



Trustees

Nick Brusky
Michael Lang
Doug Orange

Assistant Township
Administrator

Erika Vogel

Fiscal Officer

Mark Adams

Fire Chief

Dan Alig

Administrator

Kimberly A. Lapensee

Chief of Police

John Cresie

Butler Township Government Center

A G E N D A

**Monday, July 14, 2014
5:00 PM**

1. Call to Order

2. Approval of the Minutes

- Regular Meeting Minutes – June 23, 2014
- Worksession Meeting Minutes – June 23, 2014

3. Administrator's Recommendations

- a. Resolution No. 14-045; Resolution Authorizing the Township Administrator to Contract with Ohio Township Association Risk Management Authority (OTARMA) for the Purchase of Property and Commercial General Liability Insurance for the Township.
- b. Resolution No. 14-049; Resolution Authorizing the Township Administrator to Contract with Woodhull to Purchase a Copier for the Fire Department.
- c. EMS Grant – Motion to accept the grant award in the amount of \$2,750.00.
- d. Solicitation request from AT&T.
- e. City of Union Rezoning.

4. Informal Business

- | | |
|----------------------|---|
| a. Police Department | d. Trustees |
| b. Fire Department | e. Administration/Service Department |
| c. Fiscal Officer | f. Planning/Zoning/Economic Development |

5. Hearing of the Public

6. Executive Session – None.

7. Adjournment

MINUTES, WEEK OF JUNE 23, 2014

The Board of Trustees met on Monday, June 23, 2014, at the Butler Township Government Center, 3780 Little York Road, Dayton, Ohio, at 7:23pm for a Regular Session to transact the business of the township.

Doug Orange, Vice President, called the meeting to order.
Trustee, Michael Lang was not available this meeting.

APPROVAL OF MINUTES

The Minutes of June 9, 2014, Special Meeting Session, were submitted for approval. Nick Brusky made a motion for approval of the Special Meeting Minutes of June 9, 2014, as submitted, with Doug Orange seconding and approving the motion.

NEW BUSINESS

Police Chief Cresie presented Officer of the Year Award to Robert Adam Todd. Chief Cresie noted the individual contributions made by each officer and their services provided to the community.

Resolution #14-045 was submitted for approval authorizing the Township Administrator to Contract with Ohio Township Association Risk Management Authority (OTARMA) for the Purchase of Property and Commercial General Liability Insurance for the Township. Nick Brusky made a motion to table Resolution #14-045, until further information is found out pertaining to the past history with OTARMA and the possibility of holding a special meeting, with Doug Orange seconding and approving the motion.

Resolution #14-046 was submitted for approval authorizing the Transfer of \$300,000.00 to the Police Fund as Appropriated for FY2014 from the General Fund. Nick Brusky made a motion for approval of Resolution #14-046, as submitted, with Doug Orange seconding and approving the resolution.

Resolution #14-047 was submitted for approval by authorizing the Township Administrator to Contract with Code Red to provide for the Municipal Notification System. Nick Brusky made a motion for approval of Resolution #14-047, as submitted, with Doug Orange seconding and approving the resolution.

Resolution #14-048 was submitted for approval authorizing the Township Administrator to Enter into an Agreement with Frank Gates for Participation in the Group Rating Program for Bureau of Workers Compensation Claims. Nick Brusky made a motion for approval of Resolution #14-048, as submitted, with Doug Orange seconding and approving the resolution.

A request was submitted for approval to declare surplus inventory of behalf of the Fire Department. Nick Brusky made a motion for approval to declare surplus inventory in the Fire Department and prepare for sale/disposal, as submitted, with Doug Orange seconding and Michael Lang approving the motion.

INFORMAL BUSINESS

Assistant Township Administrator, Erika Vogel reported recently submitted was a Safety Grant through BWC to purchase a bucket lift for our Service Department. Total cost of the lift would be \$42,000, if approved the grant will cover \$31,500 of the total cost and the Township's portion will only be \$10,500. Then finally, she made mention that the 1st Annual Cruise-In is August 16th from 10AM to 3PM.

Chief Cresie had no further business to report at this time.

Administrator, Kimberly Lapensee had no business to report on behalf of the Service Department. With respect to the Administration, she reported on the opinion from the attorney on the Door-to-Door Solicitation that he is an agreement that the Township has the right to ban solicitation completely under the Cleveland Home Improvement Council v. City of Bedford Heights case. She noted that in that case it supports our resolution that bans solicitation in the Township. Nick Brusky stated that he is not in agreement with a full ban. It was further discussed to continue the discussion at the next meeting; no further action taken.

Mark Adams, Fiscal Officer had no further business to reported at this time.

Trustee, Nick Brusky had no further business to report at this time, other than looking forward to Airshow Parade.

Trustee, Doug Orange had no further business to report at this time.

AUDIENCE

Russ Stipek, Township Resident requested that the Service Department look into an obstruction of vision from overgrown brush pulling out onto Peters Pike from Settlement Way. Township Administrator, Kimberly Lapensee made note that would be a County issue and she would contact them to let them of know. He also mentioned that he strongly supports the ban on Solicitation. He believes that it is the beginning of burglaries and has contacted the police department many times, and lastly wanted to give his appreciation to the fire department for their professionalism and the great job they do.

Nick Brusky reported that the trustees have reviewed the financial statements and made a motion for approval to pay the bills of the township, as submitted, with Doug Orange seconding and approving the motion.

Nick Brusky made a motion for approval to adjourn the meeting at 7:59 PM, with Doug Orange seconding and approving the motion.

DOUG ORANGE
VICE PRESIDENT

MARK ADAMS
FISCAL OFFICER

MINUTES, WEEK OF JUNE 23, 2014

The Board of Trustees met on Monday, June 23, 2014, at the Butler Township Government Center, 3780 Little York Road, Dayton, Ohio, at 6:00pm for a Workshop Session to transact the business of the township.

Doug Orange, Vice President, called the meeting to order.

Trustee, Michael Lang was not available this evening.

HEALTH INSURANCE PROPOSAL

Kimberly Lapensee, Township Administrator presented details of another health care option which is something new and provides a risk pool which is self-insured insurance that is exempt from all the fees and taxes from the new health care reform act.

A Representative from Ohio Insurance Services Agency, Inc. presented an employee benefits proposal as it pertains to Butler Township in the future. The details of the presentation included the minimum requirements, costs, and benefits.

There was a continued discussion on who were the current clients. Mr. Orange stated that he was very skeptical in going this route. Mr. Brusky had additional questions regarding self-funding however, would like to review it further in detail. It was further discussed that there are many factors to review and evaluate; no further discussion or actions were taken at this time.

CANINE REQUEST FOR THE POLICE DEPARTMENT

Police Chief Cresie provided details to start proactively policing the Miller Lane Business District. The goal is to reduce the level of criminal activity and to make the business district a safe place to visit. He noted that some areas were targeted enforcement areas to reduce the amount of criminal activity with the Township by creating a Neighborhood Watch groups with the owners in the Miller Lane JEDZ area and putting in street lights. The second level of deterrence must include an in-depth investigate effort to control the actual problem of major drug and human trafficking in the Miller Lane Business District.

Police Chief Cresie proposes for the Trustees to grant permission to seek out and apply for a grant to purchase a canine unit. The cost for a dual trained police canine is about \$12,500. This covers the price of the dog and a six week training session for the handler and dog together. A dual trained dog is a canine that can track suspects and also can detect the presence of drugs. Another part of the necessary cost of a canine unit is the vehicle used to transport the dog. The police department has purchased two new Ford Utility Interceptors. They will be replacing current Cars #1 and #4. If it is decided on to move forward with the creation of a canine unit, we can retain the vehicle that is in the condition of those two vehicles and equip it as a canine unit. Retaining the older vehicle would reduce the start-up costs of the program and the conversion of the vehicle to a canine unit can be completed by in-house personnel for the \$3,000-\$4,000 or less if the equipment is donated. There was further discussion on the collection of JEDZ and the use of TIF monies. Nick Brusky made a motion to authorize the Township Administrator and the Police Chief to move for and apply for the grant funding needed to pursue the canine unit, with Doug Orange seconding and approving the motion.

REZONING – CITY OF UNION

Discussion was made on the options the township has regarding the rezoning in the City of Union for multiple parcels north and west of Furnas and south of Old Springfield Roads to light industrial to be discussed at another time; no further action taken.

INFORMAL BUSINESS

Assistant Township Administrator, Erika Vogel had no further business to report at this time.

Chief Cresie had no further business to report at this time.

Administrator, Kimberly Lapensee had no business to report on behalf of the Service Department. With respect to the Administration, she reported no further business at this time.

Mark Adams, Fiscal Officer had no further business to reported at this time.

Trustee, Nick Brusky had no further business to report at this time.

Trustee, Doug Orange had no further business to report at this time.

HEARING OF THE PUBLIC

George Moorman, 10880 Frederick Pike stated his concerns regarding the City of Union annexation, zoning change and the amount of impact of traffic it would have on the residents along the Jackson Road area in which he opposes.

Trustee, Doug Orange stated that they have been discussing the annexation and zoning change issues with legal counsel to try and find a solution. He further indicated that they also have been discussing matters and have expressed the township's concerns with Montgomery County which pertains to Jackson Road. He expressed that the township will continue with the petition on the Jackson Road cul-de-sac to stop the traffic coming off of Frederick Pike onto Jackson Road, which would be redirected to the Airport Access Road.

It was further discussed that the township will let it be known that it opposes the City of Union's zoning change and it was strongly suggested that the residents go to the meeting to express their opinions and to also contact their State Representative.

Mark Peterson, 1791 Furnas Road stated that his property is located at Old Springfield and Furnas Roads. He has not been a lifelong resident of Butler Township but likes where he is for the past 4 years. He indicated that he is against the rezoning and was told by the City of Union that since he was not a resident there, he does not have a voice. He made mention that he has been in contact with State Representative Henne. He stated that he is very upset about the emergency meeting that the City of Union is having regarding the rezoning and that his property value is going down since the construction. He questioned if the Township has been getting the communication out and is the Township doing all they can do to prevent these annexations.

Doug Orange, Trustee stated that the Township has had several meetings with the residents in that area and have been working with the City of Dayton, Montgomery County, and Union. He noted that the Township has spent a great deal of money trying to stop the City Union from the annexations, which have occurred over the last 15-20 years and is doing everything to protect the residents of Butler Township. He stated that the residents need to express their opinions to the state legislators such as the Montgomery County Commissioners and go to the emergency meeting held by the City of Union and bring in as much public as possible. From a legal stand point there is nothing the Township can do to stop the annexations and that the Township has very limited power.

Township Administrator, Kimberly Lapensee stated she have given the information out to contact State Representative Henne and ask if House Bill 461 is going to move forward, which would take away tax monies and there should be some type of compromise for a buffer between industrial and residential districts.

There was a continued discussion on the matter and Nick Brusky made a motion to authorize the Township Administrator to move forward and send a letter to the City of Union in opposition of the proposed rezoning, with Doug Orange seconding and approving the motion.

Nick Brusky made a motion for approval to adjourn the meeting, with Doug Orange seconding and approving the motion.

DOUG ORANGE
VICE PRESIDENT

MARK ADAMS
FISCAL OFFICER

ADMINISTRATOR'S REPORT
Monday, July 14, 2014

****Reminder – This is a special meeting at 5:00 p.m.**

AGENDA

Resolution No. 14-045

This resolution will authorize the Township Administrator to contract with OTARMA for the purchase of Property and Commercial General Liability Insurance for the Township. OTARMA was approximately \$8,584 dollar cheaper than Wells Fargo who purchased their insurance through Trident Insurance Company. We've had some problems getting claims paid in a timely manner and for Trident to return our phone calls. There are many items highlighted that we will receive from OTARMA that we do not receive now (see the table below) and our Liability Limits will increase from \$3,000,000 to \$6,000,000 dollars.

Our renewal with USI is slightly lower than last year's numbers (by \$147), but they did increase our deductible from \$1,000 to \$2,500.

