



Agenda

Oxford City Council

Court House

TUESDAY, AUGUST 4, 2009

EXECUTIVE SESSION

7:15 P.M.

1. Roll Call. Prudence Z. Dana, Mayor; Ken Bogard, Vice-Mayor; Doug Ross; Kate Currie; Alysia Fischer; Richard Keebler; Greig Rutherford

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: (1) Comments on items not on the Agenda, and Consent Agenda items, will be heard under Public Comments – and (2) Comments on all Resolutions and Ordinances will be heard during Council consideration of said item. Please wait until you are recognized by the Mayor, proceed to the podium, state your name and address so that your comments may be properly recorded and limit your remarks to a period of five minutes or less.

REGULAR MEETING

7:30 P.M.

PLEDGE OF ALLEGIANCE

2. Approval of Agenda.

This facility is wheelchair accessible. If you plan to attend this meeting and you have a disability that requires special arrangements, please notify the City Manager's office 48 hours in advance so that reasonable accommodations can be made.

3. Public Participation.

- A. Swearing In - Christopher Osborne, Police Officer
- B. Presentation - Oxford College Corner Clinic - Lisa Gadaleta
- C. Appointments to Boards and Commissions
- D. Public Comments.

The purpose of the Public Comments Section is for members of the Public to speak to the City Council on any subject not scheduled on the Agenda, except Consent Agenda items. City Council values your comments, and Council rules limit public comments to five minutes for each person. Presentations are not to be in the form of public debate, personal attacks on Council, City staff or other members of the public and Council shall not act except to direct the City Manager to take action or schedule the matter for discussion at a later date.

4. Consent Agenda.

- A. Minutes of the July 21, 2009 City Council Meeting. (Mary Ann Eaton, Clerk of Council)



Minutes

- B. Report regarding the July 14, 2009 Planning Commission Meeting. (Jung-Han Chen, Community Development Director)



Report

- C. Report regarding the July 20, 2009 Board of Zoning Appeals Meeting. (Jung-Han Chen, Community Development Director)



Report

- D. Report regarding the July 22, 2009 Environmental Commission Meeting. (Mike Dreisbach, Service Director)



Report

- E. A Resolution authorizing the City Manager and Fire Chief to enter into an agreement with Trudo/Albert Fire Equipment L.L.C. for the purchase of three (3) thermal imaging cameras with truck mounts and chargers at a cost not to exceed \$25,000.00 utilizing funds in the amount of \$15,000.00 awarded from the 2008 Assistance to Firefighters Grant and \$10,000.00 from budgeted Capital Improvement ('CIP') funds. (John Detherage, Fire Chief)



Staff Report/Resolution

- F. A Resolution of Council authorizing the donation of certain property in the City's possession to local not-for-profit agencies. Mary Ann Eaton, Clerk of Council)



Staff Report/Resolution

- G. A Resolution authorizing the City Manager to enter into an agreement with REI Construction for the replacement of an existing 10 inch water main crossing Four Mile Creek at Bonham Road at a cost of \$63,927.50 plus a ten percent contingency fee in the amount of \$6,392.75 for a total cost not to exceed \$70,320.25. (Mike Dreisbach, Service Director)



Staff Report/Resolution

5. Resolutions

- A. A Resolution of Council supporting the submission of a grant application to the Ohio Arts Council in an amount not to exceed \$1,909.80 by the Bicentennial Event Planning Committee to purchase a piece of art to celebrate the Bicentennial of the platting of the City of Oxford with a 50% local match. (Kate Currie, Council member)



Staff Report/Resolution

- B. A Resolution authorizing the City Manager to convert the upper metered deck (30 spaces) of the Municipal parking garage located at the intersection of Main Street and Walnut Street to leased parking. (Steve Schwein, Police Chief)



Staff Report/Resolution

- C. A Resolution authorizing the City Manager to enter into a participation agreement with the Board of County Commissioners of Butler County, Ohio on behalf of the City of Oxford, Ohio which would allow the City of Oxford to utilize the Butler County 800 megahertz public safety communications system. (Steve Schwein, Police Chief)



Staff Report/Resolution



Agreement

- D. A Resolution authorizing the City Manager to enter into a Spectrum Sharing Agreement on behalf of the City of Oxford, Ohio with the Board of County Commissioners of Butler County, Ohio, the Butler County Sheriff, and the Board of West Chester Township, Ohio Trustees. (Steve Schwein, Police Chief)



Staff Report/Resolution



Agreement

6. Ordinances. Ordinances are adopted using a two-step procedure. First reading introduces the Ordinance and provides an opportunity for public input on the subject as well as allowing Council to request more information as needed. Second reading is to provide Council with the opportunity to consider new information and to deliberate.

- A. First Reading.

1. An Ordinance Accepting The Annexation Petition From The Board Of Education Of The Talawanda City School District For 154.487 Acres Of Land In The Township Of

Oxford, Ohio And Accepting Said Territory To Be Annexed. (Jung-Han Chen, Community Development Director)



Staff Report/Ordinance

2. An Ordinance Approving The Final Subdivision Application For Reckford Woods Subdivision Phase One. (Jung-Han Chen, Community Development Director)



Staff Report/Ordinance

3. An Ordinance Repealing Current Section 351.04 'Parking Near Curbs; Handicapped Locations On Public And Private Lots And Garages' And Adopting New Section 351.04, Establishing Fine For Violation Of Subsection F(1) Of Section 351.04. (Steve Schwein, Police Chief)



Staff Report/Ordinance

4. An Ordinance Repealing Current Section 351.16 'Snow Routes' And Adopting New Section 351.16, Establishing Fine For Violation Of Subsection (C) Of Section 351.16. (Steve Schwein, Police Chief)



Staff Report/Ordinance

B. Second Reading.

1. An Ordinance Amending Ordinance No. 3033. Supplemental Budget Ordinance Number 7 To Make Supplemental Appropriations For Fiscal Year 2009. (Joe Newlin, Finance Director)



Staff Report/Ordinance

7. Announcements and Communications. The comments expressed by individual members of Council or City staff during the 'Announcements' portion of a City Council meeting do not necessarily reflect the views of the City of Oxford, The Oxford City Council, or the City staff.

A. Announcements.

1. Remarks from City Council and City staff.

B. Future Meetings (Note: Meetings will be held at the Court House unless otherwise indicated.)

WED - Aug 5 Historic and Architectural Preservation Commission Meeting 7:30 p.m.

TUES - Aug 11 Planning Commission Meeting 7:30 p.m.

MON - Aug 17 Housing Advisory Commission Meeting 7:00 p.m. Municipal Building

TUES - Aug 18 City Council Work Session 6:00 p.m.

TUES - Aug 18 City Council Meeting 7:30 p.m.

WED -	Aug	19	Board of Zoning Appeals Meeting 7:30 p.m.
FRI - 2nd	Aug	21	Community Improvement Corporation Meeting 12:00 p.m. LCNB
TUES -	Aug	25	City Council Work Session (CIP) 7:00 p.m.
WED - 2nd	Aug	26	Environmental Commission Meeting 7:00 p.m. Municipal Building
TUES -	Sept	1	City Council Meeting 7:30 p.m.
WED - p.m.	Sept	2	Historic and Architectural Preservation Commission Meeting 7:30
TUES -	Sept	8	Planning Commission Meeting 7:30 p.m.
THURS -	Sept	10	Police Advisory Board Meeting 7:00 p.m. Senior Citizens Center
TUES -	Sept	15	City Council Meeting 7:30 p.m.
WED -	Sept	16	Board of Zoning Appeals 7:30 p.m.
THURS -	Sept	17	Recreation Board Meeting 12:00 p.m. Senior Citizens Center
FRI -	Sept	18	Community Improvement Corporation 12:00 p.m. LCNB 2nd Floor

8. Adjourn

SPECTRUM SHARING AGREEMENT

This Spectrum Sharing Agreement (“**Agreement**”) is made and entered into as of the 28th day of April, 2009, by and among (i) the Board of County Commissioners of Butler County, Ohio (“**County**”), (ii) the Butler County Sheriff (“**Sheriff**”), who joins in this Agreement for purposes herein after provided, (iii) the Board of West Chester Township, Ohio Trustees (“**West Chester**”), and (iv) the City of Oxford, Ohio (“**Oxford**” and together with West Chester, the “**License Holders**” and, singularly a “**License Holder**”). County and License Holders are sometimes referred to as a “**Party**” and collectively as the “**Parties**”.

Recitals

A. The County has completed the construction and installation of the System, which, as defined below, is a countywide land mobile radio or communications system. The System is being built on the foundation of the recognized need for a shared countywide government and public safety grade radio system that facilitates (i) law enforcement, (ii) fire and emergency medical and other public safety services and (iii) other government related communications and Interoperability among the Participants who become a signatory to the Participation Agreement. The System is being established pursuant to (i) §307.63 of the Ohio Revised Code Annotated, which provides for the establishment of countywide public safety communications systems, and (ii) FCC Regulations respecting public safety radio pools (47 CFR §90.15 and §90.20).

B. The FCC has granted to: (i) West Chester the license attached hereto as **Exhibit A** (the “**West Chester License**”) in connection with the use of five (5) frequencies in the 800 MHz band (the “**West Chester Spectrum**”); (ii) the County the license attached hereto as **Exhibit B** (the “**County License**”) in connection with the use of five (5) frequencies in the 800 MHz band (the “**County Spectrum**”); and (iii) Oxford the license attached hereto as **Exhibit C** (the “**Oxford License**”) in connection with the use of five (5) frequencies in the 800 MHz band (the “**Oxford Spectrum**”). Collectively, the West Chester License, the County License and the Oxford License are referred to as the “**FCC Licenses**” and the West Chester Spectrum, the County Spectrum and the Oxford Spectrum are referenced to as the “**Shared Spectrums**”.

C. In order that the System can become and remain operational and provide the necessary wireless communications required of each of the Participants, all as provided in accordance with the terms and conditions of the Participation Agreement, the Parties have agreed, subject to the terms and conditions of this Agreement and the FCC Regulations, to share the bandwidth of the several Shared Spectrums in a manner that is fair and efficient and compatible with the individual systems of the Participants, which systems currently consist of nine (9) communications centers and six (6) of which comprise Public Safety Answering Points. As provided in the Participation Agreement, the System has been designed and configured to operate within the 800 MHz bandwidth of the Shared Spectrums and to permit each of the Participants to operate its own Subscriber Equipment and other independent communications center/system, including dispatching operations, for its respective Answering Point(s).

D. County and West Chester entered into a Lease Agreement, dated October 9, 2007, and recorded in Official Record Book 7991, Page 1690 whereby West Chester leased certain real

property to County, at no cost to County, for the location of one of the fourteen radio antenna towers necessary for operation of the System (the “**Lease Agreement**”).

E. The Parties desire to (i) evidence their agreement to share the Shared Spectrums, as they relate to the System, (ii) evidence their respective responsibilities and obligations as to the Shared Spectrums and (iii) to clarify and modify certain provisions of the Participation Agreement, as such provisions relate or are applicable to the Parties and the Sheriff.

Agreement

NOW, THEREFORE, in consideration of foregoing recitals and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

Section 1

Definitions

The terms defined in the preamble to and elsewhere in this Agreement shall have the meanings given them there. In addition, as used in this Agreement, the following terms shall have the following meanings and the meanings assigned to them shall be applicable to both the singular and plural forms of the terms defined.

“**Advisory Board**” means the Butler County Public Safety Communications System Advisory Board created by the County pursuant to Resolutions 07-08-1549 and as provided in the Participation Agreement and Section 2.13 of this Agreement.

“**Agreement**” means this Agreement, together with all documents incorporated by reference herein and attached hereto as exhibits, schedules or addenda, and all amendments, modifications, supplements and restatements thereof made from time to time.

“**Applicable Law**” means all applicable laws, rules, regulations, statutes, codes and ordinances and applicable judgments, decrees, injunctions, writs, orders, or like actions (and including those pertaining to health or safety and those pertaining to the construction, operation, use or occupancy of the System), whether now or hereafter in effect and whether or not the same can be said to be in the present contemplation of the Parties, including, without limitation, FCC Regulations and FAA Regulations.

“**APCO**” means APCO International, Inc., the Association of Public Safety Communications Officials that provides Frequency Coordination.

“**APCO 25 Standards**” or “**Project 25 Standards**” means the published standards for (i) the manufacturing of interoperable, digital 2-way wireless communications products and (ii) the operation and functionality of new digital narrow band private land mobile radio systems needed to satisfy the service, feature and capability requirements of the public safety communications community, as adopted and administered by the National Telecommunications

and Information Administration (NTIA), which manages spectrum for the Federal government, and the Telecommunications Industry Association. APCO 25 is also referred as TIA/EIA 102 Technology, which incorporates features of the Trunked Radio System.

“Combined Guarantees” has the meaning given it in Section 3.9 of This Agreement.

“County License” has the meaning given it in Recital B of this Agreement.

“County Spectrum” has the meaning given it in Recital B of this Agreement.

“Coverage Area” includes the entire geographical area comprising and falling within the jurisdictional boundaries of the County and such areas beyond the boundaries as provided in the contractual coverage requirements of the Motorola Contract and Section 12.12.1 of this Agreement.

“Cure Period” has the meaning given it in Section 4.1.3 of this Agreement.

“FAA” means the Federal Aviation Administration or successor Federal administrative agency authorized by the United States Congress to oversee and regulate all aspects of civil aviation in the United States.

“FAA Regulations” means the rules and regulations promulgated by the FAA.

“FAA Reports” has the meaning given it in Section 4.1.1 of this Agreement.

“FCC” means the Federal Communications Commission or successor Federal administrative agency authorized by the United States Congress to oversee and regulate interstate and international communications by radio, television, wire, satellite and cable.

“FCC Licenses” has the meaning given it in Recital B of this Agreement.

“FCC Regulations” means the rules and regulations promulgated by the FCC under Title III of the Communications Act of 1934, as amended, which vests authority in the FCC to regulate radio transmission and to issue licenses to radio stations.

“FCC Reports” has the meaning given it in Section 4.1.1 of this Agreement.

“Frequency Coordination” means the process of obtaining the recommendation of a Frequency Coordinator for a frequency(ies) that will most effectively meet the applicant’s needs while minimizing interference with licensees already operating within a given frequency band.

“Frequency Coordinator” means an entity or organization that has been certified by the FCC to recommend frequencies for use by licensees in the private land mobile radio services.

“Governmental Entity” means any federal, state, county, city, town, township, borough, local, district or other jurisdiction or any other governmental or quasi-governmental authority of

any nature (including any agency, branch, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers).

“Grade of Service” or “GOS” has the meaning given it in Section 2.12 of this Agreement.

“Indemnified Parties” has the meaning given it in Section 5.1.1 of this Agreement.

“Interoperability” means an essential communication link within public safety and public service wireless communications systems which permits units from two or more different entities to interact with one another and to exchange information according to a prescribed method in order to achieve predictable results throughout the System and Coverage Area.

“Involuntary Upgrades” has the meaning given it in Section 2.8.1 of this Agreement.

“License Holders Committee” means a committee composed of one (1) representative from each of the County, West Chester and Oxford and each such representative shall be appointed by the Board of County Commissioners, the chief executive officer or other official of the respective Parties, as the case may be. The License Holders Committee shall continue and remain in existence during the Term of this Agreement. If, during the Term of this Agreement, the System should be changed or modified by virtue of the addition of new radio frequencies or spectrums, the Participant or other local jurisdiction responsible for contributing or making available such additional frequencies or spectrums, while retaining ownership thereof, shall become a new and equal member of the License Holder Committee by executing and delivering to the Parties a copy of this Agreement or an instrument evidencing the assumption of the terms, conditions and obligations of this Agreement by such Participant or other local jurisdiction and, as a member of the License Holder Committee, such Participant or local jurisdiction shall be entitled to all rights and privileges thereof and shall be obligated to the same extent as the existing members.

“Motorola Contract” means that certain Communications System Agreement dated September 11 and 15, 2006 between the County and Motorola, Inc., a Delaware corporation, providing for, among other things, (i) the engineering, design and construction of the System, including the Network Master Site; (ii) the delivery and installation of Subscriber Equipment required for the System, the Network Communications System and the Parties’ independent or dispatch system, including, without limitations, radios, repeaters, transmitters, mobiles, handheld portables, computers, modulators and receivers; (iii) systems installations, including equipment at the Participants’ end, (iv) optimization and testing by system and independent/subsystem, (v) Participants migration on cutover, (vi) frequency planning, (vii) Talkgroup development, and (viii) end-user training. The Motorola Contract also includes all exhibits and schedules attached thereto and incorporated therein, including the Technical and Implementation Documents.

“Motorola Guaranteed Service Level” has the meaning given it in Section 2.12.1 of this Agreement.

“Network Master Site” means the System’s operations and radio communication center, master site and/or facilities, which manages and processes the technical, communications and radio aspects and operations of the System on a 24/7 basis. The Network Master Site is deemed to be the “control station” as defined in the FCC Regulations (47 CFR §90.7).

“Non-Public Safety Purposes” means access to and usage of the System for non-police, non-fire and non-emergency medical services.

“Oxford License” has the meaning given it in Recital B of this Agreement.

“Oxford Spectrum” has the meaning given it in Recital B of this Agreement.

“Participant” or “Participants” means collectively, the County, each of the License Holders, and all other Butler County political subdivisions who become a signatory to an agreement identical to the Participation Agreement and who use the System pursuant to and in accordance with the terms and conditions of the Participation Agreement.

“Participation Agreement” means the several separate Participation Agreements between the Board of Butler County Commissioners and each of the other Participants who become a signatory to the Participation Agreement, which agreement, in part, provides for and/or addresses: (i) the use, administration, operation, funding, maintenance and repair of the System; (ii) the issuance of certain Subscriber Equipment to the several Participants for their wireless communications usage in connection with the System, (iii) the establishment of the Butler County Public Safety Communications System Advisory Board, and (iv) the termination of the Participation Agreement and shutdown of the System.

“Person” means an individual, corporation, company, partnership, joint venture, association, limited liability company, business trust, joint stock company, trust, or other entity or a Government Entity.

“Phase 1 Compliant” or “Phase 1 Compliance” means the radio systems technology incorporated within the first of the three (3) deployment phases (i.e., Phase 1) of the Project 25 Standards which, in part, uses Continuous 4 level FM (C4FM) non-linear modulation for digital transmissions while operating in 12.5KHz analog, digital or mixed mode. Phase 1 radio systems are backward compatible and interoperable with legacy systems, across system boundaries and provide an open interface to the RF Sub-System to facilitate the interlinking of different vendors’ systems.

“Phase 2 Compliant” or “Phase 2 Compliance” means the radio system technology incorporated within the second of the three deployment phases of the Project 25 Standards which, in part, will permit one voice channel or a minimum 4800 bps data channel per 6.25 KHz bandwidth efficiency and achieve the goal of improved spectrum utilization.

“Public Safety Answering Point(s)” means a point that has been designated to receive 911 calls and route them to emergency service personnel.

“Shared Spectrums” has the meaning given it in Recital B of this Agreement.

“Spectrum Rules” has the meaning given it in Section 2.19.2 of this Agreement.

“Subscriber Equipment” has the meaning given it in the Participation Agreement.

“System” means the countywide public safety communication system being established under §307.63 of the Ohio Revised Code Annotated for public safety communications for the Coverage Area and as engineered, designed, constructed and installed pursuant to the terms and conditions of the Motorola Contract. The System includes all the real and personal property, towers, buildings, equipment and other related facilities and fixtures necessary for the operation, use and maintenance of the System, including the Network Master Site and Subscriber Equipment, excluding, however, the West Chester Spectrum, the Oxford Spectrum and the County Spectrum, including the related FCC Licenses, and any other radio frequencies or spectrums that are added to, and used in the operation of, the System after the execution and delivery of this Agreement.

“System Merger” has the meaning given it in Section 5.9.8 (Exclusion from Sale and Usage Rights) of this Agreement.

“System Migration” has the meaning given it in Section 5.9.8 (Exclusion from Sale and Usage Rights) of this Agreement.

“System Rules” means the rules, guidelines, protocols and procedures adopted by the Advisory Board for the efficient use, management, operation, configuration and maintenance of, and improvements and changes to, the System and the Network Master Site, all as provided in the Participation Agreement and Section 2.14 of this Agreement.

“Talkgroup” means a configurable, pre-programmed voice pathway in the System by which properly programmed radios can communicate with each other.

“Template” means the Software which controls the Subscriber Equipment’s Talkgroup functions and communications capabilities.

“Term” has the meaning given it in Section 3.2 of this Agreement.

“Trunked Radio System” means a radio system employing trunking technology that provides the ability to search two or more available channels and automatically assign a user and open channel.

“Twenty-Four Seven” or “24/7” means twenty-four (24) hours a day, every day of the calendar year.

“Voluntary – Cost Incurrence Upgrades” has the meaning given it in Section 2.8.3 of this Agreement.

“Voluntary – No Cost Upgrades” has the meaning given it in Section 2.8.2 of this Agreement.

“West Chester License” has the meaning given it in Recital B of this Agreement.

“West Chester Spectrum” has the meaning given it in Recital B of this Agreement.

Section 2

County Obligations and System Services

2.1 **System Build-Out Obligations.** In consideration of the License Holders making available their respective Shared Spectrums as provided in Section 3, the County shall cause the System, the Network Master Site, and the independent/sub-systems of the Participants to be engineered, designed, constructed and installed in accordance with (i) the terms and conditions of the Motorola Contract, (ii) applicable FCC and FAA Regulations, and (iii) the laws of other Governmental Entities, if applicable, all as further provided in the Participation Agreement. The System is to provide mobile service (as such term is defined in FCC Regulations) coverage, including coverage through the use of hand carried transmitters, throughout the Coverage Area and, as provided in the Motorola Contract, the System, the Network Master Site and the Subscriber Equipment shall meet the following criteria:

2.1.1 Be fully compliant with APCO 25 Standards;

2.1.2 Provide instantaneous Interoperability with all Subscriber Equipment and individual independent/subsystems of the Parties and Participants at the network level, radio level and dispatch level;

2.1.3 The network architecture of the System is scalable and expandable to meet future needs and system loading;

2.1.4 Employs the technology of Trunked Radio Systems; and

2.1.5 The System only provides voice communications and not data transfer.

Notwithstanding anything contained in this Agreement to the contrary, compliance with APCO 25 Standards means that the System, the Network Master Site and the Subscriber Equipment will be Phase 1 Compliant in the beginning and not Phase 2 Compliant. The System and Network Master Site may become, however, Phase 2 Compliant when the County reasonably determines it has sufficient funds to achieve Phase 2 Compliance.

2.2 **Completion of Build-Out.** County will cause the System to be completed and fully operational as provided in the Participation Agreement (the **“Completion Date”**).

2.3 **Subscriber Equipment.** County shall provide and install, prior to the Completion Date, at no cost or expense to the License Holders the required Subscriber Equipment necessary for the full and complete use of the System, all as provided in the Participation Agreement. The

Subscriber Equipment shall be provided to each of the following departments of the License Holders: police, fire, E.M.S. communications, administration (i.e., current incumbent users) and public works, as the same are set forth in Exhibit A to each License Holder's Participation Agreement. Notwithstanding anything contained to the contrary in the Participation Agreement, title to the Subscriber Equipment shall remain with the County until a License Holder, upon 30 (thirty) days prior written notice, request that title be transferred to the requesting License Holder. Transfer of title shall be effected by the County prior to the end of said 30 day notice.

2.4 Template Design. If requested by a License Holder, the Sheriff will work with and prepare a needs assessment for a Party, based on the Party's current and ongoing communication needs and priorities. Template programming by the Sheriff will commence once the License Holder approves the needs assessment. The Sheriff will prepare the primary Template for each Subscriber Radio if requested by a License Holder. The Sheriff will correct any Template programming error(s) attributable to the Sheriff. A License Holder may request one primary Template change per year at no charge.

2.5 System Management. All System management, administrative and operational functions shall be performed by the County and the Sheriff, all as provided in the Participation Agreement. Such System functions also include the following responsibilities:

1. Assignment of radios' use priorities;
2. Management of Talkgroups to assure appropriate use of the System;
3. Enforcement of System Rules to be established by the Advisory Board;
4. Generate and use statistical data and reports concerning the System Participants' Talkgroups, call durations, call types, busy signals, and other data analyses and reports as the System will or is able to generate; and
5. Maintain Grade of Service (roaming) and the Motorola Guaranteed Service Level as provided in Section 2.12 of this Agreement; and
6. Maintaining System minimum standards which shall meet or exceed specifications in the Motorola Contract and APCO 25 Standards at all times subject, however, to the exception provided in Section 2.1 of this Agreement respecting Phase 2 Compliance;
7. Maintain audio patches and gateway Interoperability between radio communications systems;
8. Radio configuration and programming standards;
9. Template design and maintenance; and
10. All other services and functions provided elsewhere in this Agreement and the Participation Agreement and as may be dictated by the System Rules or by the License Holders Committee, from time to time.

2.6 Continuous System Operation Services. The Network Master Site and the System shall operate on a 24/7 basis. The Sheriff shall provide the Participants with emergency or planned activation or special event Talkgroups. Additionally, upon a License Holder's request, the Sheriff will provide radio checks for unresponsive Subscriber Equipment or other radio equipment of a License Holder, inhibit lost or stolen radios, and provide radio communications troubleshooting.

2.7 Mobile Radios Performance. The System provides tested mobile radio communication coverage to the Parties throughout the Coverage Area, subject to the Parties' compliance with recommended optimal performance standards for equipment, antenna installation, and maintenance. If a Party detects possible System network infrastructure malfunctions or radio communication coverage loss, the Party shall notify the Sheriff's staff responsible for the System for an evaluation of the problem. The Sheriff will promptly investigate and take appropriate corrective action immediately to alleviate the coverage loss or network infrastructure malfunction, with the view of restoring the System's level of Service warranted under the Motorola Contract and promptly alert the Parties of such coverage loss or malfunction and the corrective action taken, or needed to be taken, to resolve the Problem. Any System or network equipment problems which require a shutdown of the System or reduction of radio coverage or System capabilities shall not be implemented without first providing twenty-four (24) hours notice to the Parties, except in the even of an emergency declared by the Sheriff.

2.8 System Infrastructure Upgrades and Enhancements. As provided in Article VI of the Participation Agreement, the County is charged with the responsibility for making such upgrades, modifications and enhancements, from time to time, to the System and the Network Master Site as follows:

2.8.1 Involuntary Upgrades. Where upgrades, modifications or enhancements are required or mandated (a) by Applicable Law (see Article VI, Section 4) and/or (b) by virtue of the fact that some or all of the System or Network Master Site existing equipment, software, hardware, features or functionalities will no longer be supported by Motorola (see Article VI, Section 5) (collectively, an **"Involuntary Upgrades"**);

2.8.2 Voluntary - No Cost Upgrades. Where upgrades, modifications or enhancements are not required or mandated by Applicable Law or Article I, Section 6 of the Participation Agreement and such upgrades, modifications or enhancements will not result in an expense or cost to the Participants (**"Voluntary - No Cost Upgrades"**); and

2.8.3 Voluntary - Cost Incurrence Upgrades. Where upgrades, modifications or enhancements are not required or mandated by Applicable Law or Article VI, Section 7 of the Participation Agreement and such upgrades, modifications or enhancements will result in an expense or cost to the Participants (a **"Voluntary - Cost Incurrence Upgrades"**).

Notwithstanding the fact that the County is permitted under the terms of the Participation Agreement to make any and all Involuntary Upgrades without first securing the approval of the Participants or License Holders, the County agrees to first consult with and seek the advice and in-put of the License Holders at a License Holders Committee meeting before making any Involuntary Upgrade where any such Involuntary Upgrade may impact or otherwise affect,

directly or indirectly, the FCC Licenses or the Shared Spectrums or the use thereof. The County will act at all times in good faith with respect to any advice or in-put the License Holders may provide in connection with any Involuntary Upgrade. Further, notwithstanding the fact the County is permitted under the terms of the Participation Agreement to make any and all Voluntary – No Cost Upgrades without first securing the approval of the Participants or the License Holders, the County agrees to first consult with the License Holders at a License Holder Committee meeting before making or implementing any such Voluntary – No Cost Upgrades. Should, however, such Voluntary – No Cost Upgrades impact or otherwise affect, directly or indirectly, the FCC Licenses or the Shared Spectrums or the use thereof, then the County shall seek the advice and in-put of the License Holders and act upon the same in the same manner described above with respect to Involuntary Upgrades. Finally, with respect to Voluntary - Cost Incurrence Upgrades, such upgrades will first be considered by the License Holders at a License Holder Committee meeting and then passed on to the Advisory Board for action, which action, if any, shall require the super majority vote (67 %) of the Advisory Board. Any License Holder who is unwilling to accept the result of or agree to any upgrade, modification or enhancement permitted under this Section 2.8 shall have the right and option withdraw from the Participation and terminate this Agreement upon thirty (30) days prior written notice.

Benefits of the upgrades and enhancements to the System and the Network Master Site will be provided to the License Holders at no cost or expense to the License Holders, and all upgrade and enhancement costs to the System and the Network Master Site are to be paid for by the County, as provided or otherwise contemplated in the Participation Agreement.

2.9 System Performance Standards; Monitoring; Electronic and Infrastructure Maintenance. The System shall utilize automated performance standards and automated diagnostics, which shall be monitored 24/7 by the County and/or Sheriff to ensure a timely reactive response to System component outages or other System deficiencies. The County and/or the Sheriff shall ensure that such automated performance standards and diagnostics remain fully functional and operational on a 24/7 basis. The County shall provide complete monitoring, inspection, and maintenance programs or processes for all System tower sites and System infrastructure, including the Network Master Site, that meet or exceed manufacturers' recommendations and FCC and FAA Regulations. The County shall maintain at all times a preventative maintenance plan and procedure for all major components comprising the System and, in that regard, the County shall ensure that the System shall remain in a good operating condition as on the Completion Date (normal wear and tear except) and (subject to testing and modifications deemed necessary or appropriate by County in good faith) capable of operating at design standards and capacity and in compliance with all Applicable Laws.

2.10 System Emergency Management Plan. The County and Sheriff, in cooperation with the Advisory Board and the License Holders Committee, shall develop and maintain an emergency management plan for the System, including without limitation the Network Master Site, that provides for an alternate source of electrical power for uninterrupted service, separate computer resources, and necessary back-up equipment.

2.11 Minimum System Standards. County will cause Motorola, pursuant to the terms of the Motorola Contract, to place the System infrastructure, the Network Master Site and Subscriber Equipment through a rigorous quality assurance process to make sure all components

are installed and configured properly and operating up to the specifications and in compliance with the representations set forth in the Motorola Contract and represented and/or warranted by Motorola. After the System is accepted by the County and is working, as engineered and designed, the County and Sheriff, in cooperation with the Advisory Board, will provide sufficient staff and the expertise to manage, monitor, and service the System as contemplated in Section 2.5 of this Agreement, and the Sheriff will provide sufficient staff to operate the System. The County will strive to maintain and improve the integrity of the original System design and, as provided in Section 2.8 of this Agreement, incorporate the latest Project 25 Standards when necessary or appropriate, but subject to Section 2.1 respecting Phase 1 Compliance and Phase 2 Compliance. Any modification, addition, or integration will be compatible and perform individually and as an integrated system in accordance with the specifications and representations stated in the Motorola Contract and not degrade the performance of the existing System.

2.12 Grade of Service; Warranty; Communications Delay.

2.12.1 Grade of Service and Service Level. The System was designed to meet certain coverage guarantees (“**Grade of Service**”) set forth in the Motorola Contract and these guarantees have been verified and confirmed by Motorola’s Coverage Acceptance Test Plan (“**CATP**”) and the results of the CATP, as of the date of this Agreement, demonstrates that the System meets or exceeds the required coverage reliabilities within Butler County’s two (2) service areas: (1) the jurisdictional boundaries of Butler County, and (2) the jurisdictional boundaries of Butler County plus the extended areas (sometimes referred to as the “**Coverage Area**”), all as provided in the CATP Test Summary Report, dated January 20, 2009, and issued by Motorola (the “**CATP Test Summary Report**”)¹, a copy of which, including all appendices and exhibits shall be provided to the License Holders upon request. The contractual coverage guarantees are as follows:

1. Provide talk-out (simulcast) coverage to 95% of the total Butler County service area (Butler County’s jurisdictional boundaries) inside 15 dB loss buildings using above-mentioned system and portable configuration.
2. Provide talk-in (voting) coverage to 95% of the total Butler County service area (Butler County’s jurisdictional boundaries) inside 15 dB loss buildings using above-mentioned system and portable configuration.
3. Provide talk-out (simulcast) coverage to 94% of the total Butler County plus extended areas (shown in ITB Appendix G) service area inside 15 dB loss buildings using above-mentioned system and portable configuration.

¹ For informational purposes and as set forth in the CATP Test Summary Report, the System, contractual portable configuration and coverage guarantees and in-building testing were as follows: (1) the System configuration was a fourteen site 800 MHz ASTRO 25 Simulcast System; and (2) the contractual portable configuration is an XTS 5000 portable in a swivel case equipped with a public safety speaker microphone with a quarter-wave antenna at shoulder level for transmit (talk-in) and receive (talk-out).

