

**VILLAGE OF BOSTON HEIGHTS
COUNCIL MEETING AGENDA
TUESDAY, SEPTEMBER 9, 2014
7:00 PM**

CALL TO ORDER - BILL GONCY, MAYOR

PLEDGE OF ALLEGIANCE

ROLL CALL

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

R.Antal X - B.Bartko X - J.Miller X- G.Blakeney X- R.Fenn X- D.Polyak X

APPROVAL OF AGENDA - APPROVED AS AMENDED (2 resolutions added to draft agenda)

OPEN FORUM

* Bill Hinkle reminded Mayor Goncy to schedule the biannual Records Commission meeting sometime in October. (ED.NOTE: This commission determines how to handle archiving and destruction of old public records; it includes the Mayor, Fiscal Officer, Solicitor, and one appointed citizen.)

* Councilor Bob Bartko had a number of statements and questions. First, he noted his objections to a recent variance granted by the Board of Zoning Appeals for a temporary soil handling site at Hines Hill and Olde Eight Roads. He said that (given the Solicitor claim of conflict of interest) he had retained a private lawyer to pursue a "referendum" to attempt to overturn the variance, and had obtained over 60 signatures on his petitions. However, he did not meet the deadline for filing for the November general election. He asked about the membership of this "Zoning Board", and was informed that the members were appointed by the Mayor and with the consent of Council, and that all current members had served for a number of years. Mr. Bartko appeared to suggest that decisions by the board were questionable, since the members were not elected. (ED.NOTE: See VBH Codified Ordinances 1145 and Ohio Revised Code 713.11).

Mr. Bartko also objected to the lack of pre-meeting information about several items on the agenda. Various officers and council members directed him to the text of that legislation in his paperwork, and noted that Mr. Bartko had missed the previous Finance Committee meeting where these matters were discussed. Solicitor Pitchford also explained that the text of several legislative items was completed only that morning, precluding the distribution of advance copies. Mayor Goncy later noted that one item had only been received from Summit County that morning.

Mr. Bartko also stated his understanding of the PILT monies addressed by a proposed ordinance on the agenda; Mrs. Klingenberg explained the correct definition: monies paid by the Federal Government (on behalf of the Cuyahoga Valley National Park, in this case) to local governments in lieu of taxes. Solicitor Pitchford also gave an overview of the two late-added resolutions, rather than waiting for those items to be brought to the floor for consideration later.

CORRESPONDENCE

Mayor Goncy read out a letter to Police Chief Heatwall thanking the Village's police officers and department for assistance at a roadway incident.

APPROVAL OF MINUTES:

Minutes of August 12, 2014 -- APPROVED, no corrections

MOTION

FALL FESTIVAL; SEPTEMBER 27, 2014

A motion was adopted for Village support and sponsorship of this event.

CRAFT FAIR; OCTOBER 25, 2014

A motion was adopted for Village support and sponsorship of this event.

NOTE: These are typically motions for the Village to officially sponsor and recognize events held by independent associations within the Village. This is typically done for insurance coverage purposes.

ORDINANCES

ORDINANCE 2014-9-23
(First Reading)

AN ORDINANCE AUTHORIZING SUBMISSION OF PILT
PROPORTIONATE GRANT APPLICATION AND DECLARING
AN EMERGENCY

ADOPTED: ORD 2014-9-23

ED.NOTE: "PILT" is Payment in Lieu of Taxes; in the Village's case, a fraction of the funds provided by the Cuyahoga National Park to help with road maintenance within Park boundaries. This is paid to Summit County, and the Village has to request its share.

ORDINANCE 2014-9-24
(First Reading)

ORDINANCE CREATING CODIFIED ORDINANCE 509.13
EFFECTIVE IMMEDIATELY

FIRST READING ONLY

NOTE: Solicitor Marshal Pitchford explained that this is a draft of a new ordinance, as briefly discussed at the recent Finance Committee meeting, to allow the Village to regulate excessive noise sources beyond those covered by the current noise ordinance. This issue arose during the recent BZA hearing on a use variance. Currently, only "intentional" noise sources are regulated, such as radios and loudspeakers, but not incidental noise sources as from power equipment. This new noise ordinance would allow enforcement by measured sound levels of excessive noise. Mr. Pitchford also noted that the draft was only completed this same morning.