	Wells Fargo	OTARMA
Liability Aggregate	Current limit is \$3,000,000. This is the max our carrier will pay out in one year regardless.	There is no limit.
Employee Liability	\$1,000,000 limit.	\$3,000,000 limit.
Injunctive Relief	None	\$50,000 to pay for our defense in a zoning matter.
Rental Reimbursement	None	\$500 day or \$25,000 aggregate.
Personal Vehicle Collision Deductible	None	Entire collision deductible is covered if employee is driving their personal vehicle for township business.
Emergency Vehicle Replacement Cost	Actual value of vehicle.	Replacement cost for emergency vehicles (fire engine and ambulance). Actual value for all other vehicles.
Wrongful Acts – Back Wages	None	All wages and defense would be covered up to limit amounts.
Computer Virus	None	\$25,000 to repair the system.
Errors and Omissions	?	Will provide up to \$500,000 for any vehicles or properties that are accidentally left off the value sheets.
Fire Dept. Pollution Liability Coverage	None	Will provide up to \$500,000 for any pollution from chemicals put down during the course of a

		fire.
Terrorism Coverage	?	Provides coverage for property and liability losses.
Mold	None	Provides up to \$25,000 liability coverage and \$25,000 for mold clean up.
Cyber Liability	None	Provides full liability coverage up to \$3,000,000.
Underinsured/Underinsured Auto Coverage	None	Minimum limit of \$100,000.
Car Physical Damage	Limit of \$25,000 with \$500 deductible.	Provides full coverage up to the limits of liability.

The Township once carried OTARMA insurance for a long time. I believe there was a claim dispute back in 2008 and we dropped them and went with the Ohio Plan in 2009 and 2010. In 2010 we switched to Wells Fargo. We were once paying over \$80,000 in premiums to the Ohio Plan. Our premium this year would be almost half of that amount if we switch back to OTARMA. The total cost for the premium would be \$42,970.00 which is split 4 ways evenly between the four main funds (general \$10,742.50, fire \$10,742.50, police \$10,742.50 and roads \$10,742.50) which is also about \$4,000 less than what we budgeted for each department.

Resolution No. 14-049

This resolution will authorize the Township Administrator to contract with Woodhull to purchase a new copier for the Fire Department. Their current copier was purchased in 2003 and just died. We did not budget for that replacement, but will need to replace their copier so they can continue to run their department. The total cost will be \$5,614.00 and will be paid from the fire fund.

EMS Grant

We applied for and received grant funding to purchase necessary equipment for the fire department in the amount of \$2,750.00. We are requesting a motion to accept the grant money.

Solicitation

I spoke to our attorney about the solicitation request. He is reviewing the case against Englewood but did say that it does differ because AT&T is not a religious group. I will need direction on how you want to handle our current resolution.

City of Union Rezoning

I understand that statements were made at a public meeting that the township administration did not do enough to help the residents up north with the P&G facility, the new road projects and all the annexations that have occurred over the last decade. There have also been a lot of statements in the newspaper by elected officials that are all over board. I feel that we and past boards have done everything humanly possible to help everyone up north. We have sued the City of Union twice and twice we failed. We hired an attorney to oppose the last two annexations that happened last summer. We have fielded hundreds if not thousands of emails and phone calls related to this project. We have had numerous meetings with the county, the TID and the City to try and resolve these issues with no positive outcome for us. I would like to have some clear direction on

where you all want to go with this re-zoning that Union is planning on approving at their meeting on Monday.

OTHER ITEMS

Fire Station Project

The PA system is still not working and parts are on order to fix the system. Numerous letters have been sent to ARC asking them to sign the final pay application. He has conditions for doing so and I have attached those letters to my report.

Miller Lane Sidewalks

The contractor is moving along with this project. They are working on finishing the concrete near the intersection of Maxton and Miller Lane and have started working on the pavement walking path from Maxton to Kristen Lane. They are scheduled to be finished with the project by August 8th.

Cruise-In

We attended a cruise-in meeting this past week. We have reserved port-o-lets for the event and trash cans. The event will be held on Saturday, August 16th from 10 a.m. to 3:00 p.m. followed by a concert at Buckeye Harley at 6:00 p.m. We have sent letter outs to the business community to see if they would like to donate items for the goody bag.

Public Hearing for Zone Change

The public hearing for the zone change is tonight at 7:00 P.M. I sent a letter to the City opposing the zone change.

Graffiti

ODOT has finally painted over the graffiti on the overpass at Little York Road.

Jackson Road

We received a letter from the county that a public hearing will be held on August 5, 2014 at 1:30 p.m. at the county building to discuss the cul-de-sac request.

Public Records Request

We have complied with Shayna's public records request. We send the remainder of her records this week as requested.

Trustees

Nick Brusky
Michael Lang
Doug Orange

Fiscal Officer

Mark Adams

Administrator

Kimberly A. Lapensee



Assistant Township Administrator

Erika Vogel

Fire Chief

Dan Alig

Chief of Police

John Cresie

Butler Township Government Center

RESOLUTION NO. 14-045

RESOLUTION AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO CONTRACT WITH THE OHIO TOWNSHIP ASSOCIATION RISK MANAGEMENT AUTHORITY (OTARMA) FOR THE PURCHASE OF PROPERTY AND COMMERCIAL GENERAL LIABILITY INSURANCE FOR THE TOWNSHIP

WHEREAS, the Butler Township Trustees have reviewed various options for property and commercial general liability insurance for the Township's open enrollment; and

WHEREAS, the Township Trustees desire to approve OTARMA as their carrier of property and commercial general liability insurance with an annual premium of Forty-Two Thousand Nine Hundred Seventy Dollars and No Cents (\$42,970.00) beginning July 15, 2014.

NOW, THEREFORE, BE IT RESOLVED by the Butler Township Trustees, Montgomery County, Ohio:

SECTION 1. That the Butler Township Board of Trustees hereby authorizes the Township Administrator to sign an agreement with OTARMA for the annual period beginning July 15, 2014 through July 14, 2015.

SECTION 2. That the cost of said contract shall be a total not to exceed Forty-Two Thousand Nine Hundred Seventy Dollars and No Cents (\$42,970.00).

SECTION 3. That the clerk is hereby authorized to pay a sum not to exceed Forty-Two Thousand Nine Hundred Seventy Dollars (\$42,970.00) upon presentation of proper vouchers thereof. Funds shall be allocated equally from the General Fund #1000, Police Fund #2081, Fire Fund #2111, and Road Levy Fund #2141.

SECTION 4. That this resolution shall take effect from and after the earliest period allowed by law.

**BUTLER TOWNSHIP BOARD OF
TRUSTEES**

Michael Lang, President

Doug Orange, Vice President

Nick Brusky, Trustee

I hereby certify that **Resolution 14-045** was adopted by the Butler Township Board of Trustees at their meeting held on **July 14, 2014**.

Mark Adams, Fiscal Officer

INVOICE

OHIO TOWNSHIP ASSOCIATION RISK MANAGEMENT AUTHORITY

Service Center - 315 S. Kalamazoo Mall
Kalamazoo, MI 49007-4806

Date: 06/17/2014

Butler Township, Montgomery County 3510
Sudachi Drive
Dayton, OH 45414

Effective Date	Description	Amount
07/15/2014	2014-2015 Contribution @ \$3,000,000	\$39,553

Please check the appropriate box for any options you would like to purchase and write the additional amount in the space provided to calculate your new invoice balance.

Increased Liability Limits to \$4,000,000	\$1,623	<input type="checkbox"/> \$ _____
Increased Liability Limits to \$5,000,000	\$2,544	<input type="checkbox"/> \$ _____
Increased Liability Limits to \$6,000,000	\$3,417	<input checked="" type="checkbox"/> \$ <u>3417</u>

INVOICE BALANCE:

\$ 42,970.00

PAYMENT DUE BY: 07/15/2014

Kim Lapensee

From: Ed Barber <ebarber@bfgroup.com>
Sent: Tuesday, June 17, 2014 8:57 AM
To: Kim Lapensee
Subject: Coverage Revisions

Kim:

We are increasing the value of the Pumper to \$450,000 on place it on Replacement Cost Coverage. We also deleted the three items from the Miscellaneous Property Schedule as requested. The revised cost is \$39,533, an increase of \$87.00.

Ed

Ed Barber

Producer

Buham & Flower Insurance Group

6500 Taylor Road

Blacklick, OH 43004

888-748-7966 x3158 office

614-203-5146 cell

614-861-1486 fax

ebarber@bfgroup.com

Burnham & Flower
INSURANCE GROUP
You serve others. We serve you.

Proposal for:
Butler Township, Montgomery County

07/15/2014 - 07/15/2015

Member Marketing & Service:
Ed Barber
Burnham & Flower of Ohio
6500 Taylor Road
Blacklick, OH 43004
614-861-1478 or 800-748-0554

Administered & Underwritten by:
York Risk Pooling

Ohio Township Association Risk
Management Authority (OTARMA)



General

Endorsed by the Ohio Township Association (OTA), the Ohio Association Risk Management Authority (OTARMA) is a group self-insurance pool providing property and liability coverage to townships in the state of Ohio.

Founding Purpose

OTARMA was formed in 1987 for the primary purpose of providing Ohio townships with an alternative to traditional insurance. Historically, the property and casualty insurance industry failed to provide the consistency of pricing and coverage needed by townships and other public entities. The national insurance crisis of the mid-1980s, in which public entities were unable to purchase insurance at any cost, initiated the formation of group self-insurance pools.

Present

Today, nearly 1,000 members and a 99% membership retention rate evidence the success of OTARMA. For 25 years, OTARMA's commitment to strong leadership and member-focused service has created the #1 property and casualty program in Ohio.

Future

Together, we can achieve continued success for OTARMA, yielding long-term strength, stability, and industry-leading protection for existing OTARMA Members and future members. OTARMA's history provides a solid foundation. Its strengths ensure a stable, responsive program and peace-of-mind. We look forward to the privilege of working with your township.

Ohio Township Association Risk Management Authority

Board of Directors



Marsha Funk
Chair
Brownhelm Township
Lorain County
440.989.1440
marsha.funk.cf5x@statefarm.com



Matthew J. DeTemple
Executive Director
Ohio Township Association
614.863.0045
detemple@ohiotownship.org



C. Nicholas Schwab
Reily Township
Butler County
513.756.9576
pg@zoomtown.com



Nancy White
Secretary
Mifflin Township
Franklin County
614.471.4494
whiten@mifftwp.org



Thomas Willsey
Ross Township
Butler County
513.738.2409
willsey50@aol.com

Ohio Township Association Risk Management Authority

Service Providers

OTARMA is committed to serving Ohio Townships.
It takes a team of specialized professionals to make that vision a reality.

OTARMA is proud to work with the following organizations:



Ohio Township Association
Program Endorsement
www.cpmra.muohio.edu/otaohio



Burnham & Flower Insurance Group
Marketing & Member Service
www.bfgroup.com



York Risk Pooling
Administration



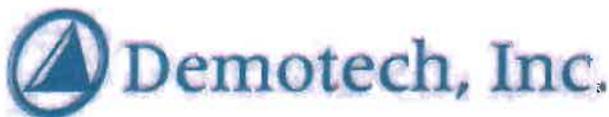
Public Entity Risk Services of Ohio (PERSO)
Claim Services



KLA Consulting
Loss Control
www.klaconsulting.com



Plante & Moran
Auditing
www.plantemoran.com



Demotech, Inc.
Financial Rating
www.demotech.com

Ohio Township Association Risk Management Authority

Claims & Loss Control Services

PERSO

Public Entity Risk Services of Ohio, Inc.

