

**Regular Meeting #10-35  
Fairfield County Commissioners' Office  
August 24, 2010**

**9:00 Viewing – Elevator Road Alteration**

The Board of Commissioners met to view a proposed alteration to the right-of-way (ROW) for Elevator Road in Walnut Township. Commissioners present were Judith Shupe, Jon Myers and Mike Kiger. Also present were Jeff Camechis, County Engineer Frank Anderson, Brad Berry, Jim Berry, Randy Kemmerer, Walnut Township Trustees Alan Dupler and Ralph Zollinger and Scott Zody.

Mr. Berry provided an overview of the proposal that he submitted via a petition. His goal is to convert a portion of cropland to intensive pasture grazing, and he would like to be able to construct a fence adjacent to Elevator Road to contain his cattle. He approached the Township Trustees for a permit to install the fence and when they marked the ROW, he discovered that the ROW was 60' wide, and he would lose approximately 15' of pasture adjacent to the road. He would like the ROW reduced from 60' to 30'

Commissioner Myers asked if technically the soybean field on the other side of the road appeared to be in the road ROW, and Mr. Anderson stated it is, and that is not uncommon for row crops to be planted in the county and state route ROWs – the Engineer does not usually object, since the crops really aren't obstructions like fences.

Mr. Camechis mentioned that there was a road alteration conducted not far from this location where the road ROW had been reduced several years previously and it was very difficult for the Engineer to install.

Commissioner Myers asked what the usual road ROW width would be, and Mr. Anderson stated 60' is standard, but some county and township roads are more narrow, and some others are as wide as 100'.

**9:30 a.m. Meeting with Patty Bratton, Deputy Gary Hummel**

The Board of Commissioners met with Patty Bratton and Deputy Gary Hummel to discuss pending solid waste district grant applications. Commissioners present were Judith Shupe, Jon Myers and Mike Kiger. Also present were Sheriff Dave Phalen, Elisa Dowdy, Mary Beth Lane, Joe Giesler, Jon Slaten and Jason Dolin.

Ms. Bratton provided an overview of the CFLP budget for 2011, stating that Fairfield County has been allocated \$601,000, of which \$10,000 must be used to hold a Household Hazardous Waste disposal day. The "mandatory" programs, like recycling and education, take up the bulk of the funding, and there is approximately \$157,000 available for "optional" programs such as the Sheriff's Office, Health Department, and Education & Outreach.

The Sheriff's Office request for 2011 is approximately \$13,000 over the 2010 request, and the Health Department request is over by \$200. Community Action suffered significant cuts in the other recycling programs, and as a result the budget for 2011 is very tight – there are currently no uncommitted funds for emergencies.

Ms. Bratton pointed out that the Sheriff's Office usually has some leftover funding at the end of each year, in part due to Deputy Hummel being on call as a regular deputy in addition to his litter patrol duties, and when he is called out, that time is covered under the General Fund. Last year, call outs accounted for approximately 600 of his 2080 hours.

Ms. Dowdy noted that the 2011 request assumes Deputy Hummel will spend approximately 95% of his time on litter patrol and calls. Ms. Bratton asked if the request

included a pay raise, and Ms. Dowdy noted it includes a 2% raise, since Deputy Hummel is covered under the FOP collective bargaining agreement, and all deputies will receive a 2% increase in 2011.

Commissioner Shupe noted that it appears that at least \$500 must be cut to break even, and Ms. Bratton stated she would prefer to reduce all the grants by approximately \$10-12,000 to provide some wiggle room for unexpected expenses.

Commissioner Shupe asked if the Sheriff's request could be reduced, and Ms. Dowdy stated she could possibly reduce the vehicle line item and possibly take some out of the salary line item, and asked if she could find \$10,000 in reductions, would that be enough, and Commissioner Shupe stated that would be greatly appreciated.

Commissioner Kiger asked if Ms. Dowdy felt comfortable with \$10,000, and Ms. Dowdy stated she would try to find that much to save. Deputy Hummel stated he believes that they could find that much in savings. Ms. Dowdy stated she could possibly reduce fuel expenses and training costs as well.

