

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

REGULAR COUNCIL MEETING  
OF  
April 11, 2012 - 8:00 PM

**AGENDA**

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

- ORDINANCE K-2012**                    **ORDINANCE REGARDING REPLACEMENT OF “STREET COMMISSIONER” LANGUAGE IN CERTAIN SECTIONS OF CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.**
- ORDINANCE L-2012**                    **ORDINANCE AMENDING BOSTON HEIGHTS CODIFIED ORDINANCE 509.12 AND DECLARING AN EMERGENCY.**
- ORDINANCE M-2012**                    **ORDINANCE AMENDING CODIFIED ORDINANCE 1101.01 OF THE CODIFIED ORDINANCES OF BOSTON HEIGHTS, OHIO AND DECLARING AN EMERGENCY.**
- ORDINANCE N-2012**                    **ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 1151.07(a)(26) REGARDING MINIMUM SQUARE FOOTAGE AND DECLARING AN EMERGENCY.**
- ORDINANCE O-2012**                    **ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 1141.34 REGARDING PUBLICATION FOR PUBLIC NOTICE OF A HEARING.**
- ORDINANCE P-2012**                    **ORDINANCE AMENDING ORDINANCE 3-2011 TO CORRECT EFFECTIVE DATE AND DECLARING AN EMERGENCY.**
- RESOLUTION H-2012**                    **A RESOLUTION OPPOSING CENTRALIZED TAX COLLECTION IN THE STATE OF OHIO AND DECLARING AN EMERGENCY.**  
*(Second Reading)*
- RESOLUTION Q-2012**                    **RESOLUTION AUTHORIZING MAYOR TO ENTER INTO A SETTLEMENT AGREEMENT WITH JOHN BRUMFIELD AND CONCRETE DIMENSIONS, INC. AND DECLARING AN EMERGENCY.**
- RESOLUTION R-2012**                    **RESOLUTION REGARDING THE SELECTION OF A PROFESSIONAL DESIGN FIRM AND DECLARING AN EMERGENCY.**
- RESOLUTION S-2012**                    **RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION FOR FINANCIAL ASSISTANCE THROUGH THE SURFACE WATER IMPROVEMENT FUND AND DECLARING AN EMERGENCY.**
- RESOLUTION T-2012**                    **RESOLUTION CONFIRMING THE PROBATIONARY PERIOD OF THE ONE YEAR CONTINUOUS SERVICE APPOINTMENT OF BRIAN EDWARD SCHALL TO THE FIRE DEPARTMENT OF THE VILLAGE OF BOSTON HEIGHTS AS A FIREFIGHTER AND EMT-B AND DECLARING AN EMERGENCY.**
- RESOLUTION U-2012**                    **RESOLUTION AMENDING RESOLUTION 17-2011 TO REFLECT APPROPRIATE TIME PERIOD AND DECLARING AN EMERGENCY.**

COMMITTEE REPORTS  
OLD BUSINESS  
NEW BUSINESS  
ADJOURN

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RICHARD HUBER, FISCAL OFFICER

ORDINANCE REGARDING REPLACEMENT OF "STREET COMMISSIONER" LANGUAGE IN CERTAIN SECTIONS OF CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS; two places of the Codified Ordinances of the Village of Boston Heights, Ohio the words "Street Commissioner" are used where it is clear the intent is "Road Superintendent"; and,

WHEREAS; the Council of the Village of Boston Heights has duly adopted Codified Ordinance 147.07(b) and has now determined that it should be amended; and,

WHEREAS; the Council of the Village of Boston Heights has duly adopted Codified Ordinance 351.15(d) and has now determined that it should be amended;

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

Section 1: That Codified Ordinance 147.07(b) of the Codified Ordinances of the Village of Boston Heights is hereby amended and shall state as follows:

Nothing in this section shall effect or diminish services rendered by the Police Department or the Road Superintendent.

Section 2: That Codified Ordinance 351.15(d) of the Codified Ordinances of the Village of Boston Heights is hereby amended and shall state as follows:

Whenever the Mayor determines that it is expedient to enforce such parking bans, he shall notify the Chief of Police and the Road Superintendent, and they may act to enforce this section.

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 Village departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_\_\_ -2012 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 11th day of April, 2012.

ORDINANCE AMENDING BOSTON HEIGHTS CODIFIED  
ORDINANCE 509.12 AND DECLARING AN EMERGENCY.