6500 Taylor Road
Blacklick, OH 43004
Telephone: 866.907.3776 or 614.729.1600
Fax: 614.729.6046
dhenry@persopool.com



Public Entity Risk Services of Ohio, Inc. (PERSO) provides:

- Prompt and efficient service
- Local public-entity expertise
- Dedicated claim units
- Proactive performance management and quality control
- Statewide network of experienced defense attorneys
- Collection/Analysis of integrated loss data
- Superior litigation management

KLA RISK CONSULTING
RISK MANAGEMENT & SAFETY



11 E. Kossuth - German Village
Columbus, OH 43206
Telephone: 866.537.7775
E-mail: klarnold@kiaconsulting.com

To establish and maintain a successful loss control program, OTARMA Members may contact KLA Consulting to receive the following:

- On-site property and liability surveys by a loss control specialist
- Response cards for quality control
- Workshops and training throughout the state on topical issues
- Loss control specialists visits new Member upon joining program
- Loss control bulletins and alerts mailed throughout the year
- Easy access to assistance via the OTARMA Web site
- Newsletters with an emphasis on loss control
- On-line training and webinars on human resource and safety topics
- Loss control consultants just a phone call away

Ohio Township Association Risk Management Authority

Sales & Service Team

You serve others. We serve you.



Ed Barber, ext. 3158
Account Manager
ebarber@bfgroup.com



Jim DeLucas, ext. 3155
Account Manager
jdelucas@bfgroup.com



Megan Roschek, ext. 3178
Account Manager
mroschek@bfgroup.com



Thomas Welsh, ext. 3112
Account Manager
twelsh@bfgroup.com



Bob Kehoe, ext. 3157
Inside Account Manager
bkehoe@bfgroup.com



Bobbi Pritchard, ext. 3111
Team Operations Manager
& Senior Underwriter
bpritchard@bfgroup.com



Wendy French, ext. 3136
Customer Service
Representative
wfrench@bfgroup.com



Sharon Bay, ext. 3139
Underwriting Service
Representative

800.748.0554 or 888.748.7966 + extension

Broadest Coverage Document in Ohio

OTARMA provides coverage to and for the following:

Broad definition of a member which includes:

- Any member of your governing body
- Any member of your boards or commissions
- Any elected or appointed official
- Any employee acting within the scope of their employment
- Any volunteer or student who performs a service for you at your request

Legal Liability -- Third Party Claims- **\$3,000,000 Limit / \$0 Deductible**

Applies to claims alleging:

- Bodily Injury - including death
- Property Damage
- Personal Injury & Advertising Injury

Wrongful Acts (Public Officials) Liability **\$3,000,000 Limit / \$2,500 Deductible**

- Causing monetary loss
 - Wrongful Act Wrongful Act means any actual or alleged error or misstatement, act of omission, neglect or breach of duty, including malfeasance, misfeasance or nonfeasance, but excluding willful misconduct criminal conduct, fraud or malicious acts.

Law Enforcement Liability **\$3,000,000 Limit / \$2,500 Deductible**

- Operations

Automobile **\$3,000,000 Limit / \$0 Deductible**

- Bodily Injury & Property Damage Liability
- Hired & Non-Owned Liability
- Physical Damage Coverage, if applicable

Real & Personal Property **\$8,989,136**

- Blanket Coverage
- Buildings & Personal Property
- Miscellaneous Equipment
- Electronic Data Processing Equipment
- Equipment Breakdown
- Dishonesty

Ohio Township Association Risk Management Authority

LEGAL LIABILITY - THIRD PARTY CLAIMS

Per Occurrence Limit	\$3,000,000
Annual Aggregate	None
Deductible	\$0
Employee Benefit Liability Limit	\$1,000,000
	\$1,000 Deductible
Good Samaritan Limit	\$2,000,000
Medical Expenses - Other than Automobile	\$5,000
Injunctive Relief	\$50,000
Broad Legal Defense Fund	\$5,000/\$5,000 Each Claim/Annual Aggregate
Moral Obligation To Pay	\$2,500 Each Claim/Annual Aggregate
Medical Malpractice	\$2,000,000
Pollution Liability - Sewer Back-up	\$1,000,000/\$1,000,000 Each Claim/Annual Aggregate
	\$0 Deductible
Underground Storage Tanks	\$55,000 Each Claim
	\$55,000 Annual Aggregate
	\$0 Deductible
Cyber Liability	Included
Cyber Breach Expense	Excluded
Fire Department Pollution Coverage	\$500,000
Host Liquor Liability	Included
Fellow Employee Liability	Included
Special Events Liability (excludes some activities)	Included
Employer's Liability (Stop Gap)	Included

Ohio Township Association Risk Management Authority

WRONGFUL ACTS COVERAGE

Per Occurrence Limit	\$3,000,000
Annual Aggregate	None
Deductible	\$2,500
Employment Practices Liability	Included
Zoning Liability	Included

LAW ENFORCEMENT OPERATIONS

Per Occurrence Limit	\$3,000,000
Annual Aggregate	None
Deductible	\$2,500

Ohio Township Association Risk Management Authority
AUTOMOBILE LIABILITY AND PHYSICAL DAMAGE

Per Occurrence Limit	\$3,000,000
Annual Aggregate	None
Deductible	\$0
Hired & Non-owned Automobile Liability	Included
Medical Expenses	\$1,000
Uninsured/Underinsured Motorists	\$100,000
Covered Pollution Cost or Expense for Automobiles	\$2,000,000
Commandeered Property	\$250,000
Freezing of Equipment	\$25,000
Deductible Reimbursement	Actual Cost
Property in an Unattended Vehicle	\$500
Recertification	Actual Cost
Rental Reimbursement	\$500 per day
	\$25,000 Max Annual Aggregate
Rental Vehicle Agreement	\$2,500
Vehicle Lease Gap Coverage	\$10,000
Comprehensive	See Statement of Values
Collision	See Statement of Values

Ohio Township Association Risk Management Authority

REAL AND PERSONAL PROPERTY

Blanket Real & Personal Property Limit	\$4,952,850*
Deductible	See Statement of Values
Replacement Cost	Included*
Coninsurance Clause	N/A*
Accounts Receivable	\$250,000
Arson Reward	\$5,000
Cemetery Property - Each Cemetery	\$5,000
Debris Removal	\$250,000
Earnings	\$100,000
Errors & Omissions	\$500,000
Extra Expense	\$100,000
Fire Department Service Charge	Actual Cost
Gutters & Downspouts	Limited Coverage Included
Money & Securities	\$10,000
Newly Acquired/Constructed Buildings	\$2,000,000
Off Premises Services	\$25,000
Ordinance or Law	\$250,000
Outdoor Property	\$1,000 any one tree, shrub, or plant \$100,000 Annual Aggregate
Paved Surfaces	\$50,000
Sewer Backup	\$25,000
Transit	\$100,000
Valuable Papers & Records	\$250,000
Volunteers Personal Effects	Excluded
Water Damage	\$25,000

**unless otherwise noted on your statement of values.*

Ohio Township Association Risk Management Authority

EQUIPMENT BREAKDOWN

Total limit per one breakdown	\$7,183,850
Deductible	\$1,000
Data or Media	\$25,000
Diagnostic Equipment	\$5,000
Electrical Surge or Electrical Disturbance	\$100,000
Hazardous Substance	\$100,000
New Acquired Locations	\$2,000,000
Ordinance or Law	\$250,000
Spoilage	\$25,000
Service Interruption	\$100,000
Water	\$100,000

MISCELLANEOUS PROPERTY (INLAND MARINE)

Limit	\$1,605,286
Deductible	See Statement of Values
Replacement Cost	Included
Newly Acquired Property	\$50,000
Rental Reimbursement	\$500 per day / \$25,000 Annual Aggregate

Ohio Township Association Risk Management Authority

ELECTRONIC DATA PROCESSING EQUIPMENT

Hardware Limit	\$200,000
Software Limit	Included
Deductible	See Statement of Values
Computer Virus	\$25,000
Extra Expense	\$50,000
Software in Storage	\$50,000

DISHONESTY

Dishonesty Limit	\$100,000
Deductible	\$500
Securities Limit	\$100,000
Deductible	\$500

Ohio Township Association Risk Management Authority

CONTRIBUTION SUMMARY

The following benefits are being offered. Schedules and Statements of Value are included as supplemental documents at the back of the proposal.

<u>Benefit:</u>	<u>Contribution:</u>
Legal Liability - Third Party Claims	Included
Automobile Liability	Included
Law Enforcement Operations Benefit	Included
Wrongful Acts Benefit	Included
Physical Damage Benefit	Included
Real & Personal Property	Included
Equipment Breakdown Benefit	Included
Miscellaneous Property (Inland Marine)	Included
Electronic Data Processing Equipment	Included
Dishonesty	Included
<hr/>	
Total Contribution:	\$39,446

This proposal is valid for sixty (60) days

Ohio Township Association Risk Management Authority

OPTIONAL LIMITS/COVERAGES

Coverage Effective: 07/15/2014

Limit of Liability	Contribution
\$4,000,000	\$1,623
\$5,000,000	\$2,544
\$6,000,000	\$3,417

Comments

Unless specifically scheduled on the statement of values, coverage is not provided for any property in the open, such as detached lighting, signs, fencing, flag poles, etc.



Schedule of Covered Vehicles

Butler Township, Montgomery County Effective Date: 07/15/2014

Printed on: 06/04/2014

Year	Make	Model	VIN	Type	Value	Valuation	Comp	Ded	Coll	Ded	
1	1997	International	Dump Truck	S#9234	Dump Trucks		ACV	Y	\$500	Y	\$500
2	1998	Chevrolet	4wd Pickup Service Vehicle	S#0058	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
3	1998	Chevrolet	K2500 Pickup	S#3364	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
4	2001	Ford	Taurus Fire Car	S#4535	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
5	2001	Ford	Taurus Fire Car	S#4536	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
6	2001	International	Dump Truck	S#1317	Dump Trucks		ACV	Y	\$500	Y	\$500
7	2004	Ford	Super Duty F35 Truck	S#5917	Lt. Med Trucks		ACV	Y	\$500	Y	\$500
8	2009	International	Truck	S#5445	Heavy		ACV	Y	\$500	Y	\$500
9	2003	Chevrolet	Extended Cab Pickup	S#6371	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
10	2008	Ford	Crown Victoria Police Car		Police		ACV	Y	\$500	Y	\$500
11	2008	Dodge	Charger Police Car	S#6050	Police		ACV	Y	\$500	Y	\$500
12	2002	International	Dump Truck	S#3811	Dump Trucks		ACV	Y	\$500	Y	\$500
13	2003	Ford	Super Duty Pick Up	S#6804	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
14	2006	Ford	F150 Pick Up	S#9600	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
15	2005	Sterling	Street Sweeper	S#9866	Extra Heavy		SA	Y	\$500	Y	\$500
16	2009	Ford	Crown Victoria Police Car	S#2722	Police		ACV	Y	\$500	Y	\$500
17	2009	Ford	Crown Victoria Police Car	S#2721	Police		ACV	Y	\$500	Y	\$500
18	2009	Ford	Crown Victoria Police Car	S#8002	Police		ACV	Y	\$500	Y	\$500
19	2013	Ford	Explorer	S#1113	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
20	1993	Miscellaneous	Kawasaki Mule	S#0001	Motorcycles		ACV	Y	\$500	Y	\$500
21	2010	Chrysler	Town & Country Van	S#3555	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500



Schedule of Covered Vehicles

Butler Township, Montgomery County

Effective Date: 07/15/2014

Printed on: 06/04/2014

22	2011	Ford	Crown Victoria Police Car	S#9072	Police		ACV	Y	\$500	Y	\$500
23	2011	Ford	Crown Victoria Police Car	S#9073	Police		ACV	Y	\$500	Y	\$500
24	2013	Ford	Explorer	S#8427	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
25	2012	Chevrolet	Colorado Pick Up	S#7441	Passenger Car/Vans/Pickups		ACV	Y	\$500	Y	\$500
26	2000	Freightliner	Pumper	S#4964	Fire Trucks	420,000	RC	Y	\$500	Y	\$500
27	2002	Spartan	Rescue Truck	S#2246	Ambulances	425,000	RC	Y	\$500	Y	\$500
28	2003	Ford	Ambulance	S#6338	Ambulances	150,000	RC	Y	\$500	Y	\$500
29	2006	Ford	Braun Ambulance	S#1942	Ambulances	150,000	RC	Y	\$500	Y	\$500
30	2004	Miscellaneous	Emergency One Fire Engine	S#8663	Fire Trucks		SA	Y	\$500	Y	\$500
31	2009	McCoy	Miller E450 Ambulance	S#5240	Ambulances	150,000	RC	Y	\$500	Y	\$500
32	2012	Ford	E450 McCoy Ambulance		Ambulances	150,000	RC	Y	\$500	Y	\$500
33	2013	Rosenbauer	Pumper	S#TBD	Fire Trucks	430,000	RC	Y	\$500	Y	\$500
Total Location Vehicle Value:		1,875,000									