ORDINANCE 2014-9-25
(First Reading)

ORDINANCE DELETING CODIFIED ORDINANCES 335.032 AND
CREATING 337.32 AND DECLARING AN EMERGENCY

ADOPTED: ORD 2014-9-25

ED.NOTE: This ordinance bans use of cell phones (among other devices) by minors and probationary licensees while driving -- in compliance with Ohio state law. This measure just moves the law to a more appropriate spot in the Codified Ordinances.

NOTE: Mr. Bartko asked for an additional explanation of this measure beyond the Solicitor's summary at the beginning of the meeting. Solicitor Pitchford reiterated that this ordinance merely moved the existing language, unchanged, from one chapter of the Codified Ordinances to another chapter (presumably a more suitable location).

RESOLUTIONS

RESOLUTION 2014-9-56
(First Reading)

A RESOLUTION ACCEPTING AS VILLAGE PROPERTY FIRE
EQUIPMENT AND MATERIALS FROM THE VALLEY FIRE
DISTRICT AND DECLARING AN EMERGENCY

ADOPTED: RES 2014-9-56

NOTE: Mr. Bartko asked for an explanation of this item. Councilor Glen Blakeney noted that it had been explained at the recent Finance meeting: Valley Fire District had received a grant to replace all the fire hoses, including those on the Village's engines. This allowed the Village to accept those new hoses as its own property. Mr. Bartko wanted to know what was to become of the old hoses, and indicated concern that the Village would be responsible for storing the old hoses. Mr. Blakeney did not know what the plans were for the old hoses, other than that they could not be repurposed by other fire departments; he indicated that he would find out the VFD's plans and let Mr. Bartko know.

RESOLUTION 2014-9-57
(First Reading)

A RESOLUTION AUTHORIZING THE VILLAGE TO EXECUTE
THE FIRST AMENDMENT TO THE 1993 AGREEMENT OF
COOPERATION - COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM AND DECLARING AN EMERGENCY

ADOPTED: RES 2014-9-57

NOTE: Several Council members asked for an explanation of this measure. Mayor Goncy explained that Summit County had asked the Village to approve a revised agreement for the block grant program, with certain changes assuring compliance with civil rights legislation. The Village had last signed onto this agreement in 1993, apparently when it received block grant funding for the Lucerne factory's water main installation. He explained that in general the block grant program was associated with HUD programs for housing and community improvements, but that there were no upcoming housing-related matters being addressed in the Village through this program.

RESOLUTION 2014-8-58
(First Reading)

A RESOLUTION STATING THE VILLAGE COUNCIL'S
SUPPORT FOR ISSUE 44, THE CAPITAL FIRE RENEWAL LEVY
ON THE NOVEMBER 4, 2014 GENERAL ELECTION BALLOT

ADOPTED: RES 2014-9-58

NOTE: Mr. Bartko wanted to know if this was the "same levy" as the current fire levy. The Mayor and Solicitor assured him that this was a renewal of the current so-called "capital fire levy", which was part of the funding for the contract with Valley Fire District. Mr. Bartko asked for a statement as to whether the Village had a fire department or not. Mr. Goncy replied that the Village had a contract with Valley Fire District to act as the Village's fire department, but wished to note that the Village was not a member of the District. The Solicitor added that the monies raised by this levy would apply to any fire service, internal or external, maintained on behalf of the Village.

REPORTS
MAYOR

B. GONCY

Mayor Goncy informed Council of upcoming Municipal League conference workshops. He also asked the members for any updates to their contact information, so that the upcoming Village newsletter would be accurate. The Mayor pointed out a photo showing that Police Chief Heatwall was a participant in a recent County SWAT team response. He also reported progress on a list of Park and pool maintenance requests, with only the pavilion power-washing yet to be done. Finally, he mentioned that the Fiscal Officer had managed to obtain a very expensive trash/recycling container for the Village Hall, for free.

FISCAL OFFICER

B. KLINGENBERG

Fiscal Officer Klingenberg reported that the Village had applied for its final payment from the SWIF grant that paid for the permeable paving in the Village Hall parking lot. (ED.NOTE: This had been held up when a required informational sign were overlooked; this were recently purchased at Village expense, and installed along with some new entry directional signs.) She noted that the Village had received another \$10 from the soft recycling program.

Levy Renewal

Mrs. Klingenberg reminded Council of the upcoming levy renewal issue on the fall ballot. Councilor Glen Blakeney stated that he had drafted a letter of support that the Council members might care to endorse individually. He also noted that a political support committee should be formed to promote the levy, but that a non-Council member must be enlisted to act as the financial chair of that committee.

