

VILLAGE OF BOSTON HEIGHTS  
45 E. Boston Mills Road  
Hudson, OH 44236

PUBLIC RECORDS MEETING  
April 13, 2011 -7:30 PM

REGULAR COUNCIL MEETING  
OF  
April 13, 2011-8:00 PM

**AGENDA**  
ROLL CALL  
PLEDGE OF ALLEGIANCE  
APPROVAL OF AGENDA  
MINUTES PRESENTED FOR CHANGE OR CORRECTION OR ADOPTION  
CORRESPONDENCE  
AUDIENCE PARTICIPATION

**ORDINANCE H-2011**

**AN ORDINANCE AMENDING THE PAY SCALE FOR THE ELECTED OFFICIALS OF THE VILLAGE OF BOSTON HEIGHTS, OHIO**

**ORDINANCE I-2011**

**AN ORDINANCE CREATING A POSITION OF VILLAGE FISCAL OFFICER IN ACCORDANCE WITH THE PROVISIONS OF SECTION 733.262 OF THE OHIO REVISED CODE AND ABOLISHING THE POSITION OF VILLAGE CLERK-TREASURER**

**RESOLUTION L-2011**

**A RESOLUTION AMENDING RESOLUTION 36 - 2010 PROVIDING FOR THE EMPLOYMENT OF OFFICIALS AND CERTAIN EMPLOYEES OF THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2011 AND DECLARING AN EMERGENCY**

**RESOLUTION M-2011**

**A RESOLUTION AUTHORIZING THE MAYOR AND CLERK-TREASURER TO ENTER INTO AN AGREEMENT WITH THE SUMMIT COUNTY EXECUTIVE, FOR THE ENFORCEMENT BY THE COUNTY, OF THE OHIO BASIC BUILDING CODES WITHIN THE TERRITORIAL LIMITS OF THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY**

**RESOLUTION N-2011**

**A RESOLUTION HIRING AND APPOINTING  
Marshal Pitchford AS SOLICITOR  
FOR THE VILLAGE OF BOSTON HEIGHTS,  
OHIO AND DECLARING AN EMERGENCY**

Note: Name added by nomination at Council Meeting after  
executive session to consider applications.

**MOTIONS:**

- APPROVAL OF THE FEBRUARY 2011 FINANCIAL STATEMENT
- TO NOT CONTINUE THE EMPLOYMENT OF ASHLEY PAYNTER  
AS A 1ST RESPONDER WITH THE FIRE DEPARTMENT

COMMITTEE REPORTS  
OLD BUSINESS  
NEW BUSINESS  
ADJOURN

CAROL ZEMAN, CLERK-TREASURER

AN ORDINANCE AMENDING THE PAY SCALE FOR THE ELECTED OFFICIALS OF THE VILLAGE OF BOSTON HEIGHTS, OHIO

BE IT ORDAINED by the Council of the Village of Boston Heights, County of Summit, State of Ohio:

Section 1: That the pay scale for the Clerk-Treasurer of the Village of Boston Heights is hereby increased and amended as follows:

A. Term beginning April 1, 2012 and all terms through March 31, 2016 shall follow the increase of the regular wage Ordinance for all other Village employees. The increase shall be annually as given to any other employee. In the event of no increase to the Village employees, there shall not be an increase in the salary of the Clerk-Treasurer for that specific term.

B. The rate for the Clerk-Treasurer for the beginning term of April 1, 2012 shall be \$40,206.60.

Section 2: That the pay scale for the Mayor of the Village of Boston Heights is hereby increased and amended as follows:

A. Term beginning January 1, 2012 and all terms through December 31, 2015 shall follow the increase of the regular wage Ordinance for all other Village employees. The increase shall be annually as given to any other employee. In the event of no increase to the Village employees, there shall not be an increase in the salary of the Mayor for that specific term.

B. The rate for the Mayor for the beginning term of January 1, 2012 shall be \$17,112.12.

Section 3: That the pay scale for members of Council of the Village of Boston Heights is hereby increased and amended as follows:

A. For Council terms beginning January 1, 2012 members shall receive \$250.00 per month.

B. For Council terms beginning January 1, 2014 members shall receive \$250.00 per month.

Section 4: All other terms and conditions providing for compensation and/or benefits provided in other duly enacted ordinances or resolutions that are not specifically modified by this Ordinance shall continue in full force and effect.