Total ACV Value: 733,679

Total RC Value: 1,875,000

Total SA Value: 535,296

Grand Total Vehicle Value: 1,875,000

As of: 07/15/2015



Additional Property Statement of Values

Butler Township, Montgomery County

Effective Date: 07/15/2014

Printed on: 06/04/2014

Line Classification	Description	Serial No	Coverage Limit	Valuation	Deductible
1 Miscellaneous Property Scheduled	Vermeer Chipper		\$29,530	RC	\$1,000
2 Miscellaneous Property Scheduled	2009 Dura Patcher	S#4594	\$61,554	RC	\$1,000
3 EDP - Hardware	Blanket EDP per Schedule on File - including Software		\$200,000	RC	\$1,000
4 Miscellaneous Property Unscheduled	Unscheduled Miscellaneous Property - Limit per Occurrence, \$3,500 maximum limit any one item.		\$534,995	RC	\$1,000
5 Miscellaneous Property Scheduled	13' Zodiac Boat w/ 25hp Motor		\$5,800	RC	\$1,000
6 Miscellaneous Property Scheduled	Diesel Power Mower w/ Mulching Unit		\$12,000	RC	\$1,000
7 Miscellaneous Property Scheduled	Vermeer 1250 Brush Chipper	S#4007	\$20,000	RC	\$1,000
8 Miscellaneous Property Scheduled	Concord CRE Berming Machine	S#0521	\$6,000	RC	\$1,000
9 Miscellaneous Property Scheduled	Grasshopper Mower	S#7304	\$8,000	RC	\$1,000
10 Miscellaneous Property Scheduled	LeRoi-Air Compressor	S#5X60	\$9,000	RC	\$1,000
11 Miscellaneous Property Scheduled	Beuthline B-300T	S#1592	\$10,000	RC	\$1,000
12 Miscellaneous Property Scheduled	Portable Pump		\$3,634	RC	\$1,000
13 Miscellaneous Property Scheduled	Life Pak 12 Monitor/Defibrillator		\$28,000	RC	\$1,000
14 Miscellaneous Property Scheduled	Life Pak 12		\$28,000	RC	\$1,000
15 Miscellaneous Property Scheduled	Amkus Rescue System		\$16,000	RC	\$1,000
16 Miscellaneous Property Scheduled	Life Pak 12		\$28,000	RC	\$1,000
17 Miscellaneous Property Unscheduled	Radio & Repeater		\$30,000	RC	\$1,000
18 Miscellaneous Property Scheduled	Bunker Gear		\$112,640	RC	\$1,000
19 Miscellaneous Property Scheduled	1998 Genesis Rescue System		\$45,000	RC	\$1,000



Additional Property Statement of Values

Butler Township, Montgomery County

Effective Date: 07/15/2014

Printed on: 06/04/2014

20	Miscellaneous Property Scheduled	Life Pak 12		\$28,000	RC	\$1,000
21	Miscellaneous Property Scheduled	Eagle Air Compressor		\$25,000	RC	\$1,000
22	Miscellaneous Property Scheduled	2000 Case Backhoe/Loader		\$70,000	RC	\$1,000
23	Miscellaneous Property Scheduled	1999 Case Wheel Loader		\$90,000	RC	\$1,000
24	Miscellaneous Property Scheduled	New Holland Tractor w/ Cab		\$65,000	RC	\$1,000
25	Miscellaneous Property Scheduled	1995 Tractor/Loader		\$30,000	RC	\$1,000
26	Miscellaneous Property Scheduled	2000 John Deere Gator	S#2280	\$8,500	RC	\$1,000
27	Miscellaneous Property Scheduled	Kent KF-6 Hydraulic Hammer		\$12,000	RC	\$1,000
28	Miscellaneous Property Scheduled	2004 Towmaster Trailer	S#1934	\$4,845	RC	\$1,000
29	Miscellaneous Property Scheduled	2004 BobCat Roto Mill Planer	S#0477	\$6,253	RC	\$1,000
30	Miscellaneous Property Scheduled	MO-Trim Attachment		\$16,000	RC	\$1,000
31	Miscellaneous Property Scheduled	16' Zodiac Boat		\$10,000	RC	\$1,000
32	Miscellaneous Property Scheduled	2006 Surrey Fire Safety House Mobile		\$49,789	RC	\$1,000
33	Miscellaneous Property Scheduled	2002 Case Skid Stear Loader		\$17,000	RC	\$1,000
34	Miscellaneous Property Scheduled	Life Pac 12c		\$28,000	RC	\$1,000
35	Miscellaneous Property Scheduled	2ISI Thermal Imaging Camera		\$20,000	RC	\$1,000
36	Miscellaneous Property Scheduled	3 Scott Thermal Inaging Camera		\$30,000	RC	\$1,000
37	Miscellaneous Property Unscheduled	Leased & Rented Equipment		\$100,000	RC	\$1,000
38	Miscellaneous Property Scheduled	06 Zodiac Marklic Boat		\$6,746	RC	\$1,000
Total Location EDP - Total				\$200,000		
Location Miscellaneous Property Scheduled				\$940,291		



Additional Property Statement of Values

Butler Township, Montgomery County

Effective Date: 07/15/2014

Printed on: 06/04/2014

Total Location Miscellaneous Property Unscheduled	\$664,995
Total Location Additional Property Scheduled Value	\$1,805,286

Grand Total EDP - Hardware	\$200,000
Grand Total Miscellaneous Property Scheduled	\$940,291
Grand Total Miscellaneous Property Unscheduled	\$664,995
Grand Total Additional Property Scheduled Value	\$1,805,286

As of: 07/15/2015



Statement of Values

Butler Township, Montgomery County Effective Date: 07/15/2014

Printed on: 06/04/2014

Location Description	Area	# of Flrs	Auto Spklr	Year Built	Year Reno	Con Code	Pro Class	Equip Break	FL	EQ	Blank Limit
7 - 1: 3780 Little York Road Dayton, OH 45414 Fire Station	45,360			1990		3	4	Y	N	N	Y
	Value										
Building	1,700,000					GRC					\$1,000
Personal Property	531,000					GRC					\$1,000
Total Location TIV	2,231,000										
8 - 1: 3986 Little York Road Dayton, OH 45414 Cabin	2,000					1	4	Y	N	N	Y
	Value										
Building	117,000					RC					\$1,000
Total Location TIV	117,000										

Total Blanket TIV	\$4,952,850
Building	\$5,777,500
Personal Property	\$1,406,350
EDP - Hardware	\$200,000
Miscellaneous Property Scheduled	\$940,291
Miscellaneous Property Unscheduled	\$664,995
Total TIV	\$8,989,136

As of: 07/15/2015

The following are some important coverage's offered with the OTARMA program. Some of these coverage's may not be covered in your current program, or the coverage is limited.

1-No Liability Aggregates - There is no limit on the amount of dollars we will pay for liability claims in any one year. There is an aggregate limit with all other programs.

Under your current program, you have an aggregate of \$3,000,000. This is the maximum amount your current carrier will pay out on your behalf for liability losses in one year.

2- Employee Liability (Stop Gap) -Our coverage is \$3,000,000.

Your current program has a \$1,000,000 limit.

3-Injunctive Relief Coverage - Effective January 1, 2010, our limit was increased to \$50,000, at no cost to our members. Most other programs do not provide Injunctive Relief, but if they do, it is with lower limits with an additional cost.

I could not find any indication of this coverage under your current program.

4-Rental Reimbursement - We provide \$500 day/\$25,000 agg. For rental reimbursement if you have to rent another vehicle as a result of an accident. This also applies to the rental of emergency vehicles. Most other programs offer less coverage or no coverage at all.

I could not find any indication of rental coverage under your current program.

5-Personal Vehicle Collision Deductible - If anyone connected with the Township is using their personal vehicle on behalf of Township business and is involved in an accident, we will cover the entire collision deductible. Most other programs do not offer similar coverage, and if they do there is a limit on the amount they will pay.

No indication on your current program that you, or anyone else using their personal vehicle on Village business, would have their collision deductible paid if involved in an accident.

6-Emergency Vehicle Guaranteed Replacement Cost Coverage - This is very important coverage for a Township with a Fire Department. If an emergency vehicle is considered a total loss as a result of an accident, we replace that vehicle with a NEW vehicle. In the event the new vehicle cost more than the listed coverage amount, OTARMA will pay the additional cost. This is NOT the case with other plans. They do not guarantee a new vehicle, and if the cost to replace the vehicle exceeds the amount the vehicle is insured for, the additional cost most likely will be the responsibility of the Township.

This is a very important coverage to have. I have attached examples of actual losses showing what the vehicles were insured for and what was paid by PEP. Your current coverage is on a Stated Amount Basis. There is nothing in your current program that indicates they would replace an emergency

vehicle with a new vehicle, nor would your current program pay the additional cost over the insured amount.

7-Wrongful Acts - Back Wages - Most, if not all, programs do not cover back wages for full liability limits. In addition, most programs would not provide defense costs if a suit is brought by a terminated employee to get their job back, or back wages. The entity would be responsible for their defense costs, plus the amount of back wages due the terminated employees. I have researched this type of loss with our Michigan office, and our claim department. If a similar claim is brought against a member of OTARMA, all defense costs would be covered. The back wages, up to the policy limits, would be covered. This type of claim is brought against public entities quite often, and without coverage can cost an entity thousands of dollars.

I could not find any indication that your current program would provide the same coverage as OTARMA.

8-Computer Virus - OTARMA provides up to \$25,000 coverage to repair your system in the event it is infected with a virus. I am not aware of any other program that provides this amount of coverage.

There is no indication of Computer Virus coverage provided under your current program.

9-Errors/Omissions Coverage - OTARMA provides up to \$500,000 coverage to cover a loss to a property location or vehicle that was unintentionally left off of the Statement of Values owned or occupied by the Township.

You should confirm you have this coverage under your current program. Nothing indicated coverage available under your current program.

10-Fire Department Pollution Liability Coverage. - OTARMA provides up to \$500,000 coverage. This coverage is not available with other plans.

This is actual Pollution Liability Coverage. Your current program has a Strict Exclusion for Pollution Liability losses.

11-Terrorism Coverage -PEP provides coverage for both Property and Liability losses.

You should check to see if you have Terrorism coverage. I found no indication this is provided in your current program.

12-Mold -OTARMA provides \$25,000 Liability Coverage and \$25,000 for Mold Clean Up. Mold Clean Up coverage is only effective if a Mold Liability claim is filed against the City, and it is proven the illness being claimed is the result of Mold in the building. No other program provides Mold coverage.

Your current program specifically excludes Mold Liability.

13-OTARMA now offers full liability coverage for Cyber Liability. You will have \$3,000,000 liability limits with OTARMA.

I did not find any coverage for Cyber Liability with your current program.

16-Three Year Rate guarantee - We can offer a three year rate guarantee.

17-Uninsured/Underinsured Auto coverage - I did not see any coverage on your current program.

OTARMA provides a minimum limit of \$100,000 at no additional cost. I could

18-Hired Car Physical Damage coverage - Your current coverage is limited to \$25,000 with a \$500 deductible.

OTARMA provides full coverage up to the limits of liability.