Commissioner Shupe stated the problem is that the solid waste district has significantly reduced expenditure due to other factors, and Mr. Zody noted that Community Action received a \$30,000 reduction in their administrative support funding alone. Ms. Bratton noted that volumes of recycled materials being processed by the recycling center have doubled since 2005, creating additional strain on the mandatory programs.

Commissioner Myers noted that he dropped off recycling materials the previous night at the center and all of the trailers were full, and Ms. Bratton stated that they are sending a truck to Pickerington every day to pick up one of the six trailers assigned to the community.

Commissioner Myers asked Ms. Dowdy if she could crunch the numbers and turn around the application quickly, as they are due to the solid waste district next week, and Ms. Dowdy stated she should be able to adjust the number within a day.

Commissioner Kiger asked if the Health Department would also be asked to make cuts, and Commissioner Shupe stated the Board would have to review their numbers and see what is possible. Ms. Bratton stated if the Sheriff could reduce their request by \$10,000 that would provide at least \$9,000 of wiggle room.

#### **10:00 a.m. Regular Meeting**

A regular meeting of the Fairfield County Board of Commissioners was held on Tuesday, August 24, 2010 beginning at 10:00 a.m., with the following Commissioners present: Judith Shupe, Jon Myers and Mike Kiger. Also present were Prosecutor David Landefeld, Carri Brown, Jeff Camechis, Mary Beth Lane, Joe Giesler, Treasurer Jon Slater, Orman Hall, Sheriff Dave Phalen, Paul Martin, Linda Kauffman, Tony Motta, Jason Dolin and Scott Zody.

#### **Announcements**

Mr. Zody announced there would be at least two, possibly three add-on items relative to solid waste district grant applications.

#### **Public Comment**

There were no public comments.

#### **Approval of Minutes of Tuesday, August 17, 2010**

On motion of Judith Shupe and second of Jon Myers, the Board of Commissioners voted to approve the minutes for Tuesday, August 17, 2010.

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

**Approval of Proclamation of Recognition – Brenda Scardina**

On motion of Jon Myers and second of Judith Shupe, the Board of Commissioners voted to approve a Proclamation of Recognition for Brenda Scardina, see resolution 10-08.24.a

Mr. Slater thanked the Board for approving the Proclamation, stating that Ms. Scardina could not be present today due to an illness of a family member, but he would like to have the Board present the Proclamation to her prior to her retirement.

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Jon Myers, Judith Shupe and Mike Kiger

**Approval of Resolution accepting the Amounts and Rates as determined by the Fairfield County Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor**

On motion of Judith Shupe and second of Jon Myers, the Board of Commissioners voted to approve a Resolution accepting the Amounts and Rates as determined by the Fairfield County Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor, see resolution 10-08.24.b

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

**Approval to rescind Resolution 10-08.17.b, Approval of 2011 CFLP Recycling & Litter Prevention program grant application**

On motion of Jon Myers and second of Judith Shupe, the Board of Commissioners voted to approve to rescind Resolution 10-08.17.b, Approval of 2011 CFLP Recycling & Litter Prevention program grant application, see resolution 10-08.24.c

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Jon Myers, Judith Shupe and Mike Kiger

**Approval of Fairfield County Revolving Loan Fund Loan Review Committee's recommendation for funding a proposal for Economic Development Administration's Revolving Loan Fund (EDA-RLF) financing**

On motion of Judith Shupe and second of Jon Myers, the Board of Commissioners voted to approve Fairfield County Revolving Loan Fund Loan Review Committee's recommendation for funding a proposal for Economic Development Administration's Revolving Loan Fund (EDA-RLF) financing, see resolution 10-08.24.d

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

**Approval of Water/Sewer Delinquencies - Utilities**

On motion of Jon Myers and second of Judith Shupe, the Board of Commissioners voted to approve Water/Sewer Delinquencies for the Utilities Department, see resolution 10-08.24.e

