

The Board of County Commissioners, Brown County, Ohio, met in regular session this 28th day of June 2017 with the following members present. Daryll Gray, President Tony Applegate, Member Barry Woodruff, Member

#### IN THE MATTER OF PREVIOUS MINUTES

Motion moved by Mr. Applegate to approve the minutes of the previous regular meeting and dispense with the oral reading. Second: Mr. Woodruff.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

#### IN THE MATTER OF AUTHORIZATION TO ADVERTISE – DEVELOPMENT

Motion moved by Mr. Woodruff, upon the request of Kelly Cole, Development, to advertise a Notice of 2<sup>nd</sup> Public Hearing for CDBG. Second: Mr. Applegate.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

#### Notice of 2<sup>nd</sup> Public Hearing –Community Development Block Grant Funds Community Development, Allocation Brown County, Ohio

Notice is hereby given that the Board of Brown County Commissioners will hold a Public Hearing on July the 10th at 10:00 A.M, in the Brown County Commissioners Office, 800 Mt. Orab Pike, Suite 101, Georgetown, Ohio.

The Board of Commissioners intends to apply to the Ohio Development Services Agency for funding under the Community Development Block Grant (CDBG) Small Cities Program, a federally-funded program administered by the State of Ohio, Development Services Agency, Office of Community Development. Brown County is eligible for \$182,000.00 in the Program Year 2017 CDBG Community Development Allocation Program. On March the 29<sup>th</sup> at 1:00 P.M., the Brown County Commissioners conducted its first Public Hearing to inform citizens about the entire PY 2017 CDBG Program, how funds may be used, what activities are eligible, and other important program requirements.

Based on both citizen input and local officials' assessments of the county's needs, the county is considering the following CDBG activities for Program Year 2017 Community Development Allocation Program:

Activity 1-Public Services—Brown County Senior Citizens-Homemaker Services	\$27,300.00
Activity 2-Sidewalks-Village of Fayetteville	\$47,800.00
Activity 3-Fire Equipment—Byrd Township Fire Dept	\$60,000.00
Activity 4-Emergency Equipment—Aberdeen/Huntington Fire Dept. & Life Squad	\$10,500.00
<u>Activity 5-Fair Housing &amp; Administration</u>	<u>\$36,400.00</u>
Total	\$182,000.00

These activities qualify under the Benefit to Low-to Moderate Income Individuals National Objective.

The Second Public Hearing is being held to give citizens an adequate opportunity to review and comment on the county's proposed \$182,000.00 CDBG Community Development Allocation Program Application to the Ohio Development Services Agency on or before July 14<sup>th</sup>, 2017. It is the county's intent to allocate the Program Year 2017 Community Development Allocation funds to the Aberdeen Village, Market St. project as an alternate project should the other infrastructure project fall out.

This Second Public Hearing is open to all residents of Brown County and any person or organization desiring to speak on this matter will be afforded an opportunity to be heard or seen. In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during these hearings should notify Kelly Cole at 800 Mt. Orab Pike, Georgetown, Ohio 45121, (937) 378-3956 at least three days prior to the hearing.

#### IN THE MATTER OF PARTIAL RELEASE OF MORTGAGE – CHIP - DEVELOPMENT

Motion moved by Mr. Applegate, upon the request of Kelly Cole, Development, for a partial release of mortgage for the CHIP Home Project of property owner Garon Hiles recorded in O.R. 385, page 1389. Second: Mr. Woodruff.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

June 28, 2017

**IN THE MATTER OF RESOLUTION – DECLARING THAT THE UNLAWFUL DISTRIBUTION OF PRESCRIPTION PAIN PILLS HAS CREATED A PUBLIC NUISANCE IN BROWN COUNTY AND HAS CAUSED HARM TO THE RESIDENTS OF BROWN COUNTY**

Motion moved by Mr. Woodruff to adopt the following resolution. Second: Mr. Applegate.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

**BROWN COUNTY BOARD OF COMMISSIONERS  
BROWN COUNTY, OHIO  
RESOLUTION # 06282017-1**

**A RESOLUTION: DECLARING THAT THE UNLAWFUL DISTRIBUTION OF PRESCRIPTION PAIN PILLS HAS CREATED A PUBLIC NUISANCE IN BROWN COUNTY AND HAS CAUSED HARM TO THE RESIDENTS OF BROWN COUNTY.**

