

**Tuesday, February 16, 2010**

The Board of County Commissioners met in regular session on **Tuesday, February 16, 2010 at 9:15 AM** with the following members present:

Charles W. Keiper II

Maureen T. Frederick

Christopher Smeiles

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It was moved by Maureen T. Frederick, seconded by Christopher Smeiles to approve the meeting minutes of the February 11, 2010 meeting. All in favor, motion carries

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Also attending throughout the day: Mike Sever, Record-Courier

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**THE WOODLANDS AT ROBINSON**

Present: Gary Mitrison, Karen U’Halie

Mr. Mitrison noted that the census stands at 69. He advised the Board of Commissioners that Medical Mutual has received the proposed contract and will be in touch.

Commissioner Smeiles advised Mr. Mitrison that several residents have approached him about the possibility of a therapy pet program. Human Resources Department Director Karen U’Halie responded that she is working on a draft policy for an Animal Assistance Activity at The Woodlands, as directed by the Board of Commissioners last week.

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**PROSECUTOR**

Present: Denise Smith

**Review of Prosecutor’s Pending List**

1. Attorney Scahill is researching the Board of Commissioners’ question regarding the sales tax availability. Attorney Smith noted the February 18, 2010 deadline from the Board of Elections.
2. Attorney Smith has reviewed the MOU with Hiram Village, Hiram College, Mantua Village, Windham Village, Garrettsville Village and Portage County and advised that she will sign the document as reviewed, when presented. JoAnn Townend is processing the MOU.
3. Attorney Smith has reviewed the Architect’s agreement for the Kent Courthouse project, sending her changes to JoAnn Townend.

Commissioner Smeiles noted that he spoke with Whispering Meadows developer Ken Coffman last week who told him that he intended to sign the paperwork presented by Portage County without his partners. Attorney Smith responded that she has not received that paperwork yet.

**Prosecutor’s Correspondence**

- 1. February 9, 2010 e-mail from Chris Meduri, regarding Northern Alliance Road 1950 Resolution to vacate with vacation plat not having been recorded/Information only at this time
- 2. February 9, 2010 e-mail from Denise Smith regarding Timberstone Development, Freedom Township Subdivision/Information only

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**DEPARTMENT OF BUDGET & FINANCIAL MANAGEMENT**

Present: Audrey Tillis

Resolutions

- 1. Cash Advance Repayment from Fund 5100, Nursing Home General Administr to Fund 0001, General Fund/10-0158
- 2. Transfer from Fund 0001, General Fund to Fund 1166, EMPG Homeland Security Grant/10-0159
- 3. Transfer from Fund 0001, General Fund to Fund 1390, Woman, Infants and Children/10-0160

Updates

- 4. BOC Pending Requests – Kent Regional Business Alliance (KRBA)  
The Director received the Kent Regional Business Alliance report of outstanding county loans as of December 31, 2009, as promised. There are a total of eight loans for a total principal amount of \$21,351.90. The county does not have an operating agreement with KRBA for the administration of these loans; KRBA is asking that the County enter into such an agreement, which will detail how administrative fees will be paid. The KRBA is also asking that the loan maximum amount be increased from \$6,000 to \$10,000. The Board of Commissioners agreed that the Director should work with JoAnn Townend to create an operating agreement between the county and the KRBA.

9:45 AM In accordance with the Ohio Rev. Code Ann. 121.22(G)(1), it was moved by **Maureen T. Frederick**, seconded by **Christopher Smeiles** that the Board of Commissioners move into executive session to consider the compensation of Department of Budget & Financial Management employees. **Also present: Department of Budget & Financial Management Director Audrey Tillis.** Roll call vote: Christopher Smeiles, Yea; Charles W. Keiper II, Yea; Maureen T. Frederick, Yea.

9:50 AM Upon conclusion of the above referenced discussion, it was moved by **Maureen T. Frederick**, seconded by **Christopher Smeiles** that the Board of Commissioners moves out of executive session. Roll call vote: Christopher Smeiles, Yea; Charles W. Keiper II, Yea; Maureen T. Frederick, Yea.

After exiting executive session, the Board approved a Journal Entry regarding the Department of Budget & Financial Management staff furloughs.

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10:22 AM Recessed to the Solid Waste Management District Meeting

10:45 AM Board of Commissioners Reconvened

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11:00 AM Lunch Recess

1:00 PM Board of Commissioners reconvened

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**Portage County Board of Commissioners Release/Removal Hearing  
Portage County Regional Airport Authority Board of Trustees Member  
Convened at 1:00 PM**

Portage County Commissioners' Board Room

**I. OPENING & INTRODUCTIONS - Commissioner Charles W. Keiper II**

Commissioner Keiper welcomed those present and asked that all sign the Sign in Sheet

**II. PURPOSE OF THE HEARING – Commissioners' Clerk Deborah Mazanec**

Based upon the past actions of Timothy Hartong, Board Member of the Portage County Regional Airport Authority Board, the Board of Commissioners must determine whether Mr. Hartong should be removed or released from his term, which is due to expire June 27, 2011. The purpose of this hearing is to provide current member Tim Hartong the opportunity to appear and be heard before the Board of Commissioners and present his position.