Section 5: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of Council and that all deliberations of this Council and of any of its committees or subcommittees that resulted in those formal actions were in meetings open to the public in compliance with the law.

ORDINANCE H-2011

APRIL 13, 2011

Section 6: This Ordinance was duly adopted and shall take effect thirty (30) days after its adoption by Council and approval by the Mayor, otherwise at the earliest period allowed by law.

PASSED:

BILL GONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance - 2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on the 13th day of April, 2011

AN ORDINANCE CREATING A POSITION OF VILLAGE FISCAL OFFICER IN ACCORDANCE WITH THE PROVISIONS OF SECTION 733.262 OF THE OHIO REVISED CODE AND ABOLISHING THE POSITION OF VILLAGE CLERK-TREASURER

WHEREAS, Section 733.262 of the Ohio Revised Code empowers this Council to create the position of Village Fiscal Officer, and

WHEREAS, it is the judgment of this Council that the interest of the citizens of the Village will be better served through the creation of the position of Village Fiscal Officer.

NOWHEREFORE, BE IT ORDAINED by the Council of the Village of Boston Heights, County of Summit, Ohio, that:

1. In accordance with Section 733.262 of the Ohio Revised Code, there is hereby created the position of Village Fiscal Officer effective April 1, 2012.

2. The Village Fiscal Officer shall have those powers, duties, and functions as provided by the general laws of the State of Ohio; and in addition other duties consistent with the nature of the office that are provided for by Village ordinance.

3. The elected position of Village Clerk-Treasurer is eliminated pursuant to Ohio Revised Code Section 733.262 so that no election for the office of Village Clerk-Treasurer for the Village of Boston Heights is held after the passage of this Ordinance.

Section 1: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 2: This Ordinance was duly adopted and shall take effect thirty (30) days after its adoption by Council and approval by the Mayor, otherwise at the earliest period allowed by law.

PASSED:

BILL GONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance -2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on the 13th day of April, 2011

A RESOLUTION PROVIDING FOR THE  
EMPLOYMENT OF OFFICIALS AND CERTAIN  
EMPLOYEES OF THE VILLAGE OF BOSTON  
HEIGHTS, OHIO, FOR THE YEAR 2011 AND  
DECLARING AN EMERGENCY

BE IT RESOLVED by the Council of **the** Village of Boston Heights, County of Summit, State of Ohio:

Section 1: That **Victoria McCauley** is hereby appointed to the position of Village Engineer for the Village of Boston Heights, Ohio for the year 2011.

Section 2: That **Terry Brannan** is hereby appointed to the position of Cemetery Sexton for the Village of Boston Heights, Ohio for the year 2011.

Section 3: That **Jessica Becker** is hereby appointed to the position of Assistant Office Clerk for the Village of Boston Heights, Ohio for the year 2011.

Section 4: That **Melinda A. Valahovic** is appointed to the position of part-time help for the Clerk-Treasurer for the Village of Boston Heights, Ohio for the year 2011.

Section 5: That **David Himes** is hereby appointed to the position of Zoning Inspector for the Village of Boston Heights, Ohio for the year 2011.

Section 6: That effective 1/01/2011, said officials and employees shall assume and fulfill the duties imposed upon them by virtue of their respective positions according to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of the State of Ohio.

Section 7: Should the rates for services be increased by the Village Engineer or any Inspectors appointed hereunder during the calendar year 2011, such appointment hereunder shall be subject for review and possible termination prior to the end of year 2011.

Section 8: Should the Village contract with an outside agency for the services of any individuals appointed hereunder, then, with 30 days advance notice from the Village, such appointments shall be terminated.

Section 9: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 10: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

BILL GONCY, Mayor

RESOLUTION L-2011

April 13,2011

ATTEST

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution -2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the 13th day of April, 2011.