WHEREAS; The Council of the Village of Boston Heights desires to maintain the tranquility, peace and quiet of its neighborhoods; and,

WHEREAS; The Village has encountered an increasing level of disturbances; and,

WHEREAS; An amendment to current Codified Ordinance 509.12 is required for the immediate preservation of the public peace, health, safety, and welfare of the residents 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 Codified Ordinance 509.12 of the Codified Ordinances of the Village of Boston Heights shall be amended in whole and shall now state as follows:

A. No person shall generate or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, television, stereo, loudspeaker or any other sound amplifying device or by any horn, drum, piano or other musical or percussion instrument or by any other source.

B. It is prima facie unlawful for a person to generate or permit to be generated sound by the devices or instruments described in Part A in the following circumstances:

1. On private property in a district zoned Residential, Office/ Professional, General Business, or Retail Business, regardless of existing nonconforming use or variance, where the sound is audible more than eighty feet from the property line of the property on which the source of the sound is located; or,

2. On a street, highway or in the public right-of-way where the sound is audible one hundred feet from the device generating the sound.

C. Noisy Advertising. No person shall, by ringing a bell or gong, or by using any sound amplifying device or other instrument for producing or reproducing sounds, or by using loud or boisterous language, or by any unusual or obnoxious noise whatsoever, advertise goods, wares, exhibition, entertainment or merchandise for sale, either at auction or in any other manner.

D. Noisy Machinery. No person shall maintain, run, or operate any steam, gas, electric, gasoline, or other engine, boiler, press, machine, or other apparatus so constructed or operated as to make or generate any loud, unnecessary, unreasonable, or obnoxious noise, as to disturb the peace and quiet of the Village.

E. No person, being the owner, or person in possession of a premises or person in control of the premises by reason of employment, agency, contract or otherwise, whether such ownership, possession or control is exclusive or joint, shall permit a violation of this section.

F. The following are exempted from the provisions of this section:

1. Audible warning devices on emergency or public safety vehicles when responding to situations in an emergency mode in conjunction with the use of an emergency warning light; or,
2. Building and vehicle alarms, unless there is a history of recurrent false activation of such devices; or,
3. Construction equipment involved in the emergency repair or stabilization of a structure or facility after the accidental damage of or failure of such structure or facility, with the consent of the Village Mayor and/or his or her designee; or,
4. Warning devices such as horns, whistles, or similar mechanism, when used to warn of a potentially dangerous and/or hazardous condition, but only for the duration of that condition.

G. (1) Whoever violates this section is guilty of generating an unreasonable noise and a minor misdemeanor. (2) If the offender persists in generating or permitting to be generated unreasonable noise after reasonable warning or request to desist, generating unreasonable noise is guilty of persistent generating of an unreasonable noise and a misdemeanor of the fourth degree.

H. In any violation of this section involves sound equipment that is portable or in a motor vehicle, both the sound equipment and the motor vehicle, if applicable, are hereby deemed contraband and subject to seizure and forfeiture under Ohio Revised Code §§ 2933.41 through 2933.43.

Section 2: 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 3: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_\_ -2012 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 11th day of April, 2012.

ORDINANCE AMENDING CODIFIED  
ORDINANCE 1101.01 OF THE CODIFIED  
ORDINANCES OF BOSTON HEIGHTS, OHIO  
AND DECLARING AN EMERGENCY.

WHEREAS; the Planning Commission for the Village of Boston Heights, Ohio consists of five separate members; and,

WHEREAS; at times members of the Planning Commission are absent from the municipality or otherwise may lack capacity to serve or attend meetings; ~~and~~;

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

Section 1: That Codified Ordinance 1101.01 of the Codified Ordinances of the Village of Boston Heights is hereby amended and shall state as follows:

It is hereby established a Planning Commission consisting of five members: the Mayor, one member of Council to be selected by Council, and three citizens of the municipality to be appointed by the Mayor, for the terms of six years each, except that the term of one of the members the first commission shall be for four years and one for two years. In the event of absence from the municipality or incapacity of one of the citizen Commission members, the Mayor may appoint a temporary substitute to serve as a member of the Commission with the same power and authority as a regular member until such member has returned or has become capacitated for service. All members shall serve without compensation.

Section 2: 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 3: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_\_\_-2012 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 11th day of April, 2012.