**III. PRESENTATION OF DOCUMENTS**

Portage County Assistant Prosecutor Christopher Meduri submitted the following documents for the record. It is noted that the Board of Commissioners accepts the following documentation as listed below:

1. Notice of Hearing and Charge served to Mr. Hartong on February 5, 2010. The Board of Commissioners notes that the original hearing was rescheduled to Tuesday, February 16, 2010 at Mr. Hartong's request
2. July 23, 2008 letter of interest from Timothy Hartong for consideration of appointment to the Portage County Regional Airport Authority Board of Trustees
3. Portage County Board of Commissioners' Resolution 08-0893 appointing Tim Hartong to the Portage County Regional Airport Authority Board of Trustees
4. Timothy Hartong's Oath of Office for the Portage County Regional Airport Authority Board of Trustees
5. December 21, 2009 correspondence from John Siman, LLC Manager for the Portage Flight Center to the Board of Commissioners
6. December 18, 2009 correspondence from Drew Ferguson, Aviation Manager for Metro Life Flight
7. February 11, 2009 Portage County Regional Airport Authority Board meeting minutes
8. October 14, 2009 Portage County Regional Airport Authority Board meeting minutes
9. December 9, 2009 Portage County Regional Airport Authority Board meeting minutes
10. Portage County Regional Airport Authority Bylaws, revised May 15, 2003
11. Common Pleas Court decision approving the user fees
12. February 12, 2010 correspondence from Dick Bonner of the Portage Flight Center

#### **IV. SWEARING IN OF THOSE WHO ARE SPEAKING – Commissioner Keiper**

Commissioner Keiper read the oath for those who desired to provide relevant testimony regarding this matter.

- Do you solemnly affirm under the penalties of the law of perjury of the State of Ohio that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth?

**Please respond:** I do.

#### **V. TESTIMONY OF THOSE WITH RELEVANT INFORMATION**

Commissioner Keiper opened the floor to Mr. Hartong and/or his attorney Robert S. Belovich.

Attorney Belovich stated that the Board of Commissioners wants to consider if Trustee Hartong should be removed from the remainder of his three year term. There are not witnesses in this room that are proponents of his removal. Only present today are those who will testify to the outstanding to superior job that Trustee Hartong has done as a Trustee. Since the Board of Commissioners elected to have this hearing, the Board of Commissioners should have allowed Mr. Hartong to have a copy of the evidence presented in a direct form today. The Board of Commissioners has deprived him of substantive due process by not doing so.

Attorney Belovich noted that this process is an unusual and improper proceeding in that neither the Airport Authority bylaws nor the Ohio Revised Code speaks to how a Board of Commissioners can remove a Trustee. He does not believe that the Board of Commissioners is following the rules in that the Board of Commissioners' own resolutions do not define a removal process and the Airport Authority bylaws only allow removal for consecutive meeting absence in which the Trustee effectively resigns by failing to fulfill their duties. There is nobody here to say that about Tim Hartong, the documents presented today are from people who are not in this room. Attorney Belovich added that Mr. Hartong's performance will be testified to today.

Trustee Tim Hartong stated that, when the Board of Commissioners interviewed him prior to his appointment, he advised the Board of Commissioners that if they did not want change at the Airport, they should not appoint him. He explained his proposed change to the user fee to the Board of Commissioners at that first interview. The only question that was asked was how he would vote "if we went after the golf course?" Mr. Hartong added that he discussed potential changes at several Trustees meeting over four to five months; Commissioner Keiper attended at least one of those Trustee meetings and also met with Mr. Hartong. Mr. Hartong researched and discussed the change in the user fees for the whole airport with the Board of Trustees for many months before the change was adopted by the Board of Trustees in a 5-1 vote, with one abstention. The change to the user fees was for the whole Airport, every hangar and person, needed to pay bills, which were not paid due to the ongoing lawsuit. Mr. Hartong added that all user fees are now paid in full except the Dale Kelly fees. The situation has improved at the Airport with the user fees being collected easily.

Referring to documents that he presented to the Board of Commissioners, Mr. Hartong stated that there are 97 billable hangars at the Airport, 101 total with three being owned by the Board of Trustees and being rented, with a \$120 user fee that brings in \$11,640/year. That yearly amount is \$600 less than the Airport collected in fees from 2002-2008 when the user fee was \$240 for 51 airplanes. This new user fee covers all planes and users even if the plane is not flyable or the pilot does not have a medical and includes charges for even a car that is stored in a hangar. This allows the Airport to have a set budget

Mr. Hartong stated that the present Airport Board of Trustees includes two pilots and added that members are not on site except for the monthly meetings and they are not aware of what goes on there. The Board of Trustees does not currently oversee operations; the Airport Manager works for the FBO and not the Airport Board. The Airport is an economic development tool but nobody will come with high user fees; the fees support the Airport and keep it going.

Mr. Hartong stated that the Board of Commissioners hired C&S Companies to give the Airport a business plan. Commissioner Keiper disagreed, stating that the Board of Trustees hired C&S but the Board of Commissioners provided the funds to pay for their services. Mr. Hartong referred to the C&S Companies' *Airport User Fee Analysis* dated January 2010 (handed to the Board of Commissioners) for the Portage County Regional Airport that noted that C&S could not find airports that matched the Portage County Airport statewide or further – all other airports owned and operated hangars instead of charging user fees. The study advised that it would be easier and better to use the new Portage County user fee and not revert to the old fees. Mr. Hartong added that the Airport needs money to keep the Airport running and that the Board of Trustee members supported his plan for the new user fees. Some users have paid their back fees; some have not.

Mr. Hartong continued, stating that he and former Trustee Dean Hugebeck met with Life Flight representatives and that the Drew Ferguson Life Flight comments in a letter to the Board of Trustees were misconstrued in that Life Flight wanted a second source of fuel on the field in case there was an issue with the first pump. Life Flight wants an additional, portable, perhaps temporary pump identified; there was no issue with the first pump.

Mr. Hartong noted that there was no preventative field maintenance onsite until he and Josh Eyring joined the Board of Trustees. He and Mr. Eyring have a maintenance background and will call for service if needed. Mr. Hartong researched the problem with the motor finding that the wrong pump was installed. The Airport is doing all that it can to keep Life Flight happy. He added that the Life Flight letter writer had no authority to write the letter to the Board of Trustees. Life Flight has asked for meetings with the Airport Manager and Board of Trustees throughout the year.