CAROL ZEMAN, Clerk of the Village of  
Boston Heights

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK-TREASURER TO ENTER INTO AN AGREEMENT WITH THE SUMMIT COUNTY EXECUTIVE, FOR THE ENFORCEMENT BY THE COUNTY, OF THE OHIO BASIC BUILDING CODES WITHIN THE TERRITORIAL LIMITS OF THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY

WHEREAS, the Village of Boston Heights has determined that it is in the best interest of the Village for the County of Summit through its Building Inspection Department to serve as agent of the Village for inspection and enforcement of the Ohio Basic Building Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: That the Mayor and Clerk-Treasurer are hereby authorized to enter into an agreement with the Summit County Executive to authorize the Summit County Building Inspection Department to serve for inspection and enforcement of the Ohio Basic Building Code within the Village. A copy of said Agreement is attached hereto.

Section 2: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued inspection efforts of the Summit County Building Department.

Section 3: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED:

BILL GONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution - 2011, was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the 13th day of April, 2011.



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## AGREEMENT FOR BUILDING INSPECTION SERVICES

**THIS** AGREEMENT entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the County of Summit, Ohio, (hereinafter "County"), with the County having its principal place of business located at 175 South Main Street, Akron, Ohio 44308, and the VILLAGE OF BOSTON HEIGHTS having its principal place of business located at 49 East Boston Mills Rd., Hudson, Ohio 44236.

**WITNESSETH:**

WHEREAS, the State of Ohio, in the interest of providing uniform building regulations throughout the State, has adopted the 2006 Residential Code of Ohio, which regulates residential buildings, and the 2007 Ohio Building Code, which regulates nonresidential buildings for purposes of establishing uniform standards relating to the erection, construction, repair, alteration and maintenance of residential and nonresidential buildings within the State of Ohio; and

WHEREAS, the County of Summit, through Part Thirteen of the Codified Ordinances of the County of Summit, entitled "Building Code," (hereinafter "County Building Code") has adopted the residential and nonresidential building regulations which incorporate both the 2006 Residential Code of Ohio and the 2007 Ohio Building Code; and

WHEREAS, the County of Summit Department of Building Standards has been certified by the State of Ohio Board of Building Standards to exercise enforcement, inspecting and permitting authority pursuant to the County Building Code on behalf of and within townships and certain municipalities throughout the County; and

WHEREAS, the VILLAGE OF BOSTON HEIGHTS wishes to grant the County of Summit the authority to enforce the County Building Code, as more fully set forth herein, within the territorial jurisdiction of the VILLAGE OF BOSTON HEIGHTS subject to any required approval or certification by the Ohio Board of Building Standards; and

WHEREAS, the County is able and willing to provide such Building Code review, inspection and enforcement as is more fully set forth herein; and

NOW THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE COUNTY OF SUMMIT AND THE VILLAGE OF BOSTON HEIGHTS AS FOLLOWS:

SECTION ONE. This Agreement between the VILLAGE OF BOSTON HEIGHTS and the County of Summit replaces and supersedes any and all prior Agreements between the parties concerning building inspection services.

SECTION TWO. The VILLAGE OF BOSTON HEIGHTS hereby grants to the County of Summit authority to do all things reasonably necessary to exercise enforcement authority and to accept, review and process plans, to issue building permits and to make inspections within the territorial jurisdiction of the VILLAGE OF BOSTON HEIGHTS in accordance with the provisions of Chapter 3781 of the Ohio Revised Code (the 2006 Residential Code of Ohio) and Chapter 3791 of the Ohio Revised Code (the 2007 Ohio Building Code) and regulations promulgated and adopted thereunder and codified under Part Thirteen of the Codified Ordinances of the County of Summit and entitled "Building Code" and as further authorized by any Order or Certification of the Ohio Board of Building Standards. Prior to issuing any building permit under authority of this Agreement, the County shall require any applicant to produce a valid zoning certificate or waiver from the VILLAGE OF BOSTON HEIGHTS.

SECTION THREE. The VILLAGE OF BOSTON HEIGHTS shall be responsible for obtaining any administrative rule change, certification or conditional certification required by the Ohio Board of Building Standards to enable the County of Summit Department of Building Standards to exercise the review and enforcement authority set forth in this Agreement. The duty of the VILLAGE OF BOSTON HEIGHTS to obtain said rule change, certification or conditional certification shall be a continuing and ongoing duty as long as this Agreement is in force and effect.

