

VILLAGE OF BOSTON HEIGHTS

Public Hearing - 6:00 PM
Public Records Commission - 6:45 PM

COUNCIL MEETING **APRIL 10, 2013 7:00PM** **AGENDA**

PLEDGE OF ALLEGIANCE

ROLL CALL

ALSO: Mayor Bill Goncy, Fiscal Officer Betty Klingenberg, Solicitor Marshal Pitchford, Engineer Dave Krock

Antal X - Baxter X - D.Blakeney X - G.Blakeney X - Fenn X - Polyak X

AGENDA APPROVAL **APPROVED as amended**

CORRESPONDENCE

APPROVAL OF MINUTES

January, February, March, 2013 (Motion) **APPROVED w/o substantive corrections**

OPEN FORUM

Bill Hinkle (Boston Mills Rd) asked for an explanation of Ord 2013-3-8, specifically whether it went beyond the newly-enacted Ohio state law restricting texting while driving. Solicitor Pitchford explained that this ordinance would go beyond the state law in making texting a primary (stoppable) offense, and including web browsing. Mr. Hinkle also asked that the Mayor or Council explain other legislation as the meeting progressed, since most of it was not made available to the public before this meeting where it was to be voted upon.

ORDINANCES

ORDINANCE 2013-2-4
(Third Reading)
ADOPTED: ORD 2013-2-4

AN ORDINANCE REGARDING CHANGES FOR FEE AND
DEPOSIT REFERENCES IN ZONING CODE AND RELATED
ORDINANCES

Note: A public meeting was held on this issue just before the Council meeting.

ORDINANCE 2013-2-5
(Third Reading)
ADOPTED: ORD 2013-2-5

ORDINANCE CHANGING THE NUMBER OF MEMBERS FOR
THE BOARD OF ZONING APPEALS

Note: A public meeting was held on this issue just before the Council meeting.

ORDINANCE 2013-3-8
(Second Reading)

ADOPTED: ORD 2013-3-8

ORDINANCE CREATING SECTION 337.31 OF THE CODIFIED ORDINANCES ON THE SUBJECT OF PROHIBITING “TEXTING” WHILE DRIVING AND DECLARING AN EMERGENCY

(note: This was held to discuss further at the March Finance Committee meeting, but that discussion did not occur)

Note: See Open Forum note, above, for a related inquiry.

ORDINANCE 2013-4-9
(First Reading)

ADOPTED: ORD 2013-4-9

ORDINANCE AMENDING SECTION 513.12 OF THE CODIFIED ORDINANCES, CREATING SECTION 513.121 OF THE CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY

(note: CO 513.12 criminalizes “Drug Paraphenalia”)

ORDINANCE 2013-4-10
(First Reading)

ADOPTED: ORD 2013-4-10

ORDINANCE AMENDING ORDINANCE 2-1984 TO CLARIFY VACATION OF CERTAIN PORTIONS OF OLDE EIGHT ROAD SOUTH OF STATE ROUTE 303 AND DECLARING AN EMERGENCY

Note: Mayor and Solicitor explained that this was to clarify the boundaries of the earlier vacation of old roadways around the Akron-Cleveland Road bridge, in anticipation of the rebuilding project for that bridge.

RESOLUTIONS

RESOLUTION 2013-3-10
(Second Reading)

ADOPTED: RES 2013-3-10

RESOLUTION AUTHORIZING THE MAYOR TO SELL THE 2010 NEW HOLLAND TRACTOR AND DECLARING AN EMERGENCY

(note: This was held to await Mayor Goncy’s estimate of the resale value, which he supplied at the March Finance Committee meeting in the amount of \$38,000, which was inserted into this Resolution’s text.)

RESOLUTION 2013-4-12
(First Reading)

ADOPTED: RES 2013-4-12

A RESOLUTION AUTHORIZING A CONTRACT WITH KROCK
ESSER ENGINEER REGARDING ENGINEERING PLANS, PUBLIC
BIDDING, CONSTRUCTION MANAGEMENT, AND SUBMISSION
OF SWIF GRANT FOR THE VILLAGE HALL WATER QUALITY
-PHASE 1 AND DECLARING AN EMERGENCY

NOTE: This grant will be paying for the partial paving of the Village Hall lot.

RESOLUTION 2013-4-13
(First Reading)

ADOPTED: RES 2013-4-13

RESOLUTION ADOPTING ZONING AND PLANNING MASTER
FEE SCHEDULE AND DECLARING AN EMERGENCY

NOTE: This is the fee schedule authorized by ORD 2013-3-4, adopted above.

RESOLUTION 2013-4-14
(First Reading)

ADOPTED: RES 2013-4-14

RESOLUTION AUTHORIZING THE SUBMISSION OF THE ODNR
GRANT AND DECLARING AN EMERGENCY

**NOTE: The Village Engineer expects to request a grant for improvements to the
Village Park, specifically the surface of the playground area.**

RESOLUTION 2013-4-15
(First Reading)

ADOPTED: RES 2013-4-15

RESOLUTION APPOINTING CHAD MCARDLE AS FULL-TIME
MEMBER OF THE VILLAGE POLICE DEPARTMENT AND
DECLARING AN EMERGENCY

NOTE: Officer McArdle was sworn in later in the meeting.