COMMITTEE REPORTS:

SAFETY COMMITTEE / VALLEY FIRE DISTRICT G. BLAKENEY

Mr. Blakeney reported that, at the recent Safety meeting, Police Chief Heatwall had reported on the activities of the Police Department and that the chief was in the process of adding two new part-time officers to the force. He again noted that the Valley Fire District had obtained a \$20K grant for hose replacement. Additionally, the VFD was instituting rental rates and policies for use of the Fire Station's tables and chairs. The VFD had carried out a survey of its entire coverage area, including the Village, with an eye to placing markers at the roadway to show what level of response was needed at isolated properties (i.e. those with long driveways.) These marks would be paid for from the VFD's own capital funds.

ROADS COMMITTEE

R. FENN

Mr. Fenn reported on a few highlights from the recent Roads meeting, and informed the Solicitor that leaf pickup would begin in October.

LANDS AND BUILDINGS COMMITTEE / PARK

J. MILLER

Mrs. Miller reported that the Committee and Park Board had created a list of maintenance tasks required at the Park; the Mayor reiterated that most of these had already been completed and the balance was pending. Mrs. Miller alerted Council that the status and operation of the pool would be discussed at the next committee meeting. Mayor Goncy added that the re-roofing of the Service building (behind Village Hall) would begin later this week, and that the same contractor would be evaluating the condition of the salt shed.

CEMETERY TRUSTEES

R. FENN

[CEMETERY COMMITTEE]

Mr. Fenn reported that the Fairview Cemetery Association had lately met and worked on plans for the Fall Festival, and in October would be planning its Craft Fair. The Cemetery Trustees would meet in November.

ECONOMIC DEVELOPMENT COMMITTEE

R. ANTAL

Mr. Antal had no report.

PLANNING COMMISSION / BZA

D. POLYAK

[ZONING COMMITTEE]

Mr. Polyak reported that the Planning Commission had approved a site plan and a sign for the Kurtz Bros. soil handling facility permitted by the BZA at the corner of E. Hines Hill and Olde Eight Road. (ED.NOTE: This is the facility that was the subject of Mr. Bartko's remarks earlier in the meeting.) There was some further discussion of this matter by Council. Mr. Blakeney demanded to know whether the planning and zoning boards even considered nearby residents or public opinion in forming their decisions. Both Mr. Polyak and Mrs. Miller replied that, in their observation, these issues were carefully considered. (ED.NOTE: Mr. Polyak was the lone "no" vote on this matter at both the BZA and PC proceedings.)

Mr. Polyak also noted that the final printable versions of the Comprehensive Land Use Plan had been received, and that printed copies would be available shortly.

ENGINEER

D. KROCK

Village Engineer Dave Krock reported that several preconstruction meetings had occurred this past few weeks, including those for the upcoming storm water culvert repairs, street repairs and repaving, Arhaus development, and retail development at the former golf course. Progress was being made at the Akron-Cleveland Road bridge project site. The SkyZone Trampoline Park was experiencing some difficulties in getting its water hookup completed. Mr. Krock stated that it appeared that the developer of the Brighton subdivision was not going to act on the Village's demand that the final road paving be completed; therefore he was recommending that the Village pull that bond and perform the paving through one of its own contractors. Unfortunately, there would probably be a shortfall between the \$100K paving cost estimate and the \$62K bond. An inquiry was being sent to property owners on Chittenden Road to gauge interest in a sewer line extension, which would be paid for with owner assessments. This was being carried out in conjunction with the Summit County D.O.E.S. Mr. Krock also stated that he (and his staff) were working on various zoning issues -- presumably enforcement matters.

OLD BUSINESS

NEW BUSINESS

Mayor Goncy noted that the County Executive's office had asked for time at the next Finance Committee meeting to promote the proposed 1/4% sales tax increase, which appears on the November ballot. He thought it likely that the Executive would ask for a show of support by Council and/or the Village.

EXECUTIVE SESSION

Mrs. Klingenberg and the Solicitor stated that an executive session was necessary to review "confidential audit results", and listed those invited to the session in addition to Council. Council then adopted a motion to that effect and went to executive session (non-public meeting).

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.

VILLAGE OF BOSTON HEIGHTS
ORDINANCE NO: 2014-9-23
FIRST READING - **ADOPTED**

**AN ORDINANCE AUTHORIZING SUBMISSION OF PILT PROPORTIONATE
GRANT APPLICATION AND DECLARING AN EMERGENCY**

NOW THEREFORE BE IT ORDAINED 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 and submit the grant agreement with Summit County, Ohio for Tax Year 2013 PILT Distribution.

