

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

REGULAR COUNCIL MEETING
OF
November 9, 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 O-2011 **AN ORDINANCE CREATING THE POSITION OF VILLAGE FISCAL OFFICER UNDER CHAPTER 133 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS AND SETTING THE WAGES FOR THE VILLAGE FISCAL OFFICER POSITION AND TAX ADMINISTRATOR AND DECLARING AN EMERGENCY**

ORDINANCE Z-2011 **AN ORDINANCE AMENDING THE FIRE STATION STAFFING REGULATIONS TO BE AT THE DISCRETION OF THE FIRE CHIEF AND DECLARING AN EMERGENCY.**

RESOLUTION EE-2011 **A RESOLUTION ALLOWING THE MAYOR OF THE VILLAGE OF BOSTON HEIGHTS TO GO INTO CONTRACT WITH THE COUNTY OF SUMMIT OHIO TO ADMINISTER THE CONTROL OF ENTERTAINMENT DEVICES AND DECLARING AN EMERGENCY.**

RESOLUTION FF-2011 **BIKE PATH LEGISLATION RE: FEASIBILITY STUDY - VILLAGE COMMITMENT OF \$6,500.00 NOT TO EXCEED.**

RESOLUTION GG-2011 **A RESOLUTION AUTHORIZING THE MAYOR OF THE VILLAGE OF BOSTON HEIGHTS TO ENTER INTO A CONTRACT ON BEHALF OF THE VILLAGE OF BOSTON HEIGHTS, WITH KROCK ESSER ENGINEERING, INC. AND DECLARING AN EMERGENCY.**

RESOLUTION HH-2011 **A RESOLUTION AUTHORIZING THE MAYOR OF THE VILLAGE OF BOSTON HEIGHTS TO ENTER INTO AN AGREEMENT WITH CAPITAL RECOVERY SYSTEMS, INC. AND DECLARING AN EMERGENCY.**

• MOTION TO APPROVE THE SEPTEMBER 2011 FINANCIAL STATEMENT

COMMITTEE REPORTS
OLD BUSINESS
NEW BUSINESS
ADJOURN

CAROL ZEMAN, CLERK-TREASURER

CREATING THE POSITION OF VILLAGE FISCAL OFFICER UNDER
CHAPTER 133 OF THE CODIFIED ORDINANCES OF THE VILLAGE
OF BOSTON HEIGHTS AND SETTING THE WAGES FOR THE
VILLAGE FISCAL OFFICER POSITION AND TAX
ADMINISTRATOR AND DECLARING AN EMERGENCY.

WHEREAS; The Council of the Village of Boston Heights has duly passed Ordinance 10-2011 abolishing the position of elected Clerk-Treasurer in the Village of Boston Heights, and

WHEREAS; Upon said passage of Ordinance 10 - 2011 the position of Fiscal Officer shall be created and inserted into Chapter 133 of the Codified Ordinances of the Village of Boston Heights:

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Boston Heights, Ohio as follows:

Section 1: That effective January 1, 2012 the position of Village Fiscal Officer under Ohio Revised Code Section 733.262 is hereby created and the end of the term of the elected Clerk-Treasurer is abolished.

Section 2: Nothing in his ordinance except as otherwise specifically provided shall affect or impair the rights or privileges of the Clerk-Treasurer in office. The current holder of that office shall continue in such position until the Village Fiscal Officer's appointment and approval as called for under Section 3.(O.R.C. 3.01).

Section 3: That effective April 1, 2012, the position of Village Fiscal Officer shall be filled by appointment of the Mayor, with the approval of Council by a majority vote. For every year thereafter, the Village Fiscal Officer shall be appointed in January of each for a term of one year to commence at 12:00 a.m. on the Thursday following the second Wednesday of January each running and running until 11:59 p.m. on the second Wednesday of January the following year. The appointment of the Village Fiscal Officer shall be made by the Mayor and confirmed by the Village Council on or before the Thursday following the second Wednesday of January. If for any reason the Mayor fails to appoint a Village Fiscal Officer and/or the Village Council fails to confirm the Mayor's appointee, the individual holding the office and/or its equivalent shall holdover in that position until the Mayor appoints and the Village Council confirms a qualified individual. The removal of the Village Fiscal Officer may be by the Mayor and a majority vote of Council, or by a three-fourths vote of Council in favor of removal with or without the consent of the Mayor. Either form of removal may be with or without cause. (O.R.C. 3.01 and 733.262(D)).

Section 4: That the Village Fiscal Officer need not be an elector of the Village nor reside in the Village at any time during his or her employment with the Village.

Section 5: That the duties of the Village Fiscal Officer shall be the duties provided by the Ohio Revised Code for the Village Clerk and Treasurer and any other duties consistent with the nature of the office that are provided for by municipal ordinance.