RESOLUTION 2013-4-16
(First Reading)

ADOPTED: RES 2013-4-16

RESOLUTION AUTHORIZING SOLICITOR, MARSHAL
PITCHFORD TO ENTER INTO NEGOTIATIONS WITH THE
SOLICITOR FOR VALLEY FIRE DISTRICT

**NOTE: Several Council members sought re-assurance that this only allowed for
negotiation of a prospective contract for shared services with Valley Fire
(specifically, for them to supply EMS services and possibly fire response
services) and not an approval of any such contact, yet. The Solicitor
assured them that this was the case -- negotiation only, no set time frame.**

RESOLUTION 2013-4-17
(First Reading)

**HELD FOR 2nd Reading &
further discussion by
Finance Committee**

RESOLUTION OF NECESSITY TO ESTABLISH AN ADDITIONAL TAX LEVY AT THE TAX RATE OF __ AND REQUESTING THE SUMMIT COUNTY FISCAL OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THIS ADDITIONAL LEVY AND DECLARING AN EMERGENCY

REPORTS

MAYOR

B. GONCY

GUA Insurance Quote (05/01/2013 - 04/30/2014) - Motion to Approve
Mayor: "slight increase" in liability and property insurance rates. APPROVED

Kimble (Formerly J & J Refuse) - Motion to Approve
Mayor: requests authorization to negotiate a longer-term contract. APPROVED

Valley Fire District - Pancake Breakfast and Dedication of the Apparatus Building, May 5, 2013

2 Appointments to Recreation Advisory Commission
**Mayor appoints Sarah Fenderbosch and David Himes.
Park Cleanup Day May 11th; rain date is May 19th.**

Resignation of Employees
Jeff Lyle (Police Dept); Scott Finley (Roads Department)

FISCAL OFFICER

B. KLINGENBERG

March 2013 Fiscal Reports - Motion to Approve
APPROVED

March 2013 Bank Reconciliation - Motion to Approve
APPROVED

SAFETY COMMITTEE

F. BAXTER

ROAD COMMITTEE

D. BLAKENEY

LANDS AND BUILDINGS COMMITTEE G. BLAKENEY

CEMETERY COMMITTEE / TRUSTEES R. FENN

ECONOMIC DEVELOPMENT COMMITTEE R. ANTAL

PLANNING COMMISSION / BZA D. POLYAK
[ZONING COMMITTEE]

OLD BUSINESS

NEW BUSINESS

Oath of Office: Chad McArdle **SWORN IN BY MAYOR GONCY, AND OFFERED A FEW REMARKS.**

EXECUTIVE SESSION **(NONE)**

ADJOURN

NOTICE

The complete text of each such Ordinance or Resolution may be obtained or viewed at the Boston Heights Village Hall, 45 East Boston Mills Road in the Office of the Fiscal Officer during office hours.

**AN ORDINANCE REGARDING CHANGES FOR FEE AND DEPOSIT
REFERENCES IN ZONING CODE AND RELATED ORDINANCES**

WHEREAS; the Village of Boston Heights and its Planning Commission and Council desire to establish a uniform fee and deposit structure for all submissions related to the Zoning Code and other matters related to economic development; and,

WHEREAS; the Village Council and Village Planning Commission recognize that the changes made in this Ordinance do not create a community wide schedule for fees that may be charged by the Village under the Codified Ordinances or as otherwise provided by law; and,

WHEREAS; the Planning Commission approved the changes made to the Zoning Code and Codified Ordinances for the Village of Boston Heights as set forth below; and,

WHEREAS; a duly noticed public hearing has been held with respect to this Ordinance.

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

Section 1: That Codified Ordinance 1105.05 be amended to state as follows:

PLANNING AND ZONING FEE SCHEDULE

(a) The Village shall publish a Planning and Zoning Fee Schedule established by the Planning Commission subject to the approval of a majority vote of Council. A copy of this schedule shall be attached to and made a part of every application form associated with the permits, certificates, hearings, and/or administrative functions regulated by Part Eleven of these Codified Ordinances. This schedule shall also list any bond that is required or established in Part Eleven of these Codified Ordinances.

(b) All applications for permits, certificates, hearings, or administrative functions associated with projects regulated by Part Eleven of these Codified Ordinances, known as the Planning and Zoning Code, shall be accompanied by a non-refundable application fee established pursuant to subpart (a) and be made payable to the Village of Boston Heights. No such application for permit, hearing, or administrative function shall be accepted by the Village of Boston Heights unless accompanied by the payment of such fee. Such fee may be in addition to any other fee or deposit required by the Village, County of Summit or other political subdivision or governmental agency.

(c) The application fee in this section is separate from and in addition to any deposit into or charge against a Professional Fees, Costs, and Review Account established under Section 1101.06 of these Codified Ordinances.

