurling stated his desire to provide these services to the residents of Warren County as he feels that they can provide a more thorough inspection at a more affordable price.

Bruce McGary, Chief Deputy Prosecutor, stated he has reviewed the draft agreement between the Board of Commissioners and the Ohio Department of Health and there are concerns with the agreement. He also stated his desire to discuss with CORSA, our insurance provider, their opinion of Warren County taking on this additional liability.

Upon further discussion, the Board stated their desires as follows:

1. Their desire to see what other counties within the State of Ohio are doing relative to the inspections.



2. Proceed with changes to the draft agreement to the satisfaction of Mr. McGary.
3. Contact CORSA relative to insurance coverage.

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Joe Trauth, Attorney for the Groh property owners, was present along with Neil Tunison, County Engineer, Paul Rhodenbeck, Civil Engineer for the Groh property owners, Robert Craig, Regional Planning Commission, and Bruce McGary, Chief Deputy Prosecutor, to discuss the draft "Groh Funding Agreement" relative to improvements that will be required from the proposed subdivision along Greentree Road.

Mr. Trauth stated that the proposed agreement has been reviewed and approved by the County Engineer and the property owner has submitted a revised plat to the Regional Planning Commission reducing the number of lots from 850 to 825 (2.165 du/a).

Paul Rhodenbeck, Civil Engineer for the Groh property owners, stated that the draft agreement covers the cost that the impact from the number of units proposed would have on five intersections in the immediate area.

Mr. Tunison has estimated approximately \$50 million is needed to complete the improvements to the intersections in order to deal with the congestion of population that is anticipated. He then stated the draft agreement would provide a \$2000 per lot fee or approximately \$1.7 million.

Commissioner Young explained his philosophical concern relative to the draft agreement. He stated that the County Engineer reduced the per lot fee approximately 20% and the proposed development only reduced the density  $\frac{1}{2}$  of 1%. He stated that even though the development has the correct zoning for what they propose, a funding agreement is requested for approval with the Board of County Commissioners, not the County Engineer.

Commissioner South stated that this agreement will set the precedent for all future agreements and stated that the density has not come down in relation to the dollar amount that the Board of Commissioners has come down in assessment.

Bruce McGary, Chief Deputy Prosecutor, stated that the requirement from the Regional Planning Commission to enter into a funding agreement with the Board of Commissioners in order to control the congestion of population is a constitutional exaction. He stated that the proposed impact that this development has on the area will be uniquely attributable to the dollar amount in the control.

Commissioner Young stated that a 25 lot reductions does not make for a very even negotiation.

Commissioner South questioned if there was any “wobble room” relative to additional lot reduction.

Mr. Groh stated that he was not willing to reduce any further at this time.

Commissioner Young stated that he has previously met with the property owner and made it very clear as to his desires relative to density of the subdivision. He then stated he is about finished with this discussion.

Commissioner South questioned if the Board and the Groh’s are at a stalemate.

Mr. McGary stated that there is nothing that requires the Board of Commissioners to enter into a funding agreement with the Groh family.

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Representatives from the Old State Route 122 and Utica Road area where there is a water line assessment project proposed, were present along with representatives from the Warren County Water Department to discuss the results of the door to door survey they conducted.

June Mercer, property owner, stated that she did not receive a survey but wanted to voice her no vote as she cannot afford an increase in property taxes.

There was much discussion from property owners relative to their choice of being in favor of or in opposition to the assessment project.

Upon further discussion, with the vote being so close, the Board requested staff to continue to try to contact those property owners who have not voted and provide the Board with a more accurate vote as a later date.

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Jeff Forbes, Agent for the annexation petition of 103.606 acres to the City of Mason, pursuant to Ohio Revised Code Section 709.023 [a.k.a. Expedited Type 2 Annexation] was present along with Catherine Cunningham, Attorney for Agent, Tom Swope, Attorney for Deerfield Township Trustees, Bruce McGary, Chief Deputy Prosecutor, and Ken Schneider, Attorney for the City of Mason, were present for the Board to consider said annexation petition.

Mr. McGary stated the requirements that must be met to approve an Expedited Type 2 annexation and confirmed with the Clerk that all legal requirements have been met. He then stated that the Deerfield Township Trustees have filed an objection to the approval of the annexation petition with the following objections stated:

1. The petitioner failed to notify the Township pursuant to the five day requirement— Mr. McGary stated that according to law, this is not a fatal flaw.
2. The petition is not signed by 100% of owners of the property. The objection states that the State of Ohio owns parts of I-71 in fee simple and Warren County owns parts of Kings Island Drive in fee simple. Mr. McGary stated his disagreements with the objection. He stated that SB 5 defines owners and add in express exception of right right-of-way as being counted as owners of property.
3. Granting of petition will result in a deterioration of Fire & EMA on I-71. Mr. McGary stated that this is no an element for the Board to determined pursuant to ORC 709.023 (E). He stated that Mason has provided an ordinance of services as required by law and that this property will also remain in the Township pursuant to law.
4. The annexation will create an unincorporated portion of the Township that is essentially surrounded by the City of Mason. Mr. McGary stated that a peninsula will be created, not an island; so therefore, there is no merit to the objection.

Thomas Swope, attorney for Deerfield Township, stated that it is very clear that the Township was not served notice of the annexation within the statutory five days as required. He then stated that Fire and EMS protection should not be ignored and that Deerfield Township's fire station is immediately adjacent to the property.

Catherine Cunningham, attorney for agent, stated the following:

1. Governmental entities are counted as neutral entities if they do not sign the annexation petition but are counted as property owners if they do sign the petition.
2. The creation of an island statute relative to this annexation would have to be "the hole in the donut" caused by the entire petitioned land, not by prior annexations; however, this is no island created by this or previous annexation.

Mr. McGary stated that the County Engineer would like to discuss amending the road maintenance agreement as it relates to capital costs in the future but that has no bearing on this annexation.

Mr. Schneider stated he would not have a problem discussing this with the City of Mason.

Upon further discussion, the Board determined that all seven conditions of annexation have been met except for the timeliness of filing with the Township, which is not a fatal flaw pursuant to law. The Board then resolved (Resolution #08-1406) to approve the annexation petition.

Chris Brausch, Deputy Sanitary Engineer, was present and discussed the following matters:

1. Approving a cooperative agreement with the Village of Maineville that would include the relation of a water line in Maineville. Upon discussion, the Board approved the cooperative agreement.
  2. A resident in Butler County that is adjacent to our waterline is in need of water. We can provide her with service and Butler County has agreed to allow Warren County to serve this property. The Board agreed to provide service to the property.
  3. With the Hamilton Township Trustees inheriting the property adjacent to Thornton Grove Subdivision, the Water and Sewer Department now has the ability to eliminate an existing pumping station. Upon discussion, the Board agreed to amend the engineering agreement with Jones Warner to include the design for the elimination of this pumping station.
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Dave Gully, County Administrator, stated the need to approve an amendment to the Warren County Prevention, Retention and Contingency Plan in order to allow the allocation of emergency funding provided by the State of Ohio for people who qualify in order to off-set some of the costs relative to the wind storm which occurred on September 14, 2008.

Upon further discussion, the Board resolved (Resolution #08-1409) to approve an amendment to the Warren County Prevention, Retention and Contingency Plan.

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Upon motion the meeting was adjourned.

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Pat Arnold South, President

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C. Michael Kilburn

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David G. Young

I hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on September 16, 2008, in compliance with Section 121.22 O.R.C.

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Tina Davis, Clerk  
Board of County Commissioners  
Warren County, Ohio