It was moved by Mr. Woodruff and seconded by Mr. Applegate that the following resolution be adopted:

**WHEREAS**, the Board of County Commissioners is the policy-determine body of the County and may act in any matter not specifically prohibited by general law;

**WHEREAS**, the Board of County Commissioners may sue and be sued in any court;

**WHEREAS**, the Board of County Commissioners has the authority to take action to protect the public welfare of the citizens of Brown County;

**WHEREAS**, there exists a serious public health and safety crisis in Brown County involving opioid abuse, addiction, morbidity, and mortality;

**WHEREAS**, the Controlled Substances Act ("CSA") and its implementing regulations create restrictions on the distribution of controlled substances. See 21 U.S.C. §§ 801–971 (2006); 21 C.F.R. §§ 1300–1321 (2009). The CSA authorizes the DEA to establish a registration program for manufacturers, distributors, and dispensers of controlled substances designed to prevent the diversion of legally produced controlled substances into the illicit market. H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. 4566, 4572 (Sept. 10, 1970); see 21 U.S.C. § 801(2); 21 U.S.C. §§ 821-824, 827, 880. Any entity that seeks to become involved in the production or chain of distribution of controlled substances must first register with the DEA. 21 U.S.C. § 822; 21 C.F.R. § 1301.11.

**WHEREAS**, wholesale distributors of Schedule II drugs—controlled substances with a "high potential for abuse," 21 U.S.C. §§ 812(b), 812(2)(A)-(C)—must maintain "effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels," id. § 823(b)(1). In addition, distributors that supply controlled substances to pharmacies must "design and operate a system to disclose to the [distributor] suspicious orders of controlled substances" and, in turn, disclose those suspicious orders to the DEA. 21 C.F.R. § 1301.74(b). "Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency."

**WHEREAS**, recent media sources have documented the role of wholesale distributors in contributing to this public health and safety crisis by refusing to abide by federal regulations specifically designed to prevent the diversion of prescription opiates into the illicit market;

**WHEREAS**, Paul T. Farrell, Jr., a West Virginia attorney licensed to practice law in Ohio, has designed a plan and assembled national consortium of elite trial counsel to investigate, pursue civil litigation and hold responsible the wholesale distributors who repeatedly violated federal law and dumped millions of prescription opiates into communities across the country;

**WHEREAS**, the Board of County Commissioners has the authority to abate, or cause to be abated, any public nuisance including those acts that significantly interfere with public health, safety, and peace;

**WHEREAS**, the retention of special counsel is necessary and desirable given the expertise required to prosecute this complex case against the wholesale distributors. The citizens of Brown County will benefit from the retention of special counsel on a contingent fee basis. There is no fee if there is no recovery. There is no reimbursement of litigation expenses if there is no recovery. Such counsel shall not exercise any administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the state or any political subdivision, or execution of public trusts. The Brown County Commissioners shall retain the authority to decide the disposition of the case and maintain absolute control of the litigation and seek approval of the Court of Common Pleas to retain special counsel pursuant to ORC 305.14.

**THEREFORE BE IT RESOLVED** that the Brown County Commissioners hereby declare that opiate abuse, addition, morbidity and mortality is a serious public health and safety crisis in Brown County, Ohio, and is a public nuisance;

**FURTHERMORE**, the Brown County Commissioners hereby retain the law firm of GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP, with Paul T. Farrell, Jr., Esq. to serve as lead counsel, on a contingent fee basis, to investigate and hold accountable the wholesale distributors in the chain of distribution of prescription opiates who caused this public nuisance and abate the same by seeking all civil remedies which may be afforded under law. Any such civil action shall be filed in federal court and LANCIONE & LANCIONE, LLC shall serve as local counsel.

**June 28, 2017**

**IN THE MATTER OF RESOLUTION – TO JOIN WITH THE PROSECUTING ATTORNEY IN FILING APPLICATION TO THE COURT OF COMMON PLEAS REGARDING THE APPOINTMENT OF OUTSIDE COUNSEL PURSUANT TO SECTION 305.14 OF THE OHIO REVISED CODE**

Motion moved by Mr. Applegate to adopt the following resolution. Second: Mr. Woodruff.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