4. Provide talk-in (voting) coverage to 94% of the total Butler County plus extended areas (shown in ITB Appendix G) service area inside 15 dB loss buildings using above-mentioned system and portable configuration.

The foregoing guarantees and the coverage criteria and evaluation results set forth in the CATP Test Summary Report comprise the “**Motorola Guaranteed Service Level.**”

2.12.2 Warranty. The County warrants and represents to the License Holders that it will maintain the System so that the Grade of Service and the Motorola Guaranteed Service Level are consistently maintained throughout the Term of this Agreement, subject, however, to such interferences or disruptions caused by conditions or circumstance beyond the reasonable control of the County, including structures that are located off County property which physically block, diminish, or impair the System’s transmissions.

2.12.3 Reports. It is acknowledged by the County and Sheriff that the License Holders are concerned that the volume of Subscriber Equipment permitted to use the System, in combination with the frequency and duration of radio usage, will compromise public safety access to the System and result in busy signals or delayed access to the System. The Sheriff agrees to provide the License Holders on a monthly basis, any and all reports generated by the System which show Subscriber Equipment usage, frequency of and duration of use, busy signals, access delays, and any other information on Subscriber Equipment usage which reflects that access to the System was delayed upon an attempt to use the System.

2.12.4 Additional Warranty and Usage Time. The County and Sheriff warrant that, after completion, and under normal operating circumstances (in which there is no emergency situation in progress demanding an extraordinary public safety response by one more Participants) and during the busiest radio usage time of day (according to the System reports) ninety-five percent (95%) of pushes to talk will be completed without queuing. If the System is unable to achieve the foregoing Grade of Service, the Sheriff must implement a solution that may include one or more of the following:

- add new radio/frequency channels as permitted by the FCC;
- disallow any new users or subscribers;
- modify tower access profiles;
- terminate the usage rights of the latest users or subscribers permitted to use the System;
- add additional radio frequency infrastructure equipment and services; and/or
- terminate usage rights of non-public safety and non-emergency responders or users.

2.12.5 Default. Failure of the County or Sheriff to meet the Grade of Service, the Motorola Guaranteed Service Level or any other warranty or criteria provided in this Section 2.12 and the CATP Test Summary Report will constitute a County Event of Default under this Agreement.

2.13 Establishment of Advisory Board. A Butler County Public Safety Communications System Advisory Board (hereafter “**Advisory Board**”), has previously been

created by the County in Butler County Resolution 07-08-1549 and such board shall be composed of such representatives as provided in Resolution 07-08-1549 or any subsequent resolution of the County.

2.14 Authority of Advisory Board. As provided in the Participation Agreement, the Advisory Board shall have authority to: (a) make recommendations to the Sheriff and the County concerning the operation and management of the System, the Network Master Site, Subscriber Equipment and Subscriber replacement equipment for Local Purposes, IS Purposes and potential ET Purposes (as such terms are defined in the Participation Agreement); (b) act as a liaison between the Sheriff and all Participants which use the System; and (c) adopt rules, guidelines, protocols and procedures providing for the efficient use, management and operation of the System and the Network Master Site for Local Purposes, IS Purposes and potential ET Purposes (“**System Rules**”). System Rules may address and prescribe rules, guidance, instructions and direction on matters respecting the use, operation, configuration, maintenance and repair of, and improvements, upgrades, enhancements and changes to the System as a whole or in part. All network equipment and System management functions shall be performed by the County and the Sheriff consistent with recommendations and authority of the Advisory Board, this Agreement and System Rules. System operation and/or management functions include, without limitation, those items or responsibilities identified in Section 2.5.

As of the date of this Agreement, the Advisory Board has not adopted any System Rules. After the appointment/selection of Advisory Board members, such members shall commence development of System Rules and making such changes or modifications as appropriate or necessary. The System Rules shall be made available to all Participants..

2.15 Warranty and Support. Pursuant to the terms and conditions of the Motorola Contract, Motorola is providing (i) a warranty on the functionality of the System infrastructure, (ii) a three (3) year warranty on individual items of Subscriber Equipment, and (iii) a one (1) year warranty on computers.² During the applicable Warranty Periods and any extensions thereof, the County will diligently manage and promptly enforce all warranty related obligations and claims made by or on behalf of each Party with respect to the System infrastructure, the Network Master Site, the Subscriber Equipment and computers, as applicable. The County has the obligation to resolve all warranty claims to the reasonable satisfaction of the License Holder making the claim or alleging a breach of warranty, without any charge or expense being made against such License Holder. In the event the County has or cannot resolve any warranty dispute or claim made by any License Holder, County hereby constitutes such complaining License Holder as the agent and attorney-in-fact of County for the purpose of exercising and enforcing, and with full right, power and authority to exercise and to enforce, all of the right, title and interest of the County in, under and to (i) the warranties and obligations of Motorola under the Motorola Contract and of any other supplier of goods and services in respect of the System infrastructure, Subscriber Equipment and/or computers. County further agrees to execute and

² The Warranty Periods begin to run from the date of System Acceptance or Beneficial Use (as such terms are defined in the Motorola Contract, whichever occurs first. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment or the Software by events or causes within County’s Control, the warranties expire eighteen (18) months after shipment of the Equipment and Software, as the case may be.

deliver such further instruments as may be necessary to enable such complaining License Holder to obtain goods or services furnished for the System, the Subscriber Equipment and computers by Motorola or other suppliers but all at the cost and expense of County. The County will be the primary point of contact for all warranty and maintenance issues during the Warranty Period. After the expiration of the applicable Warranty Period(s) and any extension(s) thereof, the County will also receive a maintenance call or an alarm on the System infrastructure and the County, as provided elsewhere in this Agreement and the Participation Agreement, will have primary maintenance and repair responsibility and will promptly dispatch appropriate County technicians, agents or service providers accordingly. As to Subscriber Equipment of each License Holder, such License Holder will have primary maintenance and repair responsibility after expiration of the applicable Warranty Period(s) and any extension thereof.

2.16 Operator of System. As provided in the Participation Agreement, the Sheriff has elected to operate the System pursuant to the authority granted to county sheriffs in Section 307.63 of the Ohio Revised Code. Therefore, the Sheriff shall be responsible for the hiring, firing and supervision of employees necessary or appropriate for the effective and efficient operation of the System consistent with this Agreement, the Participation Agreement and the System Rules established by the Advisory Board. As agreed by the Parties, operation of the System includes, without limitation, (i) the day to day management, operation and general oversight of the System as a whole and System operations and (ii) the performance of all activities and responsibilities required of the Sheriff under this Agreement, the Participation Agreement and/or prescribed by the Advisory Board. Notwithstanding anything to the contrary contained in this Section 2.16 or the Participation Agreement, neither the provisions of this Section 2.16 nor the Participation Agreement should be construed to grant the Sheriff any power or authority to use the System's operation to influence local methods of conducting police, fire or EMS Local Purpose public safety operations.

2.17 Costs. Except as otherwise expressly provided in this Agreement, County shall be responsible for paying any and all costs and expenses incident to or necessary for (i) the engineering, design, construction, installation, operation of the System and the Network Master Site, (ii) the License Holders' participation in and use of the System, with the exclusion of Subscriber Equipment which is addressed below in clause (v), (iii) costs for the fiber connection from the License Holders' communications center or subsystem to the System fiber ring, (v) the initial allocation of Subscriber Equipment, and (v) all annual maintenance and operational costs for the infrastructure of the System and Network Master Site, with the exclusion of a maintenance fee designated for the repair and maintenance of Subscriber Equipment. No cost of any kind or nature shall be passed on to the License Holders, as the cost for the System infrastructure, the Network Master Site, the Subscriber Equipment and related computers.

2.18 Training. County will cause Motorola to train employees and other personnel of each License Holder on the use of the Subscriber Equipment and System infrastructure. After the expiration of the Motorola Contract and/or the services to be provided therein by Motorola, County will provide the training set forth above free of charge.

2.19 Establishment of License Holders Committee.

2.19.1 License Holders Committee. Upon the execution and delivery of this Agreement there shall be established a License Holders Committee by the Parties, the composition of which shall be as provided in Section 1 (Definitions) of this Agreement. The License Holders Committee shall meet at least on a quarterly basis on a weekday during the first month of each calendar quarter (i.e., January, April, July and October). The meeting dates for each quarterly meeting shall be fixed by vote or agreement of the License Holders Committee members. Special meetings of the License Holders Committee may be called on 2 days' notice to each License Holders Committee member by the "**Chairman**", who shall be selected by, from time to time, majority vote of the License Holders Committee members. At all meetings of the License Holders Committee, a majority of the committee members shall constitute a quorum for transaction of business.

2.19.2 Authority of License Holders Committee. The License Holders Committee shall have authority to: (a) make recommendations to the Sheriff and County concerning the management, administration and operation of the System, the Network Master Site, Subscriber Equipment and replacement equipment for Local Purposes, IS Purposes and potential ET Purposes ("**License Holders Committee Recommendations**"); (b) provide advice and in-put in accordance with Section 2.8 of this Agreement with respect to Involuntary Upgrades, Voluntary – No Cost Upgrades and Voluntary – Cost Incurrence Upgrades; and (c) adopt rules, guidelines, protocols and procedures providing for the efficient and effective use of the Shared Spectrums (the "**Spectrum Rules**"). License Holders Committee Recommendations may address the same matters as permitted under or with respect to the development or adoption of System Rules as provided in Section 2.14 of this Agreement and shall not be arbitrary in nature. The County and Sheriff shall give special good faith consideration to such License Holders Committee Recommendations and implement the same within a reasonable period of time, unless, in fact, the implementation of any License Holders Committee Recommendation will be too burdensome or costly or which will negatively impact the efficient and effective operation of the System or Network Master Site. All Parties and the Sheriff shall abide by the Spectrum Rules.

2.20 Usage for Non-Public Safety Purposes. Notwithstanding the fact that the Sheriff has the right to permit usage of the System for Non-Public Safety Purposes under the Participation Agreement, the County and Sheriff agree as follows: (a) priority shall always be given to public safety, police, fire and medical emergency usage of the System; (b) Non-Public Safety Purposes shall remain subordinate to such public safety, police, fire and medical emergency uses; and (c) priority of usage by Participants with respect to Non-Public Safety Purposes shall first be given or made available to the License Holders' incumbent users on the System measured as of the date of the execution of this Agreement, and then to new or additional users or Non-Public Safety groups who are given access to the System after the date of this Agreement. Should Non-Public Safety Purpose usage of the System be conditioned on the payment of a Non-Public Safety Purpose fee or charge, License Holder Non-Public Safety Purpose Subscriber Radios shall be exempt from such fee or charge in recognition of (i) the contribution by West Chester and Oxford of their respective radio frequencies or spectrums, as provided in this Agreement, and (ii) the dismantlement of their own public safety and Non-Public Safety Purpose communication systems, all of which was or is being done in furtherance of establishment and operation of the System.

Section 3

Grant and Usage of Shared Spectrums

3.1 Spectrums Shared and Reserved.

3.1.1 **Shared Spectrums.** Subject to the provisions of Section 3.1.2 (Reserved Spectrum), the Parties hereby agree to share the use of each of the Shared Spectrums, and they do hereby grant to the County the right to use and employ the bandwidth of the Shared Spectrums, only in connection with the use and operation of the System, as contemplated in the Participation Agreement and this Agreement. The rights granted in this Section 3.1 are on an “as is” basis without any representation or warranty. It is agreed and understood that the rights granted in this Section 3.1 are strictly limited to: (i) wireless communications to be transmitted over, processed and received by the System and (ii) the shared usage by and among the Participants in connection with the System; and it is further agreed and understood by the Parties that such grant or rights conferred by this Agreement does not constitute a lease, sublease, assignment or other transfer, whether in whole or in part, of the Shared Spectrums or of the FCC Licenses. This Agreement and the sharing of the Shared Spectrums are made pursuant to and in accordance with 47 CFR § 90.179. The County and each License Holder hereby retain all right, title and interest in and to their respective FCC License(s) and the frequencies or spectrums subject to each such FCC License.

3.1.2 **Reserved Spectrum.** It is expressly understood and agreed that West Chester reserves unto itself one (1) of its five (5) frequencies in the 800 MHz band which is currently being used for data communications by West Chester and Oxford departments and agencies. Specifically the frequency is identified as: 855.2375. In the event this reserved frequency is no longer used for data communications and is made available by West Chester for use in the operation of the System, such reserved frequency, for purposes of this Agreement, shall become a West Chester Spectrum and shall be deemed to be a Shared Spectrum and, in combination with the other frequencies, one of the Shared Spectrums.

3.2 **Term.** The term of this Agreement shall commence on April 28, 2009, provided that such date is not sooner than the twenty first day after each licensee of the Shared Spectrums notifies the FCC of this Agreement and the sharing arrangement provided hereunder, and shall continue, unless sooner terminated pursuant to this Agreement (including termination pursuant to Section 4.1.2 (Regulatory Compliance and License Termination)) for the maximum duration permitted by the FCC, FCC Regulations or the FCC Licenses, as such licenses may be renewed or extended from time to time (the “**Term**”).

3.3 **Fee.** Neither the Parties nor the Participants shall pay any fee or other remuneration to the other for the use of the Shared Spectrums in connection with the System.

3.4 **Costs.** As provided in the Participation Agreement and in Section 2.17 of this Agreement, all costs and expenses incident to or necessary for the design, engineering,

construction, installation, delivery, administration, management, operation, use, and maintenance of the System and the Network Master Site shall be borne by the County.

3.5 Use of Spectrums. As provided in Section 3.1.1, use of the Shared Spectrums is limited to the operation of the System, the Network Master Site, the Subscriber Equipment and such other equipment as authorized under the terms and conditions of the Participation Agreement, and such use shall be made in full compliance with the terms of this Agreement and all Applicable Law. In no event, shall any Party, nor shall the County or Sheriff permit any Participant to use the Shared Spectrums for purposes other than those permissible under the terms and conditions of this Agreement and the Participation Agreement and for the lawful operation of the System.

3.6 System Prohibited Use. Except as otherwise permitted in the Participation Agreement, no commercial, personal, non-public safety or non-governmental related business may be conducted on or over the System by any Party or Participant, its authorized users or service providers.

3.7 Compliance with Federal and State Laws. Each Party and the Sheriff shall fully comply with all Applicable Law and the County and Sheriff shall cause all Participants to fully comply with all Applicable Law.

3.8 Compliance with System Rules.

3.8.1 Each Party and the Sheriff shall, and the County and Sheriff shall cause each Participant to, comply with all System Rules and Spectrum Rules.

3.8.2 In order to protect the integrity, security, safety, and efficient operation of the System for all Persons using the same, each Party and the Sheriff shall, and the County and the Sheriff shall cause each Participant to, take appropriate corrective action against any of its employees who violate System Rules, Spectrum Rules or this Agreement.

3.9 Addition of New Users/Subscribers. Pursuant to Article IX and such other provisions of the Participation Agreement, the Sheriff may add to the System, from time to time, such additional users or subscribers of any one or more of the Participants without first securing the approval or consent of the Participants or the License Holders; provided, however, the County and Sheriff shall assure themselves and the License Holders that the addition of any such additional users or subscribers (a) will not cause the Grade of Service, the Motorola Guaranteed Service Level and/or such other warranties or guarantees provide in Section 2.12 of this Agreement (collectively, the “**Combined Guarantees**”) to be impaired or breached or to fail in any respect or (b) will not cause the Combined Guarantees not to be maintained as called for in this Agreement. To facilitate and ensure compliance with the Combined Guarantees, the Sheriff, the County and the License Holders, at the quarterly License Holders Committee meetings, shall review and consider the capacity of the System, the monthly System Reports to be provided pursuant to Section 2.12.3 of this Agreement, and such other information and factors which would demonstrate or indicate whether or not the System is overloaded or the Combined Guarantees are failing. Should, in the reasonable opinion of a License Holder, such License Holder makes a determination that there is or will be overloading of the System and/or any one

or more of the Combined Guarantees are not being maintained or met as required under Section 2.12 of this Agreement, such License Holder shall consult with and make such recommendations to the Sheriff and the County that would alleviate, terminate or remedy any existing or potential overloading of the System or failure of any one or more of the Combined Guarantees, including, without limitation, the solutions provided in Section 2.12 of this Agreement, and the Sheriff and County shall consider such recommendations and solutions in good faith and act accordingly. Should at any time, in the reasonable opinion of a License Holder, any one or more of the Combined Guarantees is/are not being consistently achieved or the quality of service becomes seriously impaired or lacking, the License Holder(s) may, upon thirty (30) days prior written notice to the County and Sheriff, terminate this Agreement and avail itself of the remedies provided in Sections 5.3.2 and 5.7, including the termination of all rights of usage of the Shared Spectrums and the return of such Shared Spectrums to the complaining License Holder(s).

Section 4

Regulatory Matters

4.1 FCC License Filing Matters, Control and Compliance.

4.1.1 **Control.** As provided in Section 3.1 of this Agreement, the County, West Chester and Oxford shall at all times retain ownership and control over their respective FCC License (i.e., the County License, West Chester License and Oxford License) and the frequencies or spectrums that are subject to or assigned by each FCC License. Accordingly, the County and each License Holder shall be solely responsible for: (i) all required FCC filings, approvals and reports related to that Party's FCC License and the spectrums or frequencies subject to such Party's FCC License (the **"FCC Reports"**) and all communications to and from the FCC respecting the same; and (ii) all required FAA filings approvals and reports related only to that Party's frequencies or spectrums (the **"FAA Reports"**).

4.1.2 **Regulatory Compliance and License Termination.** Each Party and the Sheriff covenant and agree to provide all requested information, at such Party's expense, and deliver to the filing Party all information necessary for the filing Party's FCC Reports and FAA Reports at least sixty (60) days prior to the required filing date. Each Party and the Sheriff hereby agree to cooperate with each other in the preparation and filing of any and all FCC Reports and FAA Reports required to be made and filed by another Party. As the County and Sheriff have, as the case may be, all construction, operation, management, administration, maintenance, repair, upkeep and operational responsibilities with respect to the System, all as provided in the Participation Agreement, County and Sheriff further covenant and agree to comply with all applicable FCC and FAA Regulations and decisions related to the several FCC Licenses and the Shared Spectrums, including, but not limited to: (i) the FCC's requirements for the use of radio frequencies or spectrums; (ii) the FCC's environmental compliance requirements; (iii) the FCC and FAA Regulations governing the construction, operation, maintenance, marking and lighting of antenna structures; (iv) applicable technical and interference rules of the FCC and FAA, and (v) the FCC's qualification and eligibility rules. As of the date of this Agreement, County has provided the License Holders with a certificate, in substantially the form of **Exhibit D** attached hereto, warranting to the License Holders eligibility

to share the Shared Spectrums. Any and all governmental notifications, permits and licenses required for the connection, operation and/or servicing of Subscriber Equipment shall be procured and maintained by County's expense and risk, except to the extent otherwise provided in this Agreement. As required by FCC Regulations, if the Term of this Agreement extends beyond the then current expiration date of any one or more of such FCC Licenses and the FCC License or Licenses are not renewed or are terminated, this Agreement will expire when the underlying FCC License or Licenses expire or are terminated.

4.1.3 Noncompliance by County. Notwithstanding anything contained to the contrary in the Participation Agreement, County and Sheriff, as the case may be, shall grant to the License Holders access to its equipment, facilities, books and records and any physical locations related to the System, the Network Master Site and the Shared Spectrums and shall provide License Holders with all information required by License Holders to enable License Holders to actively oversee County's and Sheriff's use of the Shared Spectrums. If a License Holder has knowledge or a reasonable belief that the County, the Sheriff or other Participant has used or is using the Shared Spectrums for purposes other than those set forth in this Agreement or permitted in the Participation Agreement or has violated any of the FCC or FAA Regulations or any other Applicable Law or that the System or Subscriber Equipment is causing interference with other systems, License Holders shall have the right to conduct an onsite inspection of the System and associated equipment, including the Network Master Site and transmission facilities, upon 24 hours advance notice to County. If such inspection reveals any such violation, License Holders shall notify County and Sheriff thereof and County and Sheriff shall have 10 days to cure any violation, unless FCC Regulations or FAA Regulations mandate a faster cure period, than such cure shall be effected within the faster cure period (the "**Cure Period**"). If such violations remain uncured after the Cure Period, License Holders shall have the right to direct County and Sheriff to suspend or terminate the operation of the System, to terminate this Agreement, or to take any such actions, at County's or Sheriff's expense, as may be required to bring County and Sheriff into compliance with such requirements.

4.1.4 FCC Inspection. Each Party shall maintain a copy of this Agreement available for inspection by authorized representatives of the FCC and the FAA, subject to any permissible confidentiality treatment.

4.2 Frequency Coordination. As FCC Regulations require, the implementation and operation of the System, the Network Master Site, the Subscriber Equipment and such other related communications equipment and the use and sharing of the Shared Spectrums among the Parties and the Participants, as provided in the Participation Agreement, will require a Frequency Coordinator to perform Frequency Coordination and to demonstrate to the FCC pursuant to 47 CFR §90.175 (Frequency Coordinator Requirement) that such frequency Coordination has been accomplished. Accordingly, the Parties agree that the Frequency Coordination services of APCO shall be employed in order to satisfy the requirements of FCC Regulations, including, without limitation, 47 CFR §90.175, in a prompt and timely manner and as necessary in order to cause the System to become operational. The Parties will cooperate fully in retaining Frequency Coordination from APCO and, in that regard, each Party shall be responsible for making and filing required applications and submitting necessary technical information and system requirements to APCO. In making and filing the APCO application(s), each Party shall clearly establish, and require APCO to do likewise in all filings or applications made with the FCC, that

the Shared Spectrums or frequencies are being coordinated on a shared basis and that each Party retains ownership and control of its respective FCC License and the frequencies or spectrums subject thereto or assigned thereby. The Parties will pay their own costs and expenses in employing the services of APCO.

4.3 Maintenance of Spectrums. As provided in Section 4.2 of this Agreement, each Party shall use commercially reasonable efforts to coordinate the use of the Shared Spectrums so as to prevent harmful interference to the Shared Spectrums and other radio frequencies. In order to achieve the optimal operating environment, minimize the potential for interference and allow for prompt corrective action in the event of interference, each Party agrees to: (i) use only FCC type-approved radio equipment, to maintain such equipment in good operating condition and within emissions specifications, and to operate such equipment in a manner consistent with the manufacturer's specifications; (ii) cooperate fully and in good faith with any investigation or inquiry conducted by any Party, as a licensee, or the FCC; (iii) provide access to any System access points to enable the Parties to monitor County's and/or the Participants' use of the Shared Spectrums, including private remote access should that feature be available to County and/or the Participants on the System; and (iv) in the event of interference from or to a Party's or Participants' use of the System, or in the event the a Party or Parties conduct a random or periodic audit, to grant the such Party or Parties and their respective agents and employees, the right to enter and inspect all of the System infrastructure and associated equipment and towers.

4.4 Modification of FCC Licenses. The construction and build-out of the System as provided for in Section 2.1 of this Agreement and the Participation Agreement, including the erection of fourteen (14) towers, will require modifications of the FCC Licenses to be filed with the FCC pursuant to 47 CFR §90.135 in order that the Shared Spectrums can be utilized for the transmission, receipt and processing of radio communications or otherwise operated from each transmitter, antennae, tower site and such other equipment comprising the System. Accordingly, each Party agrees to cause its respective FCC License to be modified in accordance with the preceding sentence and to cooperate with each other in securing such modifications by coordinating efforts and employing the services and/or assistance of APCO during the process. As provided elsewhere in this Agreement, each Party will retain ownership and control of its respective FCC License and the modifications required to be made under this Section 4.4 shall be made individually and with specific reference to the applicable FCC License and the Party to whom the original FCC License had been issued. At no time or for any reason shall the FCC Licenses be combined into a single license and/or be reissued to any other party or Person other than the Party to whom the original FCC License had been issued. Each Party shall bear its own cost and expense in having or causing its respective FCC License to be modified.

4.5 Subordination. This Agreement is subject and subordinate to the FCC Licenses and FCC Regulations.

Section 5

Miscellaneous Provisions

5.1 Indemnification.

5.1.1 County hereby assumes all risk and responsibility for, and, to the extent legally permitted by Applicable Law, agrees to defend, indemnify and hold harmless the License Holders, their respective officers, officials, elected officials, representatives, employees and agents (the “**Indemnified Parties**”) from and against any and all claims, demands, liabilities, losses, judgments, costs, expenses, suits, actions, proceedings, and investigations arising against or incurred by any of the Indemnified Parties, for loss of life, personal injury, loss or damage to property or other damage, loss or liability caused by or arising from: (i) the System infrastructure and/or Network Master Site, (ii) the use, employment and/or application of the Shared Spectrums; (iii) the failure of County or Sheriff to perform any term, covenant, obligation or condition required to be performed by County and/or Sheriff under this Agreement or the Participation Agreement; (iv) any damage or injury that results from County’s or Sheriff’s actions and omissions including the installation, maintenance, management or operation of the System, the Network Master Site and/or Subscriber Equipment after the date hereof, (v) County’s or Sheriff’s failure to comply with any Applicable Laws (excluding Spectrum Rules), including, without limitation, all FCC and FAA Regulations, pertaining to (x) the construction, control, use, management, operation, maintenance or repair of the System, the Network Master Site and the Subscriber Equipment and (y) the Shared Spectrums, including, without limitation, the use, deployment and management thereof, and (vi) the loss, or the termination, cancellation or withdrawal by the FCC, of any one or more of the FCC Licenses by reason of the County’s or Sheriff’s failure to operate the System or use the FCC Licenses and Shared Spectrums in full compliance with FCC and FAA Regulations or the County’s or Sheriff’s failure to cause the Participants to use the System and Shared Spectrums in full compliance of FCC and FAA Regulations.

5.1.2 If any suit or proceeding shall be instituted against the Indemnified Parties for which indemnification would be required under the provisions of this Section 5, Indemnified Parties shall, with reasonable promptness, give written notice of same to County. County shall have the right to assume the defense of the case at County’s sole and separate expense, provided, however, that, at Indemnified Parties’ expense, Indemnified Parties shall be entitled to designate counsel of its choosing to participate in the defense of said proceeding. An Indemnified Party(ies) shall cooperate fully in all respects with the County in any defense, compromise or settlement, including, without limitation, providing County with all pertinent information under the control of and Indemnified Party(ies). If County is notified of such suit or proceeding but does not assume control of such defense, an Indemnified Party(ies) shall keep County informed of the progress of such suit or proceeding, but shall be bound by the results obtained by an Indemnified Party(ies) insofar as the claim against the Indemnified Party(ies) is concerned.

5.2 Insurance.

5.2.1 Throughout the term of this Agreement, at County’s sole cost and expense, County shall provide and keep in force policies of general public liability and casualty/property insurance with the County Risk Sharing Authority (“**CORSA**”) or such other commercial insurance provider authorized to do business in Ohio, which policies names West Chester and Oxford as additional insureds and insures against any liability for injury or death to Persons and/or damage to property and any other loss, liability, damages, fines and penalties resulting from or in connection indemnity provisions of Section 5.1 of this Agreement. County hereby releases License Holders (which term as used in this subsection includes the employees,

agents, representatives, officials and elected officials of License Holders and their departments and agencies) from all liability in connection with losses covered by County's insurance, except losses based upon or arising from a breach of Spectrum Rules or the gross negligence of a License Holder. County agrees that each of County's insurance policies will include a provision giving effect to the foregoing.

5.2.2 County shall keep the System infrastructure and Network Master Site insured against all physical loss including without limitation by fire, windstorm, explosion, flood and earthquake and with all-risk coverage and against all such other risks as are insured against by other public safety entities with respect to property of a similar character in an amount not less than the replacement cost which insurance shall (i) cover all materials, equipment, tools and supplies stored on the construction site and to become part of the System and inventory, (ii) cover all portions of the System while in transit, (iii) include coverage against loss caused by explosion and breakdown, and (iv) waive any condition requiring that the System be in use or ready for use. Each License Holder shall be responsible for the insuring of its respective Subscriber Equipment against all physical loss.

5.3 Default.

5.3.1 County Default. County and the Sheriff will be in default under this Agreement if: (i) County is in default under the Lease Agreement; (ii) County or Sheriff breaches any of their respective representations and warranties, covenants or obligations in this Agreement, or any other obligation to the License Holders, and does not cure the breach within fifteen (15) days from the License Holder(s) giving County written notice; (iii) County or Sheriff fails to maintain the Grade of Service, the Motorola Guaranteed Service Level or other warranties as provided in Section 2.12 of this Agreement; (iv) County or Sheriff breaches any of County's or Sheriff's representations, warranties, covenants or obligations in the Participation Agreement, or any other obligation to the License Holders, or is in default under the Participation Agreement, (v) the right of termination occurs under Section 2.8, Section 3.9, Section 4.1.2 or Section 4.1.3 of this Agreement; (vi) County commences a case, or a case is commenced against County, under bankruptcy or insolvency; (vii) County becomes insolvent or stops paying County's debts as they become due; or (viii) a legal proceeding is instituted to seize or detain any one or more of the Shared Spectrums or the System by reason or account of any act or omission of the County or Sheriff (each of the foregoing a "**County Event of Default**").

5.3.2 License Holders Remedies for County Default. Upon the occurrence of a County Event of Default, any one or more of the License Holders may (i) terminate this Agreement and all rights to use the Shared Spectrums; (ii) perform County's or Sheriff's obligations, at County's expense, and charge County and Sheriff for the reasonable cost thereof; and (iii) avail itself of any of the remedies available to License Holders at law or in equity and avail itself of the termination remedies set forth in Section 5.7 of this Agreement. Neither the FCC Licenses nor the Shared Spectrums of the County shall be the subject of any remedy or forfeiture, or made available or forfeited to the License Holders, for any County Event of Default.

5.3.3 License Holders Default. A License Holder will be in default under this Agreement if: (i) License Holder(s) breaches any of its (their) respective representations and

warranties, covenants or obligations in this Agreement, or any other obligation to County, and does not cure the breach within fifteen (15) days from County giving the License Holders written notice; (ii) License Holder(s) becomes insolvent or stops paying its debts as they become due; or (iii) a legal proceeding is instituted to seize or detain the any one or more of the Shared Spectrums by reason or account of any act or omission of the defaulting License Holder(s) (each a **“License Holder Event of Default”**).

5.3.4 County Remedies for User/Local Entity Default. Upon the occurrence of a License Holder Event of Default, County may (i) terminate this Agreement; (ii) perform License Holder’s obligations at such License Holder’s expense, and charge such License Holder for the reasonable cost thereof; and (iii) avail itself of the remedies available to County at law or in equity. Neither the FCC Licenses nor the Shared Spectrums of the License Holders shall be the subject of any remedy or forfeiture, or made available or forfeited to the County or Sheriff, for any License Holder Event of Default.

5.4 Assignment, Subleasing, Sublicensing. No Party shall assign, sell, mortgage, pledge or otherwise encumber, transfer or dispose of this Agreement or any of the Party’s related rights, nor sell, transfer, sublet, assign, license or sublicense the FCC Licenses or the Shared Spectrums (or any part thereof) or permit the Shared Spectrums (or any part thereof) to be used by others (except for use in the System in accordance with the Participation Agreement) without first obtaining the other Parties’ (the **“Non-Assigning Parties”**) prior written consent and the execution and delivery by any such approved assignee or subuser of agreements and instruments as may in the Non-Assigning Parties’ sole judgment be necessary to comply with the FCC’s Regulations and otherwise in form and substance reasonably satisfactory to the Non-Assigning Parties’. No Party shall have the right to sell, assign, mortgage, or transfer this Agreement and/or any of its rights under this Agreement at any time and from time to time. This Agreement shall be binding upon and inure to the benefit of all future owners or licensees of the Shared Spectrums and/or the FCC Licenses and shall be binding upon the Parties, assigns, administrators and successors.

5.5 Jurisdiction. The Parties agree that if any dispute arises under this Agreement, the dispute shall be resolved in the courts of the State of Ohio in accordance with the laws of the State of Ohio without giving effect to principles of conflicts of law and applicable federal law, including FCC and FAA Regulations, and each Party waives any and all rights to object thereto for any reason whatsoever. The Parties knowingly waive the right to a trial by jury in a court action, proceeding or counterclaim on any matters concerning this Agreement.

5.6 Notices. All notices, demands, requests, or other communications made pursuant to, under or by virtue of this Agreement, must be in writing personally delivered, or mailed to the party to which the notice, demand, or request is being made by certified or registered mail, return receipt requested, postage prepaid, as follows:

To West Chester at:	West Chester Township
	9113 Cincinnati-Dayton Road
	West Chester, Ohio 45069
	Attn: Township Administrator
	Fax: 513-779-9369

With a copy to: Frost Brown Todd LLC
Suite 300
9277 Centre Point Drive,
West Chester, Ohio 45069
Attn: Donald Crain
Fax: 513-870-0999

To Oxford at: City of Oxford, Ohio
101 East High Street
Oxford, OH 45056
Attn: Douglas Elliott, City Manager
Fax: 513-523-7769

To County at: Butler County
315 High Street, Suite 610
Hamilton, Ohio 45011
Attn: County Administrator
Fax: (513) 887-3305

With a copy to: Board Counsel For
Butler County Commissioners
315 High Street, Suite 610
Hamilton, Ohio 45011
Attn: Gary Sheets
Fax: 513-785-5339

All communications given pursuant hereto shall be deemed given upon delivery. Any Party hereto may designate a change of address by notice to the other Party given at least five (5) days before such change of address is effective.

