

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Medina County has operated its Chippewa wastewater treatment plant and sewer system (hereinafter "Sewer District No. 700") in such a manner as to result in violations of the discharge limitations and monitoring requirements of the NPDES Permit issued to it by the Director of Ohio EPA and in violation of the water pollution laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Medina County for all claims under such laws alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint.

IV. COMPLIANCE SCHEDULE

4. Medina County is hereby enjoined and ordered to immediately comply with the requirements of Chapter 6111 of the Ohio Revised Code and the terms and conditions of the rules and regulations adopted under that Chapter and its currently

effective NPDES Permit No. 3PH00017*BD, and any renewals or modifications thereof, including the final effluent limitations set forth in said Permit. Medina County is hereby enjoined to properly operate and maintain its Sewer District No. 700 wastewater treatment plant and any associated equipment and structures.

V. CIVIL PENALTY

5. Medina County shall pay to the State of Ohio a civil penalty of Five Thousand Dollars (\$5,000.00). The penalty shall be paid by delivering to counsel for Plaintiff a certified check for that amount, payable to the order of "Treasurer, State of Ohio" within forty-five days from the date of entry of this Consent Order.

VI. STIPULATED PENALTIES

6. In the event that Medina County fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 (except compliance with the final effluent limitations as contained in its currently effective NPDES Permit), Medina County shall be liable for and shall pay a stipulated penalty according to the following payment schedule. For each day of failure to meet a requirement, up to sixty days - \$250.00 per day. For each day of failure to meet a requirement, from sixty-one to ninety days - \$1,000.00 per day. For each day of failure to meet a requirement, from ninety-one to one hundred and twenty days - \$1,500.00. For each day of failure to meet a requirement, after one hundred and twenty days - \$2,500.00 per day.

7. In the event that Medina County fails to meet any of its 7-day average final effluent limitations Medina County shall be liable for payment of a stipulated penalty of One Thousand Dollars (\$1,000.00) for each 7-day period during which the failure occurs; if the failure to meet any of its 7-day average final effluent limitations continues for a second consecutive 7-day period, Defendant shall be liable for payment of a stipulated penalty of Two Thousand Dollars (\$2,000.00); if the failure to meet any of its 7-day average final effluent limitations continues for a third consecutive 7-day period, Medina County shall be liable for a payment of a stipulated penalty of Three Thousand Dollars (\$3,000.00); if the failure to meet any of its 7-day average final effluent limitations continues for a fourth consecutive 7-day period, Defendant shall be liable for payment of a stipulated penalty of Four Thousand Dollars (\$4,000.00); if the failure to meet any of its 7-day average final effluent limitations continues for a fifth consecutive 7-day period, Medina County shall be liable for payment of a stipulated penalty of Five Thousand Dollars (\$5,000.00); if the failure to meet any of its 7-day average final effluent limitations continues beyond a fifth consecutive 7-day period, Medina County shall be liable for payment of a stipulated penalty of Eight Thousand Dollars (\$8,000.00).

8. In the event that Medina County fails to meet any of its 30-day average final effluent limitations Medina County shall be liable for payment of a stipulated penalty of Two Thousand Dollars (\$2,000.00) for each 30-day period during which the failure occurs; if the failure to meet any of its 30-day average final effluent limitations continues for a second consecutive 30-day period, Medina County shall be liable for the payment of a stipulated penalty of Three Thousand Dollars (\$3,000.00); if the failure to meet any of its 30-day average final effluent limitations continues for a third consecutive 30-day period, Defendant shall be liable for the payment of a stipulated penalty of Four Thousand Dollars(\$4,000.00); if the failure to meet any of its 30-day average final effluent limitations continues for a fourth consecutive 30-day period, Medina County shall be liable for the payment of a stipulated penalty of Five Thousand Dollars (\$5,000.00); if the failure to meet any of its 30-day average final effluent limitations continues beyond a fourth consecutive 30-day period, Medina County shall be liable for the payment of a stipulated penalty of Ten Thousand Dollars (\$10,000.00).

9. In the event that Medina County fails to meet any of its daily final effluent limitations Medina County shall be liable for payment of a stipulated penalty of \$175.00 for each day of any final effluent limitation violation. The Medina County shall be liable for an additional stipulated penalty of

\$325.00 per day of violation if the failure continues for more than sixty days, ie. Five Hundred Dollars (\$500.00) per day of violation. In the event that failure to meet any of the daily final effluent limitations continues for more than one hundred and twenty (120) days, Medina County shall be liable for an additonal Five Hundred Dollars (\$500.00) per day of violation, i.e., One Thousand Dollars (\$1,000.00) per day of violation.