Airport maintenance has never been overseen by the Board of Trustees until he was appointed to the Board. Mr. Hartong added that he may have “stepped on” John Siman’s toes in the past but the Airport spent almost \$10,000 in 2008 on maintenance under Mr. Siman’s guidance but only \$2,000-\$3,000 until Mr. Hartong’s guidance. The lack of oversight by the Board of Trustees caused the Airport to borrow money from the Board of Commissioners for maintenance fixes. Mr. Hartong also noted that he stopped the Board of Trustees from paying a roofing contractor for a job that

was not completed. Mr. Hartong is familiar with the Airport in a way that the other Trustees are not and he has a maintenance background; the other Board of Trustees members are not.

Referring to letters that he presented to the Board of Commissioners, Mr. Hartong stated that he has brought new users to the Airport who also use the Portage Flight Center for maintenance and to buy fuel. The Castle Hanger owner sent a letter in support of Mr. Hartong and Jay Dunlavy, Grounds Keeper for the Airport Board of Trustees, also thanks Mr. Hartong for his input noting that until Mr. Hartong was on the Board, he had no guidance on where to mow, what to do etc. Mr. Hartong stated that the Airport needs overseeing, not micromanaging.

Mr. Hartong referred to the January 11, 2010 correspondence from Phil Marek to John Siman, which talks about how the wrong motor was ordered. Mr. Hartong had to order a new motor and get it on; the first motor order was cancelled since it was wrong. Commissioner Keiper stated that the letter does not say that the wrong motor was ordered, just that a motor was ordered and then cancelled. Mr. Hartong responded that the matching motor to the “existing motor” was the wrong motor; not a cold weather motor/pump. The manufacturer states in the specifications that the original motor was not for use in cold weather. Now that this new motor is in place, the other pumps will be repaired.

Attorney Belovich asked that the record show that the original motor installed was incorrect. There are specifications that Mr. Hartong will get for the Board of Commissioners that are not available today. Mr. Hartong noted that he does have the documents with him today that he will present before he leaves today.

Commissioner Frederick addressed Mr. Hartong, stating that, when Mr. Hartong first met with the Board of Commissioners to discuss his interest in serving on the Board of Trustees, she did not ask about his opinion on buying the golf course. Mr. Hartong agreed, stating that it was Commissioner Smeiles who asked that question.

Attorney Meduri stated that several years ago, after the Board of Commissioners expressed concern about how to make the Airport more self-sufficient during a meeting with the Airport; former Airport Consultant Gene Ripple investigated the implementation of user fees, which are tied into using the airport. In 2001, the Board of Trustees established a reasonable policy based on the use of the Airport; those fees have gone through some harsh scrutiny and were meant to be reasonable. Attorney Meduri added that past case law would prove the user fees for through the fence easements to be problematic. Attorney Meduri noted that Portage County Judge Pittman affirmed the users’ fees in 2001, which was upheld in the 6<sup>th</sup> Circuit Court of Appeals.

Attorney Belovich gave a history of the late 1960s Hahn land swap that provided the current location for the Portage County Airport. The Hahns owned land at the eastern end of the airport and Portage County owned land at the western end of the airport. In order to provide land for a runway, the Board of Commissioners agreed to swap land in exchange for land the county desired. The County granted an easement that provided the Hahns with the use of the runway. When the Hahn’s heirs began to develop the north side of the airport, another easement agreement was recorded with the County and the heirs (Peppard and Collins) thereby giving a property right to

those owning land to use the Airport. This is different from all other airports in Ohio and perhaps in the United States. One benefit is that the owners of land on the north side came to own their hangars and condominiums and along with that came the right of use. If that right of use is there, how can those owners still be charged a user fee?

Attorney Meduri responded that the user fees have been litigated already in 2005 and unless that issue is raised again, it will stand. Commissioner Keiper responded that, while the information is interesting, it is not relevant to this hearing. Attorney Belovich responded that there has been protest of the user fees by north side owners. One of the litigants received a judgment rendered in his favor but that judgment did not address the merits of a preexisting right of use verses the assessment of a user fee. Attorney Meduri responded that the fee can only be assessed a user fee if you are a user. Attorney Belovich stated that the situation was that the Airport Authority was not collecting money, there was a battle looming in court and along comes a Trustee who develops a plan. Tim's proposal was - this airport is ours, let's agree to take an assessment as an organization.

To the issue of nonfeasance, which is why we are here, Commissioner Smeiles referred to the February 16, 2010 document presented by Mr. Hartong from Jay Dunlavy, Grounds Keeper-PCRAA, asking Mr. Hartong if Mr. Dunlavy is a Portage County employee. Mr. Hartong responded no, he works for the Board of Trustees as a part-time employee and not the FBO.

Noting that Attorney Belovich had stated that there are no witnesses present except those who will testify to the job that Mr. Hartong is doing, Commissioner Smeiles stated that there is one member present who can testify. He added that John Siman wrote a December 21, 2009 letter to the Board of Commissioners regarding his concerns about the Life Flight/fuel pump issue. Attorney Belovich suggested that Mr. Siman be heard and not his letter. Attorney Meduri disagreed with Attorney Belovich, stating that the Board of Commissioners can determine how to proceed. Commissioner Smeiles asked Mr. Siman if the letter in question was his, Mr. Siman responded that he did write the letter. For the record, Mr. Siman is present and agreed that he wrote the letter.

Commissioner Smeiles read from the February 12, 2010 correspondence from Dick Bonner, Portage Flight Center, stating that Mr. Hartong has "been disruptive and has interfered with our ability to conduct normal business", and that he causes disruption, etc. etc., he tries to "save a buck by not performing this scheduled maintenance opens the board and PFC up for a negligence lawsuit should we have any accident that might result in the loss of life due to lack of preventive maintenance". Commissioner Smeiles continued to read from Mr. Bonner's letter noting that Mr. Bonner stated that Tim has interfered with the Portage Flight Center's in performing regularly scheduled maintenance and could violate a contractual agreement. He asked how Mr. Hartong would respond to those allegations. Mr. Hartong responded that he has not yet read the letter but asked how he could possibly cause disruption in fuel sales. Attorney Belovich stated that that issue has already been discussed and refuted. There are not many specifics on disruption and how the disruptions affected normal business operations. He noted that he would like to ask Mr. Siman to tell about what he wrote and have the opportunity to ask several questions. Commissioner Keiper responded that he would not allow that questioning. Attorney Belovich asked that the Board of Commissioners ask Mr. Siman what his understanding is about the incorrect pump.