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Jon Myers, Judith Shupe and Mike Kiger

**Approval of Pavement Marking resolutions (Engineer)**

On motion of Jon Myers and second of Judith Shupe, the Board of Commissioners voted to approve pavement marking resolutions for the Engineer as follows:

10-08.24.f Approval of Contract Bid Award for the 2010 Pavement Markings (Item 642) - Engineer

10-08.24.g Approval of Contract Bid Award for the 2010 Pavement Markings (Item 644 - M) - Engineer

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

**Approval of the change of name of a portion of Violet Township Road #1543, shown as Shenandoah Circle NW on Countrywood, Section Two and Three plats to Shenandoah Drive NW and a portion of Violet Township Road #1546, shown as Shenandoah Circle NW, on Countrywood Section Two plat to Chateau Drive NW and correcting Countrywood plats Section Two, Three and Five to reflect the same - Engineer**

On motion of Judith Shupe and second of Jon Myers, the Board of Commissioners voted to approve the change of name of a portion of Violet Township Road #1543, shown as Shenandoah Circle NW on Countrywood, Section Two and Three plats to Shenandoah Drive NW and a portion of Violet Township Road #1546, shown as Shenandoah Circle NW, on Countrywood Section Two plat to Chateau Drive NW and correcting Countrywood plats Section Two, Three and Five to reflect the same – Engineer, see resolution 10-08.24.h

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

#### **Approval of Financial Resolutions**

On the motion of Jon Myers and second of Judith Shupe, the Board of Commissioners voted to approve financial resolutions as follows:

10-08.24.i Approval of amended certificate & request for appropriations for additional unanticipated receipts – Engineer # 3434 OPWC payments

10-08.24.j Approval of amended certificate, update receipts & appropriate from unappropriated – COBRA Premium Assistance - Auditor

10-08.24.k Approval of repayment of an advance to the General Fund – FY2008 NSP1 Fund #2748

10-08.24.l Approval of Account to Account transfer - Commissioners

10-08.24.m Approval of Account to Account transfer – EMA 2707 EMA Performance Grant

10-08.24.n Approval of Account to Account Transfer – Probate Court

10-08.24.o Approval of Account to Account Transfer – JFS

10-08.24.p Approval of Account to Account Transfer – Engineer – Motor Vehicle Fund

10-08.24.q Approval to Appropriate from unappropriated - Sheriff

10-08.24.r Approval to Appropriate from unappropriated - Adult Probation

10-08.24.s Approval to Appropriate from unappropriated – Engineer – Motor Vehicle Fund

10-08.24.t Approval to Appropriate from unappropriated – Engineer - Motor Vehicle Fund  
10-08.24.u Approval to Appropriate from unappropriated – FCBDD  
10-08.24.v Approval to Appropriate from unappropriated – Juvenile Court  
10-08.24.w Approval to Appropriate from unappropriated – Juvenile Court  
10-08.24.x Approval to Appropriate from unappropriated – EMA

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Jon Myers, Judith Shupe and Mike Kiger

**Approval of Authorization for Payment of Bills, August 24, 2010, check date August 27, 2010**

On the motion of Judith Shupe and second of Jon Myers, the Board of Commissioners voted to approve the Authorization for Payment of Bills, August 24, 2010, check date August 27, 2010, see resolution 10-08.24.y

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

**Review Session**

The Board of Commissioners met to review legal issues, pending and future action items and correspondence. Commissioners present were Judith Shupe, Jon Myers and Mike Kiger. Also present were Sheriff Dave Phalen, Orman Hall, Tony Motta, Joe Giesler, Mary Beth Lane, Jon Slater, Prosecutor David Landefeld, Jason Dolin and Scott Zody.

Mr. Hall provided an update on an emerging situation relative to mental health services provided to the county jail through New Horizons. The effort in funded in a large part through the ADAMH Board, but due to state budget cuts, funding has been reduced. Currently ADAMH provides approximately \$36,000 but the annual program costs are \$90,000, so services may have to cease.