Section 6: That the Village Fiscal Officer shall have the duties of the Tax Administrator in connection with the Village Income Tax.

Section 7: That the Village Fiscal Officer shall be considered a full time employee and be under all the benefits and restrictions of the General Provisions of the Village of Boston Heights Codified Ordinance.

Section 8: That the Village Fiscal Officer shall work the regular hours that the Village hall is presently open from 8:00 am to 4:00 pm.

Section 9: Effective upon the appointment and approval of a qualified candidate and that individual's assumption of office, the first year beginning salary for the Village Fiscal Officer shall be \$39,035.53

Section 10: All ordinances or parts of ordinance in conflict herewith are hereby repealed to the extent of the conflict.

Section 11: 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 12: That this Ordinance 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:

BILLGONCY, 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 9th day of November, 2011.

ORDINANCE APPROVING SCHEDULING OF FIRE DEPARTMENT EMPLOYEES DURING HOLIDAYS AND UNDER CERTAIN CONDITIONS AND DECLARING AN EMERGENCY

WHEREAS, the Village of Boston Heights has duly passed and amended Ordinance 3-2011, setting the compensation for the employees of the Fire Department; and,

WHEREAS, the Council of the Village of Boston Heights desires to preserve the public peace, health and safety of the community and institute without delay fair and equitable pay for the employees of the Fire Department;

NOW, THEREFORE, be it ordained by the Council of the Village of Boston Heights as follows;

Section 1. That pursuant to Ordinance 3-2011, as amended, all members of the Fire Department can be compensated pursuant to Section 4(B)(8) of Ordinance 3- 2011, as amended, when the Fire Chief has scheduled times during federal holidays and any three contiguous days thereto.

Section 2. That pursuant to Ordinance 3-2011, as amended, all members of the Fire Department can be compensated pursuant to Section 4(B)(8) of Ordinance 3- 2011, as amended, when scheduled by the Fire Chief (1) with more than 12-hour notice, and, (2) during those times when Extreme, Adverse Weather is forecast by the National Weather Service. "Extreme, Adverse Weather" shall include only those times when the National Weather Service has done one of the following;

- (a) Issued a flood warning;
- (b) Issued a high wind warning;
- (c) Issued a ice storm warning;
- (d) Issued a blizzard warning; and/or,
- (e) Issued a winter storm warning with snow accumulation in excess of six inches.

Section 3. 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 4. That this Ordinance 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 Fire Department and shall therefore take effect and be enforced from and immediately after its passage.

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 9th day of November, 2011.

A RESOLUTION AUTHORIZING THE
MAYOR, ON BEHALF OF THE VILLAGE
OF BOSTON HEIGHTS TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT
WITH THE COUNTY OF SUMMIT, OHIO
AND DECLARING AN EMERGENCY

WHEREAS, on October 12, 2011, the Village of Boston Heights adopted Ordinance 23 - 2011, which enacted Chapter 711 of the codified Ordinances of the Village of Boston Heights to regulate entertainment device arcades; and

WHEREAS, the Village of Boston Heights wishes the County's Office of Consumer Affairs ("Consumer Affairs") to act as administrative agent for the Village under Chapter 711; and

WHEREAS, The County is willing to provide the services of Consumer Affairs in exchange for 25% of any license fees collected under Chapter 711; and

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

Section 1: That the Mayor is hereby authorized to enter into the Intergovernmental Agreement with the County of Summit as described in and attached here to as Exhibit A.

Section 2: That the Mayor is hereby authorized to take such further actions as the Mayor shall determine to be necessary or proper in order to fully implement the terms of the this Intergovernmental Agreement.

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 meeting open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the further reason this measure is necessary in order to ensure the timely completion of all necessary legislation to enforce entertainment device arcades.

PASSED:

BILLGONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

RESOLUTION EE-2011

NOVEMBER 9, 2011

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 Boston Heights, County of Summit, State of Ohio as meeting of Council on the 9th day of November, 2011.

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

INTERGOVERNMENTAL AGREEMENT

Between

COUNTY OF SUMMIT, OHIO

and

VILLAGE OF BOSTON HEIGHTS

for the County of Summit Office of Consumer Affairs
to act as administrative agent for entertainment devices arcades
under the Codified Ordinances of the Village of Boston Heights

This Intergovernmental Agreement is effective as of the date of signature of the County Executive below, by and between the **County of Summit, (“County”)**, with its office located at 175 South Main Street, Akron, Ohio 44308 and **Village of Boston Heights**, with its office located at 45 E. Boston Mills Road, Hudson, Ohio 44236 (**“Village”**).