Commissioner Keiper opened the floor to anyone with relevant information that wants an opportunity to be heard:

- Clyde Watson, 2619 7<sup>th</sup> Street, Cuyahoga Falls, stated that he is a pilot at the Airport. Regarding the allegation of disruptive behavior – how/what are concrete examples of that disruption? Commissioner Keiper responded that there are letters submitted and other Board of Trustee members have expressed concern. He added that this is not a question and answer period for the Board of Commissioners. The Board welcomes testimony regarding experiences concerning Mr. Hartong.
- Larry Beardsley, 1444 Kale Adams Road in Leavittsburg, is the President of the Portage Airport Condominium Association. He noted that the Airport now receives more money with the new fees in place than they did under the higher old fees. The changes that Tim Hartong brought about have been positive. The last litigation showed that the Airport Authority had no proof that the users used the Airport. Mr. Hartong brought about an improvement to the Esprit de Corp among the other Airport owners. He asked where the conflict of interest question is. Commissioner Frederick responded that this issue came to this level due to the alleged conflict of interest question for voting on an issue that benefited him regarding his vote on the user fees. Attorney Meduri noted that there are legal issues in question that are not for this hearing; the issue here is nonfeasance. Commissioner Frederick stated that the question for her is did Tim Hartong vote on an issue that he should have abstained on, not voting. Did Tim Hartong act in a manner appropriate for a Board of Trustees member and was there any violation in his voting record? In the sense of what is appropriate for a Board Member, it appears that in the sense of what Mr. Hartong has enumerated today, has acted appropriately as a Trustee. The question now is should he or should he not have voted on the user fee issue? Attorney Meduri responded that the Board of Commissioners must rely on past advice from legal counsel without violating confidentiality. Attorney Belovich stated that throughout Airport Authority history, there have been a number of Trustees in the same position as Mr. Hartong having an ownership interest with no history of sanction for that vote. Mr. Beardsley noted that Board governance general requires a familiarity with process so that public funds are protected. All Boards also need day-to-day oversight.
- Shirley Shuster, 12077 Sheldon Road, Mantua, stated that she is a past President of the Airport Board of Trustees and resigned in September 2009. She agreed with Commissioner Frederick's statement that the Board of Trustees was under the impression that this was a conflict of issue matter. She noted that the Board of Commissioners is provided with copies of the Airport Board of Trustees minutes, which discussed in February and March 2009 the vote of members for and against the temporary fee restructuring. The bylaws were not changed and there was time and opportunity for the Board of Commissioners to voice tier concerns. Commissioner Keiper responded that the Board of Commissioners did voice concern. Ms. Shuster continued by stating that she is not aware of any ORC authority for the Board of Commissioners to remove a Board of Trustee member. One reason that she resigned from the Board was the disruption of the Board meetings by Board of Trustee members and ongoing, internal conflicts.

Ms. Shuster confirmed that the C&S Companies was hired by the Board of Trustees and not the Board of Commissioners. She attended the initial interview on behalf of the Airport Board of Trustees with the Board of Commissioners and C&S Companies but noted that the company was not her first choice for hire. She added that it was the Board of Commissioners' choice to hire the company and that Commissioner Frederick expressed her concerns about the cost during that interview. The hiring decision was made by the Board of Commissioners. Commissioner Keiper responded that the Board of Commissioners responded to public hearing comments that there was no long-term business plan in place at the Airport. Since the Board of Trustees had no funds not the appetite to create one, the Board of Commissioners agreed to fund that activity as a reasonable expenditure of public dollars. The Board of Commissioners intended to hire a company but was stopped when the Prosecutor's Office determined at the last minute that the Board of Commissioners could not enter the agreement. The Board of Commissioners agreed to fund the project by providing the dollars directly to the Board of Trustees for payment once the project was completed. Legally, this agreement is between the C&S Companies and the Airport Board of Trustees. Commissioner Keiper added that the Board of Commissioners gets minutes from 30-40 different committees and boards. He added that members of the Board of Trustees have expressed concerns about voting on certain issues. He noted that in the future, the Board of Commissioners may consider not appointing Board of Trustee members who own property at the Airport. Other Board members have expressed concerns about Board members who own property at the Airport and that those owners should not participate in those discussions.

- Karen Stacko, Box 832, Aurora, has been the Secretary for the Board of Trustees for seven years. She noted that Mr. Hartong has attended Board meetings for years and that, since he has been on the Board of Trustees, he is always there to assist in whatever way is necessary with his comments and actions. He is good for the Board of Trustees, brings a lot to the Board, and is always ready to help. The current Board of Trustees is a diverse group that makes a good team.
- Beverly Hartong, 7600 Peck Road, Ravenna, stated that she contacted the Ohio Ethics Commission since this hearing appears to be about a conflict of interest complaint. She spoke with Investigator Paul Nick on February 9<sup>th</sup>, who told her that the information she presented regarding the scenario that Mr. Hartong is involved in for the user fees is not a conflict or a violation. He directed her to the 2001-06 Advisory, which Ms. Hartong noted concerned a member of the Ohio Board of Tuition and his vote since he had money invested there. She noted that this decision also allows Tim Hartong to vote because there is no unique benefit to him. She also spoke to John Rawski (SP?) in the Ohio Ethics Commission Advisory Department who noted that there was no ethical violation in the Tim Hartong vote for the user fee since the entire population at the Airport was affected. She added that the Board of Commissioners makes decisions in the county that they live in that either "benefit" or "detriment" the Commissioners but not individually particular to your piece of property. Ms. Hartong wondered why the Board of Commissioners did not check with the Ohio Ethics Commission themselves before holding this hearing– did the Board not want to know the answer? She added that there have been Board member property owners on the Board of Trustees for years with no such issues.