ORDINANCE AMENDING CODIFIED ORDINANCE  
SECTION 1151.07(a)(26) REGARDING MINIMUM  
SQUARE FOOTAGE AND DECLARING AN  
EMERGENCY.

WHEREAS; The Planning Commission for the Village of Boston Heights has reported a recommended change in the minimum square footage as set forth in Codified Ordinance 1151.07(a)(26); and,

WHEREAS; A proper public notice and a hearing has been given as to the changing to the adoption of this Ordinance and the amendments to Codified Ordinance Section 1151.07(a)(26);

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

Section 1: That Codified Ordinance Section 1151.07(a)(26) of the Codified Ordinances of the Village of Boston Heights be amended to and shall now state as follows:

(26) Office: One space for each 250 square feet of floor area as the minimum parking space requirement.

Section 2: 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 3: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_\_-2012 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 9th day of May, 2012.



ORDINANCE AMENDING CODIFIED ORDINANCE  
SECTION 1141.34 REGARDING PUBLICATION FOR  
PUBLIC NOTICE OF A HEARING

WHEREAS; The “Public Notice of a Hearing” definition in Codified Ordinance 1141.34 no longer reflects the precise requirements the Ohio Revised Code; and,

WHEREAS; The Planning Commission has reported to Council a recommendation in favor of this Ordinance; and,

WHEREAS; Proper public notice and a hearing has been given as to the adoption of this Ordinance and these amendments to Codified Ordinance Section 1141.34;

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

Section 1: That Codified Ordinance Section 1141.34 of the Codified Ordinances of the Village of Boston Heights be amended and shall now state as follows:

“Public notice of a hearing: means notice of a time and place thereof, published for a period not less than thirty (30) days prior to the date of the hearing in a newspaper of general circulation in the Village.

Section 2: 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.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_\_-2012 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 \_\_\_ day of July, 2012.

ORDINANCE AMENDING ORDINANCE 3-2011  
TO CORRECT EFFECTIVE DATE AND  
DECLARING AN EMERGENCY.

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

Section 1: That Section 5 of Ordinance 3-2011, also known as the Pay Ordinance, shall be amended and state as follows:

This Ordinance shall be effective and shall take effect and be in force from and after the pay period ending February 21, 2011.

Section 2: 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 3: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_\_-2012 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 11th day of April, 2012.

A RESOLUTION OPPOSING CENTRALIZED TAX  
COLLECTION IN THE STATE OF OHIO AND  
DECLARING AN EMERGENCY.

WHEREAS, during the recent discussion regarding the State Biennial Budget Bill (HB 153) it was suggested that the Ohio Department of Taxation take over the collection of municipal income taxes; and

WHEREAS, local income tax is the largest source of revenue for the Village of Boston Heights and likely for the other 578 municipalities in the State of Ohio; and

WHEREAS, with the reductions in the Local Government Fund, municipalities cannot afford another potential loss in revenue, and administrative fees collected by the State: and

WHEREAS, the Village of Boston Heights advocates fair application and enforcement of tax laws for its citizens, and as laws would be standardized across municipalities, the Village would lose the ability to enforce its Code, along with the loss of personalized service in the preparation and of individual tax returns, answering questions, and resolution of delinquencies; and

WHEREAS, the timing and distribution of State collected revenues to municipalities could impact the Village's cash flow; and

WHEREAS, a centralized tax collection system is contradictory to the idea of smaller government and would circumvent local control; and

WHEREAS, businesses currently have the ability to file their taxes electronically from anywhere through the Regional income Tax Agency;

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

Section 1: This Council does hereby declare its strong opposition to any effort by the State of Ohio to take over the collection of municipal income taxes in Ohio, and urges the Governor, the Treasurer and the General Assembly to recognize the negative impact a centralized income tax collection would have on our community.

Section 2: The Clerk of Council is hereby authorized and directed to send a copy of this Resolution to Governor John Kasich, Treasurer Josh Mandel, Tax Commissioner Joseph Testa and Local Representatives of the Ohio Legislature.

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.

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 uninterrupted revenue stream within the Village of Boston Heights and shall take effect and be in force from and after its passage. .

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_\_-2012 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 11th day of April, 2012.

RESOLUTION AUTHORIZING MAYOR TO  
ENTER INTO A SETTLEMENT AGREEMENT  
WITH JOHN BRUMFIELD AND CONCRETE  
DIMENSIONS, INC. AND DECLARING AN  
EMERGENCY.