5.7 Termination. At the expiration of the Term, or upon any other lawful termination or cancellation of this Agreement or the Participation Agreement, or upon either a System Migration or System Merger, or if the System and/or the Network Master Site is no longer operational or is incapable of operation, regardless of the reason, or is abandoned or mothballed or is no longer being operated in accordance with the terms and conditions of the Participation Agreement, any one or more of the License Holders shall have the right and option, upon 15-days' prior written notice to the Parties, to terminate this Agreement and, upon any such termination permitted under this Agreement, each Party agrees to immediately cease all use of the other Parties' frequencies/spectrums, and to restore to the other Parties the use of such other Parties' frequencies/spectrums, and such License Holder terminating this Agreement shall have the right to notify the FCC of such termination and pull, cancel or withdraw from the FCC records this Agreement or any associated agreement or instrument. In addition, the County and/or sheriff shall permit the License Holders to make use of and collocate its radio equipment on such towers that, in the reasonable opinion of the License Holder, will permit License Holder

to provide optimal transmission of wireless communications over and through its communications system, and such use and collocation on such towers shall be without charge. If a Party's use of another Parties' frequencies/spectrums does not entirely cease at the time required by this Agreement (the "**Violating Party**") (time being of the essence), the Violating Party shall be liable to such other Parties (the "**Non-Violating Party(ies)**") for: (i) all losses and damages which the Non-Violating Party may incur, including reasonable attorneys' fees, and the Violating Party shall indemnify the Non-Violating Party against all claims made by any succeeding users of all or any part of the Non-Violating Party's frequencies/spectrums against the Non-Violating Party or otherwise resulting from the Violating Party's failure to timely stop the Violating Party's use of the Non-Violating Party's frequencies/spectrums in accordance with this Agreement; and (ii) an amount equal to \$1,500.00 (which amount the Parties presently agree is fair and reasonable under such circumstances and not a penalty) for each month or portion thereof after the expiration or earlier termination of the Term during which the Violating Party continues to use the Non-Violating Party's Spectrums. The Violating Party's violation of this section may cause irreparable harm to the Non-Violating Party, including subjecting the Non-Violating Party to FCC sanctions and forfeiture of the Non-Violating Party's FCC Licenses and, therefore, the Violating Party agrees that if it fails to stop using the Non-Violating Party's Spectrums upon the expiration or sooner termination of this Agreement, the Non-Violating Party shall have the right to seek and obtain (on an ex parte basis) injunctive relief in any court of competent jurisdiction (without posting a bond), notwithstanding any other provision herein or otherwise to the contrary.

5.8 Withdrawal. Should any License Holder decide not to participate in the System, as provided in Article VII, Section 2 of the Participation Agreement, and complies with the requirements of such Section respecting its withdrawal or non-participation, then the withdrawing or non-participating License Holder shall have the right to terminate this Agreement and avail itself of the rights and remedies provided under Section 5.7 of this Agreement.

5.9 Right to Purchase the System.

5.9.1 Right to Purchase. In the event the Participation Agreement is terminated (a) by virtue of (i) a decision of the County pursuant to Article II, Section 2 of the Participation Agreement, (ii) the reasons stated in Article II, Section 3 of the Participation Agreement, which reasons include, without limitation, obsolescence, casualty, non-operation, signal loss, abandonment or degradation of signal or (iii) the reasons stated in Article VII, Section 1 of the Participation Agreement, or (b) the Participation Agreement is terminated for any other cause, the License Holders shall have the right to purchase the System or such portion or portions thereof as would be necessary or appropriate in order to permit or allow the License Holders' to operate the System and provide wireless communications for public safety and Non-Public Safety Purposes. Any such acquisition or transfer shall be at fair market value, determined in the manner and as provided in Section 5.9.3 below. The License Holders shall notify the County in writing within thirty (30) days of its intent to acquire the System. The purchase price shall be based upon the value of the System, determined pursuant to this Section 5.9.

5.9.2 Date of Valuation. The date of valuation shall be no earlier than the day following the date of expiration or termination, and no later than the date the License Holders make an offer for the System.

5.9.3 System Valuation. The value of the System shall be determined by a qualified appraiser mutually agreed upon by the License Holders and the County. The License Holders shall hire the selected qualified appraiser. The appraiser shall determine the current worth of the assets pursuant to Section 5.9.1 (Right to Purchase) above. Under no circumstances shall the value under this Section 5.9 be less than the book value of the assets, less accumulated depreciation.

5.9.4 Intent to Purchase. Upon receipt of the License Holders' intent to purchase the System at the value established above, the County shall have forty-five (45) days within which to accept the valuation as the purchase price of the System. In the event the purchase price is not acceptable, the parties shall have one hundred twenty (120) days within which to negotiate an acceptable purchase price.

5.9.5 Transfer to License Holders. Upon exercise of this option and the payment of the agreed-upon sum by the License Holders and its service of official notice of such action upon the County, the County shall immediately transfer to the License Holders possession and title to all facilities and property, real and personal, of the System (excluding the Share Spectrums), free from any and all liens and encumbrances not agreed to be assumed by the License Holders in lieu of some portion of the purchase price set forth above, and the County shall execute such deeds or other instruments of conveyance to the License Holders as shall be necessary for this purpose.

5.9.6 Arbitration. In the event the License Holders and the County are unable to agree upon the value of the System within the time limits set forth above, either party may require by written notice to the other that the value of the System be submitted to arbitration in the following manner:

5.9.6.1 The License Holders and the County shall each, within fifteen (15) days after such written notice, select an arbitrator who shall be a disinterested Person with reasonable knowledge and experience relative to the subject to be arbitrated. The two arbitrators thus selected shall immediately thereafter select a third arbitrator who shall likewise be a disinterested Person having reasonable knowledge and experience relative to the subject to be arbitrated.

5.9.6.2 The panel of arbitrators shall commence a hearing on the issue of valuation and shall receive all relevant information from the parties.

5.9.6.3 The hearing shall be recorded and may be transcribed at the request of either party. At the option of the County, all hearings, proceedings, debate and deliberations or portions thereof shall be open to the public and at such times and places as contained in the notice or as thereafter publicly stated, except that, if two arbitrators agree, debate and deliberations may be held in closed session.

5.9.6.4 The value of the System as determined by the arbitration panel shall be pursuant to Sections 5.9.1 (Right to Purchase) and 5.9.3 (System Valuation) above.

5.9.6.5 Within thirty (30) days after the close of the hearing, the panel of arbitrators shall prepare findings and a decision agreed upon by a majority of the panel which shall be filed with the License Holders and served by mail upon the County. Should there be no majority decision, the proceeding shall become null and void, and shall be started anew, unless the parties extend by mutual agreement the time which the panel of arbitrators has to make a decision.

5.9.6.6 The expense of the arbitrators individually selected by the parties shall be borne by the respective party, and the expense of the third arbitrator and the expenses incurred by the panel as a whole shall be borne equally by the parties.

5.9.7 Purchase Price. The purchase price shall be the value of the System as determined by the arbitration panel, subject to the right of either party to seek a judicial determination of the purchase price subsequent to the decision of the arbitration panel.

5.9.8 Exclusion from Sale and Usage Rights. It is expressly understood and agreed that the License Holders' right to purchase the System, as provided in Section 5.9.1 above, does not apply if or where the System ceases to be used as a direct result of (a) the migration of the System into a new or substantially different countywide public safety radio communication system or (b) the merger or combination of the System, as a whole, into a significantly larger public safety radio communication system, either of which requires use of (i) all or (ii) a significant portion of the facilities, equipment, towers, buildings and other related facilities and fixtures comprising the System and the Network Master Site immediately prior to any such migration or merger (in the case of clause (a), a **"System Migration"** and in the case of clause (b), a **"System Merger"**). In the event of either a System Migration or a System Merger, and should either or both of the License Holders choose not to remain as a Participant to the Participation Agreement and terminates this Agreement, as permitted in Section 5.7 (Termination) of this Agreement the County and/or Sheriff, as provided in said Section 5.7, shall permit the License Holder or License Holders to make use of and collocate its/their radio equipment on such towers that, in the reasonable opinion of the License Holder or License Holders, will permit the License Holder or License Holders to provide optimal transmission of wireless communications over and through its/their communications system or systems, and such use and collocation on such towers shall be without charge. Additionally, the County and/or Sheriff shall permit the License Holder or License Holders to make use of or purchase, subject to the provisions of this Section 5.9, any remaining part or portion of the System or the Network Master Site that is not subject to or incorporated within a System Migration or System Merger,

and any such use shall be without charge. The usage rights provided in this section 5.9.8 shall be evidenced by a writing and shall be for an indefinite term.

5.10 Miscellaneous.

5.10.1 Entire Agreement. This Agreement contains the entire agreement between the Parties. Each Party acknowledges to the other Parties that neither it nor any of its agents or employees have made any representations or warranties to such other Parties that are not expressly set forth in this Agreement and agree that each Party is entering into this Agreement based exclusively on each Party's own investigations and experience and expertise and not on any other fact or circumstance.

5.10.2 Amendment. This Agreement may not be altered or modified, and no term of this Agreement may be waived except by a written agreement signed by the Parties.

5.10.3 Severability. If any term of this Agreement is held by a court of competent jurisdiction or other authority to be invalid or unenforceable, the remainder of the terms of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

5.10.4 Headings. The Agreement section headings and the numbering of paragraphs are for the convenience of the parties only and are not a meaningful part of this Agreement.

5.10.5 Injunction. In the event of any breach or threatened breach by a Party of any of the terms of this Agreement, the other Parties shall be entitled to obtain an injunction or other equitable relief (on an ex parte basis if such other Party so elect) without the need to procure any bond or provide any undertaking.

5.10.6 Presumption. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party who caused this Agreement to be drafted.

5.10.7 Specific Performance. Each Party may enforce this Agreement by a decree of specific enforcement or a mandatory injunction.

5.10.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

5.10.9 Time of Essence. Time is of the essence in the performance of this Agreement.

5.10.10 Conflict. In the event of a conflict or inconsistency between the express terms and conditions of this Agreement and the terms and conditions of the Participation Agreement, the terms and conditions of this Agreement shall control, govern and prevail.

5.10.11 Equal Treatment of Oxford and West Chester. The County agrees that if on account of West Chester making available to the System the West Chester Spectrum the County agrees to provide West Chester with an additional consideration of any kind not set forth in this Agreement, then Oxford shall be entitled to the same consideration as West Chester in proportion to its size relative to West Chester as West Chester was afforded. Likewise, the County agrees that if on account of Oxford making available to the System the Oxford Spectrum the County agrees to provide Oxford with an additional consideration of any kind not set forth in this Agreement, then West Chester shall be entitled to the same consideration as Oxford in proportion to its size relative to Oxford as Oxford was afforded.

In witness whereof, the Parties have executed this Agreement as of the day and year first above written.

WEST CHESTER TOWNSHIP

BUTLER COUNTY

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

CITY OF OXFORD

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

The Butler County Sheriff joins in this Agreement and is bound to the terms and conditions that specifically apply or relate to the Sheriff and the Sheriff's obligations and responsibilities under this Agreement.

BUTLER COUNTY SHERIFF

By: _____
Title: _____
Date: _____

EXHIBIT A

[West Chester Licenses]

EXHIBIT B

[County License]

EXHIBIT C

[Oxford License]

EXHIBIT D

[Certificate of Eligibility]

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Police
Originating Department

Council Meeting Of: August 4, 2009

Account Code No. #: N/A

Steve Schwein
Prepared By

Budgeted Amount: N/A

July 30, 2009
Date Prepared

Agenda Title: A Resolution authorizing the City Manager to enter into a Spectrum Sharing Agreement on Behalf of the City of Oxford, Ohio with the Board of County Commissioners of Butler County, Ohio, the Butler County Sheriff, and the Board of West Chester Township, Ohio Trustees.

Recommendation: Adopt the Resolution.

Discussion: Entering into this agreement allows the Butler County 800 Radio System to utilize the five 800 radio frequencies licensed to the City of Oxford. West Chester Township will also authorize the use of their 800 frequencies by the Butler County 800 Radio System. Without these privileges, the county-wide 800 system simply would not be operable. Bringing such a large asset to the table obviously puts the City of Oxford and West Chester Township in the enviable position of being somewhat privileged shareholders. Privileges are to include 800 rights extended to our Service Department, 800 radios provided to our Service Department, and extended warranty coverage of all our radios two years beyond the one year factory warranty to be paid for by Butler County.

**** A copy of the proposed agreement is available on the City's website and at City Hall upon Request ****

Approved By:

Department Head:
City Attorney:
City Manager:

Initial Date

SDS 7/30/09

[Signature] 7/30/09

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SPECTRUM SHARING AGREEMENT ON BEHALF OF THE CITY OF OXFORD, OHIO WITH THE BOARD OF COUNTY COMMISSIONERS OF BUTLER COUNTY, OHIO, THE BUTLER COUNTY SHERIFF, AND THE BOARD OF WEST CHESTER TOWNSHIP, OHIO TRUSTEES.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Butler County, Ohio has completed the construction and installation of a countywide land mobile radio or communications system (hereinafter the "System). The System is being built on the foundation of the recognized need for a shared countywide government and public safety grade radio system that facilitates (i) law enforcement, (ii) fire and emergency medical and other public safety services and (iii) other government related communications and interoperability among those political subdivisions located in Butler County, Ohio who become a signatory to the Participation Agreement. The System is being established pursuant to (i) §307.63 of the Ohio Revised Code Annotated, which provides for the establishment of countywide public safety communications systems, and (ii) FCC Regulations respecting public safety radio pools (47 CFR §90.15 and §90.20).

SECTION 2: The FCC has granted a license in connection with the use of five (5) frequencies in the 800 MHz band to (i) the City of West Chester, Ohio; (ii) the Board of County Commissioners of Butler County, Ohio; (iii) the City of Oxford, Ohio.

SECTION 3: In order that the System can become and remain operational and provide the necessary wireless communications required of each of the Participants of the Spectrum Agreement, subject to the terms and conditions of this Agreement and the FCC Regulations, each participant to the Spectrum Sharing Agreement will be required to share bandwidth in a manner that is fair and efficient and compatible with the individual systems of the participants.

SECTION 4: City Council has determined that a shared countywide government and public safety grade radio system that facilitates (i) law enforcement, (ii) fire and emergency medical and other public safety services and (iii) other government related communications and interoperability among each of the participating political subdivisions is in the best interest of the citizens of the City of Oxford.

SECTION 5: Council hereby authorizes the City Manager to enter into a Spectrum Sharing Agreement with (i) the Board of County Commissioners of Butler County, Ohio, (ii) the Butler County Sheriff, and (iii) the Board of West Chester Township, Ohio Trustees for the purpose of creating a shared countywide government and public safety grade radio system.

SECTION 6: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED: _____

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

PARTICIPATION AGREEMENT BETWEEN THE BOARD OF BUTLER
COUNTY COMMISSIONERS AND THE CITY OF OXFORD TO UTILIZE
THE BUTLER COUNTY 800 MEGAHERTZ PUBLIC SAFETY
COMMUNICATION SYSTEM

WITNESSETH

WHEREAS, R.C. 5502.261 provides:

“A board of county commissioners that has entered into an agreement to establish a countywide emergency management agency may appropriate money from its general fund to support the functions and operations of the agency, including the development, acquisition, operation, and maintenance of a countywide public safety communication system and any communication devices, radios, and other equipment necessary for the system's operation and use. Money appropriated under this section may be expended to purchase and maintain the assets or equipment of the agency, including equipment used by the personnel of other political subdivisions that have entered into the agreement with the board establishing the agency. Money also may be appropriated under this section directly to a political subdivision that has entered into the agreement with the board establishing the agency, to enable the political subdivision to purchase communication devices, radios, and other equipment necessary for the countywide public safety communication system's operation and use.”

WHEREAS, the Board of Butler County Commissioners and all Butler County political subdivisions who are being provided radio equipment for the countywide 800 megahertz radio system have entered into an Agreement with the Board establishing the countywide Emergency Management Agency; and

WHEREAS, an event that impacts public health, safety, and welfare of residents and requires a public safety response may sometimes: (1) require a response which exceeds the capacity of a local government or the county government to respond; (2) not be confined to a single local government jurisdiction; and (3) begin in one local jurisdiction and move to another within or outside the County- such as in pursuit of a fleeing suspect;

WHEREAS, any event requiring a public safety response requires communication and coordination between and among the responders in order to maximize the effectiveness of that response and thereby advance public health, safety and welfare ;

WHEREAS, mutual aid agreements exist throughout Butler County in order to allow one local jurisdiction to provide another with public safety assistance but experience has shown that the available communication systems do not interoperate to such an extent as to achieve maximum coordination between and among the various local jurisdiction responders; and

WHEREAS, because it is foreseeable that a sudden and unexpected event will occur which will exceed the capability of a single local jurisdiction to respond and thus require it to

request mutual aid from the county or other local jurisdictions, the county and all its local jurisdictions have decided to improve their communication capability between and among each other now for the benefit of the citizens of Butler County; and

WHEREAS, providing a single, county-wide interactive communication system , communication equipment, and training in the use of that equipment for the county and those units of local government in the county willing to agree to engage in multi-jurisdictional mutual aid and coordination is necessary, reasonable and prudent;

NOW THEREFORE FOR AND IN CONSIDERATION of the mutual promises and considerations set forth herein, the Commissioners and the joining political subdivision do hereby bargain, promise and agree as follows:

PREAMBLE

At present, public safety and public service entities in Butler County operate on several different radio frequencies and there are areas where no radio reception or transmission is possible. These conditions pose a communication problem and endanger public safety and the safety of public safety service providers when radio communication is lost or when departments on different frequencies respond to an emergency and cannot readily coordinate their efforts.

In order to remedy these shortcomings, the Board of Butler County Commissioners, the Butler County Sheriff, and all Butler County political subdivisions which use radio communication to provide public safety services have joined together to design and build a new countywide 800 megahertz radio communication system to be constructed by the Board of County Commissioners and to be operated by the Butler County Sheriff in cooperation with the Butler County political subdivisions who use that system.

AGREEMENT

This Participation Agreement (hereafter “**Agreement**”) is entered into this __ day of April, 2009, by and between the Board of Butler County Commissioners (hereafter called the “**Commissioners**”) and the City of Oxford, a political subdivision located within Butler County, (hereafter called “**the joining political subdivision**” or “Subscriber”) in order to establish the terms and conditions on which the joining political subdivision shall:

(a) become entitled along with Butler County and all other Butler County political subdivisions who use the Butler County 800 Megahertz Countywide Public Safety Radio Communication System (hereafter collectively called “**all other participating political subdivisions**”) to use the Butler County 800 Megahertz Countywide Public Safety Radio Communication System (hereafter called the “**System**”) to communicate with Butler County and all other participating political subdivisions; and

(b) be provided with an inventory of communication equipment (hereafter called “**Subscriber Equipment**”) including such consoles, consolettes, control stations, base stations, receivers, transmitters, mobile or portable radios, or any other radio frequency interface, which has a unique System identification number, specifically described or identified in Exhibit A attached to and made a part of this Agreement and signed by a Participant, which is compatible with the System and which Butler County has acquired from Motorola through the Motorola Contract; and,

(c) utilize the System, System Equipment and Subscriber Equipment for:

(i) “Local Purposes” (hereafter “Local Purposes”) which means use of the System and Subscriber Equipment for communication purposes only by, among, and between the users of an individual joining political subdivision; and

(ii) Intra-System Purposes (hereafter “IS Purposes”) which means use of the System and Subscriber Equipment for communication purposes by, among, and between two or more joining political subdivisions who use the System and Subscriber Equipment within Butler County according to mutually-established protocols ; and

(iii) Extra-System Purposes (hereafter “ET Purposes”) which means use of the System for communication purposes by and between one or more joining political subdivisions within Butler County and one or more communication networks outside Butler County including a network which is not a part of the System.

(d) lease, own, maintain, insure, repair, sell, trade, replace, upgrade, improve, remove, and return Subscriber Equipment; and

(e) add or remove features or functionality to the System and Subscriber Equipment;

Article I: Construction, Maintenance, and Operation of the System by the County

1. The System shall include and consist of, but is not necessarily limited to, the radio communication network which makes communication using the Subscriber Equipment possible including: (a) the various towers, antennas, microwave dishes and the equipment necessary to send, receive, monitor, control, and communicate with the remainder of the System including the emergency power generators and their fuel; (b) the Master Site and the equipment necessary for it to be able to send, receive, monitor, control, and communicate with the remainder of the System; and (c) the 800 megahertz radio band frequencies that are used by the System regardless of which political subdivision holds the actual FCC license, (which shall hereafter collectively be called the “Network Equipment.”).

2. The County shall cause the System to be engineered, designed, constructed and installed in accordance with: (i) the terms and conditions of the Motorola Contract, (ii) applicable FCC and FAA Regulations, and (iii) and the laws and regulations of other units of state and federal government to the extent applicable.
3. The System will provide mobile service (as such term is defined in FCC Regulations) coverage, including coverage through the use of hand carried transmitters as provided in the Motorola Contract. The System and the Subscriber Equipment provided shall meet the following criteria:
 - (a) Be fully APCO Project 25 compliant, fully compliant with the System, and capable of transmitting and processing signals to, from and over the System;
 - (b) Provide instantaneous Interoperability with all Radio Equipment and individual independent/subsystems of the Parties and Local Entities at the network level, radio level and dispatch level;
 - (c) The network architecture of the System is scalable and expandable to meet future needs and system loading;
 - (d) Employs the technology of Trunked Radio Systems; and
 - (e) Enable voice communications but not data transfer.
4. The County will cause the System to be completed and fully operational by April 30, 2009 (the "Completion Date").
5. With respect to the initial completion and placing of the System in full operation, and except as otherwise agreed in writing, the County shall be responsible for paying any and all cost and expenses incident to or necessary for:
 - (a) engineering, designing, constructing, installing and operating the System as defined in Article II, Section 1 of this Agreement and the Master Site.
 - (b) constructing, installing and operating the fiber optic connection between the public safety answering points and the System using the county's fiber optic backbone.
 - (c) providing each joining political subdivision its initial allocation of Subscriber Equipment.
 - (d) enabling each joining political subdivision's Subscriber Equipment to be capable of communicating over and using the System.
6. After the System is constructed and placed in operation and for so long as it shall remain in operation, except as otherwise expressly provided in this Agreement, no part of the cost of operating or maintaining the System or the Network Equipment (as initially provided and constructed by Motorola) shall be passed through, directly or indirectly, to any joining political subdivision, but such costs shall be paid by the Commissioners.

Article II: Agreement to Participate in the System

1. In consideration for Butler County building and making communication on the System possible as well as providing the joining political subdivision with Subscriber Equipment including Talk Group templates and improved communication features and functionality, the joining political subdivision (as defined above) agrees to participate in and use of the System in accordance with the terms of this Agreement, both as this Agreement now provides and as it may be amended and supplemented by mutual agreement from time to time.
2. Each joining political subdivision's participation in the use of the System shall be for an indefinite term. Participation in and use of the System is voluntary. Such participation shall continue indefinitely at the mutual will of the Commissioners and the joining political subdivision so long as the System is operational. This Agreement may be terminated, with or without cause, at the will of the Commissioners or the joining political subdivision. However, if a joining political subdivision or its officials, officers, agents, employees or contractors commit, permit, allow or tolerate a material and continuing violation of the terms of this Agreement, the rules or bylaws adopted for the System, or the System's FCC licenses, and the violation has an adverse impact on other joining political subdivision's use and enjoyment of the System, the violating joining political subdivision's right to use the System and its System Equipment, or the particular individual user guilty of the violation may be involuntary terminated, limited, removed, suspended, altered, or materially curtailed until the violation is cured. Upon the occurrence of the initial violation, the joining political subdivision and any individual user(s) believed to be responsible for the infraction will be informed of the infraction in writing by the Sheriff and instructed to cease and desist their misconduct. Thereafter, should that violation reoccur, the Sheriff shall have the right, dependent upon the nature, extent, frequency and severity of the violation, to take action, reasonable under the circumstances, to involuntarily terminate, limit, remove, suspend, alter, or materially curtail use of a particular user's Subscriber Equipment or the System to prevent repetition of the violation.
3. This Agreement may be terminated, in whole or in part, and the Network Equipment may cease being operated, in whole or in part, irrespective of the desire or willingness of one or more joining political subdivisions to continue it if, in the opinion of the Commissioners, the Network Equipment is obsolete; if continued operation of the System is no longer cost-effective; if the Network Equipment becomes substantially non-operational, incapable of operation, or irreparable due to casualty, deterioration, signal loss, interference, or degradation, or age; if the System's maintenance or repair is no longer possible at a reasonable cost; or if a decision is made by the Commissioners to abandon, mothball, or cease use of the Network Equipment, for a temporary or permanent period. Realizing the importance of the System to each joining political subdivision, the

parties agree that abandonment of all or part of the Network Equipment will not lightly be considered or implemented. Therefore, should the Commissioners tentatively conclude this Agreement should be terminated because the Network Equipment can or should no longer be operated, they will provide all participating political subdivisions with at least thirty-six (36) months written notice of their intention to terminate this Agreement and cease operating the Network Equipment in the future. The Commissioners agree not to terminate operation of the Network Equipment unless and until all participating political subdivisions are first given at least one hundred and eighty (180) days written notice by mail from the Commissioners of the possibility of such a termination decision. Upon sending such a written notice, the Commissioners agree to conduct a public hearing in order to hear and consider any and all information and recommendations of the participating political subdivisions and their representatives both in favor of such a decision, in opposition to such a decision, and also with respect to the establishment of a new or alternate system of communication to replace the Network Equipment, which may or may not involve all or part of the existing Network Equipment.

4. Unless otherwise agreed in writing, by signing this Participation Agreement, neither the Commissioners, nor any joining political subdivision's legislative authority, nor all participating political subdivisions collectively, shall be deemed to have committed themselves to make a temporary or permanent, revocable or irrevocable, or irreversible commitment of such joining political subdivision's finances, equipment, manpower or resources to the System or to each other.
5. Unless otherwise agreed in writing, by signing this Participation Agreement neither the Commissioners, nor any joining political subdivision, nor all participating political subdivisions collectively, shall be deemed to have agreed to make a specific annual minimum contribution of time, materials, manpower, or an appropriation of public funds for the purchase, construction, reconstruction, use, operation, expansion, contraction, repair, maintenance, rehabilitation, or improvement of the System or Subscriber Equipment for any particular term.
6. In accordance with and for so long as Section 307.63 of the Revised Code so provides, the Commissioners shall be responsible for administration and maintenance of the Network Equipment. Should Section 307.63 of the Revised Code be amended upon either point, this Agreement shall, likewise, be amended by operation of law to reflect the language of the statutory amendment. Unless otherwise agreed in writing, and in accordance with Revised Code 307.01, the Commissioners shall own and hold all legal right and title to the Network Equipment. Each joining political subdivision shall have the right to use its Subscriber Equipment on the Network Equipment in accordance with this agreement, as it may be amended and supplemented from time to time. If so agreed in writing, a joining political subdivision may, and in a manner allowed by law, acquire title to some or all of its Subscriber Equipment from the Commissioners. Regardless of the holder of title to its Subscriber Equipment and except to the extent covered by the three (3) year Motorola Maintenance Agreement which comes with the System, upon

being delivered possession of its Subscriber Equipment, each joining political subdivision shall immediately become financially and otherwise responsible in all respects for the future maintenance, repair and replacement of that Equipment without future financial commitment or obligation on the part of the Commissioners. Moreover, upon receiving its Subscriber Equipment, each joining political subdivision shall immediately arrange through its own insurance provider to insure its Subscriber Equipment in order to provide a replacement for it in case it should be destroyed or damaged due to accident, casualty, destruction or damage in the line of duty, or any other extraordinary cause excluding ordinary wear and tear. The Commissioners shall be under no obligation to surrender possession of any Subscriber Equipment to any joining political subdivision absent the Commissioners being satisfied that joining political subdivision has assumed financial responsibility for its Subscriber Equipment's insurance, maintenance, repair, and replacement.

7. In accordance with and for so long as Section 307.63 of the Revised Code so provides, and unless and until the Butler County Sheriff (hereafter "Sheriff") should elect otherwise, the Sheriff shall operate the Network Equipment. Should Section 307.63 of the Revised Code be amended upon this point, this Agreement shall, likewise, by operation of law be amended to reflect the language of the statutory amendment.

Article III. Subscriber Equipment and Joining Political Subdivision Equipment

1. Upon executing this Agreement and agreeing to its terms, and once the System becomes operational, each joining political subdivision shall be provided its initial allocation of Subscriber Equipment as identified in an Exhibit A attached hereto and each of Subscriber's mobile radios, as identified in Exhibit A, will be installed in the appropriate vehicle, all at County expense. Upon delivery, each joining political subdivision's Subscriber Equipment shall be ready for initial Local Purpose and IS Purpose use by Subscriber employing templates made ready for its use by Motorola.
2. In accordance with its obligation under its Countywide Emergency Management Agreement, each joining political subdivision promises that, if called upon for assistance by the County or another joining political subdivision, it will provide such public safety manpower, equipment, or other form of mutual aid resources as it is able, when it is able, and for so long as it is able.
3. As additional consideration for its receipt of the Subscriber Equipment set forth in Exhibit A, each joining political subdivision promises and agrees: (a) to use the Network Equipment and Subscriber Equipment for Local Purpose, IS Purposes and potential ET Purposes according to the terms of this Agreement; (b) to use any Subscriber Equipment, regardless of whether it was acquired by the Commissioners or such joining political subdivision in accordance with this Agreement as well as any rules for System use adopted under the authority of this Agreement; and (c) to surrender such joining political

subdivision's owned (not leased) surplus radio communication equipment as is: (a) no longer needed, or (b) is currently incapable of operation on the System's Network Equipment. It being the intention of Butler County to reprogram and reuse compatible radios as spares, when a joining political subdivision has older but identical Motorola equipment to the Subscriber Equipment being provided by Butler County, it will exchange that identical equipment for the new Subscriber Equipment on a one for one basis.

4. The initial allocation of Subscriber Equipment provided to Subscriber as set forth in Exhibit A may, but need not necessarily in all cases, include communication consoles and associated equipment for such console's use. Communication consoles, regardless of their financial source of origin, shall always and under all circumstances be considered Subscriber Equipment, not Network Equipment.
5. Unless otherwise agreed in writing, the initial inventory of Subscriber Equipment provided to Subscriber as described in Exhibit A is and shall remain the property of the Commissioners. Unless otherwise agreed in writing, the initial inventory of Subscriber Equipment shall be made available to the joining political subdivision for so long as it: (a) uses the System in accordance with the terms of this Agreement, (b) is compatible with and capable of sending and receiving signals from the Network Equipment; and (c) the joining political subdivision does not withdraw from participation in the System. Although the Commissioners have no duty at any time during the remaining life of this Agreement to provide any joining political subdivision with any new, used, upgraded, refurbished, replacement, or additional Subscriber Equipment beyond that set forth in Exhibit A, unless otherwise agreed in writing, any additional or replacement Subscriber Equipment which is provided to Subscriber by the Commissioners at county expense in addition to or in replacement of the initial inventory of Subscriber Equipment shall also be considered Subscriber Equipment belonging to the Commissioners.
6. In addition to the initial inventory of Subscriber Equipment provided by the Commissioners as described in Exhibit A and provided it is compatible with the System, each joining political subdivision shall retain the right, at its own expense, throughout the term of this Agreement to acquire and use what would otherwise be termed System Equipment (if provided by the County) on the System. This equipment shall be known as a "Joining Political Subdivision's Equipment." Unless otherwise agreed in writing, a Joining Political Subdivision's Equipment shall remain the exclusive property of such joining political subdivision and thus, for this purpose, not be considered Subscriber Equipment. Accordingly, the cost of making a Joining Political Subdivision's Equipment compatible with and ready for use on the System shall be borne by the joining political subdivision. Likewise, the County shall not be responsible for the repair, maintenance, or refurbishment of a Joining Political Subdivision's Equipment. Finally, a joining political subdivision shall be solely responsible at its own expense for securing and maintaining in effect during the term of this Agreement insurance against the destruction, casualty, loss, theft and all forms of damage to or destruction of such Joining Political Subdivision's

Equipment.

