

**VILLAGE OF BOSTON HEIGHTS
COUNCIL MEETING AGENDA
WEDNESDAY, NOVEMBER 12, 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 **ABSENT** - B.Bartko **X** - J.Miller **X** - G.Blakeney **X** - R.Fenn **X** - D.Polyak **X**

APPROVAL OF AGENDA

APPROVED AS AMENDED -- with a modification of the title of Ordinance 2014-9-24 (which text was also changed)

OPEN FORUM

Carol Fenn thanked all concerned for their work in promoting the recently-renewed Fire Levy.

CORRESPONDENCE

Mayor Goncy noted that, with the assistance of the Solicitor's office, the Village had transmitted its request to the District Manager of the US Postal Service to have Boston Heights declared an acceptable alternative place name for postal addressing purposes.

APPROVAL OF MINUTES:

MOTION:

Minutes of October 14, 2014

APPROVED

ORDINANCES

ORDINANCE 2014-9-24
(Third Reading)

ADOPTED: ORD-2014-9-24

ORDINANCE CREATING CODIFIED ORDINANCE 509.13
REGARDING THE GENERATION OF AN UNREASONABLE
NOISE AND DECLARING AN EMERGENCY

ED. NOTE: At an earlier meeting, 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.

NOTE: Solicitor Pitchford explained that, based on concerns of the Village's prosecutor, this final version was modified to more closely mirror Akron's ordinance and remove any reliance on technical measurements and means.

ORDINANCE 2014-10-26
(Second Reading)

**NO ACTION:
SECOND READING ONLY**

AN ORDINANCE AMENDING CODIFIED ORDINANCE 303.13
REGARDING THE DISBURSEMENT OF THE TOWING
ADMINISTRATIVE FEE AND DECLARING AN EMERGENCY

RESOLUTIONS

RESOLUTION 2014-11-63
(First Reading)

ADOPTED: RES-2014-11-63

RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO
THE CONTRACT WITH THE SUMMIT COUNTY PUBLIC
DEFENDER'S OFFICE AND DECLARING AN EMERGENCY

NOTE: Mayor Goncy and Fiscal Officer Klingenberg both stated that this was a routine renewal of an annual agreement. In response to a question from Mr. Fenn, Mrs. Klingenberg also stated that, to her knowledge, the Village had not invoked this contract in the past couple of years of her tenure with the Village.

RESOLUTION 2014-11-64
(First Reading)

A RESOLUTION AUTHORIZING TRANSFER AND PAYMENT OF FUNDS FROM THE GENERAL FUND TO FEDERAL FUND AND FOR PAYMENT TO ODOT ON THE AKRON-CLEVELAND ROAD PROJECT AND DECLARING AN EMERGENCY

ADOPTED: RES-2014-11-64

NOTE: Fiscal Officer Klingenberg explained that the Village had these monies held in a specific fund from an earlier Federal grant for this project, and that this resolution was required to legally transfer those monies to the appropriate fund for payment to ODOT. Amount is \$133,983.87

REPORTS MAYOR

B. GONCY

Mayor Goncy announced that the annual Senior's Thanksgiving Dinner is set for Saturday, 22 November 2014 from 1-3PM. At the moment, 18 residents have RSVP'd, but more are welcome. He also announced that the annual Santa Delivery will be carried out by Valley Fire District this year on Saturday, 6 December 2014, starting at noon. Wrapped gifts should be left at Village Hall by closing time on Thursday, 4 December 2014.

The Mayor also thanked all who supported the renewal of the capital Fire Levy in the recent general election . He noted that this is the 3rd or 4th renewal of this levy, which current supports the equipment and facilities used by the Valley Fire District for Village firefighting.

FISCAL OFFICER

B. KLINGENBERG

Fiscal Officer Klingenberg had no report, but promised much for the next Finance Committee meeting.

COMMITTEE REPORTS:

SAFETY COMMITTEE / VALLEY FIRE DISTRICT G. BLAKENEY

Mr. Blakeney thanked residents and volunteers who supported the renewal of the capital Fire Levy in the recent general election. He noted that 2015 will bring the (proposed) renewal of the current operations Fire Levy as well .

He announced that the Village's Police Department will sponsor a "Shop with a Cop" program, for which a resident family has already been selected. Also, body cameras will be obtained for the Village's officers.