**BROWN COUNTY BOARD OF COMMISSIONERS  
BROWN COUNTY, OHIO  
RESOLUTION # 06282017 -2**

**A RESOLUTION: TO JOIN WITH THE PROSECUTING ATTORNEY IN FILING APPLICATION TO THE COURT OF COMMON PLEAS REGARDING THE APPOINTMENT OF OUTSIDE COUNSEL PURSUANT TO SECTION 305.14 OF THE OHIO REVISED CODE.**

WHEREAS, Section 305.14 of the Ohio Revised Code provides that the Court of Common Pleas, upon the application of the Prosecuting Attorney and the Board of County Commissioners may authorize the employment of legal counsel to assist the Prosecuting Attorney, the Board or any other county officer in any matter of public business coming before said board or officer; and

WHEREAS, the Prosecuting Attorney and the Board of County Commissioners of Brown County determine that it is necessary for the Board to have outside counsel to assist it in regard to the investigation and pursuit of civil litigation to abate or cause to be abated the public nuisance of opioid abuse, addiction morbidity and mortality caused by the opiate drug wholesale distributors.

WHEREAS, the Board of Brown County Commissioners desires to employ the law firm of GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP effective June 28, 2017 for the investigation and pursuit of civil litigation to abate or cause to be abated the public nuisance of opioid abuse, addiction morbidity and mortality caused by the opiate drug wholesale distributors.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Brown County State of Ohio, that the Board hereby joins with the Prosecuting Attorney of Brown County in filling application with the Court of Common Pleas for the authorization, pursuant to Ohio Revised Code Section 305.14, to employ GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP as special counsel to assist the Board of Brown County Commissioners in connection with the investigation and pursuit of civil litigation to abate or cause to be abated the public nuisance of opioid abuse, addiction morbidity and mortality caused by the opiate drug wholesale distributors on a contingent fee basis.

BE IT FURTHER RESOLVED, that the Clerk of this Board of County Commissioners is hereby directed to forward certified copies of this Resolution to the Brown County Prosecuting Attorney and the law firm of GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP.

It was moved by Mr. Applegate and seconded by Mr. Woodruff that the foregoing **Resolution** by approved this 28th day of June, 2017.

As to such action each member voted as follows:

- Barry Woodruff Sr., Member- yea
- Tony Applegate, Member - yea
- Daryll Gray, President – yea

I, Sarah Beath, the duly appointed and acting Clerk of the Board of Brown County Commissioners of Brown County, Ohio, do hereby attest that this is a true and correct copy of the original now on file in the Brown County Commissioners Office  
CERTIFIED COPY.

WHEREUPON, the president of the Board declared the foregoing **Resolution** be duly adopted this 28th day of June, 2017.

**IN THE MATTER OF RESOLUTION – ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR**

Motion moved by Mr. Woodruff to adopt the following resolution. Second: Mr. Applegate.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

(Continued on next page.)

**June 28, 2017**



**SCHEDULE B**  
LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES

FUND	Maximum Rate Authorized to be Levied	County Auditor's Estimate of Yield of Levy (Carry to Schedule A, Column II)
<b>General Fund:</b>		
Current Expense levy authorized by voters on		
not to exceed _____ years		
<b>Total General Fund outside 10 Mill Limitation</b>		
<b>Special Levy Funds:</b>		
MRDD: Levy authorized by voters on November 2, 1999	1.00	\$ 500,000.00
not to exceed CONTINUING		
DD: Levy authorized by voters on November 3, 2009	1.00	\$ 650,000.00
not to exceed CONTINUING		
Library District: Levy authorized by voters on March 19, 1996		
not to exceed 20 years (expires tax year 2015)		
Library District: Levy authorized by voters on May 6, 2014	1.00	\$ 700,000.00
not to exceed 5 years (expires tax year 2018)		
Senior Services: Levy authorized by voters on Nov. 5, 2013	0.90	\$ 550,000.00
not to exceed 5 years (expires tax year 2017)		
	<b>3.90</b>	

and be it further  
**RESOLVED**, That the Clerk of this Board be and is hereby directed to certify a copy of this Resolution to the County Auditor of Brown County.  
Mr. Applegate seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

<u>Mr. Woodruff</u>	, yea
<u>Mr. Applegate</u>	, yea
<u>Mr. Gray</u>	, yea

Adopted the 28th day of June, 2017.