WHEREAS, on _____, 2011, the Village adopted Ordinance No. _____, which enacted Chapter 711 of the Codified Ordinances of the Village of Boston Heights to regulate entertainment device arcades; and

WHEREAS, the Villages wishes the County’s Office of Consumer Affairs (“Consumer Affairs”) to act as administrative agent for the Village under Chapter 711; and

WHEREAS, the County is willing to provide the services of Consumer Affairs in exchange for 25% of any license fees collected under Chapter 711; and

WHEREAS, the County and the Village intend to enter into this Intergovernmental Agreement to set forth the duties and responsibilities of the parties concerning the activities of Consumer Affairs under Chapter 711;

WHEREAS, this Intergovernmental Agreement was authorized by County Council by the adoption of County Council Resolution No. 2011-_____ ; and

WHEREAS, this Intergovernmental Agreement was authorized by the Village Council by adoption of Resolution No. _____ ; and

NOW, THEREFORE, in consideration of the covenants and promises set forth below, the parties agree as follows:

1. Services and Deliverables. The County shall provide the services of Consumer Affairs to act as “Administrative Agent” for the Village under Chapter 711 of the Codified Ordinances of the Village of Boston Heights, which is attached hereto as Exhibit A and incorporated herein as if fully restated. Consumer Affairs shall perform the duties of administrative agent as set forth in Chapter 711.

2. Compensation. In exchange for the provision of the services of Consumer Affairs, the Village shall pay the County 25% of all license fees collected by Consumer Affairs as “Administrative Agent” and deposited in the Village’s general fund under Chapter 711. The Village shall pay the County its 25% share of any license fees paid to the Village on March 31st, June 30th, September 30th and December 31st of each year.

3. Term and Termination. The term of this Intergovernmental Agreement shall be effective as of the date of signature of the County Executive and terminate on December 31, 2012. (“Term”). Either party may terminate this Intergovernmental Agreement prior to the end of the Term upon 60 days written notice. Upon termination of this Intergovernmental Agreement, Consumer Affairs shall immediately cease all activities relating to this Agreement and the County shall deliver to the Village any materials necessary for the Village to administer existing licenses and process any pending applications for licenses under Chapter 711. The Village shall pay to the County 25% of all fees collected by Consumer Affairs as administrative agent since the last quarterly payment.

4. Reports and Records. Each party shall maintain and provide to the other upon demand the following records and reports:

- a. Accounting and fiscal records adequate to enable either party or the State of Ohio or any duly-appointed law enforcement agency to audit either party pertaining to this Intergovernmental Agreement.
- b. Other records and reports as required by either party comply with local, State of Ohio and federal statutes and regulations pertaining to this Intergovernmental Agreement.
- c. All records pertaining to this Intergovernmental Agreement shall be retained and made available for a minimum of three (3) years after the termination of this Intergovernmental Agreement.

5. Relationship of Parties. The parties agree that the County, through Consumer Affairs, is serving as an independent contractor as to the provision of services as “Administrative Agent” for the Village. The parties further agree that at no time shall the relationship between the parties under this Intergovernmental Agreement be construed, held out or considered a joint venture or principal-agent.

6. Release. The County will not be liable and is released from any claims, causes of action (including, but not limited to, negligence), or expenses of any kind or nature which are asserted against the Village. The Village acknowledges and understands that the County's insurance carrier only provides insurance coverage for the County and its employees acting within the scope of their employment. The Village is not provided insurance coverage under the County's insurance policy and the Village must provide for its own insurance policy or self-insurance coverage.

7. Miscellaneous.

- a. Integration. This Intergovernmental Agreement represents the entire and integrated agreement between the parties. This Intergovernmental Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Intergovernmental Agreement.

- b. Capacity to Execute. Each party hereby certifies that all actions necessary to execute this Intergovernmental Agreement were taken and that the person executing this Intergovernmental Agreement is authorized to do so and has the power to bind their respective party to the terms and conditions contained herein.
- c. Review by Legal Counsel. Each party has had the opportunity to review this Agreement with the assistance of legal counsel. Accordingly, the County and the Village agree that the rule of construction that any ambiguity in this Agreement is to be construed against the drafting party is not applicable.
- d. Notices. Every notice and demand required under the terms of this Agreement shall be in writing and must be sent by certified mail, return receipt requested, or by other means of delivery requiring a signed receipt, to the other party's address first set forth above. All notices are effective upon receipt. A party may change its address by giving written notice to the other party in accordance with this Section.
- e. Waiver. The remedies contained in this Intergovernmental Agreement will be cumulative, and additional to any remedies provided in law or equity. No waiver of a breach of any provision of this Intergovernmental Agreement will constitute a waiver of any other provisions.
- f. No Authority to Bind. Neither party has the power or authority to bind the other party to contracts or other obligations.
- g. Assignment. Neither party shall assign its rights or delegate its duties under this Agreement without the prior written consent of the other party. Subject to such consent, this Agreement shall be binding upon and for the benefit of the parties hereto, their successors and assigns.
- h. Compliance. Each party agrees to comply with all applicable federal, state and local laws, orders, rules, and regulations.
- i. Ethics Compliance. Each party agrees to comply with Ohio Ethics Laws as listed in the Chapters 102 and 2921 of the Ohio Revised Code and the Chapter 5101 of the Ohio Administrative Code. By signing this Intergovernmental Agreement, each party certifies that it is compliance with these provisions.
- j. Governing Law. This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts of choice of laws. Any litigation arising under this Intergovernmental Agreement must be litigated in the Stow Municipal Court or the County of Summit Court of Common Pleas, and each party submits itself to the jurisdiction and venue of those courts.