Section 2: That the Mayor is hereby authorized and directed to sign all necessary documents with retroactive application if necessary, to submit the annual agreement and secure the proportionate share of the discretionary Payment in Lieu of Taxes (PILT) as appropriate.

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 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:

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 Ordinance **2014-9-23** 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 September, 2014.

BETTY KLINGENBERG, FISCAL OFFICER

AGREEMENT
between the
COUNTY OF SUMMIT, OHIO
and the
VILLAGE OF BOSTON HEIGHTS, OHIO
(Tax Year 2013)

THIS AGREEMENT is made as of the last date of signature below by and between the County of Summit, Ohio (the "COUNTY") and the Village of Boston Heights, Ohio (the "GRANTEE").

Whereas, the federal government has created, established, and expanded the Cuyahoga Valley National Park ("CVNP") within Summit County, Ohio, and a portion of the CVNP lands are situated within Grantee's boundaries; and

Whereas, because the CVNP lands are owned by the federal government, ordinary real estate taxes for those lands are not paid or collected, and, instead, a Payment in Lieu of Taxes ("PILT") is paid to the COUNTY for a period of time after the acquisition of each parcel of land by the federal government; and

Whereas, pursuant to Ohio law, the COUNTY has sole discretion on how to use and/or distribute the PILT funds it receives; and

Whereas, the COUNTY has decided to distribute the PILT funds for Tax Year 2013 to the communities where the CVNP lands are located, in the manner set forth on Exhibit A, attached hereto, which takes into account both the amount of CVNP lands within each community and the percentage of each community's lands that are CVNP land; and

Whereas, using the calculation set forth on Exhibit A, the COUNTY intends to distribute the sum of \$1,694.25 to GRANTEE.

NOW THEREFORE, in consideration of the mutual covenants, promises, conditions and terms to be kept and performed, it is agreed between the parties as follows;

SECTION 1 PURPOSE.

The COUNTY agrees to pay to the GRANTEE \$1,694.25 as its share of the PILT funds collected by the County for Tax Year 2013. GRANTEE understands and agrees that said distribution is solely within the discretion of the County and that the method for distribution set forth on Exhibit A is also solely within County's discretion.

SECTION 2 USE OF GRANT FUNDS.

The GRANTEE shall deposit said funds into the operating accounts) of the GRANTEE and shall use the same for any governmental purpose for which GRANTEE may use funds as set forth in the Ohio Revised Code.

SECTION 3 ACCOUNTABILITY FOR GRANT PROPERTY.

The GRANTEE must maintain effective internal control and accountability for all grant cash, real and personal property and other assets. All grant property must be only used for the purpose authorized in this Agreement.

SECTION 4 PAYMENTS.

Upon execution of this Agreement by all Parties, the COUNTY will pay to the GRANTEE and amount not to exceed \$1,694.25.

SECTION 5 REPORTS AND RECORDS.

The GRANTEE agrees to maintain and provide to the COUNTY upon demand the following reports and records:

- Accounting and fiscal records adequate to allow the COUNTY and/or State of Ohio to audit and verify that the funds provided under this Agreement are used for the purpose(s) stated in this Agreement.
- Other records and reports as required by the COUNTY to enable it to comply with local, state, and federal statutes and regulations.
- The GRANTEE shall maintain all records related to this Agreement for 3 years after the COUNTY makes final payment hereunder and all other pending matters are closed. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 3-year period, the GRANTEE shall retain the records until completion of the action and all issues which arise from it or until the end of the 3-year period, whichever is later.

The COUNTY shall have the right of access to any pertinent book, document, paper or other records of the GRANTEE which are pertinent to grant in order to make audits or examinations.

SECTION 6 COUNTY OF SUMMIT ORDINANCES.

The GRANTEE agrees to and shall abide by the terms and conditions of the Codified Ordinances of the County of Summit, Ohio, as amended, which are hereby incorporated in this Agreement as if fully rewritten.

SECTION 7 FEDERAL, STATE AND LOCAL LAWS.

The GRANTEE agrees to abide by all Federal, State and local laws, statutes, resolutions, ordinances, rules and/or regulations applicable to this Agreement.

SECTION 8 SUCCESSORS AND ASSIGNMENT.

The COUNTY and the GRANTEE each binds itself and its successors, executors, administrators, and assigns to the terms, conditions, and covenants of this Agreement. Neither the COUNTY nor the GRANTEE shall assign or transfer its rights, interests, duties, or obligations under this Agreement without the express written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

SECTION 9 NOTICES.