In response to a concern voiced by Councilor Bartko in a recent meeting, Mr. Blakeney confirmed that Macedonia is among those surrounding communities that is contracted with Valley Fire District for mutual aid response, and that Macedonia has in fact responded when called for assistance. He noted that which other departments are called out for specific incidents is at the discretion of the Valley Fire Chief. Mayor Goncy noted that in the late days of the Village's own Fire Department, Macedonia was charging \$900 per EMS run and \$400 per tanker truck roll. Mr. Bartko seemed to remain skeptical on this matter: he stated that he had a "paper" that said other departments were called out for a barn fire, and that Macedonia was not among them, and that the barn was a total loss. The Mayor and Mr. Blakeney noted that this fire was in Peninsula, not Boston Heights (ED.NOTE: it was in the spring, at the Spicy Lamb Farm on Akron-Peninsula Road). Mr. Goncy further recalled that the fire was not called in until the Village's own police officers saw the smoke, so the fire was well engaged before any fire department was called. Mr. Bartko demanded more specifics about mutual aid call-out and response records from Valley Fire, and suggested that he would attend the next Valley Fire District meeting to further inquire. Mr. Blakeney stated that this was the day after this Council meeting, 5:30pm on Thursday, 13 November 2014 at Valley Fire District's HQ.

Mr. Blakeney plans no Safety Committee meeting for November, but expects a year-end roundup for the December meeting.

ROADS COMMITTEE

R. FENN

Mr. Fenn stated that the next Roads Committee meeting would be 17 November 2014 at 5PM, where the committee expected to discuss snow plowing plans, among other matters.

LANDS AND BUILDINGS COMMITTEE / PARK

J.MILLER

Mrs. Miller reported that the Park Board and L&B Committee had meet on 6 November 2014, and discussed potential improvements at the Village's park and pool; further details would be provided to the Finance Committee.

**CEMETERY TRUSTEES
[CEMETERY COMMITTEE]**

R. FENN

Mr. Fenn stated that the Cemetery Trustees had held their 4th and last meeting of 2014 , and that the cemetery was largely prepped for winter, including tree trimming.

ECONOMIC DEVELOPMENT COMMITTEE

R. ANTAL

No report.

**PLANNING COMMISSION / BZA
[ZONING COMMITTEE]**

D. POLYAK

Mr. Polyak reported that at the 5 November 2014 meeting, the BZA had approved a residential setback variance in Wooded View Estates, with a number of engineering conditions to address drainage issues. The Planning Commission had approved a subdivision sign for the new Prestige Homes Parkside Estates, and had further discussed revisions to the Village's zoning code.

ENGINEER

D. KROCK

Mr. Krock reported that repairs and paving were completed on Brighton Lane and in the Ashbrooke neighborhoods. However, planned repairs on Olde Eight Road and Boston Mills Road may not be completed until spring, due to weather and asphalt plant closing dates. Likewise, grading and re-seeding of roadside ditches in some of the paved areas may not occur until spring 2015; affected residents will be notified of the final schedule. He also reported that the new Parkside Estates road had been paved, and that it had a high-quality concrete base that should provide better service than some of the other original subdivision roadways in the Village. He also reported that the Village's application for grant funding for Hines Hill Road work was not as highly scored as he had expected, and that the Village would be appealing this result. There may be other avenues for funding, however, if that fails. He thought that grading work on the Arhaus and retail sites on the former golf course was still imminent, but had no firm schedule. The Akron-Cleveland Road bridge project was going to be mothballed for the winter, with the 2nd half backfilled but not yet paved.

OLD BUSINESS

NEW BUSINESS

Mr. Blakeney asked Council to consider a measure to control the littering of numerous phone books on the roadsides; not all residents collect them and these go on to clog the drainage culverts, or just make a mess.

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.

VILLAGE OF BOSTON HEIGHTS
ORDINANCE NO: 2014-9-24
THIRD READING / **ADOPTED**

**ORDINANCE CREATING CODIFIED ORDINANCE 509.13 REGARDING THE
GENERATION OF AN UNREASONABLE NOISE AND DECLARING AN EMERGENCY**

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 maintain, run, or operate any steam, gas, gasoline, or other engine, boiler, press, machine, or any other apparatus so constructed or operated as to make any unnecessary noise, to the annoyance and discomfort of the people of the Village.
- (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 noise 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 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 **12th day of November, 2014**.