(d) The Village Office Clerk shall be the records keeper and prepare appropriate documents for execution by the Zoning Inspector, Planning Commission, and/or the Board of Zoning Appeals. All applications for permits, certificates, hearings, or other administrative functions associated with projects regulated by Part Eleven of these Codified Ordinances shall be filed with the Village Office Clerk. All applications shall be time-stamped upon submission. Each application and/or other request shall be designated with a docket number. The docket number sequence shall be a four-part designation in the form DD-YYYY-MM-II, comprising:

- (1) The particular department (DD), whether it be Zoning Inspector (ZI), Planning Commission (PC), or Board of Zoning Appeals (BZA); and,
- (2) The calendar year of submission (YYYY); and,
- (3) The month (MM) of that calendar year; and,
- (4) An index number (II) with the first application in that particular month receiving the number 01, and continuing so on.

(e) The Village may consider and permit in its discretion a refund of any such fee paid hereunder where the Village finds that such application was made for a matter not under its or one of its departments' jurisdiction.

Section 2: That Codified Ordinance 1121.04(p) be amended to state as follows:

DEPOSIT AND FEE FOR INVESTIGATION AND APPROVAL AT PLATS

At the time of filing the application for the approval of any plat, or at the time plans and specifications for any improvement or improvements are submitted to the Planning Commission and/or Village Engineer for approval, such application, plans, and/or specifications shall be accompanied by the application fee established by Section 1101.05 and the Professional Fees, Costs and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 3: That Codified Ordinance 1121.06(c) be repealed in its entirety.

Section 4: That Codified Ordinance 1145.05 be repealed in its entirety.

Section 5: That Codified Ordinance 1147.03 be amended to state as follows:

REZONING APPLICATION

At the time of filing any application for a zoning permit where such application requires action by Council on the rezoning of any parcel, the applicant shall give a full legal description of the property to be rezoned together with a complete list of all owners of the property adjacent, continuous and across the street from the parcel or parcels to be rezoned or acted upon by Village Council.

Section 6: That Codified Ordinance 1151.06(d) be amended to state as follows:

A performance bond made payable to the Village of Boston Heights in the amount of one hundred percent (100%) of the construction cost shall be required for the issuance of a zoning permit in the Office/Professional, General Business, Retail Business, and Light Manufacturing Districts, and for conditional uses in the Residential District. No zoning permit can be issued without the submission of a bond as required in this section. Such bond shall be issued by a recognized and approved bonding company acceptable to the Zoning Inspector and the Planning Commission. After all conditions of the Zoning Ordinance are met, the bond shall be returned to the applicant.

Section 7: That Codified Ordinance 1151.09(a)(3) be amended to state as follows:

A performance bond made payable to The Village of Boston Heights in the amount of the landscaping estimate calculated in subsection (a)(2) hereof shall be required to ensure faithful performance of all landscaping provided in such construction. No landscaping work can be completed until the required performance bond has been deposited. Further, the bond must be issued by a recognized and approved bonding company acceptable to the Zoning Inspector and shall be a period commensurate with the completion of the landscaping plan. After all conditions of the Zoning Ordinance are met, the bond shall be returned to the applicant.

Section 8: That Codified Ordinance 1177.05(a) be amended to state as follows:

General Permit Applications/Permit Conditions. Application for such permit under this chapter shall be in writing and should be accompanied by the following:

(a) A site plan detailing the topography of the affected areas to the satisfaction of the Zoning Inspector;

(b) A cash or surety bond in the form as approved by the Village in the amount of \$25,000 and a road bond in conformance with Section 339.02 of these Codified Ordinances; and,

(c) The fee established by Section 1101.05 and Professional Fees, Costs, and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 9: That Codified Ordinance 1179.03(g) be amended to state as follows:

Application for the erection or modification of any sign for which a variance, conditional use permit, or approval of the Planning Commission is required shall be made by a "Sign Application Form" approved for that purpose by the Planning Commission with the concurrence of the Board of Zoning Appeals, and shall be accompanied by the application fee established by Section 1101.05 and the Professional Fees, Costs and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 10: That Codified Ordinance 1181.08(d) be amended to state as follows:

At the time of filing the application for a hearing to resolve a dispute under this chapter, such application, plans and specifications shall be accompanied by the application fee established by Section 1101.05, and the Professional Fees, Costs and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 11: That Codified Ordinance 1183.10 be repealed in its entirety.

Section 12: That Codified Ordinance 1183.11 be amended to state as follows:

If a Storm Water Pollution Prevention Plan is required by this chapter, then a performance and maintenance bond shall be posted with the Village, payable to the Village of Boston Heights in an amount to be determined by the Village Engineer. The Bond must be issued by a recognized and approved bonding company acceptable to the Village Engineer. No project shall be released from such bond if there is a failure to comply with an approved SWP3.