7. A Joining Political Subdivision's Equipment shall not be used or operated on the System unless and until it has first been approved for use on the Network Equipment by the Sheriff. The test for approval for use on the System shall be as follows: A Joining Political Subdivision's Equipment may be used on the System if it is: (a) compatible with the System, (b) properly programmed for use on the System, and (c) does not create any interference with the operation of the System. As Operator of the System, the Sheriff alone is charged with determining, in the exercise of sound and reasonable discretion, whether a piece of a Joining Political Subdivision's Equipment has been properly programmed and is capable of functioning on the System without interference. However, Subscriber Equipment purchased by the Commissioners shall automatically be deemed approved and suitable for use on the System. Since the total number radios in use on the System may cause delay in securing a communication channel, the total number of radios in use on the System and the number, frequency and length of delays then being encountered in receiving a clear channel may be considered by the Sheriff in deciding whether a Joining Political Subdivision's Equipment should be permitted to be used on the System. However, once the Sheriff determines any Joining Political Subdivision's Equipment will not be allowed on the System due to current communication channel delays, neither the County nor any other joining political subdivision shall be permitted to add new equipment to the System until the channel delay issue is resolved, at which time each Joining Political Subdivision's Equipment in the quantity sought in the denied application to be used on the System shall be allowed access to the System in order of each Joining Political Subdivision's application to be allowed to use its equipment on the System until the System once more experiences unacceptable channel overcrowding.
8. Over time, and once the initial manufacturer's warranty has expired, it is anticipated that the initial Subscriber Equipment set forth in Exhibit A will require maintenance, repair, or refurbishment at the joining political subdivision's expense. It is anticipated that such activity may cause the introduction of new components such that it is no longer possible to separate the original Subscriber Equipment from components which have subsequently been installed. If Subscriber Equipment has been subjected to repair, replacement, or refurbishment by a joining political subdivision at such subdivision's exclusive expense and that expense has not been reimbursed by the County such that the original Subscriber Equipment is no longer separable from the repaired or refurbished Subscriber Equipment without damage to the equipment or loss of its functionality (not including a loss or replacement of battery power), then such Subscriber Equipment shall cease to be Subscriber Equipment and shall instead be considered to be the separate property of the joining political subdivision. This process shall be termed ("Transmutation") At such point as the County recognizes a piece of Subscriber Equipment has undergone transmutation and gives notice of that status to a joining political subdivision, the Subscriber Equipment shall no longer be deemed to be the property of the County, but it shall instead be deemed the property of the joining political subdivision. The County shall promptly provide each joining political subdivision with written notice of any

transmutation of its Subscriber Equipment.

9. A Joining Political Subdivision's Equipment is also subject to Transmutation if it has been repaired, replaced, or rehabilitated at County expense and reached a condition similar to that set forth above. Using the same standard as the County applies to transmutation of Subscriber Equipment to a joining political subdivision, a Joining Political Subdivision's Equipment repaired at County expense, shall be deemed to have undergone Transmutation and shall thereafter be considered Subscriber Equipment and be returned to the Commissioners upon cessation of participation.
10. Network Equipment is not subject to transmutation.
11. Throughout this Agreement where a provision references Subscriber Equipment and concerns a matter of System operation or use of the System for communication, provisions of this Agreement referencing Subscriber Equipment shall be deemed to be equally applicable to a Joining Political Subdivision's Equipment in order to prevent different rules from being implied to exist for the use of Subscriber Equipment and a Joining Political Subdivision's Equipment in the use of the System's communication capability.

Article IV. Use of the System For Communication

1. Use of the Network Equipment, Subscriber Equipment, and a Joining Political Subdivision's Equipment shall occur in accordance with the terms of this Agreement, including any rules and protocols developed under and in accordance with the terms of this Agreement for Local Purposes, IS Purposes or ET Purposes.
2. The Sheriff has elected to exercise the authority granted to county sheriffs in Section 307.63 of the Ohio Revised Code to operate the System. Therefore, the Sheriff shall be responsible for the hiring and supervision of employees necessary to operate the System consistent with this Agreement and the rules and protocols established under authority of this Agreement. As used in this Participation Agreement, operation of the system means use of its Network Equipment capabilities as a whole, interactive and unified system of communication. However, this paragraph should not be construed to grant the Sheriff any power or authority to use the System's operation or Network Equipment to influence local methods of conducting police, fire or EMS Local Purpose public safety operations.
3. Unless otherwise agreed in writing, any joining political subdivision which is operating a public safety answering point ("PSAP") or a dispatch center at the initiation of the System's operation shall be entitled to continue to do so unless it decides to discontinue its PSAP or dispatch center. Unless otherwise agreed in writing by the Commissioners, however, no new PSAP or dispatch center will be added to the System or provided Subscriber Equipment in order to do so at County expense.

4. A Butler County Public Safety Communications System Advisory Board (hereafter "Advisory Board"), was created by the Commissioners in Resolutions 05-05-981 and its composition has been supplemented by Resolutions 7-08-1388 and 07-08-1549. These Resolutions and any attachments to them are attached to this Agreement and made a part of it as Exhibit D. As an exercise of their authority under R.C. 307.63 to establish "policies or rules for the administration, operation and maintenance of the system," the Commissioners shall determine the composition of the Advisory Board by resolution, and they may alter the composition of the Advisory Board from time to time as they deem necessary. Future amendments to these resolutions on the composition of the Advisory Board shall be treated as a part of this Agreement as if they were fully rewritten here.
5. The Advisory Board shall: (a) make recommendations to the Sheriff concerning the operation of the System, the Network Equipment, and Subscriber Equipment for Local Purposes, IS Purposes and potential ET Purposes; (b) act as a liaison between the Sheriff and all participating political subdivisions which use the Network Equipment; and (c) adopt rules for use of the System for IS Purposes and potential ET Purposes. All Network Equipment System Management functions shall be performed by the Sheriff consistent with recommendations of the Advisory Board and this Agreement. System Management functions include the following responsibilities:
 - (a) Assignment of Radios' use priorities;
 - (b) Management of Talkgroups to assure appropriate use of the System;
 - (c) Enforcement of System Rules, Procedures and Protocols to be established pursuant to this Agreement;
 - (d) Generate, from time to time as the Sheriff deems necessary, and use statistical data and reports concerning the System Parties' or Local Entities' Talkgroups, call durations, call types, busy signals, and other data analyses and reports; and
 - (e) Maintain Grade of Service (roaming) and the Motorola Guaranteed Service Level;
 - (f) All other services and functions provided elsewhere in this Agreement.
 - (g) Maintaining System minimum standards which meet or exceed APCO 25 standards;

As of the execution of this Participation Agreement, the Advisory Board has not yet adopted any rules for use of the System for IS Purposes and potential ET Purposes. If and when such rules are adopted by the Advisory Board, those rules shall be distributed to all joining political subdivisions and be considered incorporated into and made a part of this Agreement as if they were fully rewritten here and be identified as Exhibit E.

6. The Advisory Board shall determine the number of talk groups and identify the specific talk group(s) that each joining political subdivision's police, fire, and emergency medical services and any other authorized Subscriber Equipment users shall be awarded exclusively for its own Local Purposes, and all participating political subdivisions agree

to abide by that determination.

7. The Advisory Board shall identify and recommend to the Sheriff the specific talk groups available to all participating political subdivisions for police, fire, and emergency medical service and any other Subscriber Equipment users for IS Purposes and potential ET Purposes, and all participating political subdivisions agree to abide by the Sheriff's determination for System IS Purposes and potential ET Purposes.
8. The Advisory Board shall develop and recommend to the Sheriff for implementation the standards and criteria necessary to be granted access to a specific IS Purpose or ET Purpose talk group. It shall also develop and recommend to the Sheriff the standards and criteria necessary to terminate such use. All participating political subdivisions agree to abide by such standards and criteria in their use of the System and to educate their users of Subscriber Equipment and Joining Political Subdivision Equipment about them, and to enforce their user's adherence to the standards and criteria using disciplinary action if necessary.
9. The Advisory Board shall develop and recommend to the Sheriff for implementation the procedure by which and the person(s) with authority to permit use of an IS Purpose or ET Purpose Talk group for IS Purposes or ET Purposes. It shall also develop and recommend to the Sheriff the standards and criteria necessary to terminate such use. All participating political subdivisions agree to abide by such procedures, standards and criteria in their use of the System and to educate their users of Subscriber Equipment about such procedures, and to enforce their user's adherence to the standards and criteria using disciplinary action if necessary.
10. For purposes of simplifying System use, decreasing the use of unique and unfamiliar local jargon and codes, and in the interest of increasing user understanding of IS Purpose communications and ET Purpose communications by all participating political subdivisions, the Advisory Board may create System-wide police, fire and emergency medical services protocols, terminology, codes, and identifiers. All participating political subdivisions agree to abide by such determination protocols, terminology, codes, and identifiers in their use of the System for IS Purpose communications and ET Purpose communications and to educate their users of Subscriber Equipment about them. Repeated and unjustified violations of System rules, guidelines, procedures, protocols or violation of this Agreement or FCC laws or regulations may result in a joining political subdivision's curtailment, suspension or termination from System use or feature access. In order to protect the integrity, security, safety, functionality and efficient operation of the System for all participating political subdivisions, the County and all participating political subdivisions agree to take corrective action, appropriate and reasonable in light of the severity of the violation and its impact on the System, against any of its employees who violate System standards, rules, protocols, terminology, codes, or identifiers.
11. Each joining political subdivision retains the right to adopt and utilize its own protocols,

terminology, codes, and identifiers for its Local Purpose use of its Subscriber Equipment and Joining Political Subdivision Equipment on the System provided that such protocols, terminology, codes, and identifiers do not conflict with the rules for the use of the System and Subscriber Equipment for IS Purposes and potential ET Purposes. Protocols, terminology, codes, and identifiers for Local Purpose use shall be developed and designed to facilitate the efficient use and operation of the Network Equipment and the Subscriber Equipment, including subsequently acquired radios and related communications equipment. Repeated and unjustified violations of System rules, guidelines, procedures, protocols or violation of this Agreement or FCC laws or regulations may result in a joining political subdivisions curtailment, suspension or termination from System use or feature access. In order to protect the integrity, security, safety, functionality and efficient operation of the System for all participating political subdivisions, the County and all participating political subdivisions agree to take corrective action against any of its employees who violate System standards, rules, protocols, terminology, codes, or identifiers.

12. Rules, protocols, terminology, codes, and identifiers adopted by the Advisory Board or the Sheriff for the use of the System , Subscriber Equipment and Joining Political Subdivision Equipment for IS Purposes and potential ET Purposes shall not interfere nor conflict with the rules, protocols, terminology, codes, and identifiers for Local Purpose use of the Network Equipment and Subscriber Equipment any more than is necessary for the safe, orderly, understandable, and reliable use of the Network Equipment, Subscriber Equipment and Joining Political Subdivision's Equipment. To the extent feasible, common terminology shall be retained. Protocols, terminology, codes, and identifiers for IS Purposes and potential ET Purposes shall be developed and designed to facilitate the efficient use and operation of the Network Equipment and the Subscriber Equipment and Joining Political Subdivision's Equipment. Repeated and unjustified violations of System rules, guidelines, procedures, protocols or violation of this Agreement or FCC laws or regulations may result in a joining political subdivisions curtailment, suspension or termination from System use or feature access. In order to protect the integrity, security, safety, and efficient operation of the System for all participating political subdivisions, the County and each joining political subdivision agree to take corrective action against any of its employees who violate System standards, rules, protocols, terminology, codes, or identifiers.
13. The making and amendment of substantive rules, protocols, terminology, codes, and identifiers adopted by the Advisory Board for the use of the System and Subscriber Equipment for IS Purposes and potential ET Purposes are not terms and conditions of employment and will not be made subject to public employee collective bargaining between a joining political subdivision and its employees.
14. All use of the System , Subscriber Equipment, and Joining Political Subdivision's Equipment by all participating political subdivisions shall at all times comply with FCC regulations, the System's licenses, and other controlling state and federal laws and

regulations. Except as otherwise agreed in writing by the Commissioners, except for radio frequencies which do not belong to the Commissioners, and except for a Joining Political Subdivision's Equipment (for which the Commissioners do not assume responsibility), the Commissioners shall be responsible for taking action, from time to time, in order to meet the changing requirements of FCC and FAA Regulations impacting the System.

15. Access to the System for Subscriber Equipment for non-police, fire and emergency medical services (hereafter "non-public safety") purposes will be granted and continued on terms and conditions established by the Sheriff upon the recommendation of the Advisory Board which must be consistent with Article IX of this Agreement. Except in the case of an actual and existing emergency, such non-public safety use shall remain subordinate to a public safety use. However, in times of actual and existing community-wide emergency or disaster, non -public safety use of the system in the area of the community-wide emergency or disaster to promote public, health and safety may be temporarily altered to provide non-public safety in the area of the emergency or disaster with a higher priority access to the System in order to meet the needs of such an emergency. Likewise, when the System encounters heavy channel usage, the Sheriff shall notify all users of the System of heavy radio channel volume or community-wide emergency within the county, and request all joining political subdivisions to reduce radio communication usage as much as possible to resolve the overload.
16. The System shall operate on a 24/7/365 basis. The members of the Sheriff's staff responsible for the System shall provide the joining political subdivisions with emergency or planned activation or special event Talkgroups. Additionally, members of the Sheriff's staff responsible for the System shall, upon request, provide Radio checks for unresponsive Radios, inhibit lost or stolen Radios, and provide communications troubleshooting.
17. Anyone who detects possible Network Equipment or Subscriber Equipment malfunction or radio communication coverage loss shall contact the members of the Sheriff's staff responsible for the Network Equipment for an evaluation of the problem. The Sheriff's Staff will investigate and take corrective action immediately to restore the System's level of service to that which existed before the malfunction or coverage loss was discovered and to alleviate any coverage loss or network infrastructure malfunction discovered, and shall promptly alert all participating political subdivisions of any System or Network Equipment problem discovered and the corrective action taken, or needed to be taken, to overcome the problem. System or Network Equipment problems which require temporary or permanent alteration or reduction of radio coverage or System capabilities shall, except in the event of an emergency declared by the Sheriff, not be implemented without at least twenty-four hours notice to all participating political subdivisions.
18. If the Sheriff or any joining political subdivision detects its own or any other joining political subdivision's Subscriber Equipment or Joining Political Subdivision's

Equipment is malfunctioning or causing interference, the detecting party shall notify the Sheriff's radio staff, who shall notify the joining political subdivision using the problematic Subscriber Equipment or Joining Political Subdivision Equipment in writing of the malfunction, identify the malfunction if possible, and instruct that user to remedy the malfunction. Each joining political subdivision agrees that, upon being notified by the Sheriff of its use of malfunctioning or interfering Subscriber Equipment, it will immediately remove the equipment from use and cause such equipment to be repaired so as to eliminate any interference with or degradation of radio communications over the System or any part thereof. If the joining political subdivision fails or refuses within a reasonable period of time to cause the malfunctioning Subscriber Equipment or Joining Political Subdivision Equipment to be removed from service and repaired so as to eliminate any interference with or degradation of radio communications over the System or any part thereof, then the Sheriff shall have the right and duty to disable or inhibit the malfunctioning Subscriber Equipment from the System.

19. When Motorola deems the System completed and operational, the Commissioners will cause Motorola, pursuant to the terms of the Motorola Contract, to place the System and Subscriber Equipment, including the Master Site, through a rigorous quality assurance process to make sure all components are installed and configured properly and operating up to the representations and specifications set forth in the Motorola Contract and as represented and/or warranted by Motorola. After the System is accepted by the County and is working as engineered and designed, the Sheriff and Commissioners shall undertake their respective responsibilities as defined in R.C. 307.63.
20. No joining political subdivision shall permit any person to use System or Subscriber Equipment, or a Joining Political Subdivision's Equipment until the person has received and completed approved Motorola and joining political subdivision user training. Failure to comply with this provision shall be grounds for enforcement action to be taken against the violating political subdivision including, but not limited to, inhibiting the radio of an inadequately trained person and/or refusing to add an additional radio(s) access to the System for inadequately trained personnel.
21. Except as otherwise agreed in writing, the County will pay any and all necessary and incidental operating cost of the Network Equipment, including maintenance.
22. So long as this Agreement remains in effect, the County shall, at its own expense, provide and keep in force general public liability and casualty property insurance with the County Risk Sharing Authority ("CORS") or other commercial insurance provider authorized to business in Ohio insures against any liability for injury or death to persons and/or damage to property resulting or arising from, the operation of the System infrastructure including, without limitation, the prime site, towers and all equipment associated with the towers, as well as any equipment which remains exclusively within the County's possession or control on a County owned or rented premises. The County need not, however, insure Subscriber Radio Equipment regardless of location. The County shall determine the

limits and deductibles for such insurance. Such insurance shall name all joining political subdivisions and all participating political subdivisions as an additional insured.

23. So long as this Agreement remains in effect, the County shall, at its own expense, provide and keep in force general public liability and casualty property insurance with the County Risk Sharing Authority ("CORSAs") or other commercial insurance provider authorized to business in Ohio insures against all physical loss including without limitation by fire, windstorm, explosion, flood and earthquake and with all-risk coverage and against all such other risks as are insured against by other public safety entities with respect to property of a similar character in an amount to be determined by the County in consultation with its insurance provider.

Article V. Insuring, Maintaining, Repairing, Replacing, Upgrading, Improving, Removing, and Returning Subscriber Equipment;

1. Except as otherwise agreed in writing, each joining political subdivision shall be responsible for maintenance, repair, replacement, reprogramming, upgrading, improving, insuring, adding or removing features or functionality, removing from service, and returning to service the Subscriber Equipment set forth in Exhibit A belonging to the Commissioners as well as its own Joining Political Subdivision's Equipment. Throughout the term of this Agreement, the Commissioners may, in the exercise of good faith judgment, determine Subscriber Equipment belonging to the Commissioners is no longer capable of maintenance, repair, replacement, reprogramming, upgrading, or improving at a reasonable cost, and in such an event they remove it from service and need not replace it. The Commissioners have no responsibility to maintain, repair, replace, reprogram, upgrade, improve, add or remove features or functionality to, remove from or return to service any Joining Political Subdivision's Equipment or Subscriber Equipment which belongs to a joining political subdivision. However, the Commissioners are under no obligation to, but shall have the discretion to decide whether to, upgrade, improve, add or remove features or functionality to Subscriber Equipment and the Network Equipment.
2. Except as otherwise agreed in writing with the Commissioners, Subscriber Equipment provided by the Commissioners which suffers misuse, damage or destruction while in the possession of a joining political subdivision shall be repaired or, if not repairable, replaced by joining political subdivision at such subdivision's expense and the replacement equipment shall be considered Subscriber Equipment and not a Joining Political Subdivision's Equipment.
3. Unless otherwise agreed in writing by the Commissioners, any Exhibit A Subscriber Equipment whose legal title remains in the Commissioners but whose possession has been entrusted to a joining political subdivision shall be maintained by the joining

political subdivision at its expense until it is no longer serviceable, at which time it will immediately be replaced by the joining political subdivision.

4. The Commissioners are not obligated to replace any Subscriber Equipment provided to any joining political subdivision. The Commissioners are not obligated to repair or replace any Joining Political Subdivision's Equipment.
5. The Commissioners, Sheriff, and Advisory Board shall cooperate to ensure that the Network Equipment's automated performance standards and diagnostics remain fully functional and operational on a 24/7/365 basis.
6. The Commissioners shall provide complete monitoring, inspection, and maintenance programs or processes for all Network Equipment that meet or exceed manufacturers' recommendations and FCC and FAA Regulations. The Commissioners shall develop and carry out a preventative maintenance plan and procedure for all Network Equipment and, in that regard, the Commissioners shall ensure that the Network Equipment shall remain in as good an operating condition as on the Completion Date (normal wear and tear and subsequent obstructive private construction activity excepted) and (subject to testing and modifications deemed necessary or appropriate by the Commissioners in good faith) capable of operating at design standards and capacity and in compliance with all applicable federal laws and regulations.
7. The Sheriff and Commissioners in cooperation with the Advisory Board shall develop and maintain an emergency management plan for the System, including without limitation the Network Equipment, that provides for an alternate source of electrical power for uninterrupted service, separate computer resources, and necessary back-up equipment.
8. The Sheriff and the Commissioners warrant and represent to the joining political subdivisions and will secure similar warranties from any contractor undertaking any modification, addition, or integration to the System that any modification, addition, or integration to the System will be compatible and perform individually and as an integrated system in accordance with or improve upon the specifications and representations stated in the Motorola Contract and not degrade the performance of the existing System.
9. Pursuant to the terms and conditions of the Motorola Contract, Motorola is providing (i) a warranty on the functionality of the System, (ii) a three (3) year warranty on Subscriber Equipment, and (iii) a one (1) year warranty on computers. During the applicable Warranty Periods and any extensions thereof, the Commissioners will diligently manage and promptly enforce all warranty related obligations and claims made by or on behalf of the Sheriff and each joining political subdivision with respect to the Network Equipment, the Subscriber Equipment and computers, as applicable. The County has the obligation to resolve all warranty claims respecting Subscriber Equipment to the reasonable

satisfaction of the Sheriff or the joining political subdivision making the claim or alleging a breach of warranty, without any charge or expense being made against such joining political subdivision. In the event the Sheriff or Commissioners cannot resolve any warranty dispute or claim made to either of them by any joining political subdivision respecting Subscriber Equipment, the Commissioners hereby constitute such joining political subdivision as the agent and attorney-in-fact of the Commissioners for the purpose of exercising and enforcing, and with full right, power and authority to exercise and to enforce, all of the right, title and interest of the Commissioners in, under and to the warranties and obligations of Motorola under the Motorola Contract or the warranties and obligations of any other supplier of goods and services in respect of the System, Subscriber Equipment and/or computers. The Commissioners further agree to execute and deliver such further instruments as may be necessary to enable such joining political subdivision to obtain goods or services furnished for the System, the Subscriber Equipment and computers by Motorola or other suppliers at its own expense. The Sheriff will be the primary point of contact for all warranty and maintenance issues during the Warranty Period. After the expiration of the applicable Warranty Period(s) and any extension(s) thereof, the Sheriff will also receive a maintenance call or an alarm on the System and the County will have primary maintenance and repair responsibility and will promptly dispatch appropriate technicians, agents or service providers accordingly.

10. Each joining political subdivision shall insure its Subscriber Equipment against all physical loss, damage or destruction in an amount sufficient to allow such subdivision to repair or replace such Subscriber Equipment should it be lost, stolen, damaged in use, or damaged while out of use for any reason.
11. Throughout the term of this Agreement, at County's expense, the county shall provide and keep in force general public liability and casualty/property insurance with the County Risk Sharing Authority ("CORS") or other commercial insurance provider authorized to conduct business in Ohio and which insurance policies name the joining political subdivisions and all participating political subdivisions as an additional insured and insures against any liability for injury or death to persons and/or damage to property resulting or arising from, the operation of the System infrastructure, including, without limitation, the Network Master Site, towers and all equipment associated with the towers, as well as any equipment which remains exclusively within the County's possession or control on a County owned or rented premises. The County need not, however, insure Subscriber Equipment, Subscriber Replacement Equipment or Joining Political Subdivision Equipment which is located on the premises of a Subscriber which has executed this Agreement. The County policies shall be written with limits of liability determined by the Commissioners. The County hereby releases the joining political subdivisions (and their respective departments, employees, agents, representatives, officials and elected officials) from all liability in connection with losses covered by County's insurance. The County agrees that each of the County's insurance policies will include a provision giving effect to the foregoing.

12. County shall keep the System infrastructure, including, without limitation, the Network Master Site, towers and all equipment associated with the towers, as well as any equipment which remains exclusively within the County's possession or control on a County-owned or rented premises insured against all physical loss caused by or resulting from, including without limitation, fire, windstorm, explosion, flood and earthquake. Such policy of insurance shall be an "all-risk" coverage and insure against all such other risks as are insured against by other public safety entities with respect to property of a similar character in an amount not less than the replacement cost of the System and all equipment and facilities comprising the System. Additionally, such insurance shall (i) cover all materials, equipment, tools and supplies stored on the construction site and to become part of the System and inventory, (ii) cover all portions of the System while in transit, (iii) include coverage against loss caused by explosion and breakdown, and (iv) waive any condition requiring that the System be in use or ready for any use.

Article VI. Adding or Removing Features or Functionality to the System and Subscriber Equipment;

1. Except as otherwise provided in this Agreement, and provided it is not necessary to make any addition to, deletion from, modification to, or alteration of any portion of the Network Equipment or any Subscriber Equipment which is not a part of the joining political subdivision's Subscriber Equipment or its Joining Political Subdivision's Equipment, a joining political subdivision may, at any time and at its own expense, obtain additional communication consoles and/or additional features or functionality for its own Local Purposes.
2. Simply because a joining political subdivision obtains additional Joining Political Subdivision's Equipment, communication consoles, and/or additional features or functionality, does not mean the Commissioners are obligated to purchase, or all participating political subdivisions have the right, at Commissioner expense, to be provided at County expense with like Subscriber Equipment communication consoles, and/or additional features or functionality. There is no guarantee that all participating political subdivisions will have identical radio features, capabilities, or functionality
3. After the initial distribution of Subscriber Equipment provided in Exhibit A, the Commissioners have the right, but not a duty, to obtain and provide for all participating political subdivisions Subscriber Equipment, Subscriber Equipment Upgrades, Motorola Software Upgrades, communications consoles, and/or additional features or functionality.
4. The Commissioners may from time to time, at their discretion and expense, and without first consulting with or securing the approval of any joining political subdivision or the Advisory Board, undertake an upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site, (such as, but not limited to, computer software, hardware, and equipment upgrades, modifications or enhancements to the

System, to the Master Site, or the Network Equipment), which is required to be undertaken by state or federal law or FCC regulations in order to continue to legally operate the System. A legally required upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site shall be deemed an involuntary System change and, consequently, shall not impose any obligation on the Commissioners to first seek joining political subdivision concurrence or to provide financial assistance to any joining political subdivisions to keep its Subscriber Equipment operational on the System. However, the Commissioners, in their discretion, may provide financial or other assistance to one or more joining political subdivisions to assist them in undertaking any modification of Subscriber Equipment or Joining Political Subdivision Equipment to allow it to continue to operate on the System.

5. The Commissioners may from time to time, at their discretion and expense, and without first consulting with or securing the approval of any joining political subdivision or the Advisory Board, undertake an upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site, (such as, but not limited to, computer software, hardware, and equipment upgrades, modifications or enhancements at the Master Site or the Towers), which is required to be undertaken because some or all of the System, Network Equipment, and/or the Master Site's existing equipment, software, hardware, features or functionality will no longer be supported by Motorola. An upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site required to be undertaken because it will no longer be supported by Motorola shall also be deemed an involuntary System change and, consequently, shall not impose any obligation on the Commissioners to first seek approval from the joining political subdivisions or provide financial assistance to any joining political subdivisions to keep its Subscriber Equipment operational on the System. Such an involuntary upgrade, modification, or enhancement to the System need not first be approved by any joining political subdivision or the Advisory Board. However, the Commissioners, in their discretion, may provide financial or other assistance to one or more joining political subdivisions to assist them in undertaking any modification of Subscriber Equipment or Joining Political Subdivision Equipment to allow it to continue to operate on the System.
6. The Commissioners may from time to time have the opportunity to voluntarily undertake an upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site which will not make it necessary for the Subscriber to incur additional Subscriber Equipment or Joining Political Subdivision Equipment expense in order to make it possible for it to be capable of taking advantage of the upgrade, modification, or enhancement. Where this is the case, the Commissioners may proceed with the upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site without first consulting with or obtaining the approval of the Advisory Board or the joining political subdivisions since the upgrade, modification, or enhancement will be brought about at no cost to the joining political subdivisions.
7. The Commissioners may from time to time have the opportunity to voluntarily undertake

an upgrade, modification, or enhancement to the System, Network Equipment, and/or the Master Site which will make it necessary for each Subscriber to incur Subscriber Equipment or Joining Political Subdivision Equipment expense in order to make that equipment capable of taking advantage of the upgrade, modification, or enhancement. Where the failure of any joining political subdivision to incur expense to alter its Subscriber Equipment or Joining Political Subdivision Equipment will cause it to lose System access (as contrasted with being unable to utilize an upgrade, modification or enhancement feature or functionality), then no such upgrade, modification or enhancement shall occur unless a super majority vote (67%) of the Advisory Board shall first approve the upgrade, modification, or enhancement in writing.

8. The Commissioners shall retain the discretion and authority on behalf of the Subscribers to negotiate for and make available new or additional Subscriber Equipment, or new features, functionality or capability for Subscriber Equipment which a joining political subdivision shall have the discretion to purchase or not purchase, and which the Commissioners shall have no duty to provide to any joining political subdivision.

Article VII. Termination or Withdrawal from Participation

1. At any time after the Completion Date, (i) should the System , as a whole, become obsolete or be destroyed or damaged to such an extent that it would be too costly to repair or restore, (ii) should one or more of the events described in Article II, Section 3, of this Agreement occur, or (iii) should more than sixty (60) percent of the joining political subdivisions withdraw from this Agreement, the Commissioners may, without any liability to the joining political subdivisions, terminate this Agreement and cease operation of the System in whole or in part.
2. Should a joining political subdivision, at any time, decide that it no longer wishes to participate in the System, it shall provide the Commissioners and the Sheriff at least thirty (30) days advance written notice of its intention to withdraw from participation in the System. Upon withdrawal from participation in the System, and except as otherwise agreed in writing, the departing political subdivision shall return to the Sheriff, or the Sheriff's designee, its initial inventory of Subscriber Equipment as well as any replacement or additional Subscriber Equipment provided by the Commissioners to the withdrawing subdivision in the same condition as it was delivered to the joining political subdivision except for ordinary wear and tear from use. As for any Subscriber Equipment not returned to the Sheriff upon withdrawal, the withdrawing subdivision shall provide an accounting to the Commissioners for any Subscriber Equipment not returned, and the Commissioners and the withdrawing subdivision shall come to a satisfactory resolution of the non-return.
3. A joining political subdivision may terminate its participation in the System and terminate this Agreement should the County default upon its obligations under this

Agreement. Should a joining political subdivision believe the County has defaulted upon its obligations under this Agreement, it shall provide the County with one hundred and eighty (180) days written notice of its intention to terminate its use of the System and terminate its participation in this Agreement. Within the foregoing period, the County and the notifying subdivision shall consider whether any alleged default has occurred and can be remedied or whether termination shall occur. As a part of this process, a determination on the future possession of the joining political subdivision's Subscriber Equipment after the notice period shall be made by the County Commissioners.

Article VIII. Future Financial Commitment

1. Exhibit B, which is attached hereto and incorporated herein as if fully reprinted here, contains the understanding of the parties with respect to the Commissioners and Subscriber's future financial responsibility with respect to the Network Equipment and Subscriber Equipment.

Article IX. Non-Public Safety Use of the System

1. Except as otherwise agreed in writing, non-public safety use (non-police, non-fire, and non-EMS) of the System is subject to the following terms and conditions.
2. The Sheriff shall approve and maintain a list of radio models ("Approved Radio Model") which will be considered acceptable for operation on the System by non-public safety forces of Participating Political Subdivisions.
3. After having executed a Participation Agreement, each joining political subdivision which wishes to allow its non-public safety forces to use the System will be responsible, at its own expense, for purchasing or leasing, programming, talk group templating, operating, maintaining, repairing, and replacing its own Approved Radio Model(s) which it uses on the System.
4. Non-public safety use is subject to an access charge to be established by agreement between the joining political subdivision and the Board of Butler County Commissioners.
5. If radio traffic congestion on the System reaches a point where the Advisory Board concludes the operation of the System is being degraded to an unacceptable level, the Sheriff shall inform the Board of County Commissioners of the Advisory Board's concern and ask the Commissioners to declare a moratorium on the addition of any new non-public safety radio users until the congestion is relieved.
6. All radio programming and talk group templating of non-public safety user radios is subject to the approval of the Sheriff before radios are used on the System but the Sheriff

will not unreasonably withhold approval.

7. Except under exceptional circumstances, non-public safety radios will be assigned a lower right to radio channel priority than public safety radios.
8. Use of the System by non-public safety employees of a Participating Political Subdivision is subject to the same rules as govern public safety use. Repeated and unjustified violations of FCC rules or regulations, System rules, guidelines, procedures, protocols or violation of this Agreement, may result in the curtailment, suspension or termination from System use or feature access of individual violators or, in extreme cases, larger numbers of radios.

Article X. Public Records Requests

1. Ohio Revised Code 149.011(G) defines a “record” and Ohio Revised Code 149.43(A)(1) defines a “public record”. A “record” is any document, device, or item, regardless of physical form or characteristic created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. A “public record” is a “record” kept by any public office, including, but not limited to, state, county, city, village, township, and school district units.
2. Ohio Revised Code 149.40 provides the head of each public office shall cause to be made only such records as are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and for the protection of the legal and financial rights of the state and persons directly affected by the agency's activities.
3. The Commissioners, as owners of the System, and Sheriff, as operator of the System have determined that the System’s recording capability will not be used to record the Local Purpose talkgroups of any joining political subdivision unless **the Sheriff is** asked to record such a talkgroup by the subdivision using it. Exhibit C attached hereto, indicates the Subscriber talkgroups which it wishes to have the Sheriff record at the prime site.
4. Common talkgroups which are used by multiple political subdivisions and which are not encrypted will be recorded by the System. However, common talkgroup radio traffic which is encrypted will not be recorded.
5. Each joining political subdivision has the right, but not an obligation, at its own expense and using its own equipment to record and keep in a form of its own choosing, free from interference by any other joining political subdivision or the Sheriff, a record of all or any part of its own talkgroups. With the exception of the Sheriff recording talkgroups for

political subdivisions for which the Sheriff serves as dispatcher which have requested System recording, no joining political subdivision will record the encrypted or unencrypted talkgroups of any other joining political subdivision.