VILLAGE OF BOSTON HEIGHTS
ORDINANCE NO: 2014-10-26
SECOND READING / HELD FOR THIRD READING

**AN ORDINANCE AMENDING CODIFIED ORDINANCE 303.13 REGARDING THE
DISBURSEMENT OF THE TOWING ADMINISTRATIVE FEE
AND DECLARING AN EMERGENCY**

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

Section 1: That Section 303.13(c) of the Codified Ordinances of the Village of Boston Heights be hereby established and shall hereafter state as follows:

(c) All of the moneys received under the provisions of Section 303.13(b) shall be collected and disbursed as follows:

(1) Effective January 1, 2015, the first \$5,000 of funds collected during the calendar year shall be deposited in the Police Department fund under the Village's Annual Budget to be utilized for the benefit of that department and for other such purposes as permitted for that fund.

(2) Effective January 1, 2015, all funds collected beyond the \$5,000 as set forth in subsection (1) hereof shall be deposited into the General Fund of the Village to be utilized for the operation of the Village.

Section 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety, and for the administration of the Village Police Department, the Finance Department and other Village departments and, therefore, shall take effect and be in force upon 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 **2014-10-26** 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
RESOLUTION NO: 2014-11-63
FIRST READING / **ADOPTED**

**RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO THE CONTRACT
WITH THE SUMMIT COUNTY PUBLIC DEFENDER'S OFFICE AND DECLARING
AN EMERGENCY**

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

Section 1: That the Mayor is hereby authorized and directed to enter into a contract with the Summit County Public Defender's Office for 2015. Said contract is attached hereto as Exhibit A.

Section 2: That 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 of the Village residents and to allow for the continued operations of the Village Police Department, 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 Resolution **2014-11-63** 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 12th day of November, 2014.

RESOLUTION 2014-11-63 EXHIBIT A: Public Defender Agreement 2015

AGREEMENT

This Agreement made at the VILLAGE OF BOSTON HEIGHTS , Ohio on this day ____ of _____, _____, by and between the VILLAGE OF BOSTON HEIGHTS , Ohio, acting by and through its Mayor (or designee) duly authorized by Ordinance/Resolution No. _____, _____, passed by the Council of the VILLAGE OF BOSTON HEIGHTS , Ohio on the _____ day of _____, _____, hereinafter referred to as the VILLAGE and the Summit County Public Defender's Commission, One Cascade Plaza Suite 1940, Akron, Ohio hereinafter referred to as the DEFENDER.

WITNESSETH:

WHEREAS, the VILLAGE has entered into an agreement to obtain the services of the DEFENDER to provide legal counsel to indigent persons charged with loss of liberty offenses in its municipal jurisdiction for 2015; and

WHEREAS, pursuant to Chapter 120 of the Ohio Revised Code and Administrative Code 120 -1-09 it is necessary to enter into this Agreement in order for said County to obtain reimbursement pursuant to Chapter 120 and Administrative Rule 120-1-09 of the Ohio Administrative Code.

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. The DEFENDER shall provide counsel in the Stow Municipal Court to persons charged with a violation of the Codified Ordinances of the VILLAGE OF BOSTON HEIGHTS , Ohio, and who meet all the following specifications:

- a. The judge has determined in accordance with Subsection D of Rule 44 of the Ohio Rules of Criminal Procedure that such person is unable to obtain legal counsel.
- b. Such person has not waived the right to counsel in accordance with Rule 43 (C) of the Ohio Rules of Criminal Procedure.

RESOLUTION 2014-11-63 EXHIBIT A: Public Defender Agreement 2015

- c. The judge determines that a sentence of confinement may be imposed on such person should he be convicted.
- d. Defines "eligible person" as an individual who at the time this need is determined, to be indigent in accordance with Sections 120.05 and I 120.15 of the Ohio Revised Code and Section 120-1-03 of the Ohio Administrative Code and other rules and standards established by the Ohio Public Defender and the Commission.

Section 2. The VILLAGE shall pay to the DEFENDER a fee for the services provided in Section 1 of the Agreement of One Hundred Seventy Dollars (\$ 170.00) per case for all cases opened between January 1, 2015 through December 31, 2015.