Section 13: That Codified Ordinance 1303.03 be hereby established and state as follows:

(a) The Village shall publish a Building Code Fee Schedule to be established by the Planning Commission subject to the approval of a majority vote of Council. A copy of the Building Code Fee Schedule shall be attached to every Village application form associated with any permits, certificates, hearings and/or administrative functions regulated by Part Thirteen of these Codified Ordinances. The schedule shall also list all bonds that are established by any provision of Part Thirteen of these Codified Ordinances.

(b) All applications for permits, certificates, hearings, or administrative functions associated with projects regulated by Part Thirteen of these Codified Ordinances, known as the Building Code, shall be accompanied by a non-refundable application fee as established pursuant to subpart (a) and be made fee payable to the Village of Boston Heights. No such application for permit, certificate, hearing, or administrative function shall be accepted by the Village of Boston Heights unless accompanied by the payment of such fee. Such fee may be in addition to any other fee or deposit required by the Village, County of Summit or other political subdivision or governmental agency.

(c) The application fees authorized in this section are separate from and in addition to any deposit into or charge against a Professional Fees, Costs and Review Account established under Section 1101.06 of these Codified Ordinances or any fee, deposit or charge as may be required by the County of Summit, the State of Ohio, or any other authorized agent as provided in and pursuant to Sections 1303.01 and 1303.02 of these Codified Ordinances.

(d) All applications for permits, hearings, or other administrative functions associated with projects regulated by Part Thirteen of these Codified Ordinances that require approval from the Village shall be filed with the Village Office Clerk. All such applications shall be time-stamped upon submission. The Village Office Clerk shall be the records keeper and prepare appropriate documents for execution by the Zoning Inspector, or other appropriate Village department. Each application and/or other request shall be designated a docket number. The docket number sequence shall be a four-part designation in the form DD-YYYY-MM-II, comprising:

(1) The particular department (DD): Zoning Inspector (ZI) or as otherwise may be applicable; and,

(2) The calendar year of submission (YYYY); and,

(3) The month (MM) of that calendar year; and,

(4) An index number (II) with the first application in that particular month receiving the number 01, and continuing so on.

(e) The Village may consider and permit in its discretion a refund of any such fee paid hereunder where the Village finds that such application was made for a matter not under its or one of its departments' jurisdiction.

Section 14: That Codified Ordinance 1313.03(c) amended to state as follows:

Section 103 entitled Department of Property Maintenance and Inspection shall be retitled:

"Section 103 Code Official and Fees";

Delete Sections 103.01, 103.2, and 103.3 from the model code document.

Insert the following new sections:

"103.1 Code Official: The Code Official is defined as the person or persons designated by Section 1313.05 of these Codified Ordinances to enforce the property maintenance code."

"103.2 (deleted)"

"103.3 (deleted)"

In Section 103.5, replace [APPROPRIATE SCHEDULE] with "Fee Schedule as established pursuant to Section 1303.03 of these Codified Ordinances."

Section 15: That Codified Ordinance 1377.03(d)(6) be repealed in its entirety.

Section 16: That Codified Ordinance 1377.05(d)(1)(C) be repealed in its entirety.

Section 17: That Codified Ordinance 1377.05(e)(7) be amended to state as follows:

The Board shall issue subpoenas upon written request for the attendance of witnesses. The costs thereof shall be the responsibility of the requesting party.

Section 18: 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:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2013-2-4** 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 10th day of April, 2013.

**ORDINANCE CHANGING THE NUMBER OF MEMBERS
FOR THE BOARD OF ZONING APPEALS**

WHEREAS; the Council for the Village of Boston Heights deems it necessary and proper to have five (5) members on the Village Board of Zoning Appeals instead of four (4) members; WHEREAS; a duly noticed public hearing has been held with respect to this Ordinance; and,

WHEREAS; the Planning Commission has recommended and approved the amendment to Codified Ordinance 1145.01 as set forth below.

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

Section 1: That Codified Ordinance 1145.01 be amended to state as follows:

MEMBERS; TERMS. The Board of Zoning Appeals of the Village of Boston Heights is hereby established. The words "the Board" where used herein shall refer to such Board. The Board shall consist of five members. Four members shall be appointed by the Mayor, with the consent of Council, for terms of four years. In the event of absence from the municipality or incapacity of one of these four Board members first appointed by the Mayor and then approved by the Council, the Mayor may appoint a substitute who may serve as a member of the Board with the same power and authority as a regular member until such member has returned or has become capacitated for service. The fifth member shall be a member of Council who is selected annually by a majority vote of Council. In the event of absence from the municipality or incapacity of the Council member of the Board, the Council President Pro Tempore may appoint a substitute who may serve as a member of the Board with the same power and authority as a regular member until such member has returned or has become capacitated for service. Each member of the Board shall serve until his or her successor has been appointed. 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.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2013-2-5** 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 10th day of April, 2013.

ORDINANCE NO: 2013-3-8

ORDINANCE CREATING SECTION 337.31 OF THE CODIFIED ORDINANCES ON THE SUBJECT OF PROHIBITING “TEXTING” WHILE DRIVING AND DECLARING AN EMERGENCY

WHEREAS; The Council for the Village of Boston Heights desire to protect its residents and those who operate on roadways open to the public; and,

WHEREAS; "texting" while driving a motor Vehicle is highly dangerous and places the driver and the motoring public-at-large at risk; and,

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

Section 1: That Codified Ordinance 337.31 be hereby created and established this date:

Driving while texting and browsing the Internet prohibited.

