



**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 22, 2009**

The Board met in regular session pursuant to adjournment of the September 17, 2009, meeting.

C. Michael Kilburn - present

David G. Young - present

Pat Arnold South - present

Tina Davis, Clerk – present

- 09-1257      A resolution was adopted to declare various items within DTF and Auditor's Office as surplus and authorize the disposal of said items. Vote: Unanimous
- 09-1258      A resolution was adopted to authorize President of the Board to sign an OPWC Project Agreement and Application for the Columbia Road at Mason-Morrow-Millgrove Road Intersection Improvement Project. Vote: Unanimous
- 09-1259      A resolution was adopted to approve and authorize the President of the Board to enter into an On-the-Job-Training Agreement on behalf of the Workforce One of Warren County. Vote: Unanimous
- 09-1260      A resolution was adopted to Amend the Warren County Prevention Retention and Contingency Plan for the Warren County Department of Human Services. Vote: Unanimous
- 09-1261      A resolution was adopted to authorize Board President to execute Quit-Claim Deed to complete the Minor Subdivision to correct the inadvertent conveyance by Warren County Airport Limited. Vote: Unanimous
- 09-1262      A resolution was adopted to approve Appropriation Adjustment from Commissioners Grants Fund #101-1112 into Tax Settlement Fees Fund #101-1990. Vote: Unanimous

- 09-1263 A resolution was adopted to approve Appropriation Adjustment in Community Development Fund #265. Vote: Unanimous
- 09-1264 A resolution was adopted to approve Supplemental Appropriations into the Workforce Investment Act Fund #258. Vote: Unanimous
- 09-1265 A resolution was adopted to approve a Supplemental Appropriation into Board of Developmental Disabilities Fund #211. Vote: Unanimous
- 09-1266 A resolution was adopted to approve Appropriation Adjustment within Board of Developmental Disabilities Fund #205. Vote: Unanimous
- 09-1267 A resolution was adopted to authorize payment of Bills. Vote: Unanimous
- 09-1268 A resolution was adopted to approve and authorize the President and/or Vice-President of this Board to sign a Subgrant Agreement on behalf of the Warren County Juvenile Court.  
Vote: Mrs. South - yea; Mr. Young - yea; Mr. Kilburn - nay
- 09-1269 A resolution was adopted to approve Temporary Variance and appeal of conditions required for an Access Permit of Bonnie M. Mercuri in Washington Township. Vote: Unanimous
- 09-1270 A resolution was adopted to approve a Grant Application and a Subsidy Grant Agreement Addendum on behalf of the Warren County Common Pleas Court.  
Vote: Unanimous
- 09-1271 A resolution was adopted in opposition to the Submittal of a Grant Application on behalf of the Warren County Common Pleas Court relative to Fiscal Year 2010 Community Corrections Act Grant 407 Prison Diversion Program.  
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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PUBLIC HEARING

CONSIDER VARIANCE AND APPEAL OF CONDITIONS REQUIRED FROM  
AN ACCESS MANAGEMENT PERMIT OF BONNIE M. MERCURI  
IN WASHINGTON TOWNSHIP

The public hearing to consider the variance and appeal of conditions required for an access permit application filed by Bonnie M. Mercuri relative to her property in Washington Township was convened this 22<sup>nd</sup> day of September 2009, in the Commissioners' Meeting Room.

Mike Yetter, Zoning Supervisor, explained the current preliminary site plan application and how it ties into the current variance and appeal of the conditions for the access permit.

Commissioner Kilburn read aloud the instructions from the Chief Deputy Prosecutor relative to the procedures and requirements of the public hearing. He then requested the Clerk to list all items received to date and the date the legal notice ran in the newspaper as well as the date in which the applicant was notified of the public hearing date and time.

Commissioner Kilburn then swore those desiring to give testimony.

Kurt Weber, Chief Deputy Engineer, stated that Strout Road is too narrow (between 14 – 16 feet). He stated that the roadway cannot safely accommodate two lanes of traffic. He stated that, due to the prohibitive cost of widening Strout and Fischer Roads all the way to SR 123, the County Engineer's Office has recommended a driveway access from SR 123. In reviewing the access permit application in January 2009, the applicant was instructed to have the alternative driveway access from SR 123 completed prior to September 1, 2009. As of today, the driveway has not been completed.

Mr. Yetter stated that current zoning is in place to accommodate the access at SR 123.

Kim Lapensee, RPC Executive Director, stated that when RPC Executive Committee reviewed the preliminary site plan, it was noted that access to this business would be from SR 132 and the RPC Executive Committee recommend it as well.

Paul Schaeffer, Washington Township Trustee, stated he would like to see the applicant follow the recommendation of the County Engineer.

Bonnie Mercuri, applicant, stated that they purchased the first tract of land in March, 2007 on Strout Road. In May, 2007, they purchased the additional land (approximately 80 acres). She stated that their intention all along was to construct an access from SR 123. She then stated that the only reason an access has not been constructed is because of the economy and their inability to afford the approximate \$90,000 construction cost. She then stated that they had an event with Careflight last year which had quite a bit of traffic on Fischer and Strout Road and there were no problems relative to access.

Commissioner Kilburn questioned if the County could construct the driveway access on behalf of the Mercuri's as an assessment project.