(End of text. Execution on following page.)

Intending to be legally bound, the parties have signed this Intergovernmental Agreement effective as of the date signed by the County's Executive.

COUNTY OF SUMMIT, OHIO

VILLAGE OF BOSTON HEIGHTS, OHIO

By: Russell M. Pry, Executive

By: Bela M. Goncy, Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Deborah S. Matz
Director, Department of Law

Marshal M. Pitchford
Village Solicitor

Date:

Date:

A RESOLUTION TO SUPPORT COST-SHARING FOR FEASIBILITY
STUDY OF COLLABORATION ON THE SUMMIT COUNTY BIKE AND
HIKE TRAIL

WHEREAS; The Council of the Village of Boston Heights supports collaboration with the Hudson Park Board as to the Summit County Bike and Hike Trail; and,

WHEREAS; A feasibility study as to the completion of a trail that would allow the connection of downtown Hudson, Ohio and the Summit County Bike and Hike Trail as it exists at Hines Hill Road, Boston Heights, Ohio; and,

WHEREAS, The Hudson Park Board supports sharing in the cost of the feasibility study to complete this project of up to a maximum of \$8,000;

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

Section 1: That the Village of Boston Heights shall serve as the lead agency in the application for funding to complete a feasibility study on the completion of a proposed trail, which would link downtown Hudson, Ohio and the Summit County Bike and Hike Trail as it exists at Hines Hill Road, Boston Heights, Ohio.

Section 2: That the Village of Boston Heights will enter an agreement with the Hudson Park Board and share in the cost of the feasibility study to complete this project for up to a maximum of \$6,500.

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:

BILLGONCY, 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 9th day of November, 2011.

A RESOLUTION AUTHORIZING THE MAYOR OF THE VILLAGE OF BOSTON HEIGHTS TO ENTER INTO A CONTRACT ON BEHALF OF THE VILLAGE OF BOSTON HEIGHTS, WITH KROCK ESSER ENGINEERING, INC. AND DECLARING AN EMERGENCY

WHEREAS, the Village of Boston Heights has identified the need for an engineer to assist the Village in a consulting capacity for all engineering projects as they arise;

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 is authorized to enter into a contract for the position of Engineer only for a specified term therein.

Section 2: That the term of the contract is October 21, 2011 thru December 31, 2011.

Section 3: That the only terms of the contract are in Exhibit "A" here to attached.

Section 4: 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 5: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to complete all engineering projects as they arise for the remainder the year of 2011.

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 on the 9th day of November 2011.

CAROL ZEMAN, Clerk of the Village Of Boston Heights

**Krock
Esser
Engineering Inc.**

Suite B, 6138 Riverview Road, Peninsula Ohio 44264 – Office 330.657.2445, Fax 330.657.2446

October 27, 2011

Village of Boston Heights
Mayor Bill Goncy
45 E. Boston Mills Road
Boston Heights, OH 44236

RE: Boston Heights Village Engineer
Contract for 2011

Mr. Mayor,

In accordance with our prior discussions and our appointment as Village Engineer / Street Commissioner for the term ending on December 31, 2011, we suggest the following simplified contract:

KEE shall perform the duties of the Village Engineer / Street Commissioner and shall perform other duties as directed by the Administrative Staff of the Village as follows:

- ✓ Term of Contract: October 21, 2011 thru December 31, 2011
- ✓ Hourly Rates: \$75 / hour for Village Engineer; \$52 / hour for Field Representative / Inspector

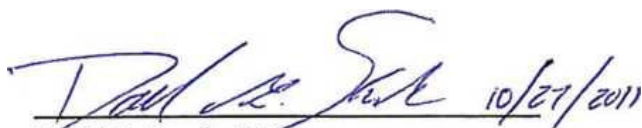
Thank you again for appointing Krock Esser as the Village Engineer. We look forward to working with you and hope that we can continue our services for many years to come.

Thanks again,

Contract Authorization

Krock Esser Engineering, Inc.

Village of Boston Heights



David G. Krock, PE

Vice President

Mayor Bill Goncy

Date

APPROVED AS TO FORM:

Marshal Pitchford, Solicitor

Providing “KEE” Solutions