(A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to (1) write, send, or read a text-based communication, or (2) browse the Internet..

(B) Division (A) of this section does not apply to any of the following:

(1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;

(5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(6) A person receiving wireless messages via radio waves;

(7) A person using a device for navigation purposes;

(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, number's, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data regarding commercial activity, including but not limited to delivery of parcels to residents and/or businesses;

(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device, feature or function.

(C) As used in this section:

(1) "Electronic wireless communications device" includes any of the following:

(a) A wireless telephone;

- (b) A text-messaging device;
 - (c) A personal digital assistant;
 - (d) A computer, including a laptop computer and a computer tablet;
 - (e) Any other substantially similar wireless device that is designed or used to communicate text.
- (2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.
- (3) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.
- (4) "Browse the Internet" means activate, to view, or search any website or social media site.
- (D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

Section 2: That this Ordinance is in the best interests and public safety of the Village of Boston Heights and its residents.

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 of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2013-3-8** was duly passed by the Council of the Village of Boston Heights, State of Ohio at a meeting of Council on this 10th day of April, 2013 .

ORDINANCE NO: 2013-4-9

ORDINANCE AMENDING SECTION 513.12 OF THE CODIFIED ORDINANCES, CREATING SECTION 513.121 OF THE CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY

WHEREAS; the Ohio General Assembly has clarified the level of offense for possession of marijuana drug paraphernalia making it a minor misdemeanor; and,
WHEREAS; the Council of the Village of Boston Heights seeks to clarify with more precision the charges for possession of marijuana drug paraphernalia; and,
NOW THEREFORE BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio, as follows:

Section 1: That Section 513 .12(C)(1) of the Codified Ordinances of the Village of Boston Heights be amended as follows:

Subject to Section (D)(2) of this Section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

Section 2: That Section 513.12(D) of the Codified Ordinances of the Village of Boston Heights be amended as follows:

(1) This Section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio Revised Code Chapters 3719, 4715,4729, 4730, 4731, and 4741. This Section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 3719.172 of the Ohio Revised Code or Section 513.10 of these Codified Ordinances.

(2) Section (C)(1) of this Section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or design for use in storing, containing, concealing, injecting, ingesting, inhaling, or Otherwise introducing into the human body marijuana.

Section 3: That Section 513.121 of the Codified Ordinances be hereby created and state as follows;

(A) As used in this section, "drug paraphernalia" has the same meaning as in section 513.12 of the Codified ordinances.

(B) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider , in addition to other relevant factors, all factors identified in division (B) of section 513.12 of the Codified Ordinances.

(C) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana.

(D) This section does not apply to any person identified in division (D)(1) of section 513.12 of the Codified ordinances, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 513.10 of the Codified Ordinances.

(E) Division (E) of section 1513.12 of the Codified Ordinances applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(F) Whoever violates division (C) of this section is guilty of illegal use or possession of marijuana drug paraphernalia, a minor misdemeanor.

(G) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit.

Section 4: 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 5: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore; take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2013-4-9** 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 10th day of April, 2013 .

ORDINANCE NO: 2013-4-10

ORDINANCE AMENDING ORDINANCE 2-1984 TO CLARIFY VACATION OF CERTAIN PORTIONS OF OLDE EIGHT ROAD SOUTH OF STATE ROUTE 303 AND DECLARING AN EMERGENCY

WHEREAS; The Council for the Village of Boston Heights through Resolution 2-1984 declared its intent to vacate Olde Eight Road south of State Route 303; and,

WHEREAS; Notice of the intent to vacate was served on all property owners; and,

WHEREAS; Resolution setting forth the intention to vacate the particular portions of Olde Eight Road were published as required; and,

WHEREAS; No property owner shall be hurt by the vacation of these streets.

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

Section 1: That Section 1 of Ordinance 2-1984 be hereby amended to state and read as follows:

That Council hereby orders the following streets vacated: Bone Drive in its entirety, Heights Drive in its entirety, and Olde Eight Road from the south right of way of State Route 303 to the southern limits, being the southern boundary line of the property currently owned by the United States of America (current Parcel Number: 1300181) as shown pursuant to Exhibit "A," with the new west edge of right of way of Akron Cleveland Road being 60 feet left of and parallel to the centerline of said road as established in 1952.

Section 2: That this Amendment is in the best interests of the Village of Boston Heights and its residents.