6. To the extent each joining political subdivision records its own talkgroups, that subdivision hereby recognizes and agrees that it has a duty to comply in good faith with the Ohio open records law with respect to such records. Any such record made and kept by that joining political subdivision is subject exclusively to that joining political subdivision's records retention schedule.
7. If a joining political subdivision decides to exercise its right at its own expense to record its own Local Purpose talkgroups, that joining political subdivision further agrees with respect to such communication: (a) to adopt uniform rules for the radio communication on the System that it is going to record and keep; (b) to uniformly apply the rules so adopted; (c) to determine for itself the manner and method of recording and keeping that information; (d) to designate a person or office responsible for making records of such radio communication of the System available in response to a records request; (e) to formulate and follow a policy on responding to requests for its radio communication on the System for records it keeps; (f) to have its local records commission adopt a record retention schedule for its records of radio communication on the System; and (g) to abide by the record retention schedule so adopted.
8. In order to have a uniform rule and policy among all participating political subdivisions with respect to requests for public records for radio communication on the System which involves a political subdivision that has elected to exercise its right to record and keep its own radio communication records, every other joining political subdivision agrees to refer persons requesting records to the joining political subdivision's person or office responsible for responding to public records requests when: (a) the requester seeks a different joining political subdivision's Local Purpose communication than the one contacted, or (b) an IS Purpose or ET Purpose communication is being sought and that communication was initiated by a different joining political subdivision initiated.

Article XI. Miscellaneous Provisions

1. This Agreement contains the entire understanding between the Commissioners and the joining political subdivision whose officials have executed it.
2. Each joining political subdivision signing a Participation Agreement acknowledges to Butler County, its Commissioners and Sheriff that neither Butler County, its Commissioners, or its Sheriff, nor any of its agents or employees have made any representations or warranties to such other joining political subdivision that are not expressly set forth in this Agreement. This Agreement and its attachments along with rules, regulations, protocols, etc. promulgated under authority of this Agreement

constitute the entire agreement between Butler County and Subscriber.

3. This Agreement may not be altered or modified, and no term of this Agreement may be waived except by a written agreement signed by the joining political subdivision and the Commissioners.
4. If any term of this Agreement is held by a court of competent jurisdiction or other authority to be invalid or unenforceable, the remainder of the terms of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
5. The Agreement section headings and the numbering of paragraphs are for the convenience of the joining political subdivision only and are not a meaningful part of this Agreement.
6. Butler County and all other joining political subdivisions using the System are hereby declared to be intended beneficiaries of the System.
7. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party who caused this Agreement to be drafted.
8. Each signatory may enforce this Agreement by a decree of specific enforcement or a mandatory injunction.
9. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.
10. Time is of the essence in the performance of this Agreement.
11. In the event of any breach or threatened breach by a joining political subdivision of any of the terms of this Agreement, Butler County or any the other joining political subdivision shall be entitled to obtain an injunction or other equitable relief (on an ex parte basis if such other Party so elects) without the need to procure any bond or provide any undertaking.

IN WITNESS WHEREOF the Board of County Commissioners of Butler County, Ohio and the Sheriff of Butler County, Ohio have affixed their signatures along with the duly authorized representative of the City of Oxford on this __ day of ____, 2009.

Board of Butler County Commissioners

Donald L. Dixon, President

Gregory V. Jolivette, Vice-President

Charles R. Furmon, Member

Butler County Sheriff

Richard K. Jones

THE CITY OF OXFORD

Douglas R. Elliott, Jr.
City Manager

Exhibit A
Subscriber's Initial Inventory of Subscriber Equipment

Exhibit B
Future Financial Responsibility for the Network Equipment and Subscriber Equipment.

Exhibit B

Cost/Event/Situation	Radio Network Item	Non-Radio Network Item	County Radio Fund Expense	County Gen Fund Expense	Political Subdivision Expense	Joint Expense
Tower/Tower Site Damage/Loss/Maintenance	X		X			
Prime Site/Network Equipment Location Damage/Loss/Maintenance	X		X			
Prime Site Network Personnel and Operating Expense	X		X			
Tower Site Electricity and Operating Expense	X		X			
FCC Compliance for network facilities	X		X			
System hardware repair/maintenance/replacement	X		X			
System software repair/maintenance/replacement	X		X			
Network equipment casualty insurance	X		X			
Emergency repair/replacement of tower/tower site/ network equipment/prime site	X		X			
Political Subdivision and County dispatch center fiber optic connectivity build out	X		X			
Political Subdivision and County dispatch center fiber optic connectivity maintenance and repair	X		X			
Political Subdivision dispatch center fiber optic connectivity replacement	X				X	
County Dispatch center fiber optic connectivity replacement	X			X		

Cost/Event/Situation	Radio Network Item	Non-Radio Network Item	County Radio Fund Expense	County Gen Fund Expense	Political Subdivision Expense	Joint Expense
Console maintenance expense @ a subdivision location		X			X	
Console maintenance expense @ sheriff's dept.		X		X		
Subdivision opens new public safety facility example- fire house		X			X	
New public safety equipment put in service by subdivision. example- new fire truck		X			X	
New public safety facility opened by county- new jail		X		X		
County relocates its dispatch center		X		X		
Increase # public safety employees by political subdivision need radios		X			X	
Political subdivision dispatch relocation expense		X			X	
Political subdivision creates new dispatch location expense and needs console		X			X	
Loss/destruction/damage to political subdivision subscriber radio or console, subdivision needs repair or replacement for it		X			X	
Loss/destruction/damage to county subscriber radio or console, county needs repair or replacement for it		X		X		
Repair/replacement of subdivision radio holsters, mikes, antennas, batteries		X			X	
Repair/replacement of county radio holsters, mikes, antennas, batteries		X		X		

Cost/Event/Situation	Radio Network Item	Non-Radio Network Item	County Radio Fund Expense	County Gen Fund Expense	Political Subdivision Expense	Joint Expense
Maintenance of all 1 st issue subscriber radios provided to political subdivision by county after one year maintenance period expires		X			X	
Maintenance of all 1 st issue subscriber radios provided to sheriff by county after one year maintenance period expires		X		X		
Political subdivision buys additional radios or consoles for its use to increase its # of radios or consoles		X			X	
Maintenance of political subdivision radio or console it bought for its use, not in replacement of county equipment		X			X	
Maintenance for political subdivision radios or console bought for its use, in replacement of county equipment given to county		X			X	
Political subdivision radio or console wears out and needs to be replaced		X			X	
County radio or console wears out and needs to be replaced		X		X		
Political subdivision radio or console needs to be upgraded		X			X	
County radio or console needs to be upgraded		X		X		
Political subdivision wants to change its talkgroup template and it may or may not affect other radios and consoles		X			X	

Cost/Event/Situation	Radio Network Item	Non-Radio Network Item	County Radio Fund Expense	County Gen Fund Expense	Political Subdivision Expense	Joint Expense
County wants to change its talkgroup template and it may or may not affect other radios and consoles		x		x		
Political subdivision wants to add to new Motorola features or functionality to its radios		x			x	
County wants to add to new Motorola features or functionality its radios		x		x		
Motorola releases new or different 800 megahertz radio technology which political subdivision wants		x			x	
Motorola releases new or different 800 megahertz radio technology which county wants		x		x		
Total System Upgrade wholesale system changeout	x	x				x
Obligation to Insure Political Subdivision Non-Radio Network Equipment		x			x	
Obligation to Insure County's Non-Radio Network Equipment		x		x		

EXHIBIT C

the City of Oxford
REQUEST THAT PRIME SITE RECORD TALKGROUP COMMUNICATION

The undersigned requests that the Butler County 800 megahertz radio System record the following talkgroups used by the City of Oxford's public safety forces. The requesting agency shall be considered the agency having custody of such records for purposes of the Ohio open records law.

Butler County agrees not to program the System to record a the City of Oxford talkgroup that is not requested to be recorded here and the requesting agency agrees to assume full responsibility and any and all liability which may be created or aggravated by a failure to record a talkgroup.

Any the City of Oxford encrypted talkgroup(s) will not normally be recorded by the System. A request that an encrypted talkgroup be recorded by the system be requested here as well.

Douglas R. Elliott, Jr.
City Manager
City of Oxford
As Public Safety Director

Michael Driesbach
Service Director
City of Oxford

John Detherage
City of Oxford
Fire Chief

Steve Schwein
City of Oxford
Police Chief

EXHIBIT D
COMMISSIONERS' RESOLUTIONS ON ADVISORY BOARD

EXHIBIT E
RULES ADOPTED BY ADVISORY BOARD

No Rules Adopted as of July 29, 2009

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Police
Originating Department

Council Meeting Of: August 4, 2009

Account Code No. #: N/A

Steve Schwein
Prepared By

Budgeted Amount: N/A

July 30, 2009
Date Prepared

Agenda Title: A Resolution authorizing the City Manager to enter into a Participation Agreement with the Board of County Commissioners of Butler County, Ohio on behalf of the City of Oxford, Ohio which would allow the City of Oxford to Utilize the Butler County 800 Megahertz Public Safety Communication System.

Recommendation: Adopt the Resolution.

Discussion: Participation authorized by this Agreement will guarantee Oxford Police, Fire, and EMS services interoperability and communication with ALL other participating safety services in Butler County. In addition to increased safety and efficiency the interoperability will provide to our safety services, our citizens as well will have a direct benefit. Initial equipment purchase and installation costs will be covered entirely by Butler County. On going maintenance costs in future years (beyond warranty) should be no greater than those costs currently budgeted.

****A Copy of the proposed agreement is available on the City's website and at City Hall upon request****

Approved By:

Department Head:
City Attorney:
City Manager:

Initial Date

SDS 7/30/09
[Signature] 7-30-09

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PARTICIPATION AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF BUTLER COUNTY, OHIO ON BEHALF OF THE CITY OF OXFORD, OHIO WHICH WOULD ALLOW THE CITY OF OXFORD TO UTILIZE THE BUTLER COUNTY 800 MEGAHERTZ PUBLIC SAFETY COMMUNICATION SYSTEM

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: At present, public safety and public service entities in Butler County, Ohio, including those entities located in the City of Oxford, operate on several different radio frequencies and there are areas where no radio reception or transmission is possible. These conditions pose a communication problem and endanger public safety and the safety of public safety service providers when radio communication is lost or when departments on different frequencies respond to an emergency and cannot readily coordinate their efforts.

SECTION 2: Section 5502.261 of the Ohio Revised Code states that: “[a] board of county commissioners that has entered into an agreement to establish a countywide emergency management agency may appropriate money from its general fund to support the functions and operations of the agency, including the development, acquisition, operation, and maintenance of a countywide public safety communication system and any communication devices, radios, and other equipment necessary for the system’s operation and use. Money appropriated under this section may be expended to purchase and maintain the assets or equipment of the agency, including equipment used by the personnel of other political subdivisions that have entered into the agreement with the board establishing the agency. Money also may be appropriated under this section directly to a political subdivision that has entered into the agreement with the board establishing the agency, to enable the political subdivision to purchase communication devices, radios, and other equipment necessary for the countywide public safety communication system’s operation and use.”

SECTION 3: All Butler County political subdivisions who are being provided radio equipment for the countywide 800 megahertz radio system have decided to enter into an Agreement with the Board of County Commissioners of Butler County, Ohio establishing the countywide Emergency Management Agency.

SECTION 4: Providing a single, county-wide interactive communication system, communication equipment, and training in the use of that equipment for the county and those units of local government in the county willing to agree to engage in multi-jurisdictional mutual aid and coordination is necessary, reasonable and prudent.

SECTION 5: City Council has determined that the adoption of an agreement that would entitle the City of Oxford, along with Butler County and all other Butler County political subdivisions who use the Butler County 800 Megahertz Countywide Public Safety Radio Communication System, to use the Butler County 800 Megahertz Countywide Public Safety Radio Communication System to communicate with Butler County and all other participating political subdivisions is in the best interest of the citizens of the City of Oxford.

SECTION 6: Council hereby authorizes the City Manager to enter into a Participation Agreement with the Board of County Commissioners of Butler County, Ohio which would allow the City of Oxford to utilize the Butler County 800 Megahertz Public Safety Radio Communication System.

SECTION 7: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED: _____

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott

Police

Originating Department

Council Meeting Of: August 4, 2009

Steve Schwein / R.B. Holzworth

Account Code No. #: N/A

Prepared By

Budgeted Amount: N/A

July 30, 2009

Date Prepared

Agenda Title: Resolution – Conversion of Metered Spots to Leased Parking

Recommendation: Approve

Discussion: There are eight decks in the Municipal Parking Garage located at Main & Walnut. As listed in the following table, there are four types of spots in this facility: spots leased permanently to the hotel, general leased spots, metered parking and handicapped parking. The Advisory Board, after receiving data deck 3 from meters to leased public parking, plus two handicapped part, provide parking options for the soon-to-be completed residential supports this modification and valuable uptown real estate. This change, if approved, will increase the number of "general leased spots" from 88 to 118, and we anticipate leasing all spots. There are currently twelve (12) people on the waiting list and students that will be residing in this area are just now starting to think about where they can park. The meters will be removed from deck 3 and either relocated (replacing older on-street meters) or warehoused (in one of the storage rooms at the parking facility) for future use.

Description	Floor	Deck	Spots	Handicapped
Metered	1	1	27	0
	1	2	27	2
	1	3	30	0
Leased	2	4	29	0
	3	5	30	0
	3	6	29	0
Hotel	4	7	30	0
	4	8	30	0
TOTAL Facility Spots			232	12

OPTAB (Oxford Parking Transportation & from the Parking Unit, recommends converting parking. This will leave 54 metered spots for spots on deck 2. This modification will, at least in some of the residents that will be moving into units in the UP District. The Parking Unit totally concurs that it will make much better use of this

This project will require moving the existing gate from the east side of the garage to the west side, along with the associated electrical and concrete work. Based on the estimated project cost, we should achieve our initial ROI before the end of the year. The most expensive part of the project is having Amano-McGann of Cincinnati come to install the loops (buried in the concrete) that work in conjunction with the card readers (there are two types at this facility).

While we want to be very careful about reducing the number of spots available to the public in the UP and RO Districts, the anecdotal evidence (two cars use this deck during business hours Monday – Friday) coupled with an income review strongly indicates the impact on general parking will be minimal. During five (5) weeks in October-November of 2008, we segregated and counted the income from deck 3. The weekly average turned out to be \$137.70. The possible daily income from this deck is \$330.00 (\$.50/hr x 30 meters x 22 hours). In other words, the data suggests underutilization.

Recommendation: Approve the project/conversion. The Parking Unit is poised to move forward so that we can offer a permanent parking option to thirty new customers as expeditiously as possible.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

SDS 1-7-30-09/mhe

[Signature] 1-7-30-09

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVERT THE UPPER METERED DECK (30 SPACES) OF THE MUNICIPAL PARKING GARAGE LOCATED AT THE INTERSECTION OF MAIN STREET AND WALNUT STREET TO LEASED PARKING.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Section 353.03(b) of the City's Codified Ordinances states that "parking meter zones shall be designated on report and recommendation from the Chief of Police to the City Manager, by written order of the City Manager" and that "subsequent modification of the parking meter zones shall be by written order of the City Manager".

SECTION 2: Section 353.03(c)(1) of the City's Codified Ordinances states that "at the Municipal parking garage at Main and Walnut, the hours and days of operation, period of time allowed for parking, as well as lease terms, agreements and fees shall be determined by written order of the City Manager on report and recommendation from the Chief of Police."

SECTION 3: In accordance with the terms set forth in Section 353.03 of the City's Codified Ordinances, the Chief of Police has recommend to the City Manager that the upper metered deck (30 spaces) of the Municipal parking garage at Main Street and Walnut Street be converted to leased parking.

SECTION 4: The City Manager has accepted the recommendation of the Chief of Police that the upper metered deck (30 spaces) of the Municipal parking garage at Main Street and Walnut Street be converted to leased parking.

SECTION 5: Council hereby accepts the recommendation of the City Manager and Chief of Police and approves of the conversion of the upper metered deck (30 spaces) of the Municipal parking garage to leased parking.

SECTION 6: Council hereby authorizes the City Manager to take all steps necessary to covert the upper metered deck (30 spaces) of the Municipal parking garage to leased parking including, but not limited to, entering into an agreement with a third party for the lease of those parking spaces located on the upper metered deck of the Municipal parking garage.

SECTION 7: This Resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Clerk of Council

Originating Department

Council Meeting Of: August 4, 2009

Mary Ann Eaton

Account Code No. #: N/A

Prepared By

Budgeted Amount: N/A

July 27, 2009

Date Prepared

Agenda Title: A Resolution supporting the submission of a grant application.

Recommendation:

Discussion:

The Bicentennial Event Planning Committee wishes to purchase a sculpture to commemorate the Bicentennial of the City of Oxford which would be placed in the Community Park. The committee is planning to apply to the Ohio Arts Council for matching funds. The City would be responsible for 50% of the cost and the grant would provide the remaining 50%.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

MAE 7-28-09

RESOLUTION NO.

A RESOLUTION OF COUNCIL SUPPORTING THE SUBMISSION OF A GRANT APPLICATION TO THE OHIO ARTS COUNCIL IN AN AMOUNT NOT TO EXCEED \$1,909.80 BY THE BICENTENNIAL EVENT PLANNING COMMITTEE TO PURCHASE A PIECE OF ART TO CELEBRATE THE BICENTENNIAL OF THE PLATTING OF THE CITY OF OXFORD WITH A 50% LOCAL MATCH .

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Council having determined a piece of art to celebrate the bicentennial of the platting of the City of Oxford is beneficial to the citizens of Oxford hereby supports the use of grant funds to assist with the initiative and authorizes the Bicentennial Event Planning Committee to choose the artist and theme for a piece of art to be placed in the Oxford Community Park.

SECTION 2: Council hereby authorizes the applicant, the Bicentennial Event Planning Committee, to submit a grant application in an amount not to exceed \$1,909.80 to the Ohio Arts Council requesting a grant for 50% of the cost of a piece of art to celebrate the bicentennial of the platting of the City of Oxford.

SECTION 3: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: KATE CURRIE

PREPARED BY: LAW(STAFF)

ESTIMATE FOR SCULPTURE MADE BY JIM MCWILLIAMS

As per estimate from Benjamin Steel Company, Dayton, Ohio:

¼" steel plate--	444.00
1 ½" steel rod--	114.90
1" sq. tubing--	31.50
¼" x 4" flat--	<u>79.20</u>
TOTAL:	\$669.60

Concrete—30@5.00 per 80 lb. bag	150.00
Nuts & Bolts—	100.00
Bearings—sealed from Master McCarr	200.00
Primer —4@25.00/gallon	100.00
Paint—4@25.00/gallon	100.00
Shop supplies—	
<u>welding wire, grinding wheels, gas, etc.</u>	<u>500.00</u>
Subtotal parts estimate:	\$1819.60

Labor—\$40/hour@50 hours estimate= \$2000.00

Total estimate: \$3819.60

This project will be done in conjunction with Miami University's Engineering Department. They are going to take the design, put it into CAD, and make sure that windloads, welded joints, etc. will be adequate and long-lasting. They will cut the plates out on the plasma-cutter, so that it will be exactly as designed. I will then take the materials, weld them together to create the sculpture, and paint it.

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Council Meeting of: August 4, 2009

Account Code #: 322.811.50801

Budgeted Amount: \$100,000

Service Department

Originating Department

Michael Dreisbach, Service Director

Prepared By

July 27, 2009

Date Prepared

Agenda Title: Bonham Road Water Main Replacement

Recommendation: Approve

Discussion:

The 2009 Capital Improvement Budget includes \$100,000 for the replacement of an existing ten inch water main crossing Four Mile Creek at Bonham Road. This main's cover has been scoured by the flows of Four Mile Creek and improvements, including additional capacity, are now necessary.

City staff prepared plans and specifications for the improvement project and submitted such to the Ohio Environmental Protection Agency (OEPA). The project includes the installation of approximately 300 feet of new 12" ductile iron pipe, concrete encasement for the pipe, and all associated appurtenances as noted on the plans. The plans were approved by the OEPA and the City advertised for bids in the *Hamilton Journal* and *Cincinnati Enquirer* on June 19, 2009 and June 26, 2009. Five bids were received by the City and publicly opened on July 2, 2009 with the following results:

REI Construction	\$63,927.50
Gaston Bowling, Inc.	63,964.41
Rile, Inc.	64,028.46
Brackney, Inc.	65,636.50
Culy Construction	85,902.50

The top four responders were very close in their bids with a spread of only 2.6%. REI Construction meets the City's qualification requirements and has posted the appropriate bond with the City. Staff is also requesting a 10% contingency amount of \$6,392.75. It is Staff's recommendation that Council authorize the City Manager to sign an agreement with REI Construction for the installation of a new 12" water main across Four Mile Creek for an amount not to exceed **\$70,320.25**.

Approved By:

Department Head:

Initial Date
MBD \ 7/27/09

Acting City Manager:

[Signature] \ 7/29/09

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH REI CONSTRUCTION FOR THE REPLACEMENT OF AN EXISTING TEN INCH WATER MAIN CROSSING FOUR MILE CREEK AT BONHAM ROAD AT A COST OF \$63,927.50 PLUS A TEN PERCENT CONTINGENCY FEE IN THE AMOUNT OF \$6,392.75 FOR A TOTAL COST NOT TO EXCEED \$70,320.25.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO THAT:

SECTION 1: City staff prepared plans and specifications for the replacement of the existing ten inch water main which were submitted to and approved by the Ohio Environmental Protection Agency ("OEPA").

SECTION 2: The City advertised a request for bids in the *Hamilton Journal* and *Cincinnati Enquirer* on June 19, 2009 and June 26, 2009. Five bids were received by the City and publicly opened on July 2, 2009.

SECTION 3: The Service Director determined that REI Construction was the lowest and best bidder.

SECTION 4: Council hereby finds REI Construction to be the lowest and best bidder and accepts the bid of \$63,927.50 plus a ten percent contingency fee in the amount of \$6,392.75 for the installation of approximately 300 feet of new 12 inch ductile iron pipe, concrete encasement for the pipe, and all associated appurtenances.

SECTION 5: Council hereby authorizes the City Manager to enter into a contract with REI Construction for the replacement of an existing ten inch water main crossing Four Mile Creek at Bonham at a cost of \$63,927.50 plus a ten percent contingency fee in the amount of \$6,392.75 for a total cost not to exceed \$70,320.25.

SECTION 6: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA
PREPARED BY: LAW(STAFF)

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Clerk of Council

Originating Department

Council Meeting Of: August 4, 2009

Mary Ann Eaton

Account Code No. #: N/A

Prepared By

Budgeted Amount: N/A

July 28, 2009

Date Prepared

Agenda Title: Resolution of Council authorizing the donation of certain property in the City's possession to local not for profit agencies.

Recommendation:

Discussion:

Gretchen's Hallmark in Oxford closed the store and donated surplus merchandise to the City. The City would like to donate the merchandise consisting of 210 stuffed animals valued at \$2,400.70 to local not for profit agencies.

Approved By:

Initial Date

Department Head:

City Attorney:

City Manager:

MAE 7-30-09

RESOLUTION NO. _____

**A RESOLUTION OF CITY COUNCIL AUTHORIZING THE DONATION OF CERTAIN
PROPERTY IN THE CITY'S POSSESSION TO LOCAL NOT- FOR- PROFIT AGENCIES.**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER
COUNTY, STATE OF OHIO, THAT:**

**SECTION 1: Gretchen's Hallmark of Oxford, Ohio donated merchandise to the City as
a result of the store closing. The merchandise consists of Two Hundred and Ten (210) stuffed
animals valued at Two Thousand Four Hundred and 70/100 Dollars (\$2,400.70).**

**SECTION 2: City Council hereby authorizes the donation of said merchandise to local
not- for- profit agencies.**

SECTION 3: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED: _____

ATTEST:

CLERK OF OXFORD CITY COUNCIL

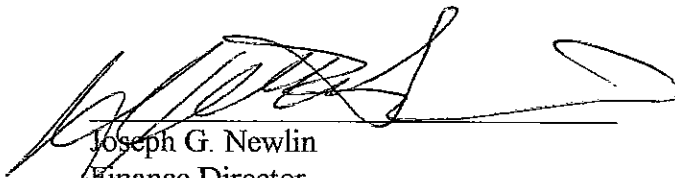
INTRODUCED BY: PRUE DANA

PREPARED BY: LAW(STAFF)



July 28, 2009

The City of Oxford is in receipt of 210 stuffed animals valued at \$2,400.74 that were donated by Gretchen's Hallmark.



Joseph G. Newlin
Finance Director

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Fire

Originating Department

Council Meeting Of: August 4, 2009

Account Code No. #: 416.150.52520, 140.150.50902

John Detherage

Prepared By

Budgeted Amount: \$15,000 / \$10,000

July 20, 2009

Date Prepared

Agenda Title: A Resolution authorizing the Oxford Division of Fire to purchase three (3) Thermal Imaging Cameras with truck mounts and chargers.

Recommendation: Adopt the Resolution.

Discussion: These Thermal Imaging Cameras will replace three current units, one of which is non-functional and all three are no longer supported by the manufacturer making them impossible to have repaired. New technology will allow thermal image capture (pictures) for evidence and investigation, a zoom feature, and truck mounts with vehicle chargers to have the cameras ready to go at all times. The proposed units carry a two year complete warranty compared to a one year complete or two year partial coverage offered by most of the industry. Two of the cameras will be funded with the award from the 2008 Assistance to Firefighters Grant and the remaining camera, truck mounts, and chargers covered by budgeted CIP funds.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

JD 1/20/09

JD 1/20/09

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CITY MANAGER AND FIRE CHIEF TO ENTER INTO AN AGREEMENT WITH TRUDO/ALBERT FIRE EQUIPMENT LLC FOR THE PURCHASE OF THREE (3) THERMAL IMAGING CAMERAS WITH TRUCK MOUNTS AND CHARGERS AT A COST NOT TO EXCEED \$25,000.00 UTILIZING FUNDS IN THE AMOUNT OF \$15,000.00 AWARDED FROM THE 2008 ASSISTANCE TO FIREFIGHTERS GRANT AND \$10,000 FROM BUDGETED CAPITAL IMPROVEMENT ('CIP') FUNDS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The City Manager and Fire Chief recommend and Council hereby accepts the recommendation of the City Manager and the Fire Chief that three (3) thermal imaging cameras with truck mounts and chargers be purchased from Trudo/Albert Fire Equipment L.L.C. at a cost not to exceed \$25,000.00.

SECTION 2: Council hereby authorizes the City Manager and Fire Chief to enter into an agreement with Trudo/Albert Fire Equipment L.L.C. for the purchase of three (3) thermal imaging cameras with truck mounts and chargers at a cost not to exceed \$25,000.00 utilizing funds awarded from the 2008 Assistance to Firefighters Grant in the amount of \$15,000.00 and budgeted CIP funds in the amount of \$10,000.00.

SECTION 3: It is hereby found and determined that formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION 4: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Service Department
Originating Department

Council Meeting of: August 4, 2009

David Treleaven
Prepared By

Account Code #: N/A

Budgeted Amount: N/A

July 23, 2009
Date Prepared

Agenda Title: Environmental Commission Meeting of July 22, 2009

Recommendation: For Review and Consideration

Discussion:

Environmental Commission members present at the Wednesday, July 22, 2009 meeting were: Chair, Mr. Charlie Ford; City Council Representative, Mr. Greig Rutherford; Planning Commission Representative, Mr. Ted Wong; and Ms. Kelly Church. A quorum was not present. Oxford resident Mr. Vincent Hand was also in attendance. Commission Secretary Ms. Heidi Schran had notified the Commission that she would be unable to attend the meeting.

As a quorum was not present, no formal actions were taken. Councilor Rutherford and Mr. Ted Wong had drafted sample residential subdivision development plans of the Paulin property and the 47-acre Oxford-owned tract along Oxford-Reily Road. Each property's plans consisted of an example of a standard residential subdivision development as would be allowed for R1B zoning and an example of open-space/conservation residential subdivision with open areas in excess of the 20% minimum specified in Oxford's Planning and Zoning Code.

Resulting from the discussion of the example development plans, possible revisions to the existing open space cluster residential development codes were suggested. The suggested revisions included: increasing the minimum amount of set-aside open spaces, creating incentives for a developer to increase the amount of set aside open space, and adjusting or eliminating spatial restrictions on structures to property lines. Assuming a quorum at the August, 2009 meeting, the Commissioners indicated their goal was to finalize suggestions to the Planning Commission for possible revisions to the open space cluster residential development code.

The Commission adjourned at 8:35 p.m. The next Commission meeting is tentatively scheduled for Wednesday, August 26, 2009 at 7:00 p.m. in the Municipal Building's Second Floor Conference Room.

Approved By:

Initial \ Date

Department Head: MBD \ 7/28/09

City Manager:

[Signature] \ 7/29/09

**CITY OF OXFORD
STAFF SUMMARY REPORT**

Report to the City Manager

Community Development
Originating Department

Council Meeting Of: August 4, 2009

Kathryn A. Dale

Account Code No. #:

Prepared By

Budgeted Amount:

July 21, 2009
Date Prepared

Agenda Title:	Board of Zoning Appeals – July 20, 2009 Special Meeting Report
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Recommendation:	N/A
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PUBLIC HEARINGS:

BZA-05-2009 – 210 S. Poplar Street Appeal of Administrator's Decision to allow the issuance of a building permit, Number 09-056, for an addition, **David A. Kellems, Applicant**

Staff presented that the Appellant is the neighboring property owner of 21 & 23 E. Collins just north of 210 S. Poplar Street and was appealing the Administrator's Decision to issue a building permit (Permit No. 09-056) for the construction of a two-story dwelling unit addition to an existing single family at 210 S. Poplar. Per §1129.11 the aggrieved party may appeal the decision of the zoning administrator. The Appellant must state "the way in which the administrative action adversely affects the Appellant". The Appellant claims that this addition will adversely affect their property values; however, the Appellant failed to support his claim with any supporting documentation. None of the supporting documentation submitted with the Appellant's Administrative Appeal were approved, relevant drawings related to the issued building permit.

The Appellant's primary argument(s) to the issuance of the permit was that there are two buildings on one lot and that the Mile Square Design Standards have not been satisfied. The staff report reviewed in detail the definitions and sections of the code that were thoroughly reviewed prior to issuing the building permit. Based on all the definitions presented within the staff report and the construction plans submitted with the permit, there was no justifiable reason to refuse the permit.

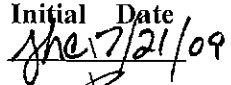
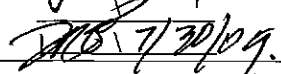
The BZA had to decide if the Appellant had standing and whether the administrative decision to issue a construction permit for an addition was correct.

During the hearing the Board asked if the Appellant came with any additional supporting documentation showing how he was adversely affected by the Administrator's Decision to issue the construction permit. The Appellant stated he did not.

The Board voted 4-0-0 to **DENY** the Appellant's request and the decision to issue the permit should be upheld because:

1. The Appellant failed to demonstrate, by a preponderance of substantial, reliable, and probative evidence, that he had standing sufficient to challenge the Administrative Official's decision.
2. There was no error in any order, requirements, decision or determination made by the Administrative Official in the enforcement of the Zoning Ordinance.

The next BZA meeting is scheduled for August 19, 2009. Talawanda School District/ New High School is on the agenda.

Approved By:	Department Head:	Initial Date  7/21/09
	City Attorney:	
	City Manager:	 7/22/09

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Community Development
Originating Department

Council Meeting Of: August 4, 2009

Kathryn A. Dale
Prepared By

Account Code No. #:

Budgeted Amount:

July 15, 2009
Date Prepared

Agenda Title:	Planning Commission Meeting Report – July 15, 2009
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Recommendation:	N/A
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DISCUSSION:

Prior to the regularly scheduled meeting, a work session was held to discuss GB regulations for the Locust Street area and to review concerns of the Subdivision Regulations. The discussion for both items will continue at another work session to be scheduled in August.

Administrative Approvals:

PC-ADM-03-2009 LOT SPLIT, Part of Outlot 267, 106 S. Elm, **Rodbro & Myers Investments, LLC, Applicant**

PC-ADM-04-2009 LOT CONSOLIDATION, Replat of Lots 3683, 3684 and 3685 to new Lot 3765, **Bella Investments LLC, Ned Hoelzer/Tom Kacachos, Applicant**

Mr. Brewer shared with the Commission that there was a lot split and lot consolidation approved administratively by him and staff.

Public Hearing:

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential), **Tri-State Habitat for Humanity, Applicant**.