10. Any payment required to be made under the provisions of Paragraphs 6, 7, 8 or 9 of this Order shall be made by delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within sixty days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

VII. POTENTIAL FORCE MAJEURE

11. In any action to enforce any of the provisions of this Consent Order Medina County may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a

defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

VIII. RETENTION OF JURISDICTION

12. The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order. Any party may apply to the Court for any orders, directions or relief necessary to construe and effectuate this Consent Order.

IX. TERMINATION OF STIPULATED PENALTIES

13. The provisions of this Consent Order set forth in Section VI, Paragraphs 6, 7, 8 and 9 requiring the payment of stipulated penalties shall terminate if Defendant Medina County has achieved and maintained compliance with the final effluent limitations contained in its NPDES permit for a period of one (1) year and has paid all penalties required pursuant to this Consent Order. For purposes of determining the initiation of the one (1) year compliance period, pursuant to the terms of this provision, the parties hereto agree that the one (1) year period may begin June 1, 1989. Termination of these stipulated penalties shall only be effected by Order of the Court, upon application by any party and a demonstration that the two (2) conditions set forth in this paragraph have been met.

X. SUBORDINATION

14. The payment of stipulated penalties under this Consent Order, or any further penalties ordered by the Court, shall be subordinate to annual repayment of the principal and interest requirements for the term of the financing required to implement the improvements. This provision for subordination applies only to payments from Medina County's Sewer District No. 700 sewer revenues and funds, and not to other funds or sources available to Medina County to pay any penalties that may be due hereunder or ordered by this Court. This provision does not relieve the County of its liability for the payment of stipulated penalties or any further penalties ordered by the Court, but only defers such payment until it can be made without violating the terms of subordination contained in this provision.

XI. COSTS

15. Medina County is hereby ordered to pay the costs of this action.

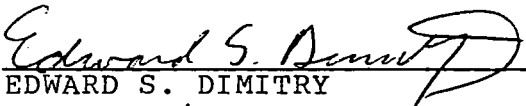
JUDGE, COURT OF COMMON PLEAS
MEDINA COUNTY

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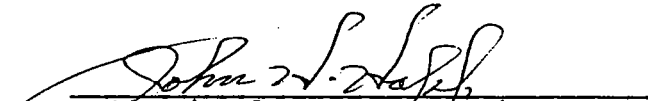
STATE OF OHIO, ex•rel:
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

BY:


EDWARD S. DIMITRY
RETANIO Aj. RUCKER
Assistant Attorneys General
30 East Broad Street
Columbus, Ohio 43266-0410

BY:


JONATHAN BUCHTER, Counsel to
Medina County


Authorized Representative
Medina County Commissioner

7029E

COMMISSIONERS MEETING - TUESDAY, DECEMBER 26, 1989

The meeting was called to order by John H. Happ at 9:30 a.m. with Charles E. Hawley and Ralph A. Berry, Jr. present.

At the beginning of the meeting the oral reading of the minutes was dispensed with as each Commissioner has read them and they are to be approved.

Autumn Dawes, Administrative Assistant for the County Engineer, presented and explained the following resolutions:

Mr. Berry moved on a resolution authorizing the County Engineer relative to maintenance and repair for construction of roads, bridges and culverts. Autumn said that this is done annually and in accordance with the O.R.C. Mr. Hawley seconded. A roll call showed all voting AYE. Carried.

Mr. Hawley moved on a resolution to cooperate with the Director of the Department of Transportation for the improvement of the intersection of Marks Road (CH 22) and Center Road (SR 303). Autumn noted that the County agrees to acquire any additional right-of-way needed for the project. Mr. Berry seconded. A roll call showed all voting AYE. Carried.

Autumn presented the list of Highway Use Permits that were issued from December 14 through December 20, 1989. There were seventeen (17).

Chris Jakab, Finance Director, presented and explained twelve (12) transfer of fund resolutions; a resolution adopting the 1990 Temporary Appropriations Measure noting that this represents 25% of the 1989 line items with some revisions; resolution approving and allowing claims. Mr. Berry moved on all the resolutions. Mr. Hawley seconded. A roll call showed all voting AYE. Carried.