Sheriff Phalen stated he supports the program, and noted that New Horizons has been very responsive to requests for assistance, even coming in the middle of the night at times. They provide valuable assistance in dealing with suicidal inmates or inmates with obvious mental illnesses.

Commissioner Myers asked if there was any other funding available, such as Medicaid, and Mr. Hall stated that as a public agency, they cannot bill these services to Medicaid. Mr. Motta stated the inmates typically would not qualify for Medicaid aid regardless.

Commissioner Myers asked if any follow up services were provided to the inmates after they leave the jail, and Mr. Motta stated sometimes they will do follow ups, but it depends on the patient. Commissioner Myers asked if the treatment includes drug and alcohol treatment, and Mr. Motta stated many inmates have drug and/or alcohol problems in addition to their mental illnesses, and jails are becoming de facto mental hospitals.

Mr. Hall stated that 52% of the county jail days, and 47% of the inmates are opiate addicted. Commissioner Myers asked if there would be any funding or programs expected under the recently passed Obama health care legislation, and Mr. Motta stated he is not sure. Mr. Hall stated it is too early to say what the Federal government may try to do. Mr. Hall stated they are no asking for anything specific today, but wanted to make the Commissioners aware of the situation, as it will need to be addressed soon.

Mr. Hall added that he is in the process of trying to arrange a visit from the Chambersburg, Pennsylvania folks the run a Day Reporting Center that has been very successful in reducing the number of non-violent offenders being sent to jail.

Mr. Motta stated he would like to keep the program viable, and Sheriff Phalen stated these are very serious issues in the jail. Commissioner Shupe asked what the annual cost of the program would be, and Mr. Hall stated it is \$81,000 and he provides \$36,000. Commissioner Shupe asked if the ADAMH support would continue, and Mr. Hall stated he would request that his Board continue funding for the program.

Commissioner Myers asked Mr. Hall what he thought would be more important, funding the jail program or funding a countywide transit system, and Mr. Hall stated he would obviously prefer funding for the jail. Commissioner Myers stated he was asking the question as an example, because the Commissioners have those and other funding requests pending, and it is very difficult, if not impossible in the economic times to fund these requests. Another pending example is finding funding for the Health Department for housing their operations.

#### **10:30 a.m. Meeting with Health Department**

The Board of Commissioners met with officials from the County Health Department to discuss a pending grant application to the Solid Waste District. Commissioners present were Judith Shupe, Jon Myers and Mike Kiger. Also present were Joe Giesler, Mary Beth Lane, Health Director Frank Hirsch, Paul Martin, Jennifer Valentine, Larry Hanna, Prosecutor David Landefeld, Treasurer Jon Slater, Jason Dolin and Scott Zody.

Commissioner Kiger stated due to funding reductions from the solid waste district, there is a need to reduce the funding requests for the optional program grants, and noted the Sheriff's Office agreed to try to reduce their grant by approximately \$10,000. Commissioner Myers stated the Board is trying to work with all parties to balance the budget so all the programs can continue to operate in 2011.

Ms. Valentine stated their grant had only increased by \$200, and that was to cover longevity pay increases. Commissioner Shupe stated the Board is asking if she could take another look at the grant and see if it could be reduced elsewhere. Ms. Valentine noted their 2010 grant had been reduced from their 2009 grant, eliminating partial funding for the Director, vehicle expenses and training, but she had added some funding back into the 2011 grant for vehicle expenses.

Mr. Hirsch stated he believes that approximately \$5,000 could be reduced from the salary line item and fringes and cover those costs out of Health District funds, but he would need to crunch those numbers prior to committing to that, as he can ill afford to lose another position in the Environmental Section.

Mr. Martin noted they are already expecting to have to reduce the position to 1.2 time in 2012 due to expected reductions from the solid waste district, but they had planned to keep it a full time position for 2011. Commissioner Shupe stated the grants must be submitted by next Tuesday, and Mr. Hirsch stated they could run the numbers and get back to the Board the following day.