Staff presented that the Applicant was requesting approval of Phase I of the now named Reckford Woods Subdivision, which included 10 buildable lots and 1 lot reserved for the retention area. 20 lots were approved in the Preliminary Plan. Staff shared that they, Legal Counsel and the Applicant were still working on the details of the Homeowner's Association covenants and restrictions, and those would have to be approved to legal counsel's satisfaction prior to the recording of the plat. Construction Drawings were approved as noted by the Engineering Department. Engineering comments for this application can all be corrected prior to the recording of the plat. The Ordinance by City Council approving the Preliminary included a provision that the Applicant needed to report any potential soil contamination on the site; however, this information was not submitted prior to the hearing. All other applicable conditions for this phase were satisfied.

The Applicant stated that they had a geotechnical report available and that boring had been done on the property showing no soil contamination. The Applicant also indicated they would be supplying these reports to the City Engineer.

Planning Commission voted 6-0-0 to recommend **APPROVAL** to City Council with the following conditions:

1. That, all existing buildings are removed from the site, including both structures and any sheds or accessory buildings, prior to construction.
2. That, the City Engineer reviews and approves the geotechnical report and environmental soil analysis.

New Business:

Concept Review – Talawanda High School

Staff explained that the property was in the process of annexation and that the property would need to be rezoned (likely the R1A zoning district), which in turn permits schools as a Conditional Use. Staff presented regulations of the

zoning code that were not satisfied, suggested some items for the Planning Commission to consider, and better explained by the Applicant regarding the bus maintenance location, stadium lighting and any potential effects of glare and the reservation of an additional right-of-way for a future road connection to Kehr Road. Discussion was also had regarding the setback of practice fields from the rear property line and light heights in the parking area and the cell tower.

The Applicant shared that the stadium lights would be approximately 80 feet tall and that a photometric plan would be provided for the August hearing. Many PC members indicated they did not think this would be an issue and were not concerned. The Applicant also indicated that the bus maintenance, storage and gas would remain on the existing site. Mr. Keebler expressed his desire to see a dedicated right-of-way that could realistically happen by removing the 90-degree turns. Mr. Prytherich stated that he thought the school needed to provide and look into pedestrian-oriented, non-vehicular access on the property possibly along the railroad tracks so that kids are not walking the tracks as a short cut to the Mile Square or Uptown. Ms. Fischer asked that staff review the setback requirements of the ball fields at the TRI and Community Park because she thought those were located within the required setback and basically exempt, thus the schools proposed fields should not have to go to BZA. Mr. Keebler also said the lights at these locations were higher than the required 16 feet, but didn't go to BZA. Some frustration was expressed by PC members that the school would have to go through the BZA since this was such a large site with very little impact on any residential properties. Staff expressed that because of the residential zoning designation the restrictions were a little more restrictive. Casually, PC Members voiced whether R1A was the most appropriate zoning designation or if another zoning district that wasn't so restrictive with heights etc. would be better. No conclusion or recommendation was made.

In regards to the existing cell tower, initially the Applicant was told it would require Conditional Use and BZA approval; however, that there is also the possibility that it could be accepted into the City as a nonconforming structure. Staff, Legal Counsel and the Applicant would further review those options and have a more definitive answer for them at the August hearing. Many PC members expressed that they thought the tower should come in as a nonconforming structure.

Mr. Brewer expressed that the Commission would be focusing solely on the Conditional Use Decision Standards and the potential concerns and regulations listed for this Conditional Use.

The next regular meeting is scheduled for August 11, 2009.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

JHC 7/17/09

MS 7/30/09

A Regular meeting of the Oxford City Council was called to order by Mayor Prue Dana on Tuesday, July 21, 2009 at 7:30 p.m. Those members present were Ken Bogard, Richard Keebler, Alysia Fischer, Doug Ross and Greig Rutherford. Kate Currie was excused.

Staff members present: Mr. Doug Elliott, City Manager; Mr. Victor Popescu, Engineer; Mr. Steve Schwein, Police Chief; Mr Joe Newlin, Finance Director; Mr. Jung-Han Chen, Community Development Director; Ms. Gail Brahier, Parks and Recreation Director; Mr. John Detherage, Fire Chief; Mr. Steve McHugh, Law Director and Ms. Mary Ann Eaton, Clerk of Council.

ADJOURN TO EXECUTIVE SESSION

Mr. Keebler moved to adjourn to Executive Session at 7:15 p.m. in accordance with Ohio Revised Code Section 121.22 (G) for the purpose of discussing (1) Appointments to Boards and Commissions and Personnel. Ms. Fischer seconded. The motion passed by the following roll call:

AYE: Mr. Bogard, Mr. Keebler, Mr. Rutherford, Ms. Fischer, Ms. Dana (5)

NAY: None (0)

ABS: None (0)

RETURN FROM EXECUTIVE SESSION

Mr. Bogard moved to return from Executive Session at 7:28 p.m. Ms. Fischer seconded. The motion passed by the following roll call:

AYE: Mr. Ross, Mr. Keebler, Mr. Rutherford, Mr. Bogard, Ms. Fischer, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

PLEDGE OF ALLEGIANCE

Mayor Dana called for the Pledge of Allegiance.

APPROVAL OF AGENDA

Ms. Fischer moved to approve the agenda. Mr. Bogard seconded the motion passed 6-0-0.

PUBLIC PARTICIPATION

PROCLAMATION **'DONNA HECK DAY'**

Mayor Dana read the Proclamation in honor of Ms. Heck's semi-retirement and presented it to her. Ms. Heck thanked Mayor Dana and Council and advised she would miss working with them. Ms. Heck noted she would return to work on a part-time basis as the Human Resources Director in September.

PRESENTATION **SHARE FEST**

Ms. Carol Michael, provided a PowerPoint presentation with the assistance of Andrew Wilson. Ms. Michael noted Sharefest 2009 was a huge success, which helped over 600 families throughout Oxford and Butler County, with the help of 143 volunteers and sponsored by 26 organizations and Miami University offices. Ms. Michaels summarized the planning and preparation that occurred prior to May 7, 2009 as well as the actual event. Ms. Michaels thanked all of the volunteers and sponsors and introduced ShareFest volunteers who were in attendance.

NOTICE TO **LEGISLATIVE AUTHORITY**

Notice to Legislative Authority – Transfer Permit from Distinguish Inc DBA Alexander House 22 N College Ave and Patio Oxford, Ohio 45056 to Nara LLC DBA Alexander House 22 N College Ave and Patio Oxford, Ohio 45056. (Mary Ann Eaton, Clerk of Council)

Mr. Bogard moved to receive the Notice to Legislative Authority without comment. Mr. Rutherford seconded. The motion passed 5-1-0 with Mr. Ross voting nay.

PUBLIC COMMENTS

Ms. Kathleen Zien, 6060 Joseph Drive, advised she attended the Board of Zoning Appeals meeting last night and noted there should be public outrage with regard to the miss-matched coupled together homes on one lot at 201 S. Poplar Street. Ms. Zien noted her hope the Oxford Press would cover this matter with a photo and reprint of the July 3, 2009 letter to the editor. Ms. Zien advised the 210 S. Poplar address had two complete single-family homes connected by a yet to be completed breezeway. Ms. Zien advised her feeling the BZA meeting procedure was discouraging noting the Chair badgered the applicant as to how he was of 'standing' to make the appeal. Ms. Zien noted it should not be necessary to show special harm when the harm may be a violation of the zoning code which was to be enforced uniformly to benefit the entire community. Ms. Zien noted the question of whether property values were affected was impossible to show and this procedure was a ruse to prevent citizens from questioning whether permits were being issued in compliance with the zoning code rather than in violation of it. Ms. Zien noted her feeling this was something Council needed to correct.

Ms. Zien noted there was no similar language requiring standing for an administrative appeal for townships, counties or municipalities in the revised code and this was something invented by the City of Oxford to bar citizens from insuring the zoning code was enforced. Ms. Zien noted her feeling the BZA meeting was disrespectful to the applicant and requested a member of Council to initiate action tonight to investigate the project and for all Council members to re-read the request of Mr. Kellems in the July 20, 2009 BZA agenda and to reference the February and March BZA agendas for additional information.

CONSENT AGENDA

MINUTES

Minutes of the July 7, 2009 City Council Meeting. (Mary Ann Eaton, Clerk of Council)

REPORTS

Report regarding the July 1, 2009 Historic and Architectural Preservation Commission Meeting. (Jung-Han Chen, Community Development Director)

RESOLUTIONS

RESOLUTION **CONTRABAND DISPOSAL**

A Resolution No. 4465 authorizing the Police Chief and Finance Director to dispose of contraband no longer needed as evidence. (Steve Schwein, Police Chief)

RESOLUTION **MUTUAL AID** **AGREEMENT**

A Resolution No. 4466 authorizing the City Manager to enter into a Mutual Aid Agreement with the Ohio Department of Natural Resources (ODNR). (Steve Schwein, Police Chief)

RESOLUTION **TRANSFER PROPERTY**

A Resolution No. 4467 declaring two (2) Advanced Tasers and accessories no longer needed for municipal purposes, to be surplus, and authorizing the transfer thereof to the Union County Sheriff's Department located at 106 E. Union Street, Liberty, IN. 47353-1438. (Steve Schwein, Police Chief)

Mr. Keebler moved to approve the consent agenda. Mr. Bogard seconded. The motion passed 6-0-0.

RESOLUTION

RESOLUTION
HIGH STREET
IMPROVEMENTS

A Resolution No. 4468 of Council supporting the submission of a grant application for the Ohio Public Works Commission Issue 1 funds in the amount of \$400,000.00 to be used for the rehabilitation of High Street between Beech Street and College Avenue. (Mike Dreisbach, Service Director)

Mr. Popescu discussed the staff report as presented on page 68 of the agenda.

Mr. Ross inquired why the cross-walk bricks were laid in a perpendicular fashion and Mr. Popescu advised that ODOT dictated the design.

Mr. Bogard inquired if new water lines would be installed and Mr. Popescu advised yes.

Ms. Fischer inquired when the project would commence and Mr. Popescu advised next summer.

Mr. Bogard moved to adopt Resolution No. 4468. Mr. Rutherford seconded. The Resolution was adopted by the following roll call:

AYE: Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Fischer, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

ORDINANCE
FIRST READING

An Ordinance Amending Ordinance No. 3033. Supplemental Budget Ordinance Number 7 To Make Supplemental Appropriations For Fiscal Year 2009. (Joe Newlin, Finance Director)

Mr. Newlin addressed the staff report as presented on pages 76 and 77 of the agenda.

ORDINANCES
SECOND READING

**APPROPRIATE TO
PUBLIC USE**

An Ordinance No. 3065 To Appropriate To Public Use, All Right Title And Interest In A Certain Parcel Of Property Located On Oxford College Corner Road Near Todd Road For The Purpose Of Permanent Rights-Of-Way And Temporary Construction Easements And Declaring An Emergency. (Mike Dreisbach, Service Director)

Mr. Popescu addressed the staff report as presented on page 80 of the agenda noting five property owners had not come to an agreement with the City regarding the acquisition of right-of-way for Phase III of the planned improvements on US-27 North.

Mr. McHugh advised property addresses or location were added to section three and the property value was added to section five of the proposed Ordinances. Mr. McHugh noted the law suits were prepared and would be filed tomorrow in order to stay on schedule with ODOT.

Mr. Bogard advised he appreciated receiving the map which helped him locate the parcels to be appropriated.

Ms. Fischer noted she appreciated receiving the map and all of the information that was made available.

Mr. Keebler advised it was important to move forward with this process as quickly as possible. Mr. Keebler noted he was disappointed that property owners did not settle with the City as the right-of-way additions were very minor and would not affect the land.

Mayor Dana noted this had been a multi-year project which was well received and it was important to move forward with the process.

Mr. Bogard moved to adopt Ordinance No. 3065 as an emergency. Mr. Keebler seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Fischer, Mr. Keebler, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

**APPROPRIATE TO
PUBLIC USE**

An Ordinance No. 3066 To Appropriate To Public Use, All Right Title And Interest In A Certain Parcel Of Property Located At And Near 5495 Oxford College Corner Road For The Purpose Of Permanent Rights-Of-Way And Temporary Construction Easements And Declaring An Emergency. (Mike Dreisbach, Service Director)

Mr. Bogard moved to adopt Ordinance No. 3066 as an emergency. Mr. Keebler seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Rutherford, Mr. Bogard, Ms. Fischer, Mr. Keebler, Mr. Ross, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

**APPROPRIATE TO
PUBLIC USE**

An Ordinance No. 3067 To Appropriate To Public Use, All Right Title And Interest In A Certain Parcel Of Property Located At 5735 Oxford College Corner Road For The Purpose Of Permanent Rights-Of-Way And Temporary Construction Easements And Declaring An Emergency. (Mike Dreisbach, Service Director)

Mr. Rutherford noted some properties could be rendered non-conforming as a result of acquisition and suggested the issue be considered during the re-write of the zoning code.

Mr. Bogard moved to adopt Ordinance No. 3067 as an emergency. Mr. Keebler seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Bogard, Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

**APPROPRIATE TO
PUBLIC USE**

An Ordinance No. 3068 To Appropriate To Public Use, All Right Title And Interest In A Certain Parcel Of Property Located At And Near 5500 Oxford College Corner Road For The Purpose Of Permanent Rights-Of-Way And Temporary Construction Easements And Declaring An Emergency. (Mike Dreisbach, Service Director)

Mr. Rutherford moved to adopt Ordinance No. 3068 as an emergency. Mr. Bogard seconded. The Ordinance was adopted by the following roll call:

AYE: Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

**APPROPRIATE TO
PUBLIC USE**

An Ordinance No. 3069 To Appropriate To Public Use, All Right Title And Interest In A Certain Parcel Of Property Located At The Corner Of Oxford College Corner Road And Todd Road For The Purpose Of Permanent Rights-Of-Way And Temporary Construction Easements And Declaring An Emergency. (Mike Dreisbach, Service Director)

Mr. Bogard moved to adopt Ordinance No. 3069 as an emergency. Mr. Keebler seconded. The Ordinance was adopted by the following roll call:

AYE: Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

**ORDINANCE
CODE UPDATE**

An Ordinance No. 3070 To Approve Current Replacement Pages To The Oxford Codified Ordinances. (Mary Ann Eaton, Clerk of Council)

Ms. Fischer referred to page 124 of the agenda and noted she thought the language would be modified in section 4 since Exhibit "A" was not included in the agenda packet. Ms. Eaton noted the staff report on page 122 indicated copies of the replacement pages (Exhibit "A") were available at City Hall during normal business hours.

Mr. McHugh suggested amending a portion of section 4 to read 'incorporated herein by reference.'

Ms. Fischer moved to amend section 4 to read 'The complete text of the Traffic and General Offenses Code sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are incorporated herein by reference.' and striking 'attached to this Ordinance as Exhibit A.' Mr. Bogard seconded. The motion passed 6-0-0.

Mr. Keebler moved to adopt Ordinance No. 3070 as amended. Mr. Rutherford seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Keebler, Mr. Rutherford, Mr. Bogard, Ms. Fischer, Ms. Dana (5)

NAY: Mr. Ross (1)

ABS: None (0)

ORDINANCE
SUPPLEMENTAL
BUDGET

An Ordinance No. 3071 Amending Ordinance No. 3033. Supplemental Budget Ordinance Number 6 To Make Supplemental Appropriations For Fiscal Year 2009. (Joe Newlin, Finance Director)

Mr. Newlin addressed the staff report as presented on page 125 of the agenda.

Mr. Bogard moved to adopt Ordinance No. 3071. Ms. Fischer seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Fischer, Mr. Keebler, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

ANNOUNCEMENTS

Mayor Dana advised members of the School Board requested an update on the US-27 South improvement project. Mr. Elliott advised Mr. Dreisbach included an update of the project in his Friday Report and staff would forward it to the School Board.

Mayor Dana asked Council members for their input on ways to reduce copying and paper expenses with regard to reports and agendas. Mr. Keebler advised he would be interested in knowing the procedures followed in other cities. Mr. Ross suggested making sure all copies were two sided and margins could be narrower on some documents.

Mayor Dana advised as a result of the efforts of Bonita Porter and other volunteers a portion of Brown Road was designated as a Scenic Byway and official notification of the designation was expected soon.

Mayor Dana noted she included information on the 'Your Town' Workshops in Council's Friday Packet and noted she would like to pursue Oxford becoming a candidate for the Workshop.

Mayor Dana discussed various projects the parking committees were working on and noted some new initiatives would come before Council in a month or so.

Mayor Dana advised Roger Reynolds, Butler County Auditor would attend a Council Work Session on August 18, 2009 at 6:00 p.m. to discuss property reappraisals and answer questions from Council and the public.

Mr. Elliott advised a meeting would take place this week with members of staff, Mr. Jeff McDonald, representatives from the Ohio Department of Natural Resources and the Butler County Game Warden to develop a deer management program for the City of Oxford. Mr. Elliott noted his hope a proposal would come before Council in the near future.

Mr. Elliott noted he and the Council sub-committee met with the Oxford Township Trustees to begin negotiations on a new contract for Fire and EMS Services.

Mr. Elliott advised legislation would be introduced at the next meeting regarding the county-wide communications system and the annexation of the Talawanda School District property.

Mr. Elliott updated Council regarding the Preliminary Flood Maps.

Mr. McHugh addressed issues Ms. Zien raised earlier this evening noting the Board of Zoning Appeals was a quasi-judicial board and were required to establish whether or not someone had 'standing' as related to appeals. Mr. McHugh advised the board and Mr. Jacques were well versed in the procedure which was not invented by the City of Oxford. Mr. McHugh advised the Board of Zoning Appeals followed the law with regard to the case heard on July 20, 2009.

Ms. Fischer noted an Ordinance adopted recently would prevent an addition such as the one at 210 S. Poplar to be built today.

Mr. Ross noted there were 4 Council positions available and as of yesterday only 3 people were running.

Mr. Ross noted with the adoption of the Code Update more restrictions were placed upon citizens' liberties.

Mr. Ross commented on the large amount of paper being distributed even with computers being utilized.

Mr. Rutherford requested an update regarding the Uptown parking study and the possibility of a rail stop in Oxford.

Mr. Rutherford inquired where the City property on Rt. 732 was being advertised for sale and requested that language be added to reflect water utilities were located on the property. Mr. Rutherford requested staff to investigate whether there was an advantage in consolidating the parcel on the southwest corner of the property with the property for sale.

Mr. Rutherford encouraged citizens to attend the Porsche Car show in Uptown Oxford this weekend noting the Kiwanis would serve breakfast in the Uptown Park.

Ms. Fischer noted Council had received a lot of comments regarding the lack of parking in Uptown Oxford and encouraged people to look for spaces a block away from their destination.

Ms. Fischer stated she would like to see more places for bicycle parking that was inviting and noted a bicycle rack Uptown was sometimes mistaken for a sculpture.

Ms. Fischer noted she looked forward to receiving the deer management proposal especially with regard to urban areas.

ADJOURNMENT

Mr. Bogard moved to adjourn at 8:58 p.m. Mr. Keebler seconded. The motion passed 6-0-0.

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Community Development
Originating Department

Council Meeting Of: August 4, 2009

Jung-Han Chen

Account Code No. #: N/A

Prepared By

Budgeted Amount:

July 20, 2009
Date Prepared

Agenda Title:	Ordinance Accepting the Annexation Petition from The Board of Education of the Talawanda City School District for 154.487 Acres of Land, located off Millville Oxford Road, in the Township of Oxford, Ohio; and Accepted Said Property to be Annexed to the City of Oxford, Pursuant to a Petition filed with the Board of Commissioners of Butler County, Ohio by Gary T. Stedronsky, Agent for Petitioners.
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Recommendation:	Approval
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Discussion:

This legislation is to officially accept the petitioned territory be annexed into the City.

The petitioner filed an annexation petition to the County Commission on April 28, 2009. Following the statutory proceeding, the County Commission sought input from the City of Oxford as well as Oxford Township.

City Council adopted a resolution to accept the annexation petition during its May 5, 2009 meeting. Oxford Township had no response to County Commission's request. Butler County Commissioners approved this annexation request at their June 2, 2009 meeting, based on the statutory requirements, Ohio Revised Code Section 709.023.

This is the final step of the annexation process and requires City Council to formally accept the petitioned territory into the City.

Approved By:	Department Head:	Initial	Date
	City Attorney:	<i>JHC</i>	7/21/09
	City Manager:	<i>JHC</i>	7-22-09

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE ANNEXATION PETITION FROM THE BOARD OF EDUCATION OF THE TALAWANDA CITY SCHOOL DISTRICT FOR 154.487 ACRES OF LAND IN THE TOWNSHIP OF OXFORD, OHIO AND ACCEPTING SAID TERRITORY TO BE ANNEXED.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: On April 28, 2009, Gary T. Stedronksy, as Agent for the Board of Education of the Talawanda City School District, filed a petition with the Board of County Commissioners of Butler County, Ohio to obtain annexation to the City of Oxford, Butler County, Ohio territories consisting of 154.487 acres of land contiguous to the City of Oxford and the existing corporation line of the Township of Oxford, Ohio. Said petition was filed with the consent of all parties utilizing the annexation procedure set forth in Section 709.023 of the Ohio Revised Code.

SECTION 2: The Board of County Commissioners did, by Resolution No.09-05-0931 adopted on May 28, 2009, approve the annexation of the proposed territory to the City of Oxford as hereinafter described. Such approval was subject to the terms and conditions contained in the Statement of Services Resolution No. 4445, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 3: The Board of County Commissioners did, through the Clerk of the Board of County Commissioners, Butler County, Ohio, certify a transcript of the proceedings in connection with the map and petition required herein to the Clerk of Oxford City Council who received the same on or about June 2, 2009.

SECTION 4: A certified transcript of the proceedings for annexation with an accurate map of the territory, together with the petition for annexation and the papers relating to all proceedings heretofore with the County Commissioners, are all on file with the Clerk of the City of Oxford, and have been for more than sixty (60) days.

SECTION 5: The proposed annexation, as applied for in the petition of the Board of Education of the Talawanda City School District, owners of the real estate in the territory sought to be annexed and filed with the Board of County Commissioners, Butler County, Ohio, in which the petition prayed for annexation to the City of Oxford, Ohio of certain territory adjacent thereto as hereinafter described, and Commissioner on May 28, 2009, be and the same is hereby accepted and deemed annexed to the City of Oxford, subject to all the *terms and conditions provided herein and contained within the Statement of Services Resolution No. 4445*, attached hereto and incorporated herein as Exhibit "A" and the *Pre-annexation Agreement Resolution No. 4424*, attached hereto and incorporated herein as Exhibit "B". The territory to be annexed is more particularly described in Exhibits "C" and "D", attached hereto and incorporated herein.

SECTION 6: The Clerk of the City of Oxford be and is hereby authorized and directed to make five copies of this ordinance, to each of which shall be attached a copy of the map accompanying this petition for annexation, a copy of the transcript of the proceedings of the Board of County Commissioners of Butler County, Ohio, related thereto, and certified as to the correctness thereof. The Clerk shall then forthwith deliver one copy of the County Auditor, one copy to the County Recorder, one copy to the County Engineer, and one copy to the Ohio Secretary of State and shall file notice of this annexation with the Board of Elections within thirty (30) days after it becomes effective and the Clerk shall do all other things as required by law.

SECTION 7: This Ordinance shall take effect at the earliest time allowed by law.

MAYOR

ADOPTED: _____

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

A

RESOLUTION NO. 4445

A RESOLUTION ACKNOWLEDGING RECEIPT AND SERVICE OF THE ANNEXATION PETITION FROM THE BOARD OF EDUCATION OF THE TALAWANDA CITY SCHOOL DISTRICT FOR 154.487 ACRES OF LAND LOCATED OFF MILLVILLE OXFORD ROAD, IN THE TOWNSHIP OF OXFORD, OHIO; CONSENTING TO SAID ANNEXATION; AND ADOPTING A STATEMENT OF THE SERVICES THE CITY OF OXFORD WILL PROVIDE TO THE PROPOSED TERRITORY TO BE ANNEXED TO THE CITY OF OXFORD, PURSUANT TO A PETITION FILED WITH THE BOARD OF COMMISSIONERS OF BUTLER COUNTY, OHIO, BY GARY T. STEDRONSKY, AGENT FOR PETITIONERS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Council, having been served and having received the notification of a petition for annexation filed by Gary T. Stedronsky as agent for the petitioner Board of Education of the Talawanda City School District (hereinafter referred to as "Talawanda School District") for 154.487 acres of land located off Millville Oxford Rd. (also known as U.S. 27), in the Township of Oxford, Ohio, hereby agrees and consents to such annexation as stated in such petition.

SECTION 2: Pursuant to and in compliance with Ohio Revised Code Section 709.023 (D), Council hereby consents to the annexation as stated in the petition filed by Gary T. Stedronsky as agent for the Petitioner Talawanda School District 154.487 acres of land located off Millville Oxford Rd. (also known as U.S. 27), in the Township of Oxford, Ohio.

SECTION 3: The Ohio Revised Code, Section 709.023 (C) provides that if, at the time a petition for annexation is filed, the territory proposed for annexation is subject to county or township zoning regulations, the legislative authority of the municipal corporation shall adopt an ordinance or resolution regarding incompatible permitted uses.

SECTION 4: Pursuant to Ohio Revised Code, Section 709.023 (C) and in accordance with Section 3 herein, should City of Oxford Zoning Regulations permit uses in the annexed territory that the City of Oxford determines are clearly incompatible with the uses permitted under current county or township zoning regulations applicable to the adjacent land remaining within Oxford Township, Council for the City of Oxford will require, in the zoning ordinance permitting the incompatible uses, Talawanda School District to provide a buffer separating the use of the annexed territory and the adjacent land remaining within Oxford Township. For the purposes of this section, "buffer" includes open space, landscaping, fences, walls, and other structured elements; streets and street rights-of-way; and bicycle and pedestrian paths and sidewalks.

SECTION 5: The Ohio Revised Code, Section 709.023 (C) provides that the legislative authority of a municipal corporation shall adopt an ordinance or resolution indicating what services a municipal corporation will provide to the territory to be annexed to the municipal corporation upon receiving notice of the petition for annexation and a hearing date before the Board of Commissioners of Butler County, Ohio.

SECTION 6: The City of Oxford, will provide the following services to the territory sought to be annexed in the petition filed by, Gary T. Stedronsky as agent for the petitioner Talawanda School District for 154.487 acres of land plus or minus as described on Exhibit "A", attached hereto and incorporated herein, conditioned upon the property owners providing to the City of Oxford the means of ingress and egress acceptable to the City, by which the City will have access to the proposed annexed territory. These services are conditioned upon access being provided.

POLICE

Police service will be provided on a twenty-four (24) hour basis. Additional police services/equipment will be provided as required.

FIRE PROTECTION

The Oxford Fire Division will provide fire protection and emergency ambulance service as stated in the Fee Ordinance in the territory to be annexed. Additional fire protection and services/equipment will be provided as required.

WATER AND SEWER

Water and Sewer, as provided by law and by service contract, will be furnished to the annexed territory where available, subject to the City's ability to provide these services, based on the current system.

PLANNING AND DEVELOPMENT

A professional planning and engineering staff and economic development staff will be available to service the annexed territory.

ZONING REGULATIONS

Subject to Section 4 adopted hereinabove, current City of Oxford Zoning Regulations will be enforced in the annexed territory.

STREET MAINTENANCE

The Streets and Maintenance Division will provide a full range of street maintenance activities, upon the owners dedicating streets to the public and deeding the same to the City.

BUILDING AND PLANNING SERVICES

Building inspection and planning services by the City of Oxford's professional staff will be provided to the territory on annexation.

WASTE COLLECTION

Waste collection services will be provided immediately upon annexation. Waste collection services will be provided in accordance with the City of Oxford's policies and schedules for commercial waste collection. The property owners will be subject to a monthly fee for waste-collection services.

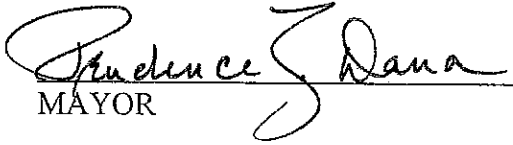
PARKS AND RECREATION

As the City develops, the need for public parks and recreational facilities will be evaluated and appropriate facilities provided upon approval of the Council of the City of Oxford. The City of Oxford currently provides to its citizens play fields, a swimming pool, tennis courts, a skate park, and ball fields.

MISCELLANEOUS

Any and all other services provided to the citizens of the City of Oxford will be provided to the proposed territory upon annexation.

SECTION 7: This resolution shall take effect at the earliest time allowed by law.


MAYOR

ADOPTED: May 5, 2009

ATTEST:


DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

B

RESOLUTION NO. 4424

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH THE TALAWANDA SCHOOL DISTRICT FOR LAND IN THE TOWNSHIP OF OXFORD, OHIO TO BE ANNEXED INTO THE CITY OF OXFORD, OHIO, SUBJECT TO THE CONDITIONS STIPULATED IN THE PRE-ANNEXATION AGREEMENT.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL FOR THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO THAT:

SECTION 1: Talawanda School District wishes to build a new high school on property located in Oxford Township (hereinafter the "Property").

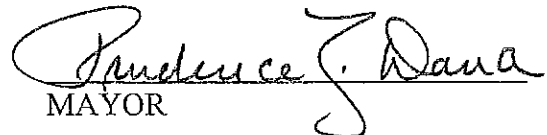
SECTION 2: Talawanda School District and the City would like the Property to be annexed into the City under certain terms and conditions.

SECTION 3: Council hereby approves the Pre-Annexation Agreement and authorizes the City Manager to sign the same in substantially the same form as the Agreement attached hereto as Exhibit "A" and incorporated herein.

SECTION 4: Council finds that the annexation of the Property in accordance with the terms of the Pre-Annexation Agreement is in the best interests of the City and would promote the health, safety and welfare of the citizens and hereby approves the same.

SECTION 5: The City Manager is hereby directed to execute the Pre-Annexation Agreement on behalf of the City.

SECTION 6: This resolution shall take effect at the earliest date allowed by law.


MAYOR

ADOPTED: March 17, 2009

ATTEST:


DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement is hereby entered into this 7th day of April, 2009, by and between the City of Oxford, Ohio, a municipal corporation, hereinafter referred to as "City", and Talawanda School District, hereinafter referred to as "Owner".

WHEREAS, the Owner owns property in Oxford Township (hereinafter referred to as "Property"); and

WHEREAS, the Owner would like to construct a new high school on the Property; and

WHEREAS, the Owner and the City would like the Property annexed into the City under certain terms and conditions; and

WHEREAS, the Owner and the City would like to agree in advance on the conditions of such an annexation;

NOW, THEREFORE, the City and Owner hereby enter into this Agreement on the terms and conditions stated below for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

1. The Owner agrees to file an annexation petition for the Property to annex it to the City within thirty (30) days after execution of this Agreement.
2. The City has agreed to take those actions required to annex the Property at the earliest time practical after the execution of the Agreement.
3. The City agrees to make municipal water service available to the Property. The cost to install a new water line down University Park Boulevard to the site of the new high school shall be the responsibility of the City. The owner will pay for the material including pipe, gravel, and other required material. The City shall also pay for additional upsizing of the waterline required to serve the Property if in the opinion of the City, the proposed waterline capacity will not support the servicing of the new high school.
4. The City also agrees to make municipal sanitary sewer service available to the Property. The cost of connecting the Property to the nearest existing municipal sanitary sewer service line will be the Owner's responsibility. The installation of such connection to the municipal sanitary sewer service shall conform to the specifications and standards of the City's Ordinances and regulations as applicable. The City shall pay for the upsizing of any existing sanitary lines necessary to support the development of the Property, as determined by the Service Director.

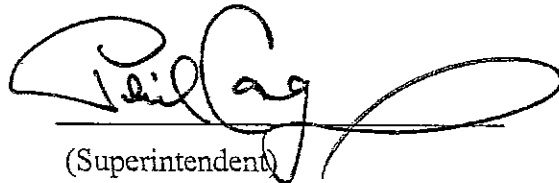
5. The Owner will provide the City Engineer with a detailed storm water management plan for review. The City Engineer shall determine whether the proposed plan to handle additional storm water satisfactorily meets the standards and specifications of the City's Ordinances and regulations as applicable and advise the Owner of any deficiencies that need to be corrected prior to approving the proposed storm water management plan. The Owner shall be responsible for all construction of approved storm water improvements.
6. The Owner shall be responsible for extending and widening University Park Boulevard to the school property line so as to allow access to the new high school. The City shall contribute fifty percent (50%) of the construction, widening and paving costs associated with the extension of University Park Boulevard up to a total not to exceed One Hundred Thirty Five Thousand and 00/100 Dollars (\$135,000.00). The remainder of the construction, widening and paving cost is to be borne by the owner.
7. The City shall be responsible for constructing sidewalks along the north side of University Park Boulevard from US 27 to the school property line and shall pay all costs associated with said construction.
8. The City shall pay for the construction of a temporary sidewalk from Chestnut Street on the west side of US 27 to University Park Boulevard. The sidewalk will be permanently constructed along said street once the widening of US 27 has been completed. The City, State or Federal Government shall pay for the cost of constructing these permanent sidewalks.
9. The Owner shall conduct a traffic impact study for the construction of the new high school on the Property. The City is responsible for the signalization of the entrance/entrances as determined by the Service Director, based on the traffic impact study, as well as turn lane improvements.
10. The Owner shall pay all capacity benefit charges, utility connection fees, and fees for water, sewer and fire service as well as all applicable earning taxes for each independent contractor and subcontractor hired to construct the new high school.
11. The City shall permit the Owner to allow farming of a portion of the land as a non-conforming use.
12. This Agreement is intended to be severable. If any part of the Agreement is deemed unenforceable, the remainder shall be enforced to the extent necessary to accomplish the goals of the Owner to construct a new high school as requested.
13. Any modifications to this Agreement shall require the approval of both parties and shall be in writing.