SECTION FOUR. On and after the Effective Date, this Agreement shall authorize the County of Summit Department of Building Standards to administer and enforce within the territorial jurisdiction of the VILLAGE OF BOSTON HEIGHTS any amendments or additions to the County Building Code upon approval of adoption of such amendments or additions by the Ohio Board of Building Standards pursuant to the authority granted to said Board by Chapters 3781 and 3791 of the Ohio Revised Code.

SECTION FIVE. This Agreement shall be effective from the date of approval by the legislative authority of both parties and this Agreement shall thereafter continue in full force and effect until either of the parties shall give sixty (60) days written notice to the other and the Ohio Board of Building Standards of its intention to terminate this Agreement, which may be for any reason, except that this Agreement shall not terminate until the effective date of the repeal of any rule or conditional rule of certification by the Ohio Board of Building Standards.

SECTION SIX. The County shall bear all necessary costs and expenses in connection with the administration of the County Building Department but shall not be responsible for legal expenses or court costs in connection with any nuisance abatement or related legal action brought by the VILLAGE OF BOSTON HEIGHTS. The County

may assist or cooperate with the VILLAGE OF BOSTON HEIGHTS with such a legal action but is not obligated to do so. In consideration for the building services to be rendered the County of Summit shall collect and retain all review, permit and inspection fees authorized by the State of Ohio and the Codified Ordinances of the County of Summit for such purposes. County will not pay, share or remit any fees with the VILLAGE OF BOSTON HEIGHTS except as set forth herein. County will remit ten (10%) percent of gross fees collected in calendar year 2011 for services pursuant to this Agreement rendered in the VILLAGE OF BOSTON HEIGHTS. All sharing of building fees shall terminate and cease thereafter.

SECTION SEVEN. After the Effective Date of this Agreement, all contractors doing business in the VILLAGE OF BOSTON HEIGHTS must register and post an acceptable surety bond and otherwise comply with the contractor registration provisions of Chapter 1323 of the Codified Ordinances of the County of Summit.

SECTION EIGHT. The County acknowledges its duty pursuant to Ohio Revised Code Section 149.43 to maintain, produce and disseminate the public records of the Summit County Building Department and agrees to respond, as required by law, to any and all public record requests for the County Building Department including records generated as result of conducting building standard functions within the territorial jurisdiction of the VILLAGE OF BOSTON HEIGHTS on and after the Effective Date of this Agreement.

SECTION NINE. This Agreement and the promises, covenants, conditions and performance contemplated hereunder or any sub-part thereof, may not be assigned or transferred by either party without the written consent of the other party. Consent may be withheld by either party for any reason whatsoever. Each provision of this Agreement is intended to be severable. If any term or provision hereof is determined to be unenforceable by a court of competent jurisdiction for any reason whatsoever, then such term or provision shall not affect the validity of the remainder of this Agreement. The parties acknowledge that this Agreement is governed by the laws of the State of Ohio. The parties also acknowledge that any suit touching upon or related to this Agreement shall be brought in the Court of Common Pleas of the County of Summit, Ohio.

SECTION TEN. This Agreement contains the complete understanding between the parties who acknowledge that no other representations, oral or otherwise, have been made or relied upon. This Agreement may not be modified, altered, amended, supplemented or changed except upon the written consent of the VILLAGE OF BOSTON HEIGHTS and the County of Summit and such modification, alteration, amendment, supplemental agreement or other charge must be in writing and adopted by resolution or ordinance of each party's legislative body.

IN WITNESS WHEREOF, the parties hereby sign this Agreement effective as of the date signed by the County Executive.