Any notice required or permitted under this Agreement shall be given in writing and shall be deemed to have been given when personally delivered to any officer of the party receiving notice or when posted in the United States mail by certified mail addressed to the last known address of the party being served.

SECTION 15 LAW OF OHIO.

This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio, without giving effect to its conflict of laws principles. The parties agree that any legal action, suit, or proceeding that arises out of this Agreement shall be brought solely and exclusively in the COUNTY of Summit Court of Common Pleas.

SECTION 16 ENTIRE AGREEMENT, MODIFICATION AND SEVERABILITY.

This written Agreement represents the entire agreement between the parties and supersedes all , previous agreements, written and oral, between the parties. This Agreement shall not be modified except in writing signed by both parties. In the event any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of other provisions in the Agreement which shall be severable.

The parties hereunto have caused this AGREEMENT to be executed in triplicate on the day and year of the last signature below.

**VILLAGE OF BOSTON HEIGHTS, OHIO
“GRANTEE”**

By: *Bill Goncy*
Bill Goncy
Its: MAYOR

Date: SEPT. 10, 2014

Approved as to form:

MP
Marshall Pitchford, Village Solicitor

9/9/14

**COUNTY OF SUMMIT, OHIO
“COUNTY”**

Russell M. Pry
By: Russell M. Pry
Summit County Executive

Date: 9/11/14

APPROVED AS TO FORM:

DLN for D.M.
By: Deborah S. Matz
Director, Department of Law, Insurance and Risk Management
Date : 09/11/14

VILLAGE OF BOSTON HEIGHTS
ORDINANCE NO: 2014-9-24
FIRST READING - - held for 2nd reading

**ORDINANCE CREATING CODIFIED ORDINANCE 509.13 EFFECTIVE
IMMEDIATELY**

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

Section 1: That Codified Ordinance 509.13 be hereby created and shall state as follows:

509.13 NOISE FROM EQUIPMENT.

(a) No person shall generate or permit to be generated unreasonable noise or loud sound, at any point on the adjacent property lines, with equipment, including but not limited to, construction equipment, lawn equipment, and/or generators. Sixty (60) dba or less shall not be considered a violation within the scope of this section.

(1) However, should the sound level exceed (60) dba, the operation in question shall be ordered to cease and additional readings taken. If the difference in readings exceeds ten (10) dba (that is, the reading at the property line is more than ten (10) dba higher with equipment running than when the operation ceases), the operation shall be considered to be loud and objectionable and shall be in violation of the above section.

(2) All measurements required shall be measured on the "A" weighting scale of a sound meter meeting the requirements of A.N.S.I. STD. S.1.4-1983 when the meter is located at a point on the property line nearest the operations in question, five (5) feet above grade level and no closer than three (3) feet from any wall.

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

(c) 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) Any event sponsored for the enjoyment of the community at large where the public is invited to attend; or,

(5) Warning devices such as horns, whistles, etc., when used to warn of a potentially dangerous and/or hazardous condition, but only for the duration of that condition.

(6) Warning devices, security alarms, vehicle or equipment backing alarms, and other devices required by law.

(d) (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 nose and a misdemeanor of the fourth degree.

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 of the Village residents and to allow for the continued operations of the Village Police Department, Zoning Inspector 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 Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-9-24** 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 _____, 2014.

VILLAGE OF BOSTON HEIGHTS
ORDINANCE NO: 2014-9-25
FIRST READING - **ADOPTED**

**ORDINANCE DELETING CODIFIED ORDINANCE 335.032 AND CREATING 337.32
AND DECLARING AN EMERGENCY**

WHEREAS, The Council of the Village of Boston Heights has duly adopted Codified Ordinance 335.032 "Use of electronic wireless communication device;" and,

WHEREAS, The substance of Codified Ordinance 335.032 is not included in Chapter 337 with Codified Ordinance 337.31, "Driving while texting and browsing the internet prohibited;"and,

WHEREAS, For clarity and organization of the Codified Ordinances, the substance of Codified Ordinance 335.032 should follow Codified Ordinance 337.31.

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

Section 1: That Codified Ordinance 335.032 be deleted in its entirety.

Section 2: That Codified Ordinance 337.32 be created and state as follows:

**337.32 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE
PROHIBITED WHILE DRIVING.**

(a) No holder of a temporary instruction permit who has not attained the age of eighteen years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.