WHEREAS, The Village of Boston Heights and its Zoning Inspector have commenced a Zoning enforcement action against John Brumfield and Concrete Dimensions, Inc. for violations of the Codified Ordinances of the Village of Boston Heights, to-wit: *Village of Boston Heights v. John Brumfield, et al.*, Summit County Common Pleas Case Number CV 2003 11 6883; and,

WHEREAS, The Village of Boston Heights and its Zoning Inspector filed a Motion to Show Cause why Mr. Brumfield and Concrete Dimensions, Inc. should not be held in contempt of a permanent injunction in the aforesaid zoning enforcement lawsuit; and,

WHEREAS, a hearing was held before the Summit County Court of Common Pleas on the Village's Motion to Show Cause; and,

WHEREAS, The Village of Boston Heights, the Zoning Inspector, John Brumfield, and Concrete Dimensions, Inc. desire to resolve any and all claims between the parties related to the aforesaid zoning violations, the pending Motion, and the litigation;

NOW, THEREFORE, be it resolved by The Village of Boston Heights, Ohio as follows:

Section 1: The Mayor of the Village of Boston Heights is hereby authorized to enter into a settlement agreement with John Brumfield and Concrete Dimensions, Inc. Said Agreement is attached hereto as Exhibit A.

Section 2: 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 3: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_\_\_-2012 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 11th day of April, 2012.

**SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF BOSTON  
HEIGHTS, JOHN BRUMFIELD, AND CONCRETE DIMENSIONS, INC.**

This Settlement Agreement is entered into this \_\_\_ day of April, 2012, between the Village of Boston Heights, Summit County, Ohio, (“The Village”), on the one hand, and John Brumfield and Concrete Dimensions, Inc. on the other hand as it pertains to the Motion to Show Cause filed on October 31, 2011, in the case entitled, *The Village of Boston Heights v. John Brumfield, et al.*, Summit County Common Pleas Case No. CV 2003 11 6883.

WHEREAS, The Village of Boston Heights and its Zoning Inspector have commenced a zoning enforcement action against John Brumfield and Concrete Dimensions, Inc. for violations of the Codified Ordinances of the Village of Boston Heights, to-wit: *Village of Boston Heights v. John Brumfield, et al.*, Summit County Common Pleas Case Number CV 2003 11 6883; and,

WHEREAS, The Village of Boston Heights and its Zoning Inspector filed a Motion to Show Cause Why Mr. Brumfield and Concrete Dimensions, Inc. should not be held in contempt of a permanent injunction in the aforesaid zoning enforcement lawsuit; and,

WHEREAS, The Village of Boston Heights, the Zoning Inspector, John Brumfield, and Concrete Dimensions, Inc. desire to resolve any and all claims between the parties related to the aforesaid Zoning violations, the pending Motion, and the litigation;

NOW THEREFORE, the parties agree as follows:

(1) That John Brumfield and Concrete Dimensions, Inc. shall pay \$1,000 in cash or certified check to the Village on or before April 15, 2012.

(2) That John Brumfield and/or Concrete Dimensions, Inc. shall level the soil and debris that was placed on the back portion of the subject property and otherwise prepare it for the

purpose of creating a service and/or access road. This leveling shall occur on or before May 10, 2012.

(3) That upon satisfaction of the requirements set forth in Paragraphs 1 and 2, the Village and Brumfield shall cause to be submitted to Judge Paul Gallagher in the aforesaid litigation the revised Stipulated Permanent Injunction attached hereto as Exhibit "A."

(4) If John Brumfield and/or Concrete Dimensions, Inc. fail to satisfy the requirements of Paragraphs 1 and/or 2 by the aforesaid dates, this Agreement shall be null and void, and the contempt hearing in the aforesaid litigation shall proceed. Further, the parties agree that this Agreement and Exhibit "A" shall not be submitted to Judge Gallagher unless and until the requirements of Paragraphs 1 and 2 are satisfied, and that the contents of Exhibit "A" are inadmissible and irrelevant for any and all purposes if either of the requirements of Paragraphs 1 and 2 are not met.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the \_\_\_\_ day of April, 2012.

CONCRETE DIMENSIONS, INC.