VILLAGE OF BOSTON HEIGHTS

BILL GONCY, Mayor

Date

COUNTY OF SUMMIT

RUSSELL M. PRY, Executive

Date

APPROVED AS TO FORM AND CORRECTNESS

CONSTANCE HESSKE, Village Solicitor

Date

DEBROAH S. MATZ, General Counsel  
County of Summit

Date



# COUNTY OF SUMMIT, OHIO

Russell M. Pry, Executive

175 S. Main Street. Akron, Ohio 44308-1308 . 330.643.2510 • fax: 330.643.2507 • www.co.summit.oh.us

January 11, 2011

Constance Hesske, Esq.  
Solicitor for the Village of Boston Heights  
655 East Market Street, Suite 130  
Akron, Ohio 44313

**RE: Agreement For Building Inspection Services  
Village of Boston Heights and the County of Summit**

Dear Connie:

This is a follow up to our phone conversation on January 10, 2011 concerning the above referenced matter.

Please find enclosed herewith our proposed contract for Building Inspection Services with the Village of Boston Heights. This is the standard contract we request all municipalities to enter into with the County for enforcement of the State Building Codes with their respective jurisdiction.

As always, please feel free to contact me with any questions or concerns.

Sincerely,

*(signed)*

Robert T. McDowall Jr.  
Department of Law

RTM/Enclosure

A RESOLUTION HIRING AND APPOINTING  
Marshal Pitchford AS SOLICITOR FOR THE  
VILLAGE OF BOSTON HEIGHTS, OHIO AND  
DECLARING AN EMERGENCY

WHEREAS, Section 705.11 of the Ohio Revised Code provides that the Village shall have a Solicitor, and Section 705.56 of the Ohio Revised code designates this Council as the appointing authority for such Solicitor; and

WHEREAS, the services herein described are necessary for the preservation of the public peace, health, safety, convenience and welfare of the Village and its inhabitants; and

WHEREAS, the services herein described are professional, personal services not subject to competitive bidding.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, Ohio that:

Section 1: That Attorney Marshal Pitchford is hereby hired as the Solicitor of the Village of Boston Heights at an hourly rate of Seventy and no/100 (\$70.00) dollars per hour for the period of May 1, 2011 through January 31, 2012, pending approval of this legislation by Village Council. Either party may terminate this Agreement without reason, by providing written notice to the other party no less than 90 days prior to the intended termination date. Hours will be billed and payable monthly upon presentation to Clerk-Treasurer of an itemized statement or upon such other terms as may be agreeable with the Mayor, Clerk-Treasurer, and attorney Marshal Pitchford except as provided below in Section 2.

Section 2: That Attorney Marshal Pitchford or his qualified designee, shall receive a salary of \$400.00 per month to serve as Prosecutor for the Mayor's Court held in the Village of Boston Heights. The Village of Boston Heights shall pay the employer share of OPERS contributions for this monthly position.

Section 3: That Attorney Marshal Pitchford, as Solicitor of the Village of Boston Heights, may appoint or designate assistants to handle certain matters in the representation of the Village and at her sole discretion.

Section 4: That Attorney Marshal Pitchford, as Solicitor, or his qualified designee, shall possess all the powers and duties incumbent upon legal counsel for villages as provided by General Law and by Ordinances of the Village of Boston Heights, including but not limited to, the prosecution and defense of any legal matter in which the Village or any of its officers or employees are parties, by virtue of the good faith performance of their official duties in Village service or employment, upon request of Council; attendance, as required by Council at Mayor's Court, Council meetings, Council Committee meetings, and meetings of the Village committees, Commissions and/or boards; the preparation of legal papers and documents upon request of Council; legal services appropriate to the administration of improvement projects authorized by

the Mayor or by Council, paid in whole or in part by special assessments, including the preparation of notes, bonds, and bond transcripts, the issuance and sale of bonds, the acquisitions of rights of way by institutions or appropriation proceedings and the preparation in assessments; the preparation of all petitions, legislation and certificates. In performance of such powers and duties, the Solicitor is authorized to retain, on behalf of the Village, counsel experienced in highly specialized areas of the law.

Section 5: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of the Village of Boston Heights and for the purposes of providing continuing uninterrupted legal assistance for the Village of Boston Heights and shall supersede any prior passed legislation which may be similar in content.

Section 6: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this council and that all deliberations of this council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED;

BILL GONCY, Mayor

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution - 2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of April 2011.

CAROL ZEMAN, Clerk of the Village of  
Boston Heights, Ohio