- Charles Dodson of Garrettsville, stated that in the conflict of interest question, perhaps Tim Hartong should have recused himself but who would believe that Mr. Hartong would jeopardize his standing in the Airport Authority or in the community by making a decision favorable to himself for \$200? Mr. Dodson has been at the Airport for 28 years and has seen nothing but contention. The Airport will not run itself and he is happy to pay the fees, although others do not feel the same. Tim Hartong had a “stroke of genius” in folding the Airport fees into the yearly PACA dues.
- Josh Eyring, current Board of Trustees member, pilot and mechanic, stated that he does not have a long history with the Airport – only two years. He owns an aircraft and uses the Airport. He also recognized the contention at the PCRAA about the fees etc. and joined the Board of Trustees to address communication between the users and the Board of Trustees. He stated that Tim Hartong has opened the lines of communication at the Airport; just talking to people is key to things running smoothly. He and Mr. Hartong spend more time on site than the rest of the Board of Trustees. The reason Tim is here is because of the fuel farm and maintenance issues. A good business person will look at expenses and try to reduce them. All tough decisions have either positive or negative feedback and some confrontation. The FBO feedback regarding the fuel farm was negative and not appropriate. Some Board of Trustee members fail to recognize the value of Tim Hartong being on site and his communications with other pilots. He added that several of the members object to his open manner of communications. The several members of the Board of Trustees that appear to attack Mr. Hartong also appear to have personal relationships with the Board of Commissioners.
- Shirley Shuster added that Tim Hartong is not the only member of the Board of Trustees to communicate with PACA, noting a March 2009 meeting attended by Josh Eyring, Tim Hartong, herself and seven PACA members. The meeting was very positive with the entire PACA membership voting for the user fee change. She added that she is a strong supporter of Dick Bonner and John Siman and her comments are not meant to criticize either.
- Gary Bulzan of Chardon, is a Portage County property owner. He stated that it sounds like the FBO never has had to explain itself to anyone before and may not like that. He noted that there are no other negative letters. He wondered if there should be other issues investigated.
- Bev Hartong stated that she has attended the last several Board of Trustee meetings, noting that she served as the Board Secretary in the 1980s and things have quieted down since then. She added that in 2009 at least one business left the Airport due to the actions of a prior President. She did not see any “hand-smacking” to that President/Board member. Ms. Hartong noted that she watched two Board of Trustee members the other night discuss how the user is to be determined and enforced. The members agreed that it should be John Siman’s job to determine who uses the site, which is impossible.

Commissioner Smeiles stated that the nonfeasance issue is that drew the Board of Commissioners here, not the user fees. John Siman’s December 21, 2009 letter states that there were problems with the fuel farm freezing, the Life Flight December 18<sup>th</sup> letter details problems with freezing. Mr. Siman states that Mr. Hartong cancelled his order for a new motor. He asked Mr. Hartong if he would interfere with a Board of Trustees’ decision? Mr. Hartong responded no and added that the Board of Commissioners should check

the Board of Trustees' minutes, which showed that both he and John were directed to get motor pricing. When he determined that Mr. Siman ordered the wrong motor, he was instructed by Josh and Dean as an emergency to get it fixed. Commissioner Smeiles stated that the Board of Commissioners, the Board of Trustees and the FBO would be responsible should there be any problem with the fuel resulting in a catastrophic event. According to the Dick Bonner letter, which Mr. Hartong has a copy of, Mr. Bonner says Mr. Hartong interferes with the day to day operation. Commissioner Smeiles stated that he still needs to hear that Mr. Hartong is part of the solution not part of the problem. What he is hearing from the audience is that Mr. Hartong is part of the solution. The people out there every day say that Mr. Hartong is part of the problem, so nonfeasance is where Mr. Hartong is working behind the scenes against the Board of Trustees but the majority of the Board speaks and votes and Mr. Hartong works against them. That is a concern.

Mr. Hartong responded that at that time, he was the Acting President, and he had to call two other board members but it is was his decision as the Board President to act, to get it done, and get it done right because it was being done wrong.

Mr. Hartong asked why he is the scapegoat when the Board of Trustees is simply trying to fix problems created by the old board. Dick Bonner is the problem but he is not here today. Mr. Hartong added that Mr. Bonner takes issue with his fees, which Mr. Hartong refused to change. He is trying to get the fuel farm up and running and oversee and work through the fuel farm issues. John Siman does not work for the Board of Trustees and the Board needs to watch its money.

Commissioner Smeiles asked Mr. Hartong if he would partake in an Executive Session called by the Board of Trustees to discuss a purchase of land on the north side of the Airport or if he would remove himself. Mr. Hartong responded that he would check with Chris Meduri but noted that the Board of Trustees was advised by Doug [David] Brode that he could participate in the discussion but would have to leave the room during a vote. Commissioner Smeiles noted that Mr. Hartong could be a source of information to the sellers. Tim Hartong responded that he would not do that.

Attorney Belovich stated that this was a long session and there was lots of ground covered, lots of allegations but not much material other than complaints from the Fixed Based Operation as to how maintenance is being overseen. He added specifications that Mr. Hartong presented for the fuel farm motor includes a note at the bottom of the sheet that explains the recommended application of the motor. Tim Hartong's diligence saved the expense of installing the wrong motor at nearly the same price only to have to replace it several years later. This is not the conduct of malfeasance or nonfeasance but is the conduct of a Board of Trustee member who deserves to be retained.