14. The terms and conditions shall be binding upon the parties herein and all successors and assigns, and these terms and conditions shall run with the land.

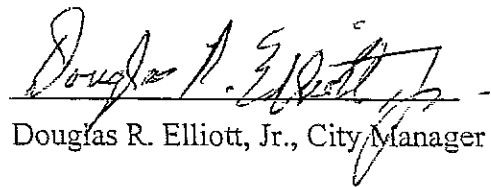
IN WITNESS WHEREOF, the City and Owner have executed this Agreement as of the date first written above.

TALAWANDA SCHOOL DISTRICT

(Signature)


(Superintendent)

CITY OF OXFORD, OHIO


Douglas R. Elliott, Jr., City Manager



EXHIBIT

C

318. S. College Avenue
Oxford, Ohio 45056
P 513.523.4270
F 513.523.3785
www.bayerbecker.com

April 27, 2009

DESCRIPTION:

Annexation Description
Board of Education of the Talawanda
City School District
154.487 acres

LOCATION:

Part of Section 35
Oxford Township
Butler County, Ohio

Situated in Lots 1,3,4,5 and 6 in Section 35, Town 5, Range 1, Oxford Township, Butler County, Ohio, being part of being the lands of Board of Education of the Talawanda School District as recorded in deed book 8096 pages 1518-1523 and deed book 8107 pages 1766-1769 of the Butler County Recorder's Office and being more particularly described as follows:

Commencing at a railroad spike found at the southeast corner of said Section 35;

Thence with the east line of said section and with the east line of the lands of Kenneth Sr. and Beulah Betz as recorded in deed book 6083 pages 175 of the Butler County Recorder's Office, N 2°29'39" E, for 1088.41 feet to a point.

Thence continuing with said east line of the lands of Kenneth Sr. and Beulah Betz N 2°22'56" E for 623.72 feet to a wooden post found, said point being the **True Point of Beginning**;

Thence with the north line of said Kenneth Sr. and Beulah Betz N 87°42'28" W a distance of 1780.30 feet to a wooden post found, said post being on the west line of said lot 1;

Thence with the east line of said Lot 4 and with the west line of the lands of Richard S. Coombs, Tr. Etal. as recorded in deed book 8042 pages 109 of the Butler County Recorder's Office, N 01°16'37" E a distance of 146.08 feet to a 5/8" rebar set;

Thence through said Lot 4 and with the north line of said lands of Richard S. Coombs Tr. Etal. N 87°45'09" W a distance of 2058.45 feet to a Magnail found, said point being on the centerline of the B & O Railroad;

Thence with the centerline of said B & O Railroad N 21°37'55" E a distance of 102.85 feet to a 5/8" rebar found;

Thence with a curve turning to the left with an arc length of 2605.21 feet, with a radius of 3811.23 feet, with a chord bearing of N 02°43'48" E and with a chord length of 2554.78 feet, to a Magnail set, said point being on the southwest corner of the lands of Clawson Properties, LLC. , as recorded in deed book 7577 page 1342 of the Butler County Recorder's Office;

Thence with the south line of said lands of Clawson Properties, LLC. , N 76°32'51" E a distance of 579.74 feet to a wooden post found;

Thence continuing with said south line of said lands of Clawson Properties, LLC. S 88°32'26" E a distance of 1410.21 feet to base of a concrete post;

Thence with the west line of said lands of Clawson Properties, LLC. N 02°19'13" E a distance of 185.06 feet to a ½" rebar found;

Thence continuing with said lands of Clawson Properties, LLC. S 88°19'17" E a distance of 24.24 feet to ½ " rebar found;

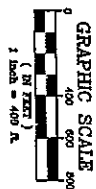
Thence with the west line of said lands of Arrowhead Crossing, Ltd. and continuing with the west line of the lands of Ned C. Hoelzer and Jack Thacker as recorded in deed book 7395 page 1648 of the Butler county Recorder's Office S 02°17'31" W a distance of 2309.31 feet to a wooden post found;

Thence with the south line of said lands of Ned C. Hoelzer and Jack Thacker S 87°06'55" E a distance of 1796.77 feet to a wooden post found;

Thence S 02°22'56" W a distance of 831.45 feet to **True Point of Beginning** containing 154.487 acres of land more or less, with 34.518 acres in Lot 1, 79.708 acres in Lot 3, 27.068 acres in Lot 4, 4.304 acres in Lot 5 and 8.794 acres in Lot 6, being subject to all legal highways, easements, restrictions and agreements of record.

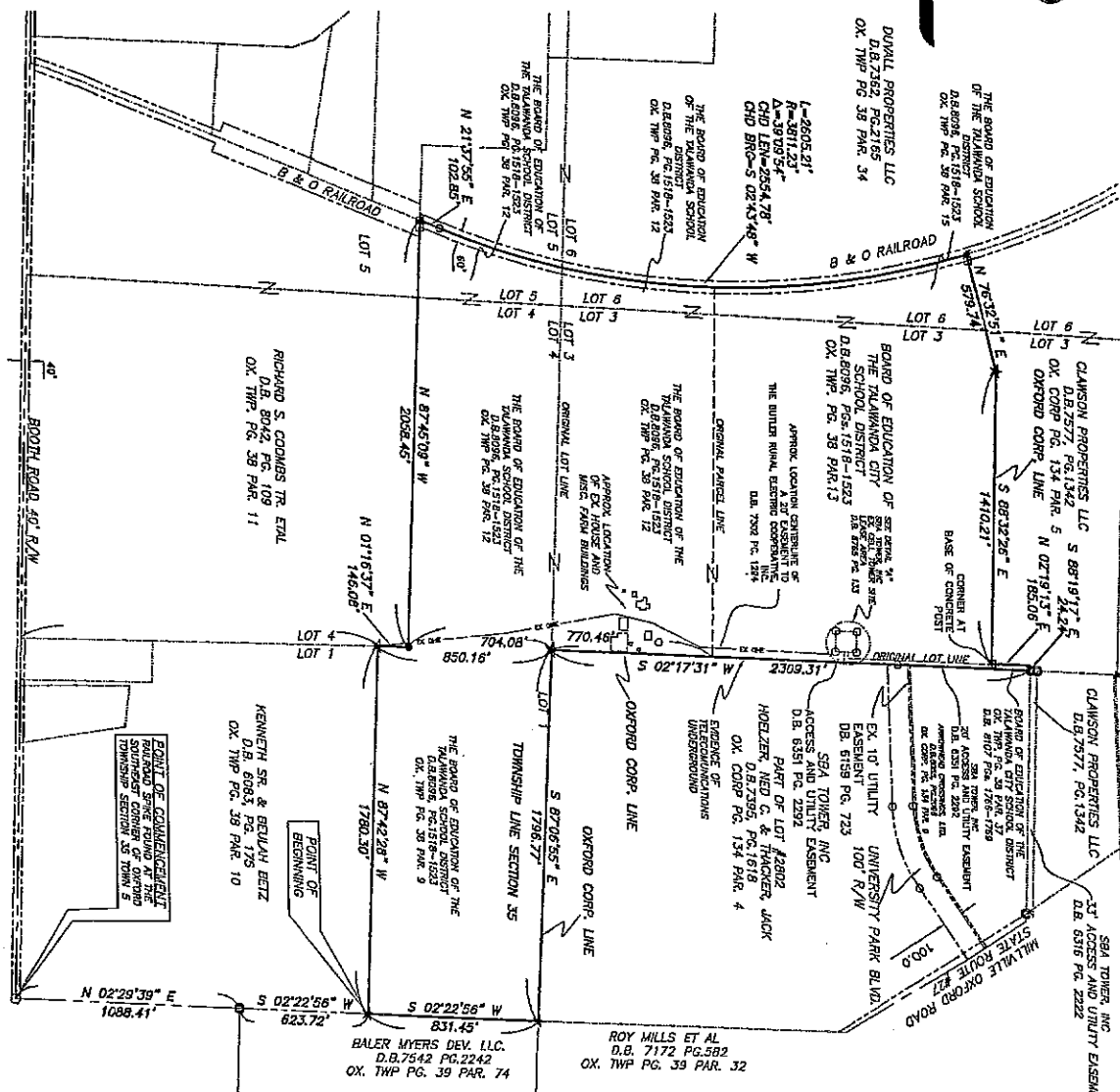
This description was prepared by David Douglas Smith, Register Ohio Surveyor # 7121. A plat of the original survey for this property has been recorded in volume 52 page 165 of the Butler County Engineers Record of Land Surveys.





I HEREBY CERTIFY THAT ALL MEASUREMENTS AND MONUMENTS SET AND/OR FOUND AS SHOWN, CURVE DISTANCES ARE MEASURED ON THE ARC. ALL WORK PERFORMED IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR BOUNDARY SURVEYS IN THE STATE OF OHIO.

David Douglas Smith
 DAVID DOUGLAS SMITH
 PROFESSIONAL SURVEYOR NO. 7121 DATE 4/27/09



NOTES AND REFERENCES

NORTH IS BASED ON STATE PLANE
 COORDINATES NAD 83 OHIO SOUTH
 ZONE

DEED REFERENCES

D.B. 6682 PG. 342	D.B. 7395 PG. 1618
D.B. 6055 PG. 2094	D.B. 6083 PG. 175
D.B. 6055 PG. 2096	D.B. 8042 PG. 109
D.B. 6351 PG. 2292	D.B. 7171 PG. 902
D.B. 6327 PG. 1223	D.B. 8461 PG. 1252
D.B. 1730 PG. 200	D.B. 8461 PG. 115
D.B. 6327 PG. 2257	D.B. 7302 PG. 1294
D.B. 6327 PG. 1416	D.B. 6351 PG. 2292
D.B. 7015 PG. 185	D.B. 6316 PG. 2222
D.B. 7577 PG. 1342	D.B. 7577 PG. 1342

SURVEY REFERENCES

VOL. 18 PG. 177	ANNEXATION PLAT
VOL. 31 PG. 206	BALPH D.B. 1713 G. 513
VOL. 10 PG. 20	VOL. 28 PG. 115
VOL. 7 PG. 180	VOL. 48 PG. 173
VOL. 8 PG. 58	VOL. 41 PG. 104
VOL. 10 PG. 109	VOL. 44 PG. 176
VOL. 10 PG. 134	VOL. 41 PG. 105
VOL. 29 PG. 76	
VOL. 41 PG. 200	
SURVEY BY ROWLAND HALL	P.C. 2213 A
SURVEY SERVICES	P.C. 5114 A
DATED 4/22/01	P.L. 314 A

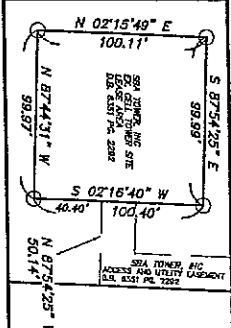
AREA SUMMARY

PARCEL 37	LOT 3	0.103 ACRES
PARCEL 37	LOT 3	50.789 ACRES
PARCEL 12	LOT 3	28.502 ACRES
PARCEL 12	LOT 3	28.502 ACRES
PARCEL 12	LOT 4	2.468 ACRES
PARCEL 12	LOT 4	27.068 ACRES
PARCEL 12	LOT 5	4.304 ACRES
PARCEL 9	LOT 1	34.518 ACRES

TOTAL THIS SURVEY = 164.487 ACRES

A COPY OF THIS SURVEY CAN BE FOUND IN VOLUME 52
 PAGE 185 OF THE BUTLER COUNTY ENGINEER'S RECORD
 OF LAND SURVEYS.

DETAIL "A" T = 60'



MONUMENT LEGEND

- Set 5/8" Iron Pin
- ◆ Set Spike
- Set Concrete Monument
- ▲ Set Mag Nail
- Existing 5/8" Iron Pin
- Existing 1/2" Iron Pin
- Existing Spike
- Existing Concrete Post
- △ Existing Mag Nail/P.K. Nail
- △ Existing Stone
- △ Existing Iron Pipe
- △ Existing Xyle
- △ Existing Cross Hatch
- △ Existing Wood/Steel Post

**BOARD OF EDUCATION OF THE
 TALAWANDA CITY SCHOOL DISTRICT**
 SECTION 35, TOWN 5, RANGE 1
 Oxford Twp
 Butler County, Ohio
ANNEXATION PLAT

**bayer
 becker**
 www.bayerbecker.com
 318 S. College Avenue
 Oxford, OH 45056 - 513.223.4270

Item	Revision Description	Date	Drawn	Chk
1	ADD TAX PAGES AND PARCEL NO.			
2	ADD 0.103 ACRE TRACT TO PARCEL 13	4/06/09	DOS	BH
3	ADD RECORDING INFO	4/27/09	DOS	BH

**CITY OF OXFORD
STAFF SUMMARY REPORT**

Report to the City Manager

Community Development Department
Originating Department

Council Meeting Of: August 4, 2009

Jung-Han Chen

Account Code No. #:

Prepared By

Budgeted Amount:

July 16, 2009

Date Prepared

Agenda Title: **PC-11-2009 FINAL SUBDIVISION** – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential) , Tri-State Habitat for Humanity, Applicant

Recommendation: Approval

Discussion:

The Planning Commission held a Public Hearing on this Final Subdivision proposal for the first phase. The subdivision has been named Reckford Woods Subdivision. The entire site is made up of two parcels; Phase I will consist of ten single-family lots on 3.063 acres.

The Planning Commission first heard the Preliminary Subdivision request in August 2008 and City Council approved the Planning Commission's recommendation and conditions, outlined in Ordinance #3022.

All of the lots as presented satisfy the zoning requirements. Legal Counsel and the Applicant continue to work out the details of the Homeowner's Association covenants and restrictions. Construction drawings have been approved by the Engineering Department. Potential soil contamination reporting, which was a request of Staff and the Planning Commission, was addressed by the Applicant at the hearing as having no contamination. Additional information is expected to be presented by the Applicant. One of the conditions for this subdivision is that the City Engineer reviews and approves the geotechnical report and environmental soil analysis.

The Planning Commission voted 6-0-0 to approve this Final Subdivision with the following conditions:

1. That, all existing buildings are removed from the site, including both structures and any sheds or accessory buildings, prior to construction.
2. That, the City Engineer reviews and approved the geotechnical report and environmental soil analysis.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

JHC 7/17/09

[Signature] 7-30-09

ORDINANCE NO. _____

ORDINANCE APPROVING THE FINAL SUBDIVISION APPLICATION FOR RECKFORD WOODS SUBDIVISION, PHASE ONE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: In accordance with Oxford Code Section 1101.03, the Oxford Planning Commission held a public hearing on July 14, 2009 on the application of Tri-State Habitat for Humanity Ohio-Kentucky-Indiana for approval of the final subdivision for Reckford Woods, Phase One.

SECTION 2: After due deliberation, the Planning Commission recommended the approval of the Final Subdivision application for Reckford Woods Subdivision, Phase One.

SECTION 3: Council hereby accepts the recommendation of the Planning Commission and further approves the Final Subdivision application for Reckford Woods Subdivision, Phase One with the following conditions:

- a) All existing buildings are removed from the site, including both structures and any sheds or accessory buildings prior to construction;
- b) The City Engineer shall review and approve the geotechnical report and environmental soil analysis; and
- c) All proper recordings including the Home Owners Association Declarations, shall be filed and recorded at the Butler County Recorder's Office within one (1) year or the approval shall be considered null and void.

SECTION 4: This Ordinance shall take effect at the earliest time allowed by law.

MAYOR

ADOPTED: _____

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

**Certification of Action
Oxford Planning Commission
Recommendation to City Council**

<u>Report Date</u>	July 16, 2009
<u>Case Number</u>	PC-11-2009
<u>Applicant Information</u>	Tri-State Habitat for Humanity Jean Masthay, Executive Director
<u>Requested Action</u>	Final Subdivision
<u>Summary of Request</u>	To Allow for a Proposed Residential Subdivision (R1B single family medium density residential)
<u>Public Hearing Information</u>	On July 14, 2009 a public hearing was held at 118 West High Street. A legal notice of the hearing was published in the Oxford Press on June 12, 2009.
<u>Commission Action</u>	The Planning Commission voted 6-0-0 to recommend to City Council <i>APPROVAL</i> of the final subdivision with the following conditions: 1. That, all existing buildings are removed from the site, including both structures and any sheds or accessory buildings, prior to construction. 2. That, the City Engineer reviews and approves the geotechnical report and environmental soil analysis.
<u>Commission Findings and Conclusions</u>	At the July 14, 2009 meeting, the Planning Commission approved the final subdivision with conditions listed above.
<u>Exhibits Submitted to the Commission</u>	1. Staff Report dated June 15, 2009 2. Interoffice Review Transmittal Sheets from Fire, Engineering, Police & Economic Development 3. Approved Preliminary Subdivision 4. Ordinance No. 3022 5. Review and comment forms 6. Letter of Agency 7. Final Subdivision Application dated May 29, 2009 8. Memorandum from Ben Hurst, P.E. 9. Final Development Plan 10. Draft HOA documents

City of Oxford
Community Development Department
STAFF REPORT

Planning Commission

Case # PC-11-2009

Date – July 14, 2009

APPLICATION

Applicant: Tri-State Habitat for Humanity and Bayer & Becker Engineers
Location: Hester Road
Owner: Michael Dickman

Action Request: Final Subdivision Phase I
Current Use: Single Family Residence
Current Zoning: R1-B
Surrounding Existing Land Uses: Single-Family/Multi-Family

GENERAL DESCRIPTION

The Applicants seek approval of the Final Subdivision Plat to subdivide the first phase of the now named Reckford Woods Subdivision on Hester Road. The site as a whole is made up of two parcels, Lot #1303 and #1304. The first phase would be developed on a portion of Lot #1303. Phase 1 includes one lot which contains the detention for the site and will be maintained by the Homeowners Association.

Approved Preliminary:

6.25 acre tract
20 single-family residential lots

Phase I:

3.063 acres
11 lots (10 SF lots)

Future Phase II:

3.178 acres
10 lots

The Planning Commission first heard this case in August 2008 and continued the meeting to September. City Council approved Planning Commission's recommendation, in October, with conditions as outlined in Ordinance #3022.

1. That, Engineering comments regarding the sanitary sewer and storm sewer must be addressed prior to submitting the final subdivision application.
2. That, the ownership determination of a strip of land located on the south side of the first cul-de-sac must be determined. The City will not be the owner of that strip of land. (This condition pertains to Phase II)
3. That, a Homeowners Association needs to be formed to own and maintain those potential detention areas.
4. Potential soil contamination issues must be addressed and satisfactory to appropriate public agencies.

The property is zoned "R1B" Single-Family Medium Density Residential and is required to have 7,500 sq. ft. lots with 65 foot lot widths. All of the lots as presented in this Final Subdivision application satisfy the zoning requirements. Lot lines have shifted slightly since the approved Preliminary Plan, but are still in the spirit and intent of layout and number of lots approved in the Preliminary.

SURROUNDING NEIGHBORHOOD

The surrounding neighborhood of the subject site consists of single family, along with a planned development multi-family retirement community (to the west). Directly to the south and north of subject property is an established residential neighborhood. To the east of the subject site is the Northridge Subdivision.

COMPREHENSIVE PLAN

Participants during the Comprehensive Plan update mentioned more affordable housing options should be provided. They explained that designated affordable housing (in the traditional deed-restricted sense) was

not necessary but that more affordable market rate options should be available. Additionally, residents noted a desire to have a range of housing options in size and style that are mixed within neighborhoods to promote socioeconomic integration.

- Housing Goal:** *Livable, attractive, and affordable housing for a diverse population.*
- Objective 2:** Expand Housing Options
- Strategies:**
- H 2.1 Update development regulations to allow for a variety of housing types in new developments.
 - H 2.2 Create incentives to make it desirable for developers to construct moderately priced housing developments.
 - H 2.3 Establish incentives and/or requirements to include a number of new units for low to moderate income residents.
 - H 2.4 Provide financial assistance to increase homeownership opportunities for low to moderate income residents (CDBG funds for first time homeowner grants).

SUBDIVISION REGULATIONS

This Final Subdivision application is complete and substantially reflects the design and layout of the approved preliminary plan. Subdivision is an administrative review to evaluate the proposed subdivision based on the City's regulations, specifically, the division of parcels, and utility service to the proposed divided lots. The issue centered on any proposed subdivision is whether there would be sufficient municipal services to support the development and whether the development will meet the minimum standards stipulated in the City's regulations.

AGENCY COMMENTS

Requests for Agency Review were sent to the Police, Economic Development, Engineering and Fire Departments. The returned comments are attached for your consideration.

- | | |
|--------------------|---|
| Police Department: | Returned with no comments. |
| Engineering: | Attached. Engineering states that there is an existing well on the site that was not presented on the construction drawings. Construction Drawings were approved with minor corrections needed. |
| Fire: | Returned with no comments. |
| Econ. Dev.: | Returned with no comments. |

PUBLIC COMMENT FORMS

Comment forms were sent June 9, 2009 to 65 owners of record. A legal notice was published June 12, 2009 in the Oxford Press. Citizen comment forms have been received and are attached for your review.

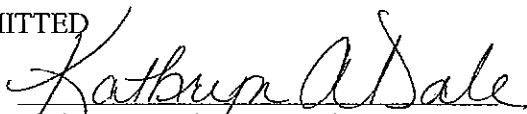
STAFF ANALYSIS

It appears that all the proposed lots have met or exceeded the minimum dimensional standards of the R1B Medium Density Single Family Residential District. Conditions of Ordinance #3022 appear to be satisfied at this time, with the exception that the Applicant has not addressed in their application letter or with the Community Development Department any findings regarding potential soil contamination. Furthermore, items listed in the Engineering report will have to be addressed prior to the Record Plat being filed for signatures. Again, this Final Subdivision application substantially reflects the design and layout of the approved preliminary plan.

RECOMMENDATION

Not Applicable.

SUBMITTED
BY:


Kathryn A. Dale, AICP, Planner
Community Development Department

DATE: June 15, 2009

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/1/2009

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-11-2009

Description:

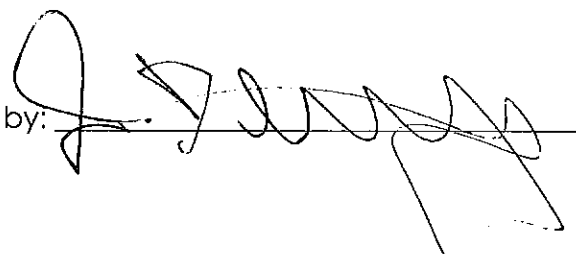
PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential) , Tri-State Habitat for Humanity, Applicant

☒ Review ☐ Revisions ☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **6/30/2009** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: 

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/1/2009

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-11-2009

Description:

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential), Tri-State Habitat for Humanity, Applicant

_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

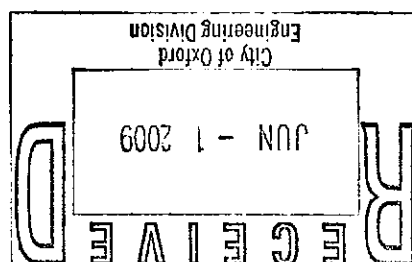
Please return no later than: **6/30/2009** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

SEE MEMO DATED 6-9-09.

Drawings reviewed by: _____

A. P. Pusey 6-9-09



to Eng. 6/1/09 @ 3:08 pm



Changes need for
Const. Dwg's.
6/5/09-Per Victor P. - Const
Dwg's approved per
these minor changes

Memo

Service Department
Engineering Division
513/524-5208 fax 513/524-5267

TO: Rebecca Kolb
Building and Housing Division

FROM: Victor Popescu, PE
City Engineer

RE: Reckford Woods - Habitat for Humanity Subdivision

DATE: June 5, 2009

We have reviewed the submittal dated May 29, 2009, and received in the Engineering Division on June 1, 2009. The following are our comments.

Plan Sheet C1.o.

- Correct the telephone number for "Inspections" to read (513) 524-0203.
- Correct the address for "Duke Energy."
- Correct the "Underground Utility" note by replacing "United Utility" with "OUPS."

Plan Sheet C2.o.

- Show location of all water meters.

Plan Sheet C3.o.

- Show location of all water meters.

Plan Sheet C4.o.

- Refer to the "Typical Section" detail.
 - Correct the description for Item 304.

The above comments are from the Engineering Division. Questions are to be addressed to the appropriate staff member in the Engineering Division.

All revisions are to be submitted thru the Building & Housing Division.

Comments on
Final Subdivision



Memo

Service Department
Engineering Division
513/524-5208 fax 513/524-5267

TO: Jung-Han Chen
Community Development Department

FROM: Victor Popescu, PE
City Engineer

RE: PC Case #: PC-II-2009
Final Subdivision Plan – Phase One

DATE: June 9, 2009

The following are our comments on the “Final Subdivision Plan – Phase One”, dated May 29, 2009, and revised June 4, 2009.

Sheet 1/2.

- Refer to 4th paragraph.
Change “Oxford Natural Gas” to read “Glenwood Energy.”

Sheet 2/2.

- Lot 3742 indicates the presence of an existing well. This was not indicated on the construction plans.
- The proposed fire hydrant in the cul-de-sac is shown to be installed in the roadway pavement.
- The sanitary sewer easements are not consistent. One easement begins in the back of the sidewalk, while the other easement begins in front of the sidewalk.

If there are questions, please contact the Engineering Division at 513-524-5208.



Memo

Service Department
Engineering Division

513/524-5208 fax 513/524-5267

TO: Rebecca Kolb
Building and Housing Division

FROM: Victor Popescu, PE
City Engineer

RE: Reckford Woods – Habitat for Humanity Subdivision

DATE: June 25, 2009

We have reviewed the submittal dated June 17, 2009, and received in the Engineering Division on June 17, 2009. The following are our comments.

Plan Sheet C1.0.

- Refer to GENERAL NOTES.

➤ Revise Note 4 to read as follows:

Surface course (Item 448) and Tack Coat (Item 407) are to be applied no sooner than nine (9) months after the leveling course (Item 446) and fifty (50) percent of the lots are developed. If, after two (2) years, fifty (50) percent of the lots have been developed, then the top course may be applied.

The above comments are from the Engineering Division. Questions are to be addressed to the appropriate staff member in the Engineering Division.

All revisions are to be submitted thru the Building & Housing Division.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/1/2009

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-11-2009

Description:

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential), Tri-State Habitat for Humanity, Applicant

_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **6/30/2009** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: _____

SScanner
6/9/9

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/1/2009

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-11-2009

Description:

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential), Tri-State Habitat for Humanity, Applicant

_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **6/30/2009** Note: If no comments are received, we will assume the project meets your department's standards.

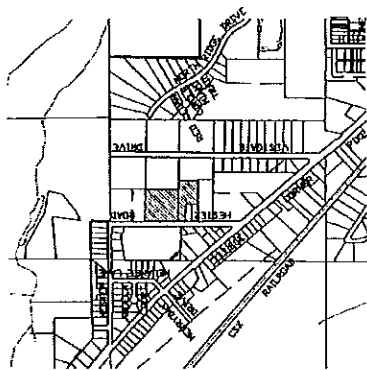
.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: _____



Approved Preliminary

8-26-08 Revised Plan



VICINITY MAP
NO SCALE

ZONING CODE REVIEW:

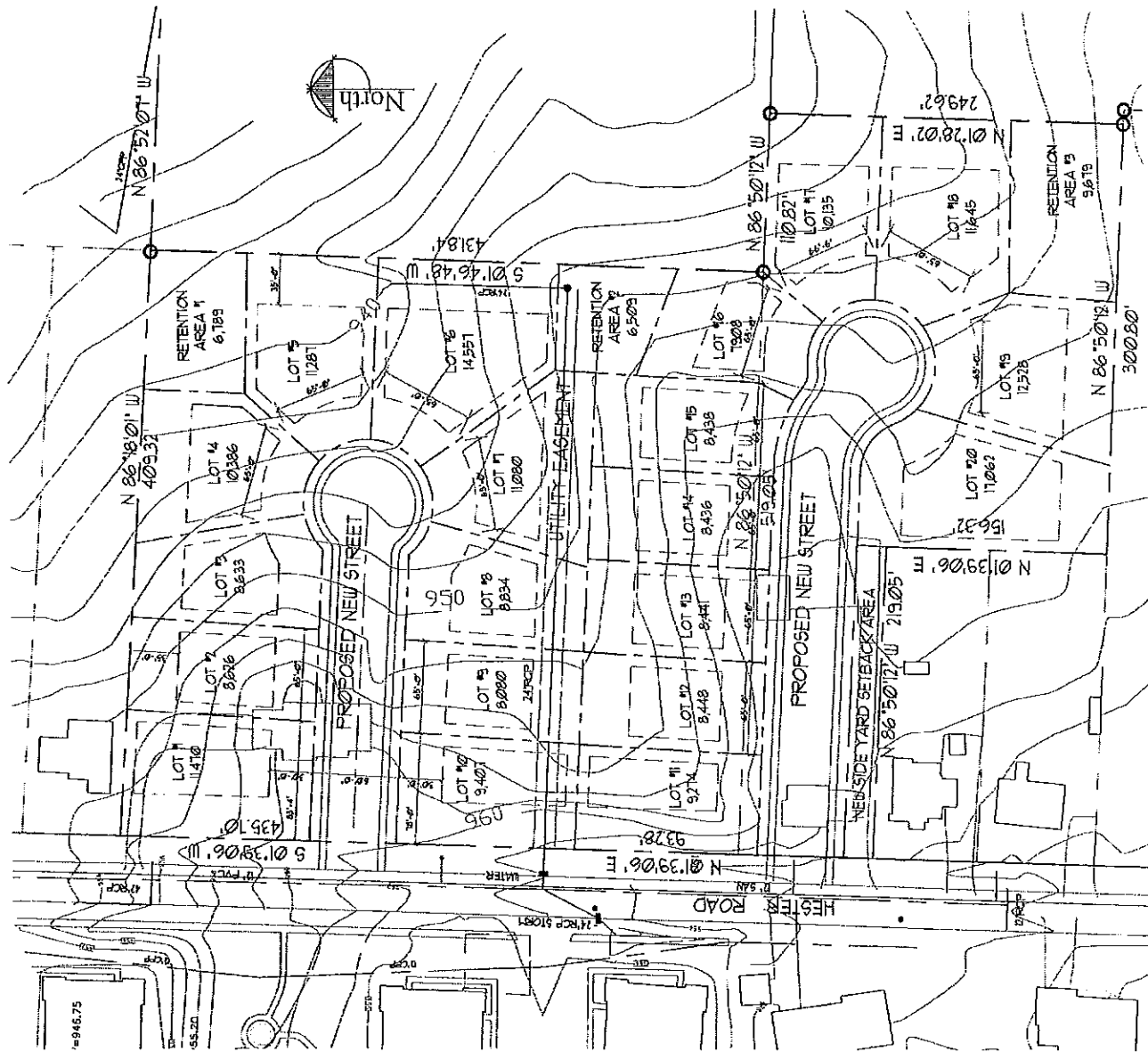
R18 SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT
SITE DEVELOPMENT REGULATIONS

- LOT REQUIREMENTS:
- MINIMUM LOT AREA: 15,000 SF.
 - MINIMUM LOT WIDTH: 65'-0"
 - YARD REQUIREMENTS:
 - MIN. FRONT YARD: 30'-0"
 - MIN. REAR YARD: 35'-0"
 - MIN. SIDE YARD: 8'-0"
 - LOT COVERAGE: 35% OF LOT
 - LOT TOTAL: 15% OF LOT
 - ALL ENCLOSED BLDG: 25% OF LOT
 - FRONT YARD: 25% OF FRONT YARD

PRELIMINARY SURVEY DATA PROVIDED BY:

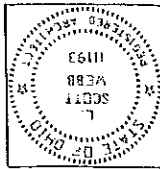
DDS Surveying Inc.

318 South College
P.O. Box 150
Oxford, Ohio 45056
(513) 523-4270



PRELIMINARY SUBDIVISION PLAN
SHOWING 20 NEW SINGLE FAMILY RESIDENTIAL LOTS

1" = 50'-0"



SCOTT WEBB ARCHITECT
100 West Walnut Street
Oxford, Ohio 45056
(513) 523-4270
www.scottwebb.com

HABITAT for HUMANITY
PROPOSED NEW SUBDIVISION
HESTER ROAD
OXFORD, OHIO 45056

DATE	January 1, 2008
REVISIONS	August 26, 2008

A=1

ORDINANCE NO. 3022

ORDINANCE APPROVING THE PLANNING COMMISSION'S RECOMMENDATION FOR PRELIMINARY APPROVAL OF A HESTER ROAD RESIDENTIAL SUBDIVISION.