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 of the Village residents and to allow for the continued operations of the Service Department and other departments and shall therefore take effect and be in force from and immediately after its passage,

PASSED:

BILL GONCY, MAYOR

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

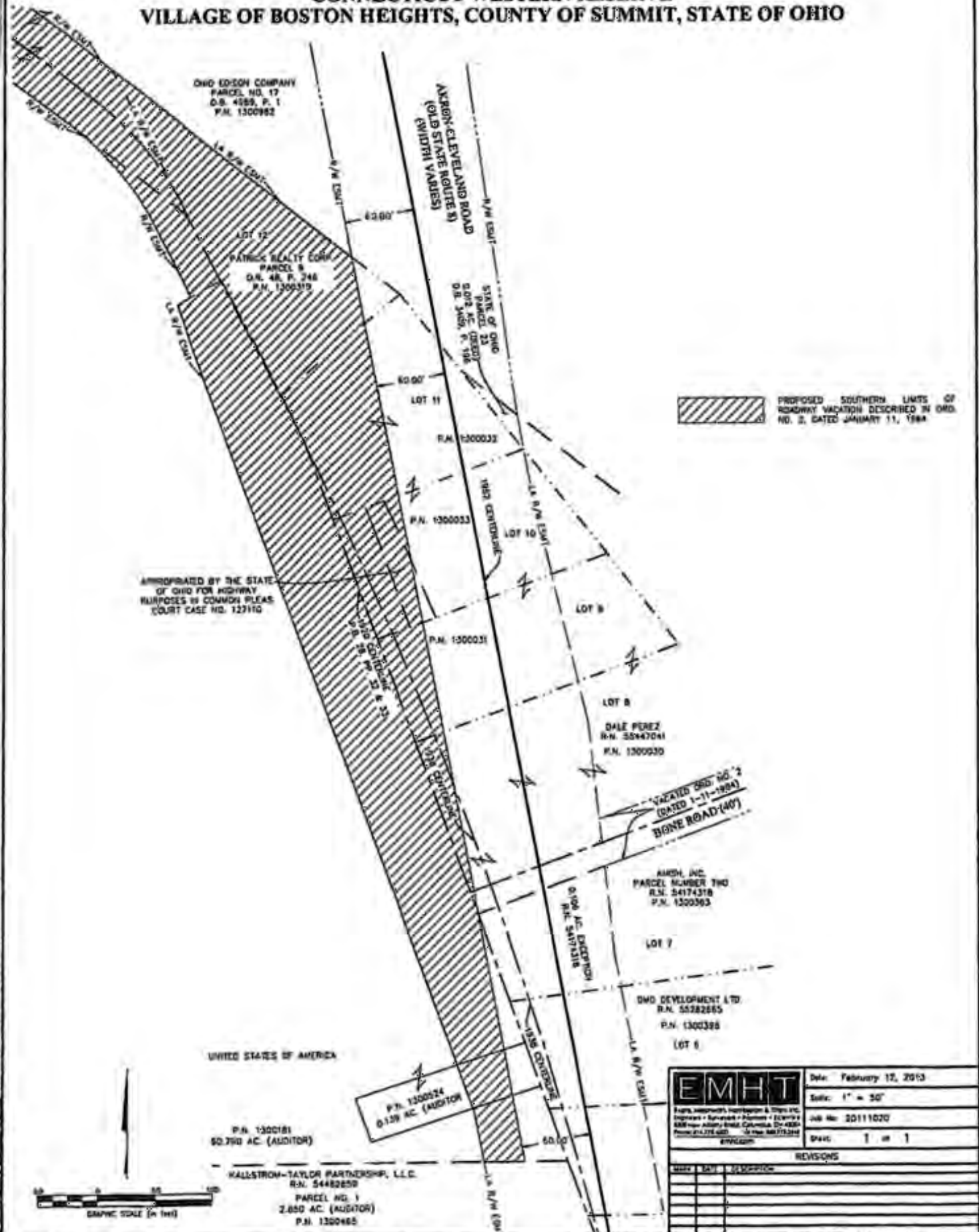
I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2013-4-10** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 10th day of April, 2013.


ROADWAY VACATION EXHIBIT

LOT 6 EAST OF THE CUYAHOGA RIVER, TOWNSHIP 4, RANGE 11

CONNECTICUT WESTERN RESERVE

VILLAGE OF BOSTON HEIGHTS, COUNTY OF SUMMIT, STATE OF OHIO



 PROPOSED SOUTHERN LIMITS OF ROADWAY VACATION DESCRIBED IN ORD. NO. 2, DATED JANUARY 11, 1984

APPROPRIATED BY THE STATE OF OHIO FOR HIGHWAY PURPOSES IN COMMON PLEAS COURT CASE NO. 127110

EMHT		Date: February 17, 2013
Earth, Waterwork, Construction & Utility, Inc. Engineers • Surveyors • Planners • Estimators 888 New Albany Street, Columbus, OH 43201 Phone: (614) 778-4000 • Fax: (614) 778-2344 www.emht.com		Scale: 1" = 50'
Job No: 20111020 Sheet: 1 of 1		REVISIONS No. Date Description

UNITED STATES OF AMERICA

P.N. 1300181
60.750 AC. (AUDITOR)

HALLSTROM-TAYLOR PARTNERSHIP, L.L.C.
R.N. 54482659
PARCEL NO. 1
2.850 AC. (AUDITOR)
P.N. 1300465



RESOLUTION NO: 2013-3-10

RESOLUTION AUTHORIZING THE MAYOR TO SELL THE 2010 NEW HOLLAND TRACTOR AND DECLARING AN EMERGENCY

WHEREAS; The Village owns a 2010 New Holland, two-wheel drive T-6020 tractor that it desires to sell; and,

WHEREAS; It is in the best interests of the Village to sell the 2010 New Holland, two-wheel drive T-6020 tractor as it is presently being under-utilized.