**VI. CLOSING STATEMENT – Commissioner Keiper**

**VII. ADJOURNMENT at 2:40 PM**

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**CITY OF STREETSBORO**

Present: Mayor Scott, Finance Director Ted Gordon, John Kuklisin, Water Superintendent/Assistant Director, Water Resources Department Director Harold Huff

In response to a correspondence from Bricker & Eckler, Attorneys at Law, regarding the 2009 certification of almost \$30,000 in sewer charges on the 2010 tax bill, the Board of Commissioners agreed to meet with Streetsboro representatives to discuss this issue. As a history, Commissioner Smeiles noted that the City of Streetsboro sent the Maple Wood Care Centre a bill for water for over \$30,000. According to the Streetsboro Water Department, this invoice was the result of a missed multiplier on the meter, which was discovered when the meter was changed out. When the correct reading with the multiplier was entered into the system, the result was this high bill; this revised water bill was correct.

The Streetsboro Water Department adjusted the water bill as a courtesy and started from that point forward using the correct multiplier on the account, forgiving the under-billed water amount. The correction was faxed to the Water Resources Department and the Department added the multiplier to the county account. The County billed sewer from the City’s water meter readings, resulting in a large sewer bill. The Commissioners noted that they have never forgiven under billed amounts when we have metered proof of the actual amount. To forgive would mean all our other customers would “pay” instead of the actual user. The flow did go down the sewer and was transported by our sewers and treated by our wastewater plant.

The Water Superintendent noted that the city did not forgive the large water bill because it was an error in the amount billed, but because they could not prove that the user got the water. Commissioner Keiper noted that the law does not allow the Board to forgive fees.

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**RESOLUTION No. 10-0154 - RE: BILLS APPROVED AND CERTIFIED TO THE PORTAGE COUNTY AUDITOR FOR PAYMENT.**

It was moved by Maureen T. Frederick, seconded by Christopher Smeiles that the following resolution be adopted:

**RESOLVED,** that the bills were approved and certified to the County Auditor for payment, contingent upon the review of the Portage County Internal Auditor or other designee on February 16, 2010 in the total payment amount of **\$173,550.90 for Funds 0001-8101** as set forth in the Accounts Payable Warrant Report on file in the office of the Portage County Auditor; and be it further

**RESOLVED,** that the Board of Commissioners finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meeting open to the public in compliance with the law including Section 121.22 of the Ohio Revised Code.

Roll call vote as follows:

Charles W. Keiper II, Yea; Christopher Smeiles, Yea; Maureen T. Frederick, Yea;

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**RESOLUTION No. 10-0155 - RE: APPROVAL OF JOURNAL VOUCHERS/ENTRIES.**

It was moved by Maureen T. Frederick, seconded by Christopher Smeiles that the following Resolution be adopted:

**WHEREAS,** the Ohio Revised Code requires that warrants be approved by the Board of Commissioners prior to their issuance, and

**WHEREAS,** there are other similar financial transactions defined as journal vouchers/entries that are dissimilar in that they are used to pay for charges for services from one county department and/or fund to another department and/or fund and thus are processed in lieu of issuing a warrant, and

**WHEREAS,** the Journal Vouchers/Entries are recommended by the County Auditor’s Office for review and approval by the Board of Commissioners; now therefore be it

**RESOLVED,** that the Board of Commissioners approves the following Journal Vouchers/Entries as presented by the County Auditor’s Office:

02/12/10	502	\$ 84.00
02/12/10	503	42,584.34
02/12/10	500	729.31
Total		\$ 43,397.65

and be it further

**RESOLVED,** that the Board of Commissioners finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meeting open to the public in compliance with the law including Section 121.22 of the Ohio Revised Code.

Roll call vote as follows:

Charles W. Keiper II, Yea; Christopher Smeiles, Yea; Maureen T. Frederick, Yea;

\* \* \* \* \*

**RESOLUTION No. 10-0156 - RE: ACCEPTANCE OF THEN AND NOW CERTIFICATIONS FOR PAYMENT.**

It was moved by Maureen T. Frederick, seconded by Christopher Smeiles that the following resolution be adopted:

**WHEREAS,** Ohio Revised Code Section 5705.41 (D)(1) authorizes the expenditure of moneys, provided a certificate of the County Auditor is supplied stating that there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract and in the

treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances (Then and Now Certification), and

**WHEREAS,** the Then and Now Certification is recommended by the State Auditor’s Office, the Portage County Auditor’s Office, and the Portage County Prosecutor’s Office, and

**WHEREAS,** a listing of expenditures, attached hereto as Exhibit “A” and incorporated herein by reference, has been certified by the County Auditor according to Ohio Revised Code section 5705.41 (D)(1); now therefore be it

**RESOLVED,** that the expenditures listed herein are properly certified by the County Auditor in the amount of **\$57,601.55** as set forth in Exhibit “A” dated **February 16, 2010** shall be paid; and be it further

**RESOLVED,** that the Board of Commissioners finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meeting open to the public in compliance with the law including Section 121.22 of the Ohio Revised Code.

Voice Vote as Follows:

Charles W. Keiper II, Yea; Christopher Smeiles, Yea; Maureen T. Frederick, Yea;

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**RESOLUTION No. 10-0157 - RE: ACCEPTANCE OF DONATION TO THE OFFICE OF THE PORTAGE COUNTY DOG WARDEN.**

It was moved by Maureen T. Frederick, seconded by Christopher Smeiles that the following resolution be adopted:

**WHEREAS,** The office of the Portage County Dog Warden received a donation of \$250 from Royal Canin Company for upgrades to its facility; now therefore be it

**RESOLVED,** The Board of Portage County Commissioners does hereby accept the donation on behalf of the Portage County Dog Warden’s Office;

and be it further

**RESOLVED,** that the Board of Commissioners finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meetings open to the public in compliance with the law including Section 121.22 of the Ohio Revised Code.