\_\_\_\_\_  
JOHN BRUMFIELD

\_\_\_\_\_  
BY: JOHN BRUMFIELD

Approved as to form

VILLAGE OF BOSTON HEIGHTS

\_\_\_\_\_  
Marshal M. Pitchford, Solicitor  
Village of Boston Heights

\_\_\_\_\_  
BY: BILL GONCY, MAYOR

RESOLUTION REGARDING THE  
SELECTION OF A PROFESSIONAL  
DESIGN FIRM AND DECLARING AN  
EMERGENCY.

WHEREAS, The Village of Boston Heights issued a request for professional services related to design Work for the Village's Drainage Maintenance Program, the Village's Road Maintenance Program and the Village's Hines Hill Road Reconstruction Project, and,

WHEREAS, The Village has evaluated the qualifications of the firms responding to the Statement of Qualification based upon their competence, ability in terms of workload and availability of qualified personnel, their experience, their past performance with respect to quality of work, and satisfaction of deadlines and prior experience working with the Village; and,

NOW, THEREFORE, be it resolved by Council of the Village of Boston Heights, Ohio, as follows:

Section 1: That Council received fewer than three Submissions from qualified firms.

Section 2: That the firms submitting qualifications have been evaluated and are considered to be the most qualified in the ranking that follows:

- (1) Krock & Esser Engineering
- (2) Terracon Consultants Inc.

Section 3: That the Mayor is hereby authorized to negotiate a contract with the firm ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable to the public authority.

Section 4: That the contract negotiations by the Mayor with the selected firm will be directed toward:

- (A) Ensuring that the professional design firm and the agency have a mutual understanding of the essential requirements involved in providing the required services;
- (B) Determining that the firm will make available the necessary personnel, equipment, and facilities to perform the services within the required time; and,
- (C) Agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity and nature of the services.

Section 5: 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 6: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_\_-2012 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 11th day of April, 2012

RESOLUTION AUTHORIZING  
SUBMISSION OF AN APPLICATION  
FOR FINANCIAL ASSISTANCE  
THROUGH THE SURFACE WATER  
IMPROVEMENT FUND AND  
DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio through the Ohio Environmental Protection Agency administers financial assistance, through the Surface Water Improvement Fund; and,

WHEREAS, The Village of Boston Heights desires financial assistance under the Surface Water Improvement Fund Program;

NOW, THEREFORE, be it resolved by Council of the Village of Boston Heights, Ohio, as follows:

Section 1: That the Council approves filing an application for financial assistance under the Surface Water Improvement Fund Program.

Section 2: That Village Mayor is hereby authorized and directed to execute and file an application with the Ohio EPA and to provide all information and documentation required in becoming eligible for possible funding assistance.

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.

Section 4: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_\_-2012 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 11th day of April, 2012.

A RESOLUTION CONFIRMING THE PROBATIONARY PERIOD OF THE ONE YEAR CONTINUOUS SERVICE APPOINTMENT OF BRIAN EDWARD SCHALL TO THE FIRE DEPARTMENT OF THE VILLAGE OF BOSTON HEIGHTS AS A FIREFIGHTER AND EMT-8 AND DECLARING AN EMERGENCY.

**WHEREAS**, the Mayor has recommended the appointment of Brian Edward Schall to the Fire Department of the Village of Boston Heights for a probationary period of one year continuous service effective the date of passage of this Resolution.

**WHEREAS**, the Fire Chief of the Village of Boston Heights has made said recommendation.

**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 recommendation to appoint Brian Edward Schall as a Firefighter and EMT-B with the Fire Department of the Village of Boston Heights is hereby accepted.

Section 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the continuing emergency operations of the Fire Department of the Village of Boston Heights.

\_\_\_\_\_  
Bill Goney, Mayor

ATTEST:

I, RICHARD HUBER, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_\_\_ -2012 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 day \_\_\_\_\_, 2012.

\_\_\_\_\_  
Richard Huber, Fiscal Officer

RESOLUTION AMENDING RESOLUTION 17-2011  
TO REFLECT APPROPRIATE TIME PERIOD AND  
DECLARING AN EMERGENCY

NOW, THEREFORE, be it resolved by the Council of the Village of Boston Heights, Ohio:

Section 1: That Section 2 of Resolution 17-2011 shall be amended and state as follows:

That upon the consent of Council, this level change shall begin with the pay period beginning July 11,2011.

Section 2: 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 3: 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 and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

\_\_\_\_\_  
RICHARD HUBER  
Fiscal Officer and Clerk of Council

I, RICHARD HUBER, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_\_-2012 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 11th day of April, 2012.