Paul Smith  
Clerk of the Board of County Commissioners of  
Brown County, Ohio

**IN THE MATTER OF RESOLUTION – PRELIMINARY LEGISLATION - ENGINEER**

Motion moved by Mr. Applegate to adopt the following resolution. Second: Mr. Woodruff.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea  
**PRELIMINARY LEGISLATION**  
 RC 5521.01

Ordinance/Resolution #: 06282017-4  
 PID No.: 105313  
 County/Route/Section: BRO CR 76 5.55 Brdg Replace  
 ODOT Agreement No.: \_\_\_\_\_

The following is Resolution enacted by the Board of Commissioners of Brown County, Ohio, hereinafter referred to as the Local Public Agency (LPA), in the matter of the stated described project.

**SECTION I - Project Description**

WHEREAS, the STATE has identified the need for the described project:

*Replacement of BRO-N MAIN (CR76)-5.55, SFN 0835137.*

NOW THEREFORE, be it ordained by the Board of Commissioners of Brown County, Ohio (LPA)

**SECTION II - Consent Statement**

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project.

**SECTION III - Cooperation Statement**

The LPA shall cooperate with the Director of Transportation in the above described project as follows:

The LPA agrees to assume and bear the entire cost of the improvement less the amount of Federal and State Funds set aside by the Director of Transportation for financing the improvement from funds allocated by the Federal Highway Administration.

The LPA further agrees to pay One Hundred Percent (100%) of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

The LPA further agrees to pay One Hundred Percent (100%) of the cost to install and/or repair curb ramps at all necessary intersections to ensure compliance with the Americans with Disabilities Act.

**June 28, 2017**

**SECTION IV - Utilities and Right-of-Way Statement**

The LPA agrees to acquire and/or make available to ODOT, in accordance with current State and Federal regulations, all necessary right-of-way required for the described Project. The LPA also understands that right-of-way costs include eligible utility costs. The LPA agrees to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Or the LPA grants permission to the Director of the Ohio Department of Transportation to acquire in the name of the LPA all necessary right-of-way required for the described Project. The LPA agrees to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

**SECTION V - Maintenance**

Upon completion of the described Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the described Project in accordance with all applicable state and federal law, including, but not limited to, 23 USC 116; (2) provide ample financial provisions, as necessary, for the maintenance of the described Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

**SECTION VI - Consultants and Authority to Sign**

I, Todd Cluxton of said Board of Commissioners is hereby empowered on behalf of the Board of Commissioners of Brown County to enter into contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project and to enter into contracts with the Director of Transportation necessary to complete the above described project. Upon the request of ODOT, Todd Cluxton is also empowered to assign all rights, Title, and interests of Board of Commissioners of Brown County, Ohio (LPA) to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

The LPA agrees that if Federal Funds are used to pay the cost of any consultant contract, the LPA shall comply with 23 CFR 172 in the selection of its consultant and the administration of the consultant contract. Further the LPA agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The LPA agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The LPA agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

Passed: June 28, 2017  
(Date)

Attested: \_\_\_\_\_ (Clerk) \_\_\_\_\_ (Contractual Agent of LPA)

Attested: Josh Booth, Clerk (Title) Warrell R Gray (President of Council)

This Resolution is hereby declared to be an emergency measure to expedite the

highway project(s) and to promote highway safety. Following appropriate legislative action, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

**IN THE MATTER OF APPROPRIATION CHANGE – CORONER**

Motion moved by Mr. Woodruff, upon the request of Vicky Coburn, Investigator, for an appropriation change to decrease 1000-1006-52118 (Coroner Contract Services) in the amount of \$9,220.00 and increase 1000-1006-52111 (Coroner Employee Salary/Hourly) in the amount of \$9,220.00. Second: Mr. Applegate.

ROLL CALL VOTE: Mr. Woodruff, yea Mr. Applegate, yea Mr. Gray, yea

Commissioner, Barry Woodruff, exited the meeting at 11:45 a.m.

**IN THE MATTER TO ADJOURN**

Motion moved by Mr. Applegate to adjourn this meeting with no further business before the Board this 28th day of June 2017. Second: Mr. Gray.

ROLL CALL VOTE: Mr. Woodruff, absent Mr. Applegate, yea Mr. Gray, yea

**June 28, 2017**

6/28/17

Commissioner, Barry Woodruff, attended the Senior Citizen Luncheon, ABCAP.

Approval: July 3, 2017



Daryll Gray, President



Tony Applegate, Member



Barry Woodruff, Member



Sarah Beath, Clerk

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