Examples of Guaranteed Replacement Cost Losses and Settlements

Pitt/Wyandot

Contact Person

DOL – 7-7-08
1992 International Fire Truck
Insured Amount - \$105,000
Replaced Vehicle – New 2008 Fire Truck
Amount Paid by OTARMA - \$214,600

Craig Francis
Township Trustee
419-294-2371

Liberty/Butler

DOL – 2-22-08
1988 Sutphen Pumper
Insured Value - \$300,000
Replaced Vehicle – New 2009 Sutphen Pumper
Amount Paid by OTARMA - \$375,000

Chief Stump
513-759-7532

Hamilton/Franklin

DOL – 1-17-08
2001 Int. LP Medic
Insured Value - \$137,000
Replaced Vehicle – New 2008 Ambulance
Amount Paid by OTARMA - \$178,215

Jerry Lupper
Fire Chief
614-491-1013

Shawnee/Allen

Todd Truesdale
Fire Chief
419-234-1446

DOL – 2-13-09
1991 Grumman Aerial Cat
Insured Value - \$800,000
Replaced Vehicle – New 2009 Aerial Fire Truck
Amount Paid by OTARMA - \$863,000

DOL – 4-18-05
1979 Pierce Tanker
Insured Value - \$65,000
Replaced Vehicle – New 2005 Sterling Tanker
Amount Paid by OTARMA - \$185,000
Rental Amount Paid in addition to cost of new truck - \$10,120

Scioto/Ross

DOL – 4-23-10
1989 Deluge Pumper
Insured Value - \$250,000
Replaced Vehicle – New 2010 Pierce Pumper
Amount paid by OTARMA - \$337,500
Rental amount paid - \$15,380

Dan Newberry
Fire Chief
740-253-1042

Morgan/Scioto

DOL – 4-29-10
2005 Pierce Tanker
Insured value - \$142,900
Replaced Vehicle – New 2010 Pierce Tanker
Amount paid by OTARMA - \$210,923.00
Additional rental amount paid - \$25,000

Tim Jones
Asst. Fire Chief
740-370-5029

Kim Lapensee

From: Ed Barber <ebarber@bfgroup.com>
Sent: Wednesday, June 11, 2014 2:04 PM
To: Kim Lapensee
Subject: Comparison
Attachments: Document.pdf

Kim:

Here is some information you requested comparing OTARMA coverage with your current program. Wherever I stated there was no indication of coverage, it means I could not find anything confirming you had the coverage from the information you gave me.

I have also sent some examples of emergency vehicle replacement cost losses we settled in the past.

If you have any questions please let me know.

Ed

Ed Barber
Producer
Buham & Flower Insurance Group
6500 Taylor Road
Blacklick, OH 43004
888-748-7966 x3158 office
614-203-5146 cell
614-861-1486 fax
ebarber@bfgroup.com

-----Original Message-----

From: Scan from Ohio [<mailto:itsupport@bfgroup.com>]
Sent: Wednesday, June 11, 2014 1:56 PM
To: Ed Barber
Subject:

Please open the attached document. This document was digitally sent to you using an HP Digital Sending device.

Kim Lapensee

From: Ed Barber <ebarber@bfgroup.com>
Sent: Wednesday, June 11, 2014 1:27 PM
To: Kim Lapensee
Subject: Cyber Breach Expense Coverage
Attachments: Document.pdf

Kim:

It was a pleasure meeting with you and Erica this morning. Thanks for the opportunity and let me know if there is anything else I can do for you. I will be sending comparison information in a separate e-mail.

Here's the application for the Cyber Breach coverage we discussed this morning. Please complete and return to me.

Ed
Ed Barber
Producer
Buham & Flower Insurance Group
6500 Taylor Road
Blacklick, OH 43004
888-748-7966 x3158 office
614-203-5146 cell
614-861-1486 fax
ebarber@bfgroup.com

-----Original Message-----

From: Scan from Ohio [<mailto:itsupport@bfgroup.com>]
Sent: Wednesday, June 11, 2014 1:24 PM
To: Ed Barber
Subject:

Please open the attached document. This document was digitally sent to you using an HP Digital Sending device.



Trustees

Nick Brusky
Michael Lang
Doug Orange

Fiscal Officer

Mark Adams

Administrator

Kimberly A. Lapensee

Assistant Township

Administrator

Erika Vogel

Fire Chief

Dan Alig

Chief of Police

John Cresie

Butler Township Government Center

RESOLUTION NO. 14-049

RESOLUTION AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO CONTRACT WITH WOODHULL TO PURCHASE A COPIER FOR THE FIRE DEPARTMENT

WHEREAS, Butler Township participates in the cooperative purchasing agreement through the State of Ohio and, therefore, does not have to advertise for bids, and

WHEREAS, it has been determined that through the State Cooperative Purchasing Program Bids, that Woodhull, 125 Commercial Way, Springboro, Ohio 45066 has submitted the best bid in terms of quality, service and adaptability to the requirements of the State and Township as well as price.

NOW, THEREFORE, BE IT RESOLVED by the Butler Township Trustees, Montgomery County, Ohio:

SECTION 1. That the Butler Township Board of Trustees hereby authorizes the Township Administrator to purchase one (1) new copier from Woodhull, a purchase price not to exceed Five Thousand Six Hundred Fourteen Dollars and No Cents (\$5,614.00).

SECTION 2. That the clerk is hereby authorized to pay a sum not to exceed Five Thousand Six Hundred Fourteen Dollars and No Cents (\$5,614.00) upon presentation of proper vouchers thereof. Funds shall be allocated from the Fire Fund #2111.

SECTION 3. That this resolution becomes effective by the earliest period allowed by law.

BUTLER TOWNSHIP BOARD OF TRUSTEES

Michael Lang, President

Doug Orange, Vice President

Nick Brusky, Trustee

I hereby certify that **Resolution 14-049** was adopted by the Butler Township Board of Trustees at their meeting held on **July 14, 2014**.

Mark Adams, Fiscal Officer



Bill To:		Ship To:	
Account	Butler Township Fire Department	Account	Butler Township Fire Department
Address 1	3510 Sudachi Dr	Address 1	3510 Sudachi Dr
Address 2		Address 2	
City, State	Dayton, OH	City, State	Dayton OH
Email		County	
Zip	45414	Zip	45414
Contact		Meter Contact	
Phone #	937/898-6735	Phone #	937/898-6735
Fax #		Fax #	

Payment Method and Terms

Order Date: _____

Payment Method: Net 10 Days

Sales Tax Status: Exempt: Attach Form

CC # _____ **Card Holder Signature** _____

V#: _____ **Exp:** _____

Billing Zip: _____

Additional 3% fee charged on credit card purchases

Qty	Equip ID	Model / Description	Serial Number	Unit Cost	Extended Price
1		MPC2503			\$5,614.00
1		CABINET TYPE F			
1		FAX OPTION TYPE M3			

Initial Supplies:	Qty	Item Number	Description	Incl in Prog?	Unit Cost	Extended Price
<p>NOTE: To order supplies after this "Initial Supply Order" call 800 783-7156 or visit www.WoodhullUSA.com</p> <p>Remember to re-order Toner as soon as you add your last Toner bottle to your Copier/Printer.</p>						

Equipment To Be Removed or Returned			
Is Equipment to be picked up from Customer with this Order?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Subtotal	\$5,614.00
If Yes, Describe Pickup Transaction, And fill out ERF in detail, attach.	<input type="button" value="v"/>	Delivery / Install Fee	
General Terms of Agreement:		Credit Card Fee:	
<small>NO TERMS OR CONDITIONS, EXPRESS OR IMPLIED, ARE AUTHORIZED UNLESS THEY APPEAR ON "ORIGINAL" OF THIS ORDER. THIS ORDER CANNOT BE CHANGED EXCEPT IN WRITING BY CUSTOMER AND A WOODHULL, LLC OFFICER. BY SIGNING, CUSTOMER ACCEPTS THAT THIS IS A BINDING ORDER, NOT SUBJECT TO CANCELLATION. THIS ORDER IS CONTINGENT UPON WOODHULL, LLC MANAGEMENT APPROVAL. THE SELLER RETAINS A SECURITY INTEREST IN EQUIPMENT AND SUPPLIES DESCRIBED IN THIS AGREEMENT UNTIL THE PURCHASE PRICE IS PAID IN FULL.</small>		Sales Tax Rate: 0.00%	\$0.00
		Total Purchase Price	\$5,614.00

Accepted by Customer:

Authorized Signature _____

Printed Name _____

Title/Position _____

Date _____

Consultant Signature _____

Consultant Printed Name Tyler Burns

Consultant Number _____

Date _____



Scope of Services Agreement

Bill To: _____ Ship To: _____

Account	Butler Township Fire Department	Account	Butler Township Fire Department
Address 1	3510 Sudachi Dr	Address 1	3510 Sudachi Dr
Address 2		Address 2	
City, State	Dayton, OH	City, State	Dayton OH 45414
Email		I.T. Contact	
Contact		Meter Contact	
Phone	937/898-6735	Meter email	

Payment Terms: **Tax Exempt?**

Start Date _____ **End Date** _____ **Term:** 12 **Months**

Base Charge is Quarterly, unless checked here **Other:** _____
Meter Frequency is Quarterly, unless checked here **Other:** _____
Note: Subject to approval by Woodhull, LLC management.

Select All that Apply to this Agreement (Scope of Services):

- Bundled Service Agreement for Copier and Printer Based Products:** Includes unlimited service calls, all service labor, parts, travel, drums, toner cartridges, toner, developer, maintenance kits and all other consumables with the exception of paper, staples, ongoing training, network and software support. Customer is responsible for adding paper, toner, toner cartridges, staples, other consumables and clearing of misfeeds.
- Automatic Shipment of Toner Cartridges to Printers:** If a printer device is readable for toner tracking, customer elects to have cartridges shipped automatically on a just-in-time basis. Shelf stock is not needed with this option. Note: Customer call-in required for non-reading devices.
- Printer Replacement Guarantee:** If any printer on attached Schedule A (or B, etc) cannot be repaired satisfactorily by Woodhull, it will be replaced at Woodhull's expense. Woodhull retains ownership of any such replacement device. The guarantee includes laser printers, but excludes copier, MFD, MFP, Mopier, or any other A3 or A4 devices.
- Non-Bundled Service Agreement:** Includes all service labor, parts, and travel. Excludes all consumables, toner, ink, drums or masters, maintenance kits, developer, staples, paper, additional training, network and software support. Customer is responsible for adding paper, toner, staples, master units, maintenance kits, oil or any other consumables and clearing of misfeeds.
- Waiver:** Customer waives the offered service agreements. Service will be available on a chargeable basis and payment will be due at time service is performed. If the customer requests a service agreement in the future, an inspection call must be performed prior to the start of any service agreement. If parts are required on the inspection call, these will be billable to the customer prior to the start of the service agreement.

NOTE: This is a fixed term agreement and may not be cancelled or refunded. Network Time and Peripheral Hardware are not covered under this Agreement. Additional coverages are available upon request. On-site I.T. support is available at \$150 per hour.

ID Tag	Model	Serial	Location	Meter Type	Begin Meter	Annual Base Charge	Annual Base Clicks	Overage Click Charge
	MP C2503			B/W		\$552.00	36,000	\$0.012
				Color		\$0	0	\$0.070
See Attached Schedule(s) for List of Devices Covered								

(PLUS TAX)

DATA SECURITY OPTIONS ON OLD EQUIPMENT BEING PICKED UP -- PLEASE CHECK ONE:

- WAIVER:** Customer waives data security options. Customer accepts sole responsibility to remove any sensitive data stored on the hard drives, all memory locations, and any external data storage devices used with the equipment being returned. Woodhull, LLC will NOT be held liable for any data left on old devices.
- DESTROY HARD DRIVE:** Woodhull will remove and destroy MFD hard drives, provide certification, and clear address book. **PRICE per MFD Copier: \$500**

Equip ID	Model / Description	Serial Number	B/W Meter	Color Meter	Data Removal Costs

Accepted by Customer:

Authorized Signature	_____	Consultant Signature	_____
Printed Name	_____	Consultant Printed Name	Tyler Burns
Title/Position	_____	Consultant Number	_____
Date	_____	Date	_____

Woodhull, LLC and subsidiaries (WLLC) Scope of Services Agreement Terms and Conditions

- A. SCOPE OF SERVICES:** The scope established on the front page of this agreement includes payment for maintenance performed by Woodhull during its normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding holidays. Service at times other than WLLC's normal service hours may be furnished on an "as available basis" at published rates then in effect. Customer must separately purchase paper and staples. Computer network problems and operator-error type problems are not included in the Scope of Services.