Roll call vote as follows:

Charles W. Keiper II, Yea;

Christopher Smeiles, Yea;

Maureen T. Frederick, Yea;

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**RESOLUTION No. 10-0159**

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**RE:**

**TRANSFER FROM FUND 0001 GENERAL FUND TO FUND  
1166, EMPG HOMELAND SECURITY GRANT**

It was moved by Maureen T. Frederick, seconded by Christopher Smeiles that the following resolution be adopted:

**WHEREAS,** the Ohio Emergency Management Agency each year awards Portage County an Emergency Management Performance Grant, and

**WHEREAS,** this grant partially supports EMA operations, and the general fund provides annual support for expenses which exceed the grant award, and

**WHEREAS,** grant activity is required to be accounted for in a special revenue fund; now therefore be it

**RESOLVED,** that the following partial transfer of funds be made in the amount of \$ 26,000.00:

**FROM:**

FUND 0001, COUNTY GENERAL FUND

ORGCODE - 00100009

Debit Expense Account

Object 910000- TRANSFERS OUT

\$ 26,000.00

**TO:**

FUND 1166, EMPG HOMELAND SECURITY GRANT

ORGCODE - 11669302

Revenue Account

Object 280000 - TRANSFERS IN

Project 9A042 –EMPG HOMELAND SECURITY GRANT

\$ 26,000.00

and be it further

**RESOLVED,** that the County Auditor is hereby requested to make said transfer by Journal Entry, and that a certified copy of this resolution be filed with the County Auditor, the Department of Budget and Financial Management and the Homeland Security and Emergency Management Agency, and be it further

**RESOLVED,** that the Board of Commissioners finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meeting open to the public in compliance with the law including Section 121.22 of the Ohio Revised Code.

Roll call vote as follows:

Charles W. Keiper II, Yea; Christopher Smeiles, Yea; Maureen T. Frederick, Yea;

\* \* \* \* \*  
**RESOLUTION No. 10-0160 - RE: TRANSFER - FROM FUND 0001, GENERAL FUND TO FUND 1390, WOMANS, INFANTS AND CHILDREN**

It was moved by Maureen T. Frederick, seconded by Christopher Smeiles that the following resolution be adopted:

**WHEREAS,** according to Journal Entry # 23, adopted on February 9, 2010, the Portage County Board of Commissioners approved a transfer from Fund 0001 in the amount \$6,692.17 to Fund 1390; now therefore be it

**RESOLVED,** that the following transfer of funds in the amount of \$ 6,692.17 be and is hereby made as follows:

**FROM:**  
FUND 0001, COUNTY GENERAL FUND  
ORGCODE- 00100009  
Debit Expense Account  
Object 910000- TRANSFER OUT \$ 6,692.17

**TO:**  
FUND 1390, WOMANS, INFANTS AND CHILDREN  
ORGCODE- 13900532  
Credit Revenue Account  
Revenue Source 280000 TRANSFER IN \$ 6,692.17

and be it further

**RESOLVED,** that the County Auditor is hereby requested to make said transfer by Journal Entry, and that a certified copy of this resolution be filed with the County Auditor, the Department of Budget and Financial Management and the Department of Woman’s, Infants and Children (WIC), and be it further

**RESOLVED,**

that the Board of Commissioners finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meeting open to the public in compliance with the law including Section 121.22 of the Ohio Revised Code.

Voice vote as follows:

Charles W. Keiper II, Yea;

Christopher Smeiles, Yea;

Maureen T. Frederick, Yea;

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**RESOLUTIONS**

February 16, 2010

- 1. Approval of Meeting Minutes from the February 11, 2010 regular Board Meeting as presented.
- 2. Approve the Bills as presented by the County Auditor and reviewed by the Department of Budget & Financial Management./10-0154
- 3. Approve the Journal Vouchers as presented by the County Auditor./10-0155
- 4. Approve Then & Now as presented by the County Auditor./10-0156
- 5. Accept donation to the Office of the Portage County Dog Warden./10-0157

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**INVITATIONS/MEETING NOTICES**

February 16, 2010

- 1. Invitation from the Aurora Chamber for the Chamber luncheon on Thursday, March 4, 2010, 11:30 AM-1:00 PM, Doogan’s of Aurora.
- 2. Invitation from the Portage County Combined General Health District for the Portage County Community H1N1 Response After Action Conference on Thursday, February 25, 2010 at 6:00 PM in the Ralph Regula Conference Center, NEOUCOM.
- 3. Invitation from Director Sally Kelly, Senior Center for the Senior Celebration of Achievement, Tuesday, May 11, 2010 at NEOUCOM, 9:30 AM (Welcoming Ceremonies-11:15 AM, Lunch-11:30 AM, Recognition Ceremonies-12:15 PM).
- 4. Invitation from Crestwood Middle School for a breakfast meeting on Wednesday, February 24, 2010, 8:00 AM at Crestwood Middle School.

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**INCOMING CORRESPONDENCE**

**DISCUSSION**

February 16, 2010

1. February 9, 2010 e-mail from Director Sally Kelly, Senior Center, regarding possible funding sources for the Senior Celebration/The Board of Commissioners agreed to meet with Director Kelly to discuss this issue.
2. February 9, 2010 e-mail from Audrey Tillis, Department of Budget and Financial Management, regarding journal vouchers, wires and bill review/The Board of Commissioners agreed that Chanel Mason should serve as the backup to review the journal vouchers, wires and bills when Department of Budget & Financial Management Director Tillis is not available.