Bruce McGary, Chief Deputy Prosecutor, stated that it would not be possible as it would not be for the benefit of the public, only one property owner.

Commissioner Young questioned if the Board would have any liability if we allow the access to remain as it operates today.

Mr. McGary stated that the County would not have any liability.

Commissioners Kilburn and South questioned if the Board could have an agreement to grant a temporary variance to allow the current use of Strout and Fischer Roads until a specific date and if the new access isn't constructed by that date, enforce liquidated damages.

Commissioner Young stated that either the situation is a big deal or it isn't. If it works as is, they should let her continue to use those roads, if it doesn't; they need to deny the variance.

Commissioner South questioned how many parking spots were available when the farm was located in Montgomery County.

Mrs. Mercuri stated there were approximately 300 spaces.

Commissioner Kilburn stated his desire to let her operate her business and get an accurate traffic count. Once the traffic reaches a specific volume, then that should trigger the construction on the new access.

Mr. McGary stated that if a variance is not granted, he does not know how she can operate this weekend as she will not have zoning approval.

Jim Dare, Washington Township Trustee, questioned if the road is destroyed, who will be financially responsible to fix it.

Commissioner Kilburn stated the possibility of requiring a bond from the property owner in the amount of the cost to pay for improvements if they are not completed by the property owner when required.

Commissioner Young stated his desire to let Mrs. Mercuri operate her Fall Festival Weekends (approximately 6 weeks long) and place a traffic counter to see how many vehicles access the roads. If the traffic volume qualifies, they could require her to construct the access in the spring.

Jerry Spurling, Chief Building Official, suggested to the Board they consider approving a temporary variance with conditions.

Commissioner Young stated his desire to approve a temporary variance until May 1, 2010, with the understanding that at no time will any continuance of the variance be granted. He stated that a new appeal would have to be filed in order for any continuance of a variance to be considered.

The Board resolved (Resolution #09-1269) to approve a temporary variance and appeal of conditions required for an access permit application filed by Bonnie M. Mercuri relative to her property in Washington Township; said variance to be in effect until May 1, 2010.

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Kim Lapensee, Regional Planning Commission, was present for the Stage 2 Preliminary Site Plan for Bonnybrook Farm (AKA Bonnie Mercuri PUD) in Washington Township.

Mrs. Lapensee stated that the RPC Executive committee has reviewed the plan and recommended approval subject to 13 conditions. She then stated, following discussion from the previous access management public hearing, her recommendation of an additional condition (#14) to tie the access permit approval to the approval of the Preliminary Site Plan.

There was discussion relative to rest room availability. It was determined that portable toilets have been approved for use during the Fall Festival.

Commissioner South questioned Mr. Stansbury, Health Commissioner, if the plumbing has been installed into the building under construction.

Mr. Stansbury stated that the rough plumbing only has been approved.

Upon discussion, the Board continued the Stage 2 Preliminary Site Plan until September 24, 2009, at 5:15 p.m.

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Scott McVey, Common Pleas Court Administrator, was present for the Board to consider grant applications relative to the redirection of funds from the Prison Systems in an effort to reduce jail and prison space.

Mr. McVey explained that the first grant is for \$300,000 to hire 4 new staff positions staff for Community Corrections as well as \$40,000 for counseling services and \$3,000 - \$4,000 for training which will reduce the number of beds being utilized in the County Jail.

Upon discussion, the Board resolved (Resolution #09-1270) to approve the grant application (408 Grant).

Mr. McVey explained that the next grant application is for both Child Support Enforcement Agency and the Prosecutor's Office which would finance the hiring of staff for a diversion program for non-support offender in exchange for conditions mandated by the courts such as counseling and education.

Commissioner Kilburn stated his desire to not award criminals with a "teddy bear" program in order to prevent them from going to jail.

Commissioner Young stated he cannot support hiring an employee to counsel and educate criminals. He stated his opinion that it is a waste of tax dollars and the importance of personal responsibility and not the responsibility of the government.

Commissioner Kilburn seconded Mr. Young's opinion.

Mr. McVey then explained the second portion of the grant application would be the same program except instead of non-support offenders, it would be for alcohol and drug related offences. He explained that in a diversion program, the charges are held and if all the conditions of diversion are met, the charges are dismissed. He stated this grant would finance the hiring of a probation officer as well as a mental health counselor.

Upon discussion, the Board resolved (Resolution #09-1271) to adopted a resolution in opposition to the submittal of a grant application on behalf of the Warren County Common Pleas Court relative to Fiscal Year 2010 Community Corrections Act Grant 407 Prison Diversion Program.

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Neil Tunison, County Engineer, was present to request the Board to approve the purchase of three (3) dump bodies in 2009 rather than in 2010 due to changes in the State of Ohio Cooperative Purchasing Program which will not allow the purchase of the equipment in 2010.

There was discussion relative to the possibility of sub-contracting some snow and ice removal to the local companies which are otherwise shut down during the winter.

Upon further discussion, the Board stated their approval to purchase the equipment in 2009.

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Upon motion the meeting was adjourned.

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C. Michael Kilburn, President

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David G. Young

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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 September 22, 2009, in compliance with Section 121.22 O.R.C.

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