John Stricker, County Administrator, reviewed the resolution approving personnel changes for employees under the jurisdiction of the Commissioners. Mr. Happ noted that the Office for Older Adults changes were necessary due to switching to a new Grant year. Ken Hotz stated that all the changes for the Sanitary Engineer's Office were due to changing to one (1) fund number instead of three (3).

Commissioners expressed their regrets for accepting the resignation of Debbie Duff as Director of the Child Support Enforcement Agency because she is moving to Springfield, Illinois. Mr. Berry stated that a new director will have to be hired and the job will have to be advertised in the newspaper. Mr. Hawley noted that he had asked Debbie to update the job description because she would have a good idea of what qualifications are needed. Mr. Happ added that Debbie had completely organized the agency when it was new and did a good job.

Mr. Hawley moved on the personnel resolution. Mr. Berry seconded. A roll call showed all voting AYE. Carried.

Ken Hotz, Sanitary Engineer, stated that the Chippewa Wastewater Treatment Plant Project is eligible for State Revolving Loan Funds from the Ohio EPA for FY 1990 and the application must be in by Friday. He said the Court Consent Order of the Attorney General's Office from July 1, 1989 has to be included with it.

Ken noted that when the plant was upgraded at a cost of \$1.3 million, it was anticipated that these loans will bear an interest rate of 5% in lieu of 8% current market rate, resulting in a savings of approximately \$28,000. One requirement in obtaining the loan is that we complete the Consent Order which was a result of the treatment facility not being in full compliance with the NPDES Permit of July 1, 1988. He said it was impossible to meet the new permit because of the insufficient time that EPA gave the County to complete all the required construction work. The County must pay a civil penalty of \$5,000 due to the violation. Ken said that the County could fight this, however would not win and it would negate the ability to obtain financing from the Revolving Loan Fund. Ken added that since June 1, 1989 the new plant has not had any permit violations. After discussion, Mr. Berry made the motion to authorize the President of the Board to sign the Consent Order. Mr. Hawley seconded. A roll call showed all voting AYE. Carried.

Russ Johnson, Director of the Dept. of Human Services, reviewed the Income Maintenance/Social Services Report for November indicating that things stayed about the same as from the previous month for ADC, GA and Food Stamps. Child abuse/neglect intake cases had decreased from 61 for October to 48 for November, however the year-to-date report had increased from 414 ('88) to 515 ('89) for child abuse/neglect intake cases.

Russ reported that the employees of his department voted to ratify the Teamsters Union #293 Contract. Mr. Berry moved to approve the Contract with the Teamsters Union #293 for the Department of Human Services. Mr. Hawley seconded. A roll call showed all voting AYE. Carried.

There was a discussion concerning the travel request for \$3.75 for Madeline Shook from the Office for Older Adults for a Resource Council Meeting in Medina. Mr. Hawley said that if this expense is for lunch and not a registration fee, then it was not an allowable expense because the County's policy is not to pay for lunch if the meeting is held in Medina. Commissioners determined to table this request until the Clerk checks to see whether it is for a registration fee or lunch; if it is just for lunch then it is denied. Mr. Hawley moved to approve the other travel requests. Mr. Berry seconded. A roll call showed all voting AYE. Carried.

Mr. Hawley stated that he had talked to the State Auditor's Office regarding the issue of the 1989 Audit for Medina County. He said that the State Auditor's Office informed him that they will conduct the audit and that it is not a matter for consideration. Should Commissioners desire a private audit, approval to proceed and requests for proposal should be instituted in July of any year.

Mr. Hawley moved on a resolution to appoint James T. Kedzior as a member to the Medina County Drug Abuse Commission replacing Stan Umpleby, at the recommendation of the Mayor of Brunswick City. Mr. Berry seconded. A roll call showed all voting AYE. Carried.

Mr. Hawley asked if any consideration had been given to the letter which Commissioners received from Sharon Industries concerning tax abatement? Mr. Berry said that he had contacted Doug King, from the County Engineer's Office, to develop a map to know what property to include in a reinvestment area.

Patricia Neff, representing the Medina County Land Title Association, presented the County a beautiful lithograph of historic buildings in Medina. She said that this was done by Gary Straton of Wadsworth. Commissioners extended their thanks and appreciation for this gift to Medina County and indicated that it would be placed in the lobby of the Old Court House where it could be enjoyed by everyone visiting the building.