- a. The parties hereto agree that said representation of such indigent person shall not exceed the fee schedule in effect arid adopted by Summit County, Ohio (said fee schedule currently allows payment of up to \$750.00 per case as and for a trial.)

Section 3. The DEFENDER shall send semi-annual statements to the VILLAGE certifying the number of cases completed during the preceding 5 months.

Section 4. The Agreement shall expire on December 31, 2015.

Section 5. In the event the VILLAGE does not renew this Agreement, the VILLAGE agrees to pay the DEFENDER the amount of One Hundred-Seventy dollars (\$170.00) per pending ease upon the completion of said case.

Section 6. Should the DEFENDER be succeeded by a county defender organized in accordance with the Ohio Revised Code, the DEFENDER may assign its duties under this assignment and shall not be made by either party without the prior written consent of the other; provided, however, that the DEFENDER is expressly authorized to provide the services described in Section 1 through the Legal Defender Office of Summit County, Ohio Inc.

RESOLUTION 2014-11-63 EXHIBIT A: Public Defender Agreement 2015

Section 7. Should the DEFENDER or any other entity receive reimbursement for the services performed by the DEFENDER, the DEFENDER shall insure the VILLAGE receives its prorated share of such reimbursement through credit toward, the VILLAGE'S payment and/or payments, direct or indirect, to the VILLAGE.

Section 8. The DEFENDER shall defend and hold harmless the VILLAGE from any and all claims or liability resulting from the services performed by the DEFENDER under the contract.

Section 9. All amendments to this agreement shall be in writing and signed by both parties.

Section 10. This contract shall be subject to the approval of the Ohio Public Defender Commission.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

IN THE PRESENCE OF:

VILLAGE OF BOSTON HEIGHTS

Witness

_____/_____
Mayor (or designee) Date

Witness

SUMMIT COUNTY PUBLIC
DEFENDER COMMISSION

_____/_____
Date

Approved as to legal form
and correctness:

_____/_____
Law Director Date

OHIO PUBLIC DEFENDER
COMMISSIONER

_____/_____
Date

CERTIFICATE OF DIRECTOR OF FINANCE

I hereby certify that certificates will be furnished on payment orders issued by the _____ under this contract and that sufficient money is in the treasury under this contract and that sufficient money is in the treasury or in the process of collection to the credit of the appropriate fund or division to discharge the VILLAGES's obligation under this contract as authorized by Ordinance/Resolution No. _____, _____.

Director of Finance

VILLAGE OF BOSTON HEIGHTS
RESOLUTION NO: 2014-11-64
FIRST READING/ **ADOPTED**

**A RESOLUTION AUTHORIZING TRANSFER AND PAYMENT OF FUNDS FROM THE
GENERAL FUND TO FEDERAL FUND AND FOR PAYMENT TO ODOT ON THE
AKRON-CLEVELAND ROAD PROJECT AND DECLARING AN EMERGENCY**

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

Section 1: That the Fiscal Officer is hereby authorized and directed to transfer One Hundred Thirty Three Thousand Nine Hundred and Eighty Three and 87/100 Dollars (\$133,983.87) from the Village General Fund (1000) to the Capital Bridge Construction - Federal Fund (4902), for the purpose of paying construction costs to the Ohio Department of Transportation resulting from and related to the bridge replacement and miscellaneous road work, along the Akron/Cleveland Road.

Section 2: That the Fiscal Officer is hereby authorized and directed to pay One Hundred Thirty Three Thousand Nine Hundred and Eighty Three and 87/100 Dollars (\$133,983.87) from the Capital Bridge Construction Federal Fund (4902) to the Ohio Department of Transportation for the purpose of paying construction costs resulting from and related to the bridge replacement and miscellaneous road work, along the Akron/Cleveland Road.

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 the meetings open to the public in full compliance with the applicable legal requirement including Section 121.22 of the Ohio Revised Code.

Section 4: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the Village, the timely payment of fees and costs related to infrastructure improvement within the Village to the state, and in furtherance of the daily operations of the Village's finance office and various departments and shall, therefore, take effect and be in force upon 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 **2014-11-64** 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 12th day of November, 2014.