Commissioner Myers stated if the Commissioners submit a budget for the grants that exceeds the available dollar amount, the district will implement cuts. Mr. Zody provided an overview of the solid waste district budget for Fairfield County, noting that the Community Action mandatory programs had to be reduced by \$30,000 due to the elimination of administrative support funding.

Commissioner Myers stated that he expects the reduced funding levels to continue for the foreseeable future, and Mr. Martin agreed, stating the flow control rules implemented by Franklin County are having a negative impact.

Mr. Hirsch suggested one way to ease the blow to the Health Department would be to see if they could reduce or forego their scheduled payment for the MUNIS system to the Auditor for 2011, as the Health Department still owes approximately \$40,000. Mr. Slater noted that part of the delay in implementing MUNIS has backed up payments from agencies for the system, and he was not sure if there is a “catch-up” provision or not.

**Review, cont.**

Mr. Dolin provided an update on legal issues, stating that he received the Attorney Generals (AG) legal opinion relative to the Health Department only yesterday. Mr. Landefeld added the AG apparently posted the opinion of their website Friday afternoon, but never bothered to inform his office that the opinion had been issued.

Mr. Dolin provided an overview of the history leading up to the opinion, stating the Prosecutor had asked for the opinion after recusing his office from the controversy between the Health Department, Commissioners and the District Advisory Council (DAC).

Mr. Dolin stated the good news is that the opinion provides an authoritative opinion and did not cost the county anything – a similar opinion from a private law firm would likely cost in excess of \$10,000.

Unfortunately, the opinion did not answer all the questions, and in some respects raised a couple of new questions. First, the AG opined that when all cities leave a combined health district, the district must be dissolved. Secondly, a general health district is not an automatic successor to a combined health district upon dissolution of the combined district. Commissioner Myers asked if another city, such as Pickerington, decided to join the combined district, it could remain a combined district, and Mr. Dolin stated he believes that is correct. Commissioner Shupe stated Canal Winchester could join as well.

Mr. Dolin stated the opinion opined that the real property owned by the combined health district does not automatically transfer to the general health district, therefore the Miller building and grounds would not automatically revert to the County. Commissioner Myers asked who would own the building, and Mr. Dolin stated he would get to that issue momentarily.

Mr. Dolin stated the opinion alluded to the authority of the combined district having the ability to sell or lease the real property prior to the dissolution so long as the property are used for district purposes – it is uncertain how the proceeds from any sale would be treated.

Mr. Dolin stated that the combined district has the authority to sell the property if they do so by January 1, 2011, which is when the combined district would dissolve. Mr. Dolin continued that the contract for the district could be amended to provide for the disposition of property. Mr. Landefeld added that some of the questions his office posed were rendered moot by the opinion, but the parties could get together and negotiate the disposition of the property.

Mr. Dolin stated to that point, the opinion states the affected parties could amend the contract prior to January 1<sup>st</sup> and condition the dissolution on the disposition of the Miller building. However, the opinion does not provide guidance on what happens to the building if no agreement is reached or action taken.

Mr. Dolin stated the opinion concludes that the Board of Commissioners has a duty to provide housing to the general health district once it is reconstituted. Mr. Dolin stated the section on the optional provision doesn't apply if the general health district doesn't purchase or lease a facility on its own.

If dissolution occurs, the general health district would not own it because the property was given to the combined district. Mr. Landefeld stated there will be no general health district until the combined district dissolves, and the real unknown is what happens after January 1<sup>st</sup> with respect to the Miller building.

Commissioner Myers asked who the deed was transferred to when the county gave the department the building, and Mr. Landefeld stated the deed was transferred to the combined health district.

Mr. Slater stated it might be possible to place the building on the tax duplicate and eventually foreclose, as there would be no entity to pay the taxes. Commissioner Shupe stated the opinion appears to require the building be used for district purposes. Mr. Dolin stated the proceeds from the sale could be used for district purposes, and Commissioner Myers stated that is what Paul Martin indicated when they first started considering selling the building.

