



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

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**C. MICHAEL KILBURN
PAT ARNOLD SOUTH
DAVID G. YOUNG**

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

MINUTES: Regular Session – June 4, 2009

The Board met in regular session pursuant to adjournment of the June 2, 2009, meeting.

C. Michael Kilburn - present

David G. Young - absent

Pat Arnold South - present

Tina Davis, Clerk – present

09-0740 A resolution was adopted to a pay increase for Shawn Mason within the Warren County Emergency Services. Vote: Unanimous

09-0741 A resolution was adopted to approve a pay increase for Jason Perez within the Warren County Department of Emergency Services. Vote: Unanimous

09-0742 A resolution was adopted to approve a pay increase for Carman Carson within the Warren County Emergency Services. Vote: Unanimous

09-0743 A resolution was adopted to Post for Re-Bid of the Sale of Various Scrap Metal for the Water and Sewer Department. Vote: Unanimous

09-0744 A resolution was adopted to approve and enter into Amendment #1 with Comp Management, Inc. regarding Unemployment Compensation Services. Vote: Unanimous

09-0745 A resolution was adopted to acknowledge receipt of May 2009 Financial Statement. Vote: Unanimous

09-0746 A resolution was adopted to approve and authorize Board to sign a Service Agreement with Sumco Phoenix Corporation. Vote: Unanimous

- 09-0747 A resolution was adopted to declare an emergency and waive Competitive Bidding Process for Emergency Repair of the roof at 406 Justice Drive.
Vote: Unanimous
- 09-0748 A resolution was adopted to Award the Bid to Cargill, Inc. for the purchase of 5000 tons of Bulk Ice Control Salt, within the option to purchase up to an additional 4000 tons. Vote: Unanimous
- 09-0749 A resolution was adopted to approve and authorize the President of the Board to enter into a Youth Worksite Agreement on behalf of Workforce One of Warren County. Vote: Unanimous
- 09-0750 A resolution was adopted to approve Bond Reduction for Greens of Bunnell Hill, LLC for completion of improvements in the Greens of Bunnell Hill, Section 1, situated in Clearcreek Township. Vote: Unanimous
- 09-0751 A resolution was adopted to approve Operational Transfers from County Commissioners' Fund #101-1112 into Emergency Services Fund #264.
Vote: Unanimous
- 09-0752 A resolution was adopted to approve Operational Transfer from County Commissioners' Fund #101-1112 into Emergency Services Fund #290.
Vote: Unanimous
- 09-0753 A resolution was adopted to approve Appropriation Adjustment within Emergency Services/Communications Center Fund #101-2850.
Vote: Unanimous
- 09-0754 A resolution was adopted to approve Appropriation Adjustments within Building and Zoning Inspection Fund #101-2300 and Treasurer's Office Fund #101-1130.
Vote: Unanimous
- 09-0755 A resolution was adopted to authorize payment of Bills. Vote: Unanimous
- 09-0756 A resolution was adopted to enter into Contract with DDK Construction, Inc. for the Wilmington Road Bridge Rehabilitation Project. Vote: Unanimous
- 09-0757 A resolution was adopted to approve Annexation of 155.24 acres to the Villages of South Lebanon, J. William Duning, agent, pursuant to Ohio Revised Code Section 709.023 [a.k.a. Expedited Type 2 Annexation]. Vote: Unanimous

DISCUSSIONS

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

Neil Tunison, County Engineer, was present to answer any questions relative to the Wilmington Road Bridge Rehabilitation Project.

The Board met this 4th day of June 2009 in the Commissioners' Meeting Room, to consider the annexation petition of J. William Duning, Agent, to annex 155.24 acres to the Village of South Lebanon pursuant to ORC 709.023 (Expedited Type 2 Annexation).

Bruce McGary, Chief Deputy Prosecutor, reviewed the history of this property proposed to be annexed as well as the process relative to an expedited type 2 annexation.

Mr. Duning, Agent, presented a brochure from Little Miami, Inc., property owner within the annexation, which includes a statement relative to the proposed annexation. He then stated that this is a property owner initiated petition. He stated that all matters are in order and all legal requirements have been met. He then submitted an affidavit from G. Robert Hines, Attorney, stating that, upon completion of a title search, all property owners of record have signed the annexation petition.

Mayor James Smith, South Lebanon, stated that the general annexation was filed and then withdrawn and then this was re-filed as an expedited annexation to assure the townships involved that they would not withdraw from the township and become a city.

Catherine Cunningham, attorney for the Village of South Lebanon, stated that a type 2 annexation requires the Board of Commissioners to review the petition for compliance with the statute. She then stated that if all matters have been firmed to be in compliance then the Board shall approve the annexation, if not, the Board shall allow the agent to cure the defect. She then stated that the 5% contiguous rule is what should be followed and this petition meets that requirement of the statute.

The Board then questioned the Clerk if all matters are in order. Tina Davis, Clerk of Commissioners, confirmed that all matters are in order.

Bob Fox, Director of the Tax Map Department for the County Engineer, confirmed that the map and legal description are accurate and in compliance with the law.

Tom Swope, Attorney for Deerfield Township, questioned if there are sidwell numbers listed for the river land.

Mr. Fox stated there is not.

Mr. Swope then stated that the official records of the County do not provide for ownership of land. He then stated there are five acres that were excluded from ownership. He stated his opinion that there are boundary and title issues within the annexation map and legal description and therefore, this cannot be an expedited type 2 petition.

Commissioner Kilburn then questioned Mr. Fox as to who owns the land in question.

Mr. Fox stated that the Ohio Department of Natural Resources owns the land.

Mr. Swope stated his opinion that King Powder Factory owns the land and they are not included as property owners within the petition.

G. Robert Hines, Real Estate attorney with 34 years experience, stated that he has completed a title examination of the property proposed to be annexed and the petition is accurate. He then stated there is no confusion and no gap in ownership. He also stated that there is not any five acre tract that does not have ownership.

Commissioner Kilburn requested that all parties involved present a statement as to why it is important for the Board to approve or deny this annexation petition.

The Board then recessed for five minutes.

Mr. Duning stated that the petitioners desire a uniform plan for preserving the river and the Village of South Lebanon has committed to this plan. He then stated that the Middleton's desire village services.

Mrs. Cunningham stated that motivation is not a matter of law relative to a type 2 annexation petition. She then stated that the Village of South Lebanon does not initiate annexation but rather property owners come to them and they accommodate. She then stated that the entire expedited type 2 annexation process relies on an objective criteria and the Village wants to ensure that the process is followed.

Mr. Ritchie stated that he is concerned that South Lebanon will utilize the land for future extension of annexations downstream. He also stated he would like the Board to deny this petition due to the pending case in the Ohio Supreme Court that says a township does not have standing to file court actions in expedited annexation matters.

Upon further discussion, the Board resolved (Resolution #09-757) to approve the annexation of 155.24 acres to the Village of South Lebanon.

Upon motion the meeting was adjourned.

C. Michael Kilburn, President

David G. Young

Pat Arnold South

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 June 4, 2009, in compliance with Section 121.22 O.R.C.

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