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

Section 1: That it is in the best interests of the Village of Boston Heights and its operations to sell its 2010 New Holland, two-wheel drive T-6020 tractor.

Section 2: That the Mayor and Fiscal Officer are hereby authorized and directed to sell the 2010 New Holland, two-wheel drive T-6020 tractor in a reasonably commercial fashion. The tractor shall not be sold for an amount less than \$38,000 .

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 of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-3-10** 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 10th day of April, 2013.

RESOLUTION NO: 2013-4-12

A RESOLUTION AUTHORIZING A CONTRACT WITH KROCK ESSER ENGINEERING REGARDING ENGINEERING PLANS, PUBLIC BIDDING, CONSTRUCTION MANAGEMENT. AND DECLARING AN EMERGENCY

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

Section 1: That the Mayor is hereby authorized and directed to enter into a contract with Krock Esser Engineering, Inc. to prepare Engineering Plans, Public Bidding Documents, and Bidding and Construction Management services as outlined in Exhibit "A."

Section 2: That the Mayor, Krock Esser Engineering, and/or the Village Fiscal Officer be, and hereby are, authorized and directed to advertise and receive public bids for and/or in furtherance of the project as outlined in Exhibit "A."

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 and safety and welfare of the community and shall take effect and be in force from and after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-4-12** 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 10th day of April, 2013.

NOTE: EXHIBIT "A", WHICH LISTS THE CONTRACTED SERVICES TO BE PROVIDED, WAS NOT SUPPLIED IN RESPONSE TO OUR INITIAL PUBLIC RECORDS REQUEST.

RESOLUTION NO: 2013-4-13

**RESOLUTION ADOPTING ZONING AND PLANNING MASTER FEE SCHEDULE
AND DECLARING AN EMERGENCY**

WHEREAS, the Council of the Village of Boston Heights as adopted Ordinance 2013-2-4 enabling the Village to establish a fee schedule for zoning and other planning applications; and,

WHEREAS, the Planning Commission has approved the zoning and planning fee schedule attached hereto as Exhibit "A;"

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

Section 1: That the master zoning and planning fee schedule attached hereto as Exhibit "A" is hereby adopted and approved for use pursuant to Parts 11 and 13 of the Codified Ordinances of the Village of Boston Heights.

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 and safety and welfare of the community and to allow for the continued operations of the Zoning Inspector, Board of Zoning Appeals, Planning Commission and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-4-13** 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 10th day of April, 2013.

RESOLUTION 2013-4-13
Village of Boston Heights, Ohio
Planning and Zoning Fee Schedule: Codified Ordinances Section 1101.05
Building Code Fee Schedule: Codified Ordinances Section 1303.03

Note: Listed fees are non-refundable (except as expressly permitted) and are exclusive of, and in addition to:

- * Section 1101.06 Profession Fee Deposits and Charges
- * Building Department Fees,
- * Summit Soil and Water Conservation District (SSWCD) Fees
- * other fees of outside agencies & jurisdictions.

Zoning Permit Application Fees	Fee
New Residential Dwelling	\$ 200.00
New Principal Non-residential Structure + Construction & Landscaping Bonds req'd - CO 1151.06,07	\$ 450.00
Major Alteration / Minor Residential Addition (up to 200 s.f. footprint); Decks; Minor Non-residential Alteration	\$ 50.00
Addition Residential - 200 s.f. and larger footprint	\$ 100.00
Addition/Alteration: Non-residential Structure + Construction & Landscaping Bonds req'd - CO 1151.06,07	\$ 250.00
Accessory Structures Residential - up to 200 s.f	\$ 25.00
Accessory Structures Residential - 200 s.f. and larger	\$ 50.00
Accessory Structures Non-residential + Construction & Landscaping Bonds req'd - CO 1151.06,07	\$ 450.00
Communications towers + Construction & Landscaping Bonds req'd - CO 1151.06,07	\$ 450.00
Demolition	\$ 25.00
Fence, Perimeter	\$ 50.00
Use (change within category)	\$ 50.00
Timbering Permit - CO 1177.05 (certified check required) + \$25,000 bond - CO 1177.05(c) + Road Bond - CO 339.02	\$ 250.00
Storm Water Pollution Prevention Plan Fee - CO 1183.10 + SWPPP performance and maintenance bond - CO 1183.11	\$ 0
Flood Plain Development Permit fee - CO 1377.03	\$ 0

RESOLUTION NO: 2013-4-14

**RESOLUTION AUTHORIZING THE SUBMISSION OF THE ODNR GRANT AND
DECLARING AN EMERGENCY**

WHEREAS, the State of Ohio through the Ohio Department of Natural Resources, administers financial assistance for public recreation purposes, through the State of Ohio Nature Works Program, and;

WHEREAS, the Village of Boston heights desires financial assistance under the Nature Works Program.