Mr. Landefeld stated an understanding needs to be developed between the city, DAC, the county, Health Department, as there still remains some conflicts for the Prosecutor in advising the various parties on a course of action.

Commissioner Myers stated the AG was moot on ownership, could we ask him to opine on that specific question, and Mr. Landefeld stated we may not be in a position to ask until January 2<sup>nd</sup>, depending on what action the combined district may take. Mr. Landefeld stated he had tried to anticipate all the factors and questions to submit for the request, the AG simply chose to stay silent on this issue because it was not specifically asked.

#### **11:00 - Public Hearing – Elevator Road Alteration**

The Board of Commissioners met to conduct a public hearing on a proposed alteration to Elevator Road in Walnut Township. Commissioners present were Judith Shupe, Jon Myers and Mike Kiger. Also present were Larry Neeley, Janet Neeley, Randy Kemmerer, Engineer Frank Anderson, Jeff Carnechis, Walnut Township Trustees Alan Dupler and Ralph Zollinger, Jason Dolin and Scott Zody.

Mr. Anderson stated the proposal is to narrow the right-of-way (ROW) of Elevator Road from 60' to 30'. Mr. Anderson presented records of roads in the county and stated that most roads have 60' ROW, but some have less, others have more.

Mr. Anderson stated the difficulties arise when roads with less than 60' ROW require improvements or alterations. For example, Elevator Road currently does not have graded ditches, and ASHTO road standards suggest 9' lanes on either side of the road, and Elevator road is currently only 12' wide, so in order to bring the road up to standard, the road needs to be a minimum of 6' wider, which would also require the ditches to be set back and graded. Most of the 60' ROW would be needed to do this.

Mr. Anderson stated his concern is for the future land use in the area and the need to upgrade the road. Cherry Lane is a good example of trying to work with a narrow ROW to improve a road.

Mr. Anderson stated this issue came to light through a fence request, and the Ohio Revised Code (ORC) clearly does not allow fences within ROW's. Row crops can be dealt with, and many county and township roads have corn or beans planted within the road ROW, but fences are problematic, especially near intersections. Mr. Anderson stated he is opposed to narrowing the ROW for Elevator Road.

Mr. Anderson stated Election House Road is another good example of a road that requires upgrading but did not have sufficient ROW.

Commissioner Kiger thanked Mr. Anderson, and reminded the audience to please try to keep their comments to 3 minutes.

Jeff Camechis with the Engineer's Office stated that there are at least 2 other sections of ORC that address excavation within road ROW, in addition to fencing. There are numerous examples of roads where the ROW's were narrowed, then years later ROW had to be re-acquired to upgrade the road or work within very tight corridors. Horn's Mill Road is a good example where a couple of farmers convinced the Commissioners years ago to narrow part of the ROW and a few years ago the Engineer had to do a project on the road and had several problems.

Closer to Elevator Road, Mr. Camechis cited the intersection of Cat Tail and Wiseman Roads as another problem with narrow ROW's. In fact, a car hit a utility pole at the intersection with Elevator Road – the utility pole was at the edge of the ROW, which is narrower at the intersection.

Ralph Zollinger, Walnut Township Trustee, stated he is concerned that if the Board narrows Elevator Road, it would be a precedent for other roads to be narrowed, and he is opposed to the change.

Alan Dupler, Walnut Township Trustee, stated the new portion of fence Mr. Berry is proposing to install is approximately 1214 feet long and the area of field he would lose is approximately 15 feet wide, which equates to approximately 0.42 acres of land. Even if the fence would be extended to include to old fence, that would equate to 1.06 acres.

Mr. Dupler stated the township and county have sent numerous letters on the subject and the trustees have expressed their opposition to the proposal. They do wish to see a precedent set. Commissioner Myers asked if all of the trustees were opposed, or just the two that were present, and Mr. Dupler stated the two that are present are opposed.