(b) Division (a) of this section does not apply to either of the following:

(1) A person using an electronic wireless communications device 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 using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;

- (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.
- (c)
 - (1) Except as provided in division (c)(2) of this section, whoever violates division (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.
 - (2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.
 - (d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.
 - (e) As used in this section, "electronic wireless communications device" includes any of the following:
 - (1) A wireless telephone;
 - (2) A personal digital assistant;
 - (3) A computer, including a laptop computer and a computer tablet;
 - (4) A text-messaging device;
 - (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.

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, to allow for the protection of the motoring public and others along the roadways within the Village, and to allow for the continued operations of the Village Police Department and Mayor's Court 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 **2014-9-25** 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 September, 2014.

VILLAGE OF BOSTON HEIGHTS
RESOLUTION NO: 2014-9-56
FIRST READING - **ADOPTED**

**A RESOLUTION ACCEPTING AS VILLAGE PROPERTY
FIRE EQUIPMENT AND MATERIALS FROM THE VALLEY
FIRE DISTRICT AND DECLARING AN EMERGENCY**

WHEREAS, the Valley Fire District has won approval of a grant to pay for fire hoses and other fire protection equipment; and,

WHEREAS, the Valley Fire District has given some of the fire hoses and other fire protection equipment to the Village of Boston Heights and placed it in the Village's fire trucks and other apparatus.

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

Section 1: The Valley Fire District's gifts of fire hoses and other fire protection equipment to the Village of Boston Heights, is hereby approved and accepted by this Council for the use and benefit of the Village of Boston Heights, Ohio.

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 welfare of the residents of the Village and their safety, as well as the Village's own property, 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 **2014-9-56** 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 September, 2014.

VILLAGE OF BOSTON HEIGHTS
RESOLUTION NO: 2014-9-57
FIRST READING - **ADOPTED**

**A RESOLUTION AUTHORIZING THE VILLAGE TO EXECUTE THE FIRST
AMENDMENT TO THE 1993 AGREEMENT OF COOPERATION - COMMUNITY
DEVELOPMENT BLOCK GRANT PROGRAM AND DECLARING AN EMERGENCY**

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

Section 1: That the Mayor is hereby authorized and directed to sign and do all things necessary to execute an Amendment to the 1993 Agreement of Cooperation - Community Development Block Grant Program, in a form substantially similar to the document attached hereto as Exhibit "A."

Section 2: That the Mayor and/or Fiscal Officer are hereby authorized and directed to take all actions as set forth under the Agreement Amendment, as executed.

Section 3: That the Council hereby appropriates the funds necessary for the Agreement, as executed.

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 of the Village's residents, to allow for the continued operations of the Village and its departments, and Summit County's ongoing implementation of the Community Development Block Program, to come into compliance with the amendments to the Housing and Community Development Act of 1974 and the requirements of the U.S. Dept. of Housing and Urban Development, Community Planning and Development Notice CPD-14-07, 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 **2014-9-57** 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 September, 2014.

VILLAGE OF BOSTON HEIGHTS
RESOLUTION NO: 2014-9-58
FIRST READING - **ADOPTED**

**A RESOLUTION STATING THE VILLAGE COUNCIL'S SUPPORT FOR
ISSUE 44, THE CAPITAL FIRE RENEWAL LEVY ON THE NOVEMBER 4, 2014
GENERAL ELECTION BALLOT**

WHEREAS, the current five (5) year Capital Fire Levy of 0.5 mills is set to expire; and,

WHEREAS, on November 4, 2014, voters in the Village of Boston Heights will decide whether to renew the existing five (5) year 0.5 mill Capital Fire Levy; and,

WHEREAS, the Capital Fire Levy is needed to provide for and maintain a fire station and building site as well as provide for and maintain fire apparatus and appliances; and,

WHEREAS, this Capital Fire Levy is needed to maintain and safe community and ensure a ready, prepared, and well-equipped fire department; and,

WHEREAS, a well-equipped fire department is important to the safety and quality of life enjoyed by the citizens of the Village of Boston Heights; and,

WHEREAS, the Council of the Village of Boston Heights desires to show its support for the Capital Fire Renewal Levy.

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

Section 1: That this Council supports the 2014 Capital Fire Renewal Levy.

Section 2: That this Council urges the voters of Boston Heights to vote "yes" on Issue 44, as to the Capital Fire Renewal Levy this November 4, 2014.

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

PASSED:

BILL GONCY, Mayor

ATTEST:

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 **2014-9-58** 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 September, 2014.