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

Section 1: That the Council of the Village of Boston Heights approves filing an application for financial assistance with Nature Works through the Ohio Department of Natural Resources.

Section 2: That the Mayor and/or Village Engineer are hereby authorized and directed to execute and file an application with the Ohio Department of Natural Resources and to provide all information and documentation required in becoming eligible for possible financial assistance.

Section 3: That the Council of the Village of Boston Heights does agree to obligate up to Five Thousand Dollars (\$5,000.00) from the Park Fund required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms of the Nature Works Program.

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: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare and to allow for the financial assistance application to be filed in a timely fashion and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-4-14** 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 10th day of April, 2013.

RESOLUTION NO: 2013-4-15

RESOLUTION APPOINTING CHAD MCARDLE AS FULL-TIME MEMBER OF THE VILLAGE POLICE DEPARTMENT AND DECLARING AN EMERGENCY

WHEREAS; The Chief of Police and the Mayor have recommended that Chad McArdle be elevated from part-time to full-time status with the Village of Boston Heights Police Department; and,

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

Section 1: That Chad McArdle is hereby elevated to full-time status with the Village of Boston Heights Police Department effective April 8, 2013. The probationary period as set forth in Codified Ordinance 137.03 is waived because this officer has met the necessary legal requirements and is already a member of the 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.

Section 4: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-4-15** 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 10th day of April, 2013.

RESOLUTION NO: 2013-4-16

RESOLUTION AUTHORIZING SOLICITOR, MARSHAL PITCHFORD TO ENTER INTO NEGOTIATIONS WITH THE SOLICITOR FOR VALLEY FIRE DISTRICT

WHEREAS, the Village of Boston Heights and the Valley Fire District believe it is in the best interests of their respective constituents and residents to share safety services, specifically, fire safety and EMS services; and,

WHEREAS, the Valley Fire District has provided a draft proposal to the Village of Boston Heights to provide fire and EMS services to the Village of Boston Heights on a full time, 24 hours a day, seven days a week basis; and,

WHEREAS, the Village of Boston Heights would like to move forward and engage in specific negotiations over the terms of a shared services agreement;

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

Section 1: That the Village of Boston Heights Solicitor, Marshal Pitchford, is hereby authorized and directed to enter into negotiations with an authorized representative of Valley Fire District for the purpose of preparing a final shared services agreement for the provision of fire and EMS services by Valley Fire District to the Village of Boston Heights.

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

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-4-16** 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 10th day of April, 2013.

RESOLUTION NO: 2013-4-17 *[FIRST READING ONLY: RULES NOT SUSPENDED]*
**RESOLUTION OF NECESSITY TO ESTABLISH AN ADDITIONAL TAX LEVY AT
THE TAX RATE OF __ AND REQUESTING THE SUMMIT COUNTY FISCAL
OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE
VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE
GENERATED BY THIS ADDITIONAL LEVY AND DECLARING AN EMERGENCY**

WHEREAS, the Council of the Village of Boston Heights finds that the amount of taxes which may be raised within the 10-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the Village and it is necessary to levy a tax in excess of that limitation for the purposes of payments for the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges within the Village as provided under O.R.C. 5715.19(G); and,

WHEREAS, in accordance with the Ohio Revised Code, in order to submit the question of an additional tax levy, this Council must request that the Summit County Fiscal Officer certify (1) the total current tax valuation of the Village, and, (2) the dollar amount of revenue that would be generated by the levy.

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

Section 1: This Council declares that it is necessary to have an additional tax levied of ____ mill ad valorem property tax outside of the ten (10) mill limitation on the current tax duplicate for the purpose of general construction, reconstruction, resurfacing and repair of streets, roads, and bridges in the municipal corporation as provided undeF O.R.C. 5705.19(G), and that Council intends to submit the question of the additional tax levy to the electors at an election on November 2, 2013, as authorized by Section 5705.25 of the Ohio Revised Code.

Section 2: This Council requests that the Summit County Fiscal Officer certify both (1) the total current tax valuation of the Village of Boston Heights, and, (2) the dollar amount of revenue that would be generated by ____ mill additional levy specified in Section 1.

Section 3: The levy would run for a period of five (5) years.

Section 4: The levy shall be voted on by the electors of the Village of Boston Heights at a general election to be held on November 2, 2013, A majority vote shall be needed for passage.

Section 5: The Village of Boston Heights Fiscal Officer is hereby directed to immediately certify this Resolution to the Summit County Fiscal Officer.

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.

Section 7: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and welfare of the community and otherwise comply with the requirements of the Ohio Revised Code regarding the levy of taxes outside the 10 mill limitation, and shall take effect and be in force from and after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2013-4-17** 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 ___th day of _____, 2013.