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**JOURNAL ENTRIES**

February 16, 2010

1. The Board of Commissioners received the Weekly Report of Kennel population for the week ending February 7, 2010 as presented by Dave McIntyre, Dog Warden. The Board of Commissioners acknowledged the receipt of \$225 in Court Donations, \$1,572 in License Sales and \$469 for Impound fees.
2. In accordance with ORC Section 5126.038, the Board of Commissioners received a list identifying the total expenditures projected for any one of the following: (1) Any membership dues of the members or employees of the county board, in any organization, association, or other entity; (2) Any professional services of the county board, its members or employees, or both; (3) Any training of the members of employees of the county board as presented by the Portage County Board of Development Disabilities (formerly known as Portage County MR/DD).
3. Board of Commissioners' authorization requested to pay the revised February 10, 2010 request for payment to Neighborhood Development Services, Inc. for HOME RLF Administration fees from the Home RLF Program for \$218.19 as requested by Neighborhood Development Services. Documents reviewed by Department of Budget and Financial Management and once corrections were made, no exceptions were noted.
4. Board of Commissioners' authorization requested to pay the February 4, 2010 request for payment to Neighborhood Development Services, Inc. for HOME RLF Administration fees from the Section 17 Revolving Loan Fund for \$542.82 as requested by Neighborhood Development Services. Documents reviewed by Department of Budget and Financial Management with no exceptions noted.
5. Board of Commissioners' authorization requested to allow purchase of two (2) replacement subcompact utility vehicles and one (1) replacement F250 pickup truck, through the State Cooperative Purchasing Program for a total cost, including delivery, not to exceed \$60,000.00 as presented by Director Harold Huff, Water Resources Department/Journal Entry

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**REFERRED**

February 16, 2010

1. The Portage County Auditor's Office presents the Portage County Prosecutor's Office February 10, 2010 Invoice for JAG VAWA Stimulas (ARRA) for time period October 1, 2009-December 31, 2009 \$7,156.38. Referred to Department of Budget and Financial Management and Grants Administrator.

2. February 5, 2009 correspondence from Robert and Barbara Coleman, regarding water drainage pipe problems at 4087 Sabin Drive, Rootstown. Referred to Water Resources Department.

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**PLEASE ADD TO THE AGENDA**

February 16, 2010

1. February 11, 2010 e-mail from Harold Huff, regarding countywide recycling and disposal facility policy/The Board of Commissioners agreed that the Director may contact the Prosecutor's office.
2. February 12, 2010 memo from Nancy Dailey, WIC, regarding Intake Clerk Position/Journal Entry.
3. February 16, 2010 memo from Jen King, Neighborhood Development Services, Inc., including the request from the City of Aurora asking that the county match their 2010 CHIP application/Journal Entry

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**INFORMATION ONLY**

February 16, 2010

1. February 9, 2010 correspondence form Karen Claxton, Leadership Portage County, thanking the Board for its participation on Government Day.
2. February 10, 2010 e-mail from Jack Crews, Kent Regional Business Alliance, regarding a request for additional information.

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**Journal Entry**

February 16, 2010

Motion by Maureen T. Frederick, seconded by Christopher Smeiles to approve the following actions:

1. The Board of Commissioners acknowledged the receipt of the Weekly Report of Kennel population for the week ending February 7, 2010, as presented by Dog Warden Dave McIntyre. The Board of Commissioners also acknowledged the receipt of \$225 in Court Donations, \$1,572 in License Sales and \$469 for Impound fees.
2. In accordance with ORC Section 5126.038, the Board of Commissioners acknowledged the receipt of a list identifying the total expenditures projected for any one of the following: (1) Any membership dues of the members or employees of the county board, in any organization, association, or other entity; (2) Any professional services of the county board, its members or employees, or both; (3) Any training of the members of employees of the county board as presented by the Portage County Board of Development Disabilities (formerly known as Portage County MR/DD).
3. The Board of Commissioners authorized payment of the revised February 10, 2010 request for payment to Neighborhood Development Services, Inc. for HOME RLF Administration fees from the Home RLF Program for \$218.19, as presented by Neighborhood Development Services. Documents reviewed by

Department of Budget and Financial Management and once corrections were made, no exceptions were noted.

4. The Board of Commissioners authorized payment of the February 4, 2010 request for payment to Neighborhood Development Services, Inc. for HOME RLF Administration fees from the Section 17 Revolving Loan Fund for \$542.82, as presented by Neighborhood Development Services. Documents reviewed by Department of Budget and Financial Management with no exceptions noted.
5. The Board of Commissioners authorized the purchase of two (2) replacement subcompact utility vehicles and one (1) replacement F250 pickup truck, through the State Cooperative Purchasing Program for a total cost, including delivery, not to exceed \$60,000.00, as presented by Water Resources Department Director Harold Huff.
6. The Board of Commissioners accepted the February 12, 2010 recommendation from Nancy Dailey, WIC Program Manager and authorized the hire of Deborah Stitzel as an Intake Clerk in the Portage WIC Clinic, effective February 22, 2010, contingent upon a pre-employment physical and drug and alcohol testing.
7. After meeting in an Executive Session with Department of Budget & Financial Management Director Audrey Tillis, the Board of Commissioners accepted the Director's recommendation to exclude the Department of Budget & Financial Management's Budget/Financial Analyst and Grant & Debt Service Management Specialist from the furlough program. The Director noted that the funding shortage can come from internal transfers within the Department's original budget allocation. The Director's position will still be furloughed at 160 hours.
8. After meeting with Neighborhood Development Services, Inc. staff on February 11, 2010, the Board of Commissioners agreed today to provide one-half (1/2) of the City of Aurora match of \$55,000 for their 2010 CHIP application in the amount of \$27,500 from the Portage County ED RLF, contingent upon the approval/waiver from the State of Ohio. The Commissioners noted the receipt of the February 12, 2010 request from Mayor McGill for this support.

All in favor, motion carries.

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We do hereby certify that the foregoing is a true and correct record of the Portage County Board of Commissioners' meeting on **February 16, 2010**. There being no further business to come before the Board, it was moved by Maureen T. Frederick, seconded by Christopher Smeiles to adjourn the official meeting at **2:58 PM**. All in favor, motion carries.

Charles W. Keiper II, President

Maureen T. Frederick, Board Member

Christopher Smeiles, Vice President

Deborah Mazanec, Clerk

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