This agreement will automatically renew for an additional twelve (12) months upon expiration of the previous covered period unless cancelled in writing by either party at least thirty (30) days but not more than ninety (90) days prior to the expiration date. At the end of the first year of this agreement and periodically thereafter we may increase the base payment amount, the per page charge over the base minimum and the excessive scan meters without notice.

- B. PAYMENT:** All payments are due upon receipt. Customer unconditionally guarantees that it will make all payments and all the other charges required under the Agreement. WLLC may cease performance under this Agreement if Customer is in breach under this or any other Agreement with WLLC. If it is necessary for WLLC to proceed legally to enforce this Agreement, Customer agrees to pay, in addition to any award, all costs, including attorney's fees incurred.
- C. MANAGED PRINT SERVICES (MPS):** If applicable, customer agrees to (i) install and keep DCS software on a 24/7 server or dedicated PC, (ii) Push Local Beacon to all non-networked printers, (iii) Monitor DCS software for devices that no longer "Read" and to resolve any causal network issues, (iv) Enable SNMP, (v) Notify WLLC of changes to location, IP Address, etc, and provide new information, (vi) include any on-site WLLC-owned equipment under your corporate insurance policy, (vii) Provide primary I.T. contact, email and phone, (viii) Notify WLLC before acquiring any printer to be added to this agreement. WLLC must approve in writing any new printer being added to the service agreement.

WLLC will from time to time, and at its discretion, replace, instead of repair, a printer. The criteria for the printer replacement decision is determined by WLLC using operational factors leading to the replacement of a WLLC-owned printer or the customer's printer with new, used, or refurbished equipment. WLLC retains ownership of the replacement device. Customer retains ownership of its device being replaced, unless you agree to relinquish ownership to WLLC.

- D. FIT-FOR-SERVICE IMPLEMENTATION:** The customer may add some or all of their existing fleet of devices to the this Agreement. These are devices that are not being placed by WLLC, but are pre-approved by WLLC to be added to the Agreement. Upon approval of this Agreement by both parties, WLLC will complete an inspection of all such devices to be covered under this Agreement to determine the mechanical readiness for operation. Following inspection, a WLLC ID tag will be attached to the devices and the devices will be brought to manufacturer's specification by WLLC solely at the cost of the customer.
- E. MAINTENANCE:** During the term of this Agreement, WLLC agrees to perform the maintenance and repair listed on Agreement that keeps the Equipment in good working order and condition, normal wear and tear excepted. If WLLC is notified by Customer during the term of the agreement that the equipment is not in good working condition, WLLC will, during normal service hours, make necessary adjustments and repairs including replacement of parts (if parts are included as part of the terms of this Agreement.) If parts are not included in the Agreement, WLLC will promptly provide a quote for the appropriate part(s).
- F. SERVICE LIMITATIONS:** Customer agrees WLLC will not be required to make adjustments, repairs or replacements made necessary resulting from (i) unauthorized third parties performing any maintenance, repair or replacement; (ii) Customer modifying, relocating, damaging (including without limitation, unavoidable accidents), abusing or misusing the Equipment (including without limitation, the spilling of toner or other substance in the machine), the breaking of lids, hinges, paper cassettes, etc., (iii) unauthorized Equipment alteration and tampering, or interconnection with non-compatible Equipment; (iv) software applications other than what was purchased as part of the copier/printer, scan/fax device, (v) placing the Equipment in an area that does not conform to space, electrical and environmental requirements; (vi) failure of improper telephone or electrical power; (vii) Force Majeure, Acts of God, lightning, fire, water, climatic conditions, or incidents of excess voltage or power surges; (viii) Customer using toner, drum, processing units, ink, film, etc., from any other source other than the service provider; or (ix) improper environment such as excessive dust, chemical residues, abnormal high or low temperatures.

If WLLC provides maintenance made necessary resulting from any of the above listed occurrences or other work not covered under the foregoing remedial maintenance obligation, such maintenance shall be billed to Customer (and shall be due and payable in full upon receipt of invoice) at WLLC's then current rates for labor and parts. Customer agrees that WLLC will not be required to make adjustments, repairs or replacements if WLLC is not provided reasonable access to the Equipment.

The following are excluded from coverage under this service agreement: External Fiery print controllers, third-party coin boxes and other hardware, and add-on software applications, etc, unless specifically stated in writing. Separate coverage agreements may be available.

- G. NETWORK INDEMNITY:** From time to time, WLLC may perform various and sundry tasks, activities, or services on the customer's network. In consideration of WLLC agreeing to perform such tasks, activities, or services, customer agrees that in no event will WLLC, its employees, subsidiaries, or agents be held liable for any loss of data, loss of use, loss of profit, or liabilities to third parties, however caused. WLLC advises customer to back up all network data, directories, subdirectories, and partitions before installation, connection, administration, or any other operation is performed.
- H. SUPPLIES:** Supplies issued under this Agreement must be used ONLY for the equipment listed on this agreement. Toner may be OEM original or WLLC-approved OEM-compatible, at the discretion of WLLC. If supplies shipped exceed the manufacturer's recommended usage, based on the service agreement click volume, the customer may be charged for additional supplies. Should the service agreement be cancelled, the customer agrees to pay for all supplies used after the coverage period, or return all unused supplies to WLLC at the customer's expense. Additionally, WLLC reserves the right to charge customer for freight and handling for any and all supply and consumable orders. Overnight toner orders may incur an additional charge.
- I. CLICKS:** In the context of this agreement, a "click" is defined as any image copy, print, fax, or scan measured. A "click" is an image either printed or non-printed. Images that are 11" x 17" register as two (2) clicks. The customer will be charged an additional \$0.0025 per scan for all scans that exceed the number of copies made during the agreement coverage period.
- J. RELOCATION:** Customer agrees to keep the Equipment at the installation location and will notify WLLC beforehand if equipment is to be relocated. WLLC will relocate equipment for a fee. If Customer chooses not to engage WLLC to relocate Equipment, and the relocation results in required service, the service call will be chargeable to Customer.
- K. TRANSFERRING:** Transferring equipment covered by a service agreement out of the WLLC service area will void the agreement with no refund. The cancellation of a service agreement and/or lease or rental prior to expirations, will be non-refundable.
- L. INDEMNITY:** Customer shall indemnify and save WLLC harmless from any and all liability, loss, damage, expense, causes of actions, suits, claims or judgments arising from injury to person or property, resulting from actual or based on alleged uses, operation, transportation or services performed on the equipment. The laws of the State of Ohio shall govern this agreement. This agreement constitutes the entire agreement, proposals, communications, oral or written, concerning the subject matter of this agreement. Any modifications or waivers of this agreement shall not bind WLLC, unless agreed to in writing by an officer of WLLC.
- M. DEFAULT:** Customer shall be in default under this agreement if Customer: (i) fails to make any payment under this or any agreement with WLLC within ten (10) days of when due or (ii) breaches any other term or condition included in this Agreement and Customer fails to cure any such breach within ten (10) days. In the event of a default, WLLC may, in addition to other remedies, (i) declare all sums (including penalties) due under the terms of this Agreement, and terminate this Agreement without advance notice.
- N. METER READINGS:** Customer agrees and consents that WLLC may obtain meter readings via remote access and grants WLLC the right to do so. For any print device that is not readable by our software, the customer shall provide meter readings via fax, Woodhull's website, email, or telephone, as required to administer the agreement. Customer agrees to accept estimated meter readings for billing purposes, as needed.
- O. CONFIDENTIALITY CLAUSE:** WLLC recognizes that it must conduct its activities in a manner designed to protect any information concerning Customer, its affiliates or clients from improper use or disclosure. WLLC agrees to use its best efforts to treat Customer information on a confidential basis.

Note: In case of any conflict, the Lease Document overrides these parameters.

Kim Lapensee

From: Dan Alig
Sent: Friday, July 11, 2014 8:24 AM
To: Kim Lapensee
Subject: Copier Purchase

Kim,

I submitted the quote to you last night to purchase a new color copier. We are in need of replacing our Gestetner 3532sp copier that was installed September 5, 2003. It has outdated software that cannot be upgraded and there are limited parts available to repair it. Only half of the copier works at this time.

If we are authorized to replace the copier, I need the old one declared surplus. Please have the Trustees declare the Gestetner 3532sp copier with inventory number 005632 as surplus and no longer has value.

Thanks!

Chief Alig



June 30, 2014

To: Butler Township Trustees
Kim Lapensee, Township Administrator

From: Daniel Alig, Fire Chief

Subject: EMS Grant 2014-2015

I am pleased to inform you that the Fire Department has received notice of an EMS grant award in the amount of \$2,750. This amount is an increase of \$250 from last year. The EMS grant cycle begins July 1, 2014 and runs through June 30, 2015.

The money can be used for approved training and/or approved patient care equipment.

The best part of this grant is that it is 100% funded and there is no matching money required.

If you have any questions, please do not hesitate to contact me.

Kim Lapensee

From: Hyden, Benjamin <BHyden@bricker.com>
Sent: Monday, June 23, 2014 4:13 PM
To: Kim Lapensee
Subject: Client Memo regarding Door-to-Door Solicitation Ban v2.DOCX
Attachments: Client Memo regarding Door-to-Door Solicitation Ban v2.DOCX

Kim:

Attached is a memorandum discussing the door to door solicitation ban. There are two case on this issue in Ohio and they provide completely opposite conclusions.

The *Cleveland Home Improvement Council v. City of Bedford Heights* (8th Dist. 1996), 113 Ohio App.3d 814, 682 N.E.2d 667, case supports Butler Township's resolution. As explained in the memo, the court in this case found that the ban on door-to-door solicitation satisfied the constitutional balancing test on the regulation of commercial speech in finding that there were no less extensive measures available to accomplish the City's interest. The court concluded that the ban was permissible because it related to the method of communication as opposed to the message intended to be conveyed. *Id.* at 821. The court explained that the communicative aspects of the message were not being infringed upon because the plaintiff could have availed itself of other marketing or communication methods—such as newspaper, radio, television, or direct mailings. *Id.* Because the plaintiff could have advertised in a manner other than door-to-door solicitation, the Eighth District Court of Appeals affirmed the trial court judgment finding the Bedford Heights ordinance valid.

We can draft a response to AT&T explaining that the Township's ban is constitutional and enforceable under the *Cleveland Home Improvement Council* case.

I will give you a call to discuss.

Ben



Benjamin B. Hyden
Bricker & Eckler LLP | 9277 Centre Pointe Drive | Suite 100 | West Chester, OH 45069
Direct Dial 513.870.6575 | bhyden@bricker.com | v-card | www.bricker.com

Think green — please print only if necessary.

IRS Circular 230 Disclosure. To ensure compliance with requirements imposed by the IRS, please be informed that: To the extent that this communication and any attachments contain any federal tax advice, such advice is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or promoting, marketing, or recommending to another person any transaction, arrangement or matter addressed herein.

This electronic transmission contains information from the law firm of Bricker & Eckler LLP which is privileged, confidential or otherwise the exclusive property of the intended recipient or Bricker & Eckler LLP. This information is intended for the use of the individual or entity that is the intended recipient. If you have received this electronic transmission in error, please notify us by telephone at 614-227-8899, or by electronic mail at webmaster@bricker.com. Please promptly



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

BRICKER & ECKLER LLP
9277 Centre Pointe Drive
Suite 100
West Chester, OH 45069-4844
MAIN: 513.870.8700
FAX: 513.870.6699

www.bricker.com
info@bricker.com

Benjamin B. Hyden
513.870.6575
bhyden@bricker.com

MEMORANDUM

CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGE

VIA E-MAIL (KLAPENSEE@BUTLERTOWNSHIP.COM)

TO: Kim Lapensee, Butler Township Trustees
FROM: Benjamin B. Hyden, Esq.
DATE: June 23, 2014
RE: AT&T Door-to-Door Solicitation Inquiry

I. Introduction

The Butler Township Board of Trustees (the "Board") passed a resolution on June 12, 2000 (the "Resolution") which prohibits transient vendors from offering to sell or solicit within Butler Township. The result was an effective ban on door-to-door solicitation in Butler Township. Specifically, the resolution states "NOW, THEREFORE BE IT RESOLVED, that the Butler Township Board of Trustees to prohibit transient vendors from offering to sell or solicit within Butler Township to be effective immediately."