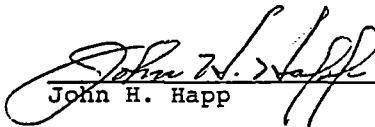
There being no further business the meeting was adjourned at 10:00 a.m.

RESOLUTIONS PASSED:

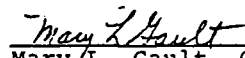
- 89-992 - RESOLUTION TO APPROVE AND ALLOW CLAIMS AND AUTHORIZE ISSUANCE UPON THE TREASURER IN SETTLEMENT OF SUCH LIST OF CLAIMS
- 89-993 - RESOLUTION AUTHORIZING COUNTY AUDITOR TO TRANSFER FUNDS FROM THE CHILD SUPPORT ENOFRCMENT FUND TO GENERAL FUND
- 89-994 - CASH TRANSFER FOR LIABILITY/SELF-INSURANCE FUND
- 89-995 - RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM THE PUBLIC ASSISTANCE-SOCIAL SERVICES UNIT TO THE INFORMATION AND REFERRAL FUND
- 89-996 - CASH TRANSFERS FOR VARIOUS GRANT FUNDS
- 89-997 - RESOLUTION AUTHORIZING THE PURCHASE OF 5000 GALLONS OF REGULAR GASOLINE FOR THE HIGHWAY ENGINEERS DEPARTMENT
- 89-998 - RESOLUTION AMENDING THE ANNUAL APPROPRIATION RESOLUTION
- 89-999 - RESOLUTION AMENDING THE 1989 ANNUAL APPROPRIATIONS RESOLUTION BY TRANSFERRING APPROPRIATIONS
- 89-1000- RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM VARIOUS COUNTY DEPARTMENT ACCOUNTS TO THE GASOLINE ROTARY FUND
- 89-1001- RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM THE COUNTY GENERAL FUND TO THE SOCIAL SERVICE UNIT OF THE PUBLIC ASSISTANCE FUNDS
- 89-1002- CASH TRANSFER OF FUND FOR CAPITAL IMPROVEMENTS
- 89-1003- CASH TRANSFER OF INTEREST INCOME FOR VARIOUS SANITARY ENGINEER FUNDS
- 89-1004- RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TRANSFER FUNDS FROM VARIOUS COUNTY DEPARTMENT ACCOUNTS TO THE OFFICE SUPPLY ROTARY FUND
- 89-1005- RESOLUTION APPROVING PERSONNEL CHANGES FOR THE EMPLOYEES UNDER THE JURISDICTION OF THE COUNTY COMMISSIONERS
- 89-1006- RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS
- 89-1007- RESOLUTION OF COUNTY COMMISSIONERS PROPOSING TO COOPERATE WITH THE DIRECTOR OF TRANSPORTATION
- 89-1008- RESOLUTION AUTHORIZING THE COUNTY ENGINEER RELATIVE TO MAINTENANCE AND REPAIR FOR CONSTRUCTION OF ROADS, BRIDGES AND CULVERTS
- 89-1009- RESOLUTION APPOINTING A MEMBER TO THE MEDINA COUNTY DRUG ABUSE COMMISSION (MCDAC)
- 89-1010- ADOPTION OF THE 1990 TEMPORARY APPROPRIATION MEASURE
- 89-1011- APPROVING CONTRACT WITH TEAMSTER'S UNION #293 FOR THE DEPARTMENT OF HUMAN SERVICES

MEDINA COUNTY COMMISSIONERS:

Respectfully submitted,



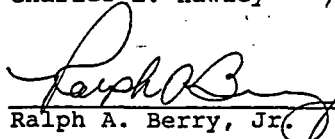
 John H. Happ



 Mary L. Gault, Clerk

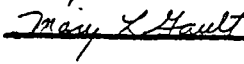


 Charles E. Hawley



 Ralph A. Berry, Jr.

I, MARY L. GAULT, CLERK OF THE BOARD OF COUNTY COMMISSIONERS OF MEDINA COUNTY, OHIO, DO HEREBY CERTIFY THAT THE FORE GOING IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY SAID BOARD ON Dec. 26, 1989 ^{minutes}

1-9-90 

 CLERK