Randy Kemmerer, Walnut Township Road Superintendent, stated he is opposed to anything less than a 60' ROW. He agreed that the Cherry Lane project is a good example of the difficulties in trying to conduct a road project within a reduced ROW, and he is concerned about future road needs as well. Mr. Kemmerer cited Cat Tail Road and a ditch project where the township and county had to acquire additional ROW from an adjacent landowner and it has been a very difficult process.

Brad Berry, 5500 Elevator Road, Pleasantville, stated he had submitted the request to change the ROW. Initially, he did not want the ROW changed – he merely wanted to put up a fence but was told he could not due to liability concerns. Mr. Berry stated it would be a financial liability for him to give up the land he wants to use for grazing purposes. There are no obstacles, ditches or curves on the road and the only issue is potential future widening. Mr. Berry stated he is not sure why the trustees are opposed, and believes they do a good job of maintaining the township roads.

Mr. Berry stated that farms are diminishing in Fairfield County and the Commissioners should support ways to help farmers. Mr. Berry stated he has tried to follow procedures but everyone is still opposed. Mr. Berry presented a timeline of the history of the road based upon some research he had conducted. He stated he could find no direct reference to Elevator Road until 1920 on a railroad survey. The railroad survey showed the road with a 30' ROW with the train depot just outside the ROW. Mr. Berry stated he had consulted with an attorney on the matter and with respect to the Engineer this record was never presented to him.

Commissioner Myers stated it appears to be 30' on each side – wouldn't that make it a 60' ROW? Mr. Berry stated the railroad ROW is 60' – it can be confusing to look at. Mr. Berry stated the Elevator Road ROW is shown as 15' on each side.

Mr. Camechis stated it does show the road as 30', but the document is a survey, and the Engineer has had incorrect surveys submitted all the time. The Engineer's Office

had maps that date back to the early 1900's, and Chase's Statutes provides guidance to the Engineer. The Engineer's records indicate the road is 60' – Wiseman Road was altered in 1876 and part of that ROW was reduced to 30', which in the mind of the Engineer, proves that Elevator Road is 60'.

Mr. Berry stated he believes he has some contradictory evidence. His timeline shows an 1831 section map where the road did not exist, however, the road was in fact constructed in 1831, but the ROW has been presumed to be 60'. Mr. Berry stated the schoolhouse on the North side of Elevator Road was constructed in 1848, and an 1875 map shows Elevator Road being present. Mr. Berry asserted that the Elevator Road ROW was changed to 30' in 1876.

Commissioner Shupe asked if there was any record of that change being adopted by the Commissioners, and Mr. Berry was not sure. Mr. Carnechis stated there was a road to the West of Elevator Road that was built in 1838, and based upon Chase's Statutes, that road ROW was established at 60'. When the road was altered it was reduced to 30'.

Mr. Berry protested that Elevator Road was not constructed until after that time, and in addition the railroad survey, which was more recent (1920) showed a 30' ROW. Mr. Carnechis stated he has several old county road maps that do not show all of the roads, even though several were in existence and were being actively maintained.

Mr. Berry stated a road petition in 1876 made improvements to the road and set the ROW at 30' and he has provided all of the evidence he has been able to find so far.

Larry Neeley, 11100 Deep Cut Road, Millersport, stated he and his wife Janet had earlier submitted a letter to the Commissioners on this issue for the record. Mr. Neeley asked what is an easement for road ROW? Do easement rights equal ownership?

Mr. Neeley stated that his legal sources inform him that when dealing with a declared ROW there are grounds for legal challenges. Commissioner Myers stated he was of the understanding that the ground under a public road continues to be owned by the adjacent landowners, and Mr. Neeley stated the easement is for use, and the property owner still owns the land and pays taxes on it.

Commissioner Myers asked if a landowner could construct a wall on a road ROW, and Mr. Neeley stated no they could not block or obstruct the road. Mr. Carnechis stated the ROW for the highway is strictly for highway purposes. That is why there are laws relative to fences and excavating prohibitions. All of the ROW's are purchased for highway purposes – the Engineer is even responsible for trees within the ROW. The lands under the road ROW are supposed to be tax exempt.