This memorandum discusses Ohio law on restricting or banning door-to-door solicitation and whether the Board's Resolution is permissible.

II. Short Answer

Analysis regarding whether a court will uphold the Resolution is fact intensive and fact specific. At least one Ohio court has held that a total ban on door-to-door solicitation is unconstitutional and that such ordinances must be deemed null and void. At least one other Ohio court found total bans permissible. In order to defend its position, Butler Township will need to show strong justification for the resolution and supporting evidence that links the resolution to the justification. If the resolution is challenged, the burden will be on Butler Township to show that there is not a less burdensome alternative on the regulation of the commercial speech available.

Kim Lapensee
June 23, 2014
Page 2

There is no controlling case law on this issue in Montgomery county therefore it is unclear what the outcome would be if AT&T initiated a legal action to challenge the Board's Resolution. There is, however, support in the law for the position that the ban imposed by the Resolution is valid.

III. Law and Analysis

A. The Board's Rights Under Ohio Revised Code

The Board was empowered by Ohio Revised Code to pass Resolution No. 00-148 prohibiting transient vendors from selling, offering for sale, or soliciting orders within Butler Township.

Section 505.94(A) of the Ohio Revised Code states in pertinent part:

A board of township trustees may, by resolution, require the registration of all transient vendors within the unincorporated territory of the township and may regulate the time, place, and manner in which these vendors may sell, offer for sale, or solicit orders for future delivery of goods, *or the board may, by resolution, prohibit these activities within that territory.*

Id. (emphasis added).

Therefore, Ohio law expressly authorized the Board to adopt Resolution No. 00-148. To the extent that AT&T challenges Butler Township's resolution, AT&T would likely have to challenge Section 505.94(A) of the Ohio Revised Code as it provides Butler Township the authority to ban transient vendors. AT&T has not disputed that it is a transient vendor under Section 505.94(A).

B. Constitutional Requirements for Commercial Speech – Which Includes Door-to-Door Solicitation

Although the Board had the power to enact a total ban on door-to-door sales under Ohio Revised Code, under the U.S. Constitution, commercial speech is entitled to certain protections. Courts have determined that door-to-door solicitation is a form of commercial speech. Therefore, if an ordinance or resolution contradicts the protections the commercial speech is entitled to, such ordinance or resolution can be deemed void and unenforceable.

The United States Supreme Court determined that commercial speech is protected under the First Amendment based on the informational function of advertising. *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557, 100 S. Ct. 2343 (1980).

Kim Lapensee
June 23, 2014
Page 3

Having determined that commercial speech is entitled to some constitutional protection, the *Central Hudson* court created a 4-part test to analyze how commercial speech may be regulated:

- 1) Is the commercial speech lawful and not misleading;
- 2) Is there a substantial governmental interest;
- 3) Does the regulation on the speech directly advance the governmental interest asserted; and
- 4) Is the regulation narrowly tailored and not more extensive than necessary to serve that governmental interest.

Id. at 566.

A court would analyze the Resolution under each part of the *Central Hudson* test to determine whether the Resolution passes constitutional muster—if AT&T were to initiate a legal action. The following cases are the two possible outcomes the Board could expect.

1. Ohio Authority that an Ordinance Authorizing a Complete Ban on Door-to-Door Solicitation is Unconstitutional

AT&T relies upon a case decided by the Third District Court of Appeals to conclude that the Board's Resolution is impermissible and must be amended to allow door-to-door solicitation.

In *City of Tiffin v. Boor*, at issue was City Ordinance 719.04(a) which stated:

(a) The practice of going in and upon private residences by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested nor invited so to do by the owner or occupant of private residences for the purpose of soliciting orders for the sale of goods, wares, services and merchandise and for disposing of an/or [sic] peddling or hawking the same is declared to be a nuisance.

109 Ohio App.3d 337, 340, 672 N.E.2d 200 (3d Dist. 1996).

The defendant in *Tiffin* was charged with a minor misdemeanor citation under this ordinance for engaging in door-to-door solicitation of private residences for the purpose of demonstrating and selling Kirby vacuum cleaning systems in Tiffin, Ohio. *Id.* at 339.

The appeals court in *Tiffin* engaged in a *Central Hudson* analysis to determine whether the ordinance could be enforced. The court did not find the defendant's door-to-door sales

Kim Lapensee
June 23, 2014
Page 4

practice to be misleading or unlawful and therefore the activity was protected by the First Amendment. *Id.* at 341. Next, the court determined that the City of Tiffin's interest in protecting the privacy of its citizens, preventing crime, and regulating commercial transactions was a substantial government interest. The court then determined that the cities' interest in privacy was advanced by the ordinance and may have the effect of reducing crime—though there was no evidence in the record to substantiate this latter point. *Id.*

The last prong of the *Central Hudson* test required a finding that the ordinance was no more extensive than necessary. The court found the ordinance failed this part of the test. The court explained that a total ban was too broad with respect to the protection of privacy. The court agreed with the defendant that time and day restrictions would be a reasonable alternative to a total ban, as well as a registration system where citizens could indicate they do not wish to have solicitors come to their properties. As a result, the appellate court held ordinance 719.04 unconstitutional and void. *Id.* at 343.

2. Ohio Authority that Ordinance Authorizing a Complete Ban on Door-to-Door Solicitation is Constitutional

Faced with a similar prohibition on door-to-door solicitation, the Eighth District Court of Appeals came to a different conclusion than the Third District in *Tiffin*.

In *Cleveland Home Improvement Council v. City of Bedford Heights*, the appeals court upheld the City of Bedford Heights' ordinance which imposed a ban on door-to-door solicitation with narrow exceptions for certain religious, charitable, educational and civic groups. 113 Ohio App.3d 814, 682 N.E.2d 667 (8th Dist. 1996).

The ordinance at issue, 733.01, stated as follows:

The practice of going in and upon private residences in the City, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences for the purpose of soliciting orders for the sale of goods, wares, services, merchandise, periodicals and other articles or publications and/or disposing of and/or peddling or hawking the same is hereby declared to be a nuisance and punishable as provided in Section 733.99.

The Eighth District court conducted a *Central Hudson* analysis to determine whether the ban was permissible. The evidence showed that the plaintiff was engaged in lawful activity that was not misleading, so it was protected commercial speech under the first part of the *Central Hudson* test. *Id.* at 818. The court also determined that the government had substantial interests in protecting city residents against annoyance, harassment, and invasion of privacy along with reducing risk of crime. *Id.* at 819.

Kim Lapensee
June 23, 2014
Page 5

The court next determined that the ordinance directly advanced the City's interest in protecting homeowners from uninvited and harassing solicitation. *Id.* Lastly, the court analyzed whether the City's interest could be accomplished through less extensive measures.

Unlike the *Tiffin* court, the court in this case found that the ban on door-to-door solicitation met the fourth part of the test in finding that there were no less extensive measures available to accomplish the City's interest. The court concluded that the ban was permissible because it related to the method of communication as opposed to the message intended to be conveyed. *Id.* at 821. The court explained that the communicative aspects of the message were not being infringed upon because the plaintiff could have availed itself of other marketing or communication methods—such as newspaper, radio, television, or direct mailings. *Id.* Because the plaintiff could have advertised in a manner other than door-to-door solicitation, the Eighth District Court of Appeals affirmed the trial court judgment finding the Bedford Heights ordinance valid.

C. Implications of Case Law for the Board Regarding AT&T Issue

As explained, the courts in Ohio have come to opposite conclusions on the issue of prohibiting door-to-door solicitations. The language of the offending ordinances in *Tiffin* and *Bedford Heights* were very similar as were the substantial government interests advanced. The courts, however, did not agree on the permissibility of a total ban.

Because Butler Township is located in Montgomery county, neither the decision of the Third Appellate District nor the Eighth Appellate District is controlling. There is not case law from Montgomery county or the Second Appellate District on this issue.

The Board may enforce its Resolution and not allow door-to-door solicitation. AT&T would then be required to initiate a legal action to challenge the constitutionality of the Resolution. Because the law on this issue is not settled, it is not possible to offer a likelihood of success for the Board if the matter were to go before the court.

IV. Conclusion

The law regarding permissibility of total bans on door-to-door solicitation in Ohio is not settled. At least two courts have come to opposite conclusions in cases with substantially similar facts. The Board was authorized by Ohio law to enact and adopt the Resolution and may choose to enforce it. If the matter with AT&T is brought before a court, it is not known what the court in Montgomery county would conclude regarding the constitutionality of the Resolution.

BBH

Kim Lapensee
June 23, 2014
Page 6



Trustees

Nick Brusky
Michael Lang
Doug Orange

Fiscal Officer

Mark Adams

Administrator

Kimberly A. Lapensee

Assistant Township
Administrator

Erika Vogel

Fire Chief

Dan Alig

Chief of Police

John Cresie

Butler Township Government Center

11 July 2014

John Applegate, City Manager
City of Union
118 North Main Street
Union, Ohio 45322

RE: Proposed Rezoning of Property near Furnas and Old Springfield Road

Dear Mr. Applegate:

We have received notices from some of our residents on Old Springfield Road that the City intends to hold a public hearing on July 14, 2014 to discuss the possibility of changing the zoning of multiple acres of land within the City of Union. While we completely understand your legal right as a city to do such, we would like to take this opportunity to share with you our thoughts about the negative implications for the residents in the area concerning this action.

We understand that economic development is good for the entire region and that we will all benefit from the development of this area north of State Route 40 to the county line, but, the well-being of the residents is the biggest priority for the township. Over the last decade, the city has annexed quite a large area of land from the township and is now starting to develop those properties as an industrial area. While this will be great for the city, this development will have a huge impact on our residents for several reasons. The largest concern all of our residents have in this area is for traffic. With the development of the new P&G facility, we understand that there will be up to 2,500 trucks coming in and out of that facility every day. While the main road to the facility can handle such a traffic load, others surrounding it will not be able to. We know that a TRAC application has been submitted to upgrade the surrounding roadway network. This again will help your development, but will have a significant impact on our residents that live along those roadways. Significant ROW will need to be purchased and the road network will be even closer to all their houses as most of the houses in the area sit close to the existing roadway.

Another concern for our residents is the noise from the construction of those facilities and what the facility itself may generate depending on what they manufacture. As was demonstrated with the development of the P&G site, construction was conducted for 20 of the 24 hours in a day every day of the week. Residents have said many times that they heard scraping from the equipment as the contractor moved dirt at all hours of the night.

After construction is completed for this facility, they may not hear anything from the facility but they will still be able to hear the sound of 2,500 trucks traveling north and south of their homes and the subsequent Jake brakes that will follow. However, none of us have any clue what other types of industries may locate here in the future. There could be large manufacturing companies that generate a substantial amount of noise pollution or even smells that could affect all of the residents in the area.

Aesthetics for these facilities has also come up quite a bit in conversation with all the residents. As was demonstrated with the P&G facility, there are large concrete walls that can be seen up to a mile away from the facility. We know that the city has erected some earth berms around the west and north of the facility to try and mitigate the look of this building, but you can nonetheless see it from anywhere. As the area develops, there will just be many drab concrete buildings with very little architecture to break up their massive facades with little to none landscaping features. These massive buildings also require massive parking lots to handle the number of employees and truck traffic in and out of the facilities. There may be times where trucks sit idling waiting for a load or to offload or simply to grab a quick nap before the facility opens for the day. This can be quite upsetting to the residents as they are trying to sleep themselves.

The largest concern for everyone surrounding the area deals with how these facilities once built will affect their property values. We all know and understand that when you purchase a home next to an airport, you shrink the pool of people who are willing to re-purchase your home when you go to sell it down the road. When other large facilities start going up around these homes, that pool gets even smaller until one day there is no one willing to purchase that property except for a business. This could take years for them to sell. Given the large tracks of land available, it would be highly unlikely that a company would need to purchase these smaller properties. This could mean for all our residents that their houses could potentially be surrounded by concrete buildings and there is no demand for their house on the open market.