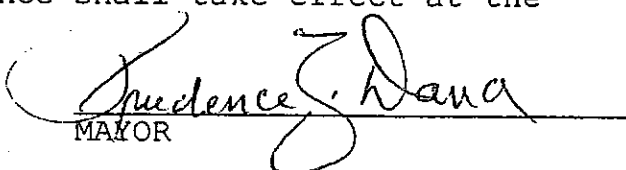
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Council finds that the Planning Commission held a public hearing on August 12, 2008 the purpose of which was to accept public comment on the proposed Hester Road Preliminary Subdivision Application. Council further finds that the Planning Commission after accepting public comment at the public hearing did continue the matter until September 9, 2008 to allow for additional adjoining property owner notification and for the applicant to amend the application based on concerns from the public.

SECTION 2: Council hereby accepts the action of the Planning Commission and accepts the recommendation report submitted by the Planning Commission and applicant's application and all documents filed by applicant and incorporates the same herein and hereby approves the amended application of the applicant for the preliminary Hester Road Subdivision, subject to the following conditions:

- a. Engineering comments regarding the sanitary and storm sewer must be addressed prior to submitting the final Subdivision Application.
- b. The ownership determination of a strip of land located on the south side of the first cul-de-sac must be determined. The City will not be the owner of that strip of land.
- c. A Homeowners Association needs to be formed to own and maintain those potential detention areas.
- d. Potential soil contamination issues must be addressed and satisfactory to appropriate public agencies.

SECTION 3: This Ordinance shall take effect at the earliest time allowed by law.



MAYOR

ADOPTED: October 21, 2008

ATTEST: 

DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW(STAFF)



**CITY OF OXFORD
PLANNING COMMISSION
REVIEW AND COMMENT FORM**

Case No.: PC-11-2009

Date of Hearing: July 14, 2009

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential) , Tri-State Habitat for Humanity, Applicant

If you cannot attend the public hearing on this planned development being held before the City of Oxford Planning Commission, but would like to comment on this matter, please complete this form and return it by **July 8, 2009** to Lynn Taylor, 101 East High Street, Oxford, OH 45056.

Name: Bonita L Riddle

Address: 5344 Hester Rd

Telephone: Home: 513 461 1519 Work: _____

COMMENTS: Why not just move trailer park in
Don't want it . . .

Bonita Riddle
Signature

Date



**CITY OF OXFORD
PLANNING COMMISSION
REVIEW AND COMMENT FORM**

Case No.: PC-11-2009

Date of Hearing: July 14, 2009

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential) , Tri-State Habitat for Humanity, Applicant

If you cannot attend the public hearing on this planned development being held before the City of Oxford Planning Commission, but would like to comment on this matter, please complete this form and return it by **July 8, 2009** to Lynn Taylor, 101 East High Street, Oxford, OH 45056.

Name: Gary & Deborah Parker

Address: 7880 Stonehouse Ct

Dayton, OH 45459

Telephone: Home: 937-435-6772

Work: 937-212-2127 (Debbie)

COMMENTS: *We think the future of Oxford would be better served by building up that area of town with upscale retail, housing and commercial establishments. A Habitat for Humanity development in that area will do nothing for the future of Oxford.*

Deborah J Parker
Signature

6-10-09
Date

Gary D. Parker



**CITY OF OXFORD
PLANNING COMMISSION
REVIEW AND COMMENT FORM**

Case No.: PC-11-2009

Date of Hearing: July 14, 2009

PC-11-2009 FINAL SUBDIVISION – Hester Road, Phase 1, Reckford Woods, 3.063 acres, 11 lots, proposed residential subdivision R1B (Single-Family Medium Density Residential) , Tri-State Habitat for Humanity, Applicant

If you cannot attend the public hearing on this planned development being held before the City of Oxford Planning Commission, but would like to comment on this matter, please complete this form and return it by **July 8, 2009** to Lynn Taylor, 101 East High Street, Oxford, OH 45056.

Name: Daniel A. DeCaro

Address: 5407 Hester Rd, Oxford OH 45056

Telephone: Home: 513-560-9304 Work: _____

COMMENTS: *I support the subdivision. Everyone should have the opportunity for affordable housing in a safe community environment. Our neighborhood has raised many "concerns" about the project; these "concerns" are largely ~~based~~ fueled by misconceptions & are not supported by all here. Please continue with the project. Thanks for including us in this decision process.*

Signature: Daniel A. DeCaro **RECEIVED** July 3, 2009
Date

JUL 10 2009

CITY OF OXFORD

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Jean Masthay, Randy Wilkerson, Jim Lipnickey with TriState Habitat for Humanity, and Etta Reed and Ben Hurst with Bayer & Becker, Inc. have permission to represent our interest with the City of Oxford regarding our property located at 5336 & 5306 Hester Rd., Oxford, Ohio 45056.

Thank-you,

Michaela Dickman
Owner

6-8-09
Date

Case No.: PC-11-09
Date filed: 5/29/09

Final Subdivision Application
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Applicant: Tri-State Habitat for Humanity Ohio-Kentucky- Indiana
Mailing Address: 9900 Princeton Glendale Road, Suite 216
Cincinnati, Ohio 45246
Telephone Number(s): (513) 942-9211

Name of Subdivision: Reckford Woods
Date of Planning Commission preliminary approval: 09/09/08
Zoning District: R-1B
Number of Lots: 11 lots
Total Acreage: 3.06 Acres
Surveyor/Engineer: Bayer & Becker Inc.
Address: 318 S. College Avenue, Oxford, OH 45056
Phone Number: (513) 523-4270

DRAWING REQUIREMENTS

Please submit one copy of the plat on mylar and twelve copies of the plat on bond. Drawing size must be at least 18" x 24" and should never exceed 24" x 36 ". The plat must be prepared in accordance with Chapter 1101, Subdivision Regulations and Chapters 1121-1137, Zoning Code of the City of Oxford. Scale should not exceed 1" = 100'. The following information must appear on the plat:

- a) Boundary lines of the area being subdivided with accurate distances and bearings.
- b) The accurate outline of any portions of the property to be dedicated for public use.
- c) A statement dedicating all proposed public streets and alleys with their names.
- d) The lines of adjoining streets and alleys with their widths and names.
- e) All lot lines together with an identification system for all lots and blocks. Lot numbers shall be secured from the County Auditor's office.
- f) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets and alleys, easements and any other areas for public or private use. Linear dimensions are to be given to the nearest one hundredth of a foot.
- g) The radii, arcs, lengths, points of tangency and central angles for all curvilinear streets and the radii and lengths for rounded corners.
- h) The location of all survey monuments and bench marks together with their descriptions. There shall be a minimum of four permanent markers in each subdivision section located at or near the outer corners.
- i) The certificate of the surveyor attesting to the accuracy of the survey and to the correct locations of all monuments shown.
- j) A vicinity map, drawn to scale, showing the general location within the City.
- k) The location of all present property lines, streets, alleys, rights-of-way, buildings, easements, lakes, watercourses and drainage ways.
- l) Size of the tract in acres and lots in square feet and the boundary lines along with the linear measurement thereof.
- m) Any existing water mains, culverts, water or sewer lines, easements, buildings and streets within the tract or immediately adjacent thereto.
- n) The proposed location and width of streets, alleys lots and easements.



318 South College Avenue
Oxford, Ohio 45056
P 513.523.4270
F 513.523.3785
www.bayerbecker.com

June 8, 2009

Ms. Kathy Dale
City of Oxford
101 East High Street
Oxford, Ohio 45056-1887

Re: Habitat for Humanity (Reckford Woods)-Final Subdivision Plat Revisions

Dear Ms. Dale,

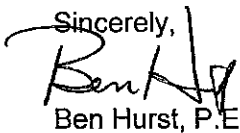
We are requesting approval for the Reckford Woods Final Subdivision Plat-Phase One. It is a residential community consisting of 10 single family lots and one open space lot on 3.063 acres located north of College Corner Pike, East of Hester Road and south and west of the Northridge Subdivision. The property is zoned R-1B and in this medium density residential district provides a transition from the higher density condominiums to the west to the lower density single family Subdivision mentioned above. A Future Phase Two will consist of 10 single family lots and two open space lots on 3.178 Acres.

The typical City of Oxford local street section shall be used with curb & gutter and shall be served with public utilities including gravity sanitary sewer. The minimum lot size shall be 7,500 S.F. (65 feet wide) with minimum setback distances of 30 feet for front yards, 35 feet for rear yards and 8 feet for side yards.

Below is a summary of the attachments and revisions per the requirements and requests of the City of Oxford:

- 1) A mylar and 12 copies of the revised Final Subdivision Plat. (Please replace the previously submitted set)
- 2) Letter of Agency
- 3) Deed covenants & restrictions and HOA documents shall be submitted at a later date.
- 4) Phase 1 and 2 outlined clearly with separate hatches on sheet one.
- 5) A curve table has been added showing the delta angle, radii, arc length and chord for the curves within the subdivision.
- 6) Revised list of names, addresses and parcel numbers of all property owners within 200 feet of the site. (to include all of the condo owners)
- 7) Receipt from the Butler County Auditor's website showing that all legally due taxes have been paid.
- 8) Existing buildings noted to be razed.
- 9) Existing and proposed utility connections are shown with sizes as well as Fire hydrant locations.

If you should have any additional questions or comments, please do not hesitate to call.

Sincerely,

Ben Hurst, P.E.

Enclosure
cc: Tristate Habitat for Humanity

CIVIL & TRANSPORTATION ENGINEERING

LANDSCAPE ARCHITECTURE

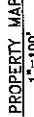
PLANNING

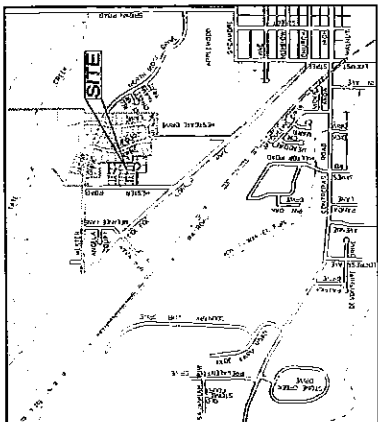
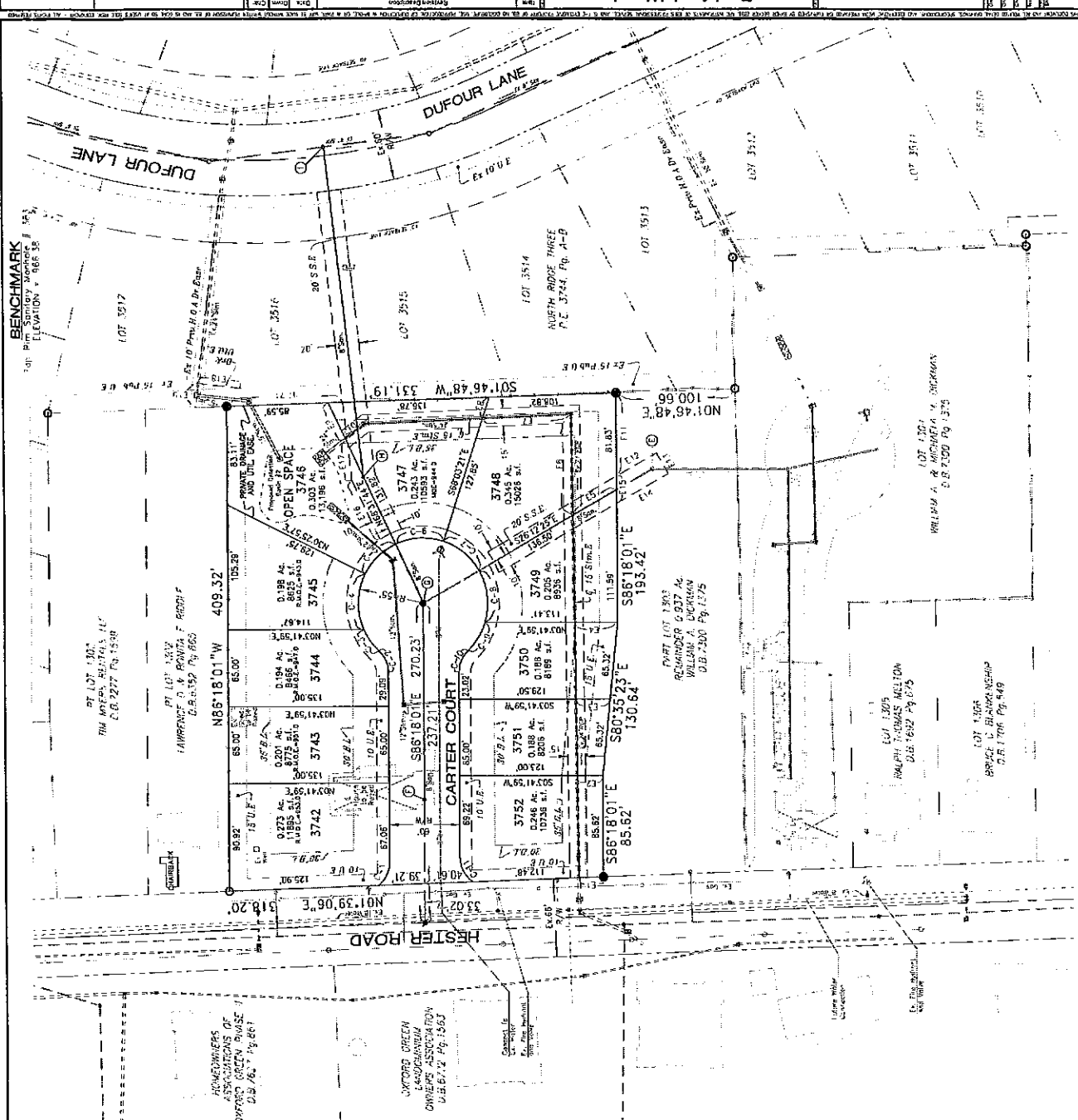
SURVEYING

bayer www.bayer.de/en 216 S. Cottage Avenue Olathe, MO 66061 313.333.2299	Country: <u>Germany</u> DECISION: <u>4000</u> FDI Status: <u>BL</u> Company: <u>YAT</u> Date: <u>2-29-04</u> Sheet: <u>1/2</u>
---	--

(513) 947-9711


Dave D. Smith, P.S.
Registered Surveyor #S-





VICINITY MAP
1"=1000'

- NOTES:**
1. Beels of Bearings: Ohio State Plane Coordinate System, Ohio South Zone 3402
 2. References: North Ridge Section Three, P.E. 3744, Pg. A-B
North Ridge Section Two, P.E. 3150, Pg. A-B
North Ridge Section One, P.E. 2356, Pg. A
 3. Lines of occupation where they exist generally agree with boundary lines unless otherwise shown on plat.

NOTES:

TOTAL DEDICATED CENTERLINE LENGTH FOR CARTER COURT = 2372.1' L.F.

TOTAL RIGHT-OF-WAY TO BE DEDICATED = 0.477 ACRES

R.M.O.E. - REAR MINIMUM OPENING ELEVATION

CURVE TABLE

NUMBER	RADIUS	ARC LENGTH	CHORD	DIRECTION	CHORD LENGTH	DELTA ANGLE
C-1	25.00	22.14	5.695551	E	21.42	50°44'20"
C-2	25.00	20.32	N 70°24'58" E	19.76	46°34'03"	
C-3	25.00	21.86	N 59°17'07" E	21.72	22°46'28"	
C-4	55.00	48.50	S 84°49'48" E	46.94	50°17'32"	
C-5	55.00	36.57	S 40°31'10" E	35.60	38°03'47"	
C-6	55.00	41.68	S 00°14'11" W	40.68	43°24'55"	
C-7	55.00	40.17	S 47°52'07" W	39.23	41°50'58"	
C-8	55.00	45.06	S 87°15'45" W	43.81	48°56'18"	
C-9	55.00	28.35	N 54°30'27" W	26.64	25°32'58"	
C-10	25.00	20.32	N 63°01'00" W	19.76	46°34'03"	
C-11	25.00	23.91	S 66°18'07" W	23.01	54°47'48"	

EASEMENT LINE TABLE

LINE	DIRECTION	DIST.
E1	N 01°32'08" E	20.45
E2	N 03°41'58" E	21.18
E3	N 03°41'58" E	21.09
E4	N 03°41'58" E	36.31
E5	N 03°41'58" E	36.31
E6	N 03°41'58" E	36.31
E7	N 03°41'58" E	36.31
E8	N 03°41'58" E	36.31
E9	N 03°41'58" E	36.31
E10	N 03°41'58" E	36.31
E11	N 03°41'58" E	36.31
E12	N 03°41'58" E	36.31
E13	N 03°41'58" E	36.31
E14	N 03°41'58" E	36.31
E15	N 03°41'58" E	36.31
E16	N 03°41'58" E	36.31
E17	N 03°41'58" E	36.31
E18	N 03°41'58" E	36.31
E19	N 03°41'58" E	36.31
E20	N 03°41'58" E	36.31

Reckford Woods Subdivision Association
9900 Princeton-Glendale Road, Suite 216
Cincinnati, Ohio 45246

Property use in RECKFORD WOODS is controlled by a document titled "DECLARATION OF RESTRICTIONS FOR RECKFORD WOODS SUBDIVISION" (referred to as Deed Restrictions). This document is dated June 10, 2009, and will be filed with Butler County when RECKFORD WOODS is formed as a subdivision. When property in RECKFORD WOODS is purchased, the purchaser *should* receive a copy of the Deed Restrictions from the title company or realtor; however, this does not always happen. For this reason, the New Resident Information Packet includes a copy of this important document.

* * * * *

Section 1 - Use of Lot.

All lots shall be used for single residence purposes only, and no building of any kind whatsoever shall be erected, re-erected, moved, or maintained on any lot except one detached single family dwelling and appurtenant buildings on each lot, as hereinafter provided. Such dwelling shall be designed and erected for occupation by a single private family. A private garage for the sole use of the respective owner or occupant of the lot upon which said garage is erected may also be erected and maintained. All portions of a lot lying in front of the residential building shall be used for ornamental purposes only.

Section 2 - Size of Buildings

- a. No dwelling shall be permitted in open space and detention basin areas??
- b. No dwelling shall be permitted on any of the balance of the lots unless the living area thereof shall be not less than 1,060 square feet.

In the case of any multi-level dwelling, the first floor living area shall be not less than 500?? square feet; in any dwelling constructed without a basement an additional one hundred (100) square feet shall be added to the minimum required first floor area requirement. All computations of square footage for determination of the permissibility of erection of a residence shall be exclusive of garages, porches, or terraces. All garages must be attached or architecturally related to the dwelling. No garage shall provide space for less than two (2) automobiles. Carports are specifically prohibited.

Section 3 - Minimum Yard Requirements.

No building on any lot in The Subdivision shall be erected nearer than:

- a. Thirty (30) feet from the front lot line; nor
- b. Thirty-Five (35) feet from the rear lot line; nor
- c. Thirty (30) feet from the side lot line abutting a street on corner lots; nor
- d. Eight (8) feet from each side lot line

Approval of a variance by the City of Oxford Zoning Board of Appeals permitting rear or side yards smaller than the above minimums shall be deemed a valid waiver of this restriction.

Section 4 - Animals.

No farm animals, livestock or wild animals shall be kept, bred or harbored on any lot or on the Common Area. No animals shall be kept, bred or maintained on any lot excepting household pets for the use by the owner and members of his family. No animal shall be kept on any lot for any commercial purpose. Household pets shall have such care so as not to be objectionable or offensive due to noise, odor or unsanitary conditions.

Section 5 - Wells.

Reckford Woods Subdivision Association
9900 Princeton-Glendale Road, Suite 216
Cincinnati, Ohio.45246

No well shall be dug, installed or constructed on any lot.

Section 6 - Sight Distance at Intersections.

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 7 - Easements.

a. Easements for the installation and maintenance of utilities, underground sewage, water and drainage lines, and surface drainage swales, are reserved to the Declarant, its successors and assigns, as shown on the recorded plat, and also in, on, under and over a strip of land (6) feet in width on each side of, and along all rear and side lot lines. The use of all or a part of such easements may at any time or times hereafter be granted or assigned by Declarant, its successors or assigns, to any person, firm, corporation, governmental unit or agency which furnishes such services or utilities. No building may be constructed or maintained over or on any easements; however, after the aforementioned utilities have been installed, planting, fencing, or other lot line improvements shall be allowed, so long as they do not interfere with, obstruct, hinder, or impair the drainage plan of The Subdivision and so long as access be granted, without charge or liability for damages, for the maintenance of the utilities or the underground drainage lines so installed, and/or for the installation of additional facilities.

b. Private easements for public utilities have been granted and reserved on the plat of The Subdivision.

Section 8 - Temporary Structures.

Trailers, tents, shacks, barns, or any temporary building of any description whatsoever, are expressly prohibited within The Subdivision, and no temporary residence shall be permitted in unfinished residential buildings. However, the erection of a temporary storage building for materials and supplies to be used in the construction of a dwelling, and which shall be removed from the premises upon completion of the building is permitted.

Section 9 - General Conditions

a. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, and the same shall not be kept except in sanitary containers properly concealed from public view. Garbage containers shall not be left at the road for more than twenty-four (24) hours in any one week.

b. No house trailers, commercial vehicles, boat trailers, boats, camping vehicles or camping trailers may be parked on or stored on any lot in The Subdivision, unless stored fully enclosed within an attached garage. Commercial vehicles and trucks shall not be parked in the Subdivision or on any lot therein, except while making normal deliveries or pickups in the normal course of business.

c. No laundry shall be hung for drying in such a way as to be visible from the street on which the lot fronts, and in the case of corner lots, such laundry shall not be hung so that it will be visible from the streets on which the lot fronts and sides.

d. The yard drainage and grade of all lots in The Subdivision shall be maintained in accordance with the grading plan on file with the Township.

Reckford Woods Subdivision Association
9900 Princeton-Glendale Road, Suite 216
Cincinnati, Ohio 45246

e. No "through the wall" air conditioners may be installed on the front wall of any building in The Subdivision.

f. No outside compressors for central air conditioning units may be located other than in the rear yard and must be installed and maintained in such a manner so as to create no nuisance to the residents of adjacent dwellings.

g. No above-ground swimming pools which project eighteen (18) inches or more above the lot grade on any side will be permitted on any lot, except that children's wading pools which do not exceed a height of eighteen (18) inches above the lot grade at the top of the retaining wall, cover not more than 125 square feet of ground surface, use no filtering equipment and are of a type that can be readily emptied, may be used during the period from June 1st through September 1st of any year.

Section 10 - Sales Agency and/or Business Office.

Notwithstanding anything to the contrary elsewhere herein contained, Declarant and/or any builder or builders which it may designate, may construct and maintain a sales agency and a business office on any lot or lots which it or they may select, or may use a model house for such purposes, and Declarant and such designated builder or builders may continue to do so until such time as all of the lots in which Declarant or such other designated builder or builders have an interest, are sold.

Section 11 - Lease Restrictions.

No one shall lease and/or sublet less than the whole of any dwelling on any lot.

Section 12 - Exterior Surface of Dwellings.

The visible exterior walls of all dwelling structures built on any lot shall be made of wood, brick, brick veneer, aluminum or vinyl siding and/or stone. Stucco, and/or ledge rock may also be used, so long as any combination of these materials does not exceed fifty (50%) percent of the total of all visible exterior walls. The use of cement block, slag, imitation brick, cinder block and/or asphalt siding is expressly prohibited. Windows and doors shall not be included in calculating the total area of visible exterior walls.

Section 13 - Fences.

a. No fence, wall or solid hedge may be erected, grown or maintained in front of or along the front building line of any lot; provided, however, that low ornamental fencing along the front lot line in architectural harmony with the design of the house, may be erected. The side lot line of each corner lot which faces a street shall be deemed to be a second front building lot line and shall be subject to the same restrictions as to the erection, growth or maintenance of fences, walls or hedges as is hereinbefore provided for front building lines.

b. No fence or wall may be erected or maintained on or along the side lines of any lot, and/or on or along the rear line of any lot, except fences which are required by local ordinance to enclose swimming pools, or are otherwise required or permitted by the City of Oxford.

c. No enclosures, fences or hedge rows shall be permitted to separate the rear of any yard from an abutting Common Area.

d. No dog run or pen shall be permitted to be erected or maintained on any lot unless it is attached to the rear of the main dwelling, does not extend beyond the side building lines and does not exceed fifty-four (54) inches in height.

Section 14 - Signs.

Reckford Woods Subdivision Association
9900 Princeton-Glendale Road, Suite 216
Cincinnati, Ohio.45246

No sign or billboard shall be placed, erected, or maintained on any lot except:

a. One sign advertising the lot, or the house and lot for sale or lease, which said sign shall have a surface of not more than five (5) square feet, and the top of which shall be not more than three (3) feet above the ground; provided, however, that such sign shall have been constructed and installed in a professional manner; and

b. Political signs erected in compliance with the applicable City of Oxford Ordinance.

The provisions of this paragraph shall not apply to such signs as may be installed or erected on any lot by Declarant, or any builder which it may designate during the construction period, or during such periods as any residence may be used as a model or for display purposes.

Section 15 - Destruction of Building by Fire, etc.

Any debris resulting from the destruction in whole or in part of any dwelling or building on any lot shall be removed with all reasonable dispatch from such lot and property in order to preserve the sightly condition of The Subdivision.

Section 16 - Landscaping.

Upon the completion of a residence on any of the lots the owner thereof, (and the word "owner", as used in this connection, means the party who purchases a residence from the builder thereof and each subsequent purchaser), shall cause the lot owned by him to be finish-graded and seeded or sodded and suitably landscape as soon after the completion of construction as weather permits. The lot and the drainage ditch, if any, contiguous to each lot shall be kept free of weeds by the owner thereof. All landscaping and lawns shall be well-maintained at all times.

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Police

Originating Department

Council Meeting Of: August 4, 2009

Account Code No. #: N/A

Steve Schwein

Prepared By

Budgeted Amount: N/A

July 28, 2009

Date Prepared

Agenda Title: An Ordinance Repealing Current Section 351.04 "Parking near Curb; Handicapped locations on public and private lots and garages." And adopting new section 351.04, establishing fine for violation of subsection F(1) of Section 351.04

Recommendation: Pass the Ordinance.

Discussion: This is essentially the present ordinance with the exception of the insertion of a penalty section specifying a \$250 fine in the new ordinance. The present ordinance and fine were adopted more than a quarter of a century ago and fines for general offenses in this section were set and remain at \$25. Both the Oxford Police Division and OPATAB support this change to significantly reduce abuse of privilege in these spaces by non-qualified individuals. The state statute that mirrors this ordinance (4511.69) specifies a minimum fine of \$250 and maximum fine of \$500.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

SDS 17/29/9

[Signature] 7/29/09

ORDINANCE NO. _____

AN ORDINANCE REPEALING CURRENT SECTION 351.04 "PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES" AND ADOPTING NEW SECTION 351.04, ESTABLISHING FINE FOR VIOLATION OF SUBSECTION F(1) OF SECTION 351.04.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION I: Section 351.04 of the Codified Ordinances of the City of Oxford regulates parking near curbs and in designated handicapped parking locations on public and private lots and garages within the City.

SECTION II: City Council has determined that a provision should be added to Section 351.04(f) to discourage non-handicapped individuals from parking illegally in handicapped parking spaces.

SECTION III: Current Section 351.04 of the Codified Ordinances of the City of Oxford, Ohio, is hereby repealed and new Section 351.04 is adopted to read as follows:

351.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

(a) Every vehicle stopped or parked upon a roadway where parallel parking is indicated and there is an adjacent curb shall be stopped or parked with the curb side wheels of the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(Ord. 1764. Passed 8-2-83.)

(b) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a State Route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.

(c) No vehicle shall be stopped or parked on a road or street with the vehicle facing in a direction other than the direction of travel on that side of the road or street.

(d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty,

or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

(e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the top edge of the sign shall measure five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(f) (1) No person shall stop, stand or park any motor vehicle at special parking locations provided under subsection (e) hereof, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:

- A. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;
- B. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

(2) Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1) of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.

(3) If a person is charged with a violation of subsection (f)(1) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that,

because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).

(4) Whoever violates subsection (f)(1) of this section shall be guilty of a parking violation subject to a fine of Two Hundred Fifty and 00/100 Dollars (\$250.00) for each offense.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(h) As used in this section:

(1) "Handicapped person" means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other handicapping condition.

(2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.

(3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
(ORC 4511.69)

SECTION IV: This Ordinance shall take effect at the earliest time allowed by law.

MAYOR

ADOPTED: _____
ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Police

Originating Department

Council Meeting Of: August 4, 2009

Steve Schwein

Account Code No. #: N/A

Prepared By

Budgeted Amount: N/A

July 28, 2009

Date Prepared

Agenda Title: An Ordinance Repealing Current Section 351.16 "Snow Routes" and Adopting New Section 351.16, Establishing Fine for Violation of Subsection (C) of Section 351.16

Recommendation: Adopt the Ordinance.

Discussion: The present ordinance is modified to become the new ordinance by the simple striking of ~~in addition to the penalty provided for by Section 303.99~~ and adding be subject to a One Hundred and 00/100 Dollar (\$100.00) fine. Both OPATAB and the Police Division support this increase in fine. Despite efforts by Miami University and the Oxford Police Parking and Administrative Staff to educate the public regarding parking restrictions during snow emergencies, considerable numbers of vehicles continue to be cited and towed. As an example, the Snow Emergency of March 7-9, 2008 resulted in 42 vehicles towed. January 27-30, 2009 the Snow Emergency resulted in 35 vehicles being towed. Just a week later, February 3-5 another 11 vehicles had to be towed. The February 3-5 event would have resulted in many, many more vehicles towed had not we only had one wrecker company at our service.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

Discussion Only
DE 7.30.09

ORDINANCE NO. _____

AN ORDINANCE REPEALING CURRENT SECTION 351.16 "SNOW ROUTES" AND ADOPTING NEW SECTION 351.16, ESTABLISHING FINE FOR VIOLATION OF SUBSECTION (C) OF SECTION 351.16.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION I: Section 351.16 of the Codified Ordinances of the City of Oxford regulates parking when accumulations of snow or ice are greater than or equal to three inches (3") deep or during any level of Snow Emergency.

SECTION II: City Council has determined that a provision should be added to Section 351.16(d) to discourage parking on streets designated as snow routes when there is three or more inches of snow or ice on the ground or during any level of Snow Emergency.

SECTION III: Current Section 351.16 of the Codified Ordinances of the City of Oxford, Ohio, is hereby repealed and new Section 351.16 is adopted to read as follows:

351.16 SNOW ROUTES.

(a) "Snow routes" are hereby defined as streets or portions of streets designated by official signs on one or both sides thereof, installed by order of the City Manager. The City Manager is authorized and directed to designate such streets as snow routes which, for the safety or convenience of the public and the accommodation of traffic, should be kept open and clear when snow accumulations are greater than or equal to three inches (3") or during any level of Snow Emergency.

(b) The City Manager, or designee, shall be responsible for ensuring that special signs are erected which:

(1) Indicate and identify the streets as snow routes;

(2) State that there is no parking when snow is greater than or equal to three inches (3") deep or during any level of Snow Emergency; and

(3) Indicate that the snow routes are tow-away zones.

(c) No vehicle may be parked on any snow route when snow and/or ice accumulations are greater than or equal to three inches (3") or during any level of snow emergency.

(d) Any person who violates the provisions of subsection (c) hereof shall be guilty of a minor misdemeanor and ~~in addition to the penalty provided for by Section 303.99 be~~ **subject to a One Hundred and 00/100 Dollar (\$100.00) fine.** An unattended vehicle parked in violation of subsection (c) hereof shall additionally be subject to the removal and impounding provisions of Section 303.08. (Ord. 3014. Passed 9-16-08.)

SECTION IV: This Ordinance shall take effect at the earliest time allowed by law.

MAYOR

ADOPTED: _____

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 3033. SUPPLEMENTAL BUDGET ORDINANCE NUMBER 7 TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2009.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Additional appropriations are needed for the current fiscal year and monies are available for appropriation in those funds, and changes to estimated revenues;

SECTION 2: The following increase/(decrease) in estimated revenues be made:

GENERAL FUND 110	1,691.00
CAPITAL IMPROVEMENT FUND 141	20,571.00

SECTION 3: The following increase/(decrease) in appropriations from unencumbered balances be made:

GENERAL FUND 110	1,691.00
GENERAL FUND 110	79,632.00
PARKING FUND 130	4,080.00
STREET FUND 122	11,580.00
CAPITAL IMPROVEMENT FUND 141	(100,000.00)
CAPITAL IMPROVEMENT FUND 141	120,000.00
WATER FUND 321	16,824.00
SEWER FUND 331	21,624.00
REFUSE FUND 341	1,860.00

SECTION 4: The following increase/(decrease) in estimated revenues be made:

EMPLOYEE BENEFIT FUND 230	135,600.00
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SECTION 5: The following increase/(decrease) in appropriations from unencumbered balances be made:

EMPLOYEE BENEFIT FUND 230	135,600.00
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SECTION 6: In all other respects, Ordinance No. 3033 shall remain in full force and effect.

SECTION 7: This ordinance shall take effect immediately upon its adoption.

MAYOR

ADOPTED: _____

ATTEST:

DEPUTY CLERK OF CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)