Commissioner Kiger stated just so everyone is aware, the Commissioners would not be making a decision today on the issue.

Mr. Anderson stated the railroads purchased ROW, but looking at Election House Road plans were submitted w/incorrect ROW shown on the survey. The railroad may have been wrong unless there is a recorded document somewhere to prove otherwise. Mr. Anderson stated he has had several consultants that have submitted incorrect documents.

Mr. Kemmerer presented a copy of the Walnut Township encroachment policy and a statement relative to public easements. Mr. Kemmerer stated the encroachment policy was adopted 17 years ago.

On the motion of Judith Shupe and second of Jon Myers, the Board of Commissioners voted to close the hearing.

Roll call vote of the motion resulted as follows:

Voting aye thereon: Judith Shupe, Jon Myers and Mike Kiger

**Review, cont.**

Commissioner Shupe asked Mr. Zody to check with Patty Bratton to see if she has budgeted any funds for the 2011 recycling grant to enable the purchase of recycled content products, such as the items purchased for the annual State of the County event.

Mr. Dolin stated he would be meeting with the Board of Elections later that afternoon to discuss the results of a meeting held with the Secretary of State's office relative to the Diabold lawsuit settlement.

Commissioner Kiger asked if the relocation of the Prosecutor's Office to the Government Service Center went OK, as he had heard that there were some problems, and Mr. Dolin stated that as far as he was aware, everything went fine.

Mr. Zody stated that Mr. Slater has posed the question of to whom should he submit his resignation prior to being appointed County Auditor when Ms. Curriess retires, and Mr. Dolin stated Mr. Slater had contacted him as well and he would need to look into that.

The Board discussed a request by a county employee to utilize the Commissioner's Hearing Room for a personal meeting on a weekend. Mr. Zody stated he had some concerns relative to liability and there is currently no policy relative to renting out that particular room similar to the Liberty Center.

Commissioner Myers asked how the people would have access to the building, and Mr. Zody stated the employee has a building key. Commissioner Myers stated he would have concern about people being in the building after hours, and Mr. Dolin stated there is a legitimate concern relative to public records being exposed. The Board directed Mr. Zody to contact the employee and advise her that they do not wish to grant the request. Commissioner Myers suggested they try the Fairhope Hospice or Fairfield Medical Center. Commissioner Kiger noted Scrambler Marie's has a large room they could possibly use as well.

Regarding the inmate housing agreement with Lancaster, Mr. Dolin stated that Terre Vandervoort was in the process of getting him some records and background information, and he is still trying to tie in the connection between the agreement and the "largest city" designation issue.

Commissioner Shupe asked if the county is required to house the city prisoners, and Mr. Dolin stated the county is obligated under the law to hold the city prisoners. Commissioner Shupe asked how many of the jail prisoners are there through the city, and Mr. Zody stated he believes approximately 35-40% of the inmates are from Lancaster police bookings. Commissioner Kiger noted the city should be taking more of a financial responsibility. Commissioner Shupe noted the Commissioners have several requests for funding, including Lancaster Transit, ADAMH and now the Health Department Housing.

Commissioner Shupe suggested one topic for the budget retreat might be to determine what the new "normal" is with respect to budgeting and county finances. Commissioner Myers agreed, stating the paradigm has definitely shifted.

**Adjournment**

With no further business to come before the Board, on the motion of Jon Myers and the second of Judith Shupe, the Board of Commissioners voted to adjourn at 11:45 a.m.

Roll call vote on the motion resulted as follows:

Voting aye thereon: Jon Myers, Judith Shupe and Mike Kiger

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Mike Kiger  
Commissioner

Jon D. Myers  
Commissioner

Judith K. Shupe  
Commissioner

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Scott Zody, Clerk/Manager

**THE NEXT REGULAR MEETING OF THE BOARD OF COMMISSIONERS' IS  
SCHEDULED FOR TUESDAY, AUGUST 31, 2010 AT 10:00 A.M.**