We understand that there have been high tensions in the past between the two entities because of the annexations. We know that we have no standing with the courts to fight for our residents. However, we would ask that you all consider providing protections and buffering for our residents as you re-zone all of this property to industrial. This area was always zoned for agriculture and residential uses when it was part of the township. The only properties zoned for industrial uses were adjacent to the airport and were re-zoned within the last decade. We have always wanted to protect our residents and we are asking that you all continue to protect them. We strongly urge you to adopt a Planned Unit

Development zoning classification and re-zone those properties accordingly so that a site plan is required for each submittal and that site plan sets the zoning for each of those parcels. Each parcel would be required to contain buffering for property boundaries that are adjacent to any residential use (no matter what jurisdiction). If there are large parking areas, landscaping requirements would be triggered to help break up large areas of pavement. Façade requirements could be implemented to enhance the look of the buildings. Construction times and entrances could be implemented, etc. We would be happy to help develop that new zoning chapter for you as we continue to work together to create an area that is vibrant, sustaining, and gives our residents some cushion from the new development.

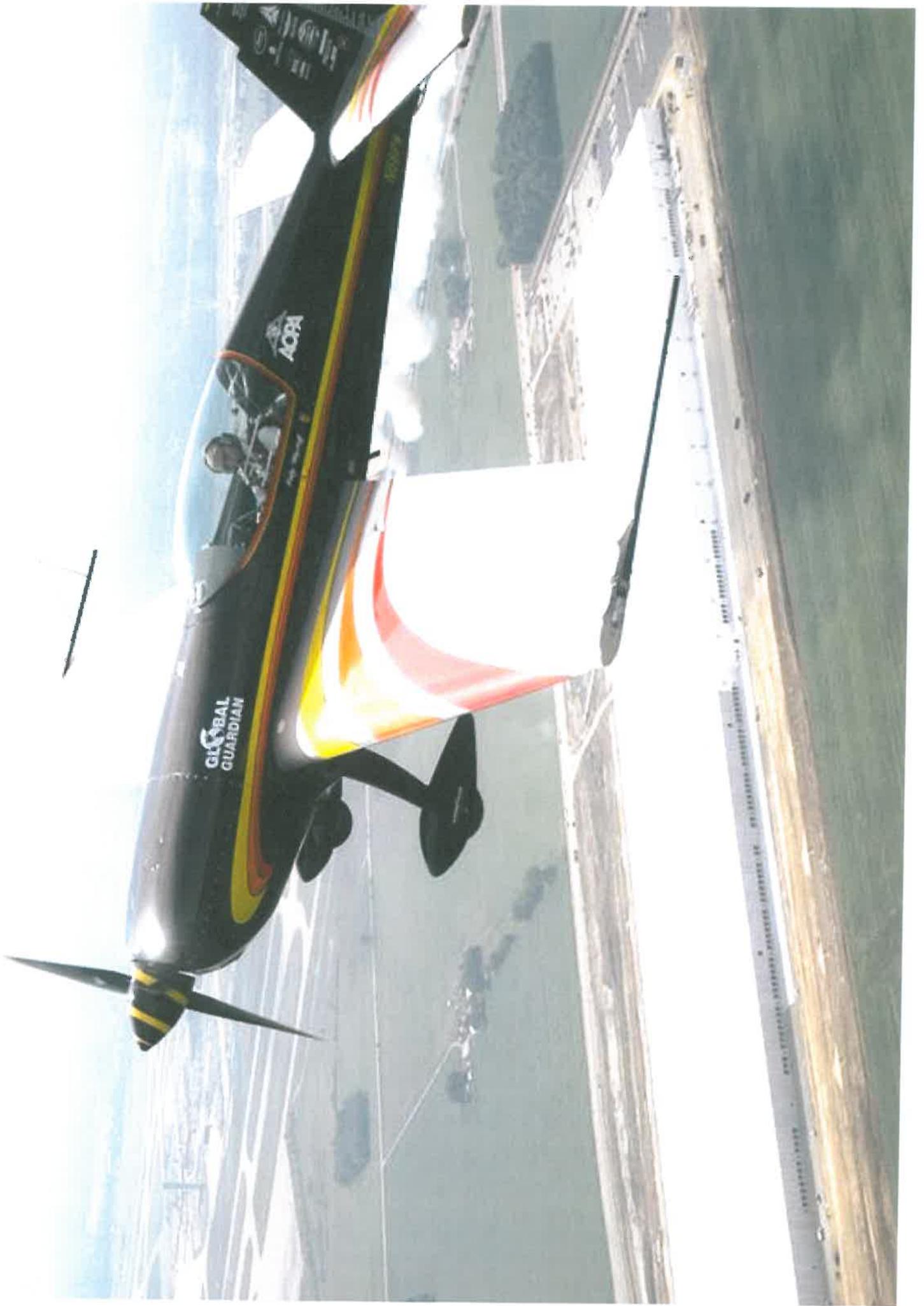
I would be happy to meet with you further to discuss future cooperation between our two entities.

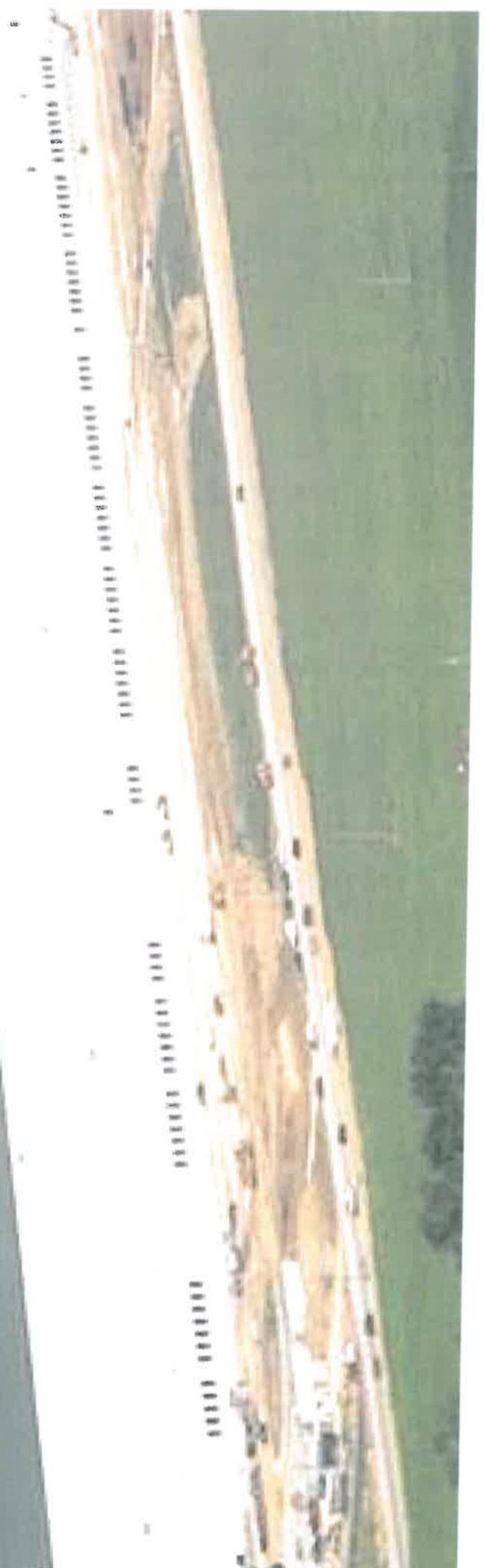
Sincerely,

A handwritten signature in black ink that reads "Kimberly A. Lapensee". The signature is written in a cursive, flowing style.

Kimberly A. Lapensee
Butler Township Administrator







Wini



CLERK, BOARD OF COUNTY COMMISSIONERS

**Montgomery County
Administration Building**
451 West Third Street, 11th Floor
Dayton, OH 45422-1110

937- 225-6491 – phone
937- 496-6560 – fax
www.mcoho.org

COUNTY COMMISSIONERS

Judy Dodge
Dan Foley
Deborah A. Lieberman

COUNTY ADMINISTRATOR

Joseph P. Tuss

COMMISSION CLERK

Gayle L. Ingram

Received
7-11-14
OB

July 9, 2014

Butler Township Trustees
3510 Sudachi Drive
Dayton, OH 45414

Please be advised that the Butler Township Trustees has filed a resolution under Ohio Revised Code 5553.045(B) with the Montgomery County Board of County Commissioners requesting the vacation of a portion of Jackson Road so that a cul-de-sac may be constructed just east of 1660 Jackson Road.

Attached is a notice stating the date and time for the viewing and date and time for the public hearing on this issue.

Sincerely,

Gayle L. Ingram
Clerk

**RESOLUTION NO. 14-0963
JULY 8, 2014**

RESOLUTION SETTING THE DATE OF TUESDAY, AUGUST 5, 2014 FOR THE PUBLIC HEARING, AT 1:30 P.M., OR AS SOON THEREAFTER AS THE HEARING CAN BEGIN, 10TH FLOOR, ROOM 1001, COUNTY ADMINISTRATION BUILDING, 451 W. THIRD STREET, DAYTON, OHIO, ON THE VACATION OF A PORTION OF JACKSON ROAD IN BUTLER TOWNSHIP, MONTGOMERY COUNTY, OHIO.

WHEREAS, the public hearing will be held on Tuesday, August 5, 2014, at the Regular 1:30 P.M. Commissioners Meeting, Tenth Floor, County Administration Building, 451 West Third Street, Dayton, Ohio, 45422; and,

WHEREAS, a request was received by the Clerk, Board of County Commissioners, from Butler Township requesting the vacation of a portion of Jackson Road so that a cul-de-sac may be constructed just east of 1660 Jackson Road in Butler Township, Montgomery County, Ohio, as described in Exhibit A.

WHEREAS, The Board of County Commissioners will hold a hearing on the vacation of a portion of Jackson Road so that a cul-de-sac may be constructed just east of 1660 Jackson Road in Butler Township on Tuesday, August 5, 2014, at 1:30 P.M., or as soon thereafter as the hearing can begin, 10th Floor, Room 1001, County Administration Building, 451 W. Third Street, Dayton, Ohio,

NOW, THEREFORE, BE IT RESOLVED By the Board of County Commissioners of Montgomery County, Ohio, that the date of Tuesday, August 5, 2014, be set for the hearing at 1:30 P.M., or as soon thereafter as the hearing can begin, on the vacation of a portion of Jackson Road so that a cul-de-sac may be constructed just east of 1660 Jackson Road in Butler Township, be and is hereby accepted.

BE IT FURTHER RESOLVED that the Clerk certify copies of said Resolution to the County Engineer, Butler Township Trustees, City of Union, Transportation Improvement District, James Zehringer, Director, Department of Natural Resources and abutting property owners and make an imaged copy of this Resolution available on the Montgomery County, Ohio, website at <http://www.mcoho.org/>.

OK

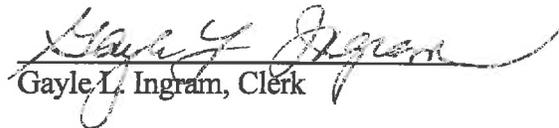
NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the Board of County Commissioners of Montgomery County, Ohio will hold a public viewing and public hearing relative to the vacation of portion of Jackson Road so that a cul-de-sac may be constructed just east of 1660 Jackson Road in Butler Township, Montgomery County, Ohio.

The Board of County Commissioners will view the site by videotape/photographs on Tuesday, July 29, 2014 after the 1:30 P.M. Commission meeting, Tenth Floor, Room 1001, County Administration Building, 451 W. Third Street, Dayton, OH 45422.

The Board of County Commissioners will hold a public hearing on Tuesday, August 5, 2014, at 1:30 P.M., or as soon thereafter as the hearing can begin, 10th Floor, Room 1001, County Administration Building, 451 W. Third Street, Dayton, Ohio.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO


Gayle L. Ingram, Clerk

Published in the Daily Court Reporter

on Friday, July 11, 2014 and July 18, 2014

1 Certified Ad

To Daily Court Report on July 9, 2014