Memorandum

To: Mayor & Members of Council
From: Jon Bisher
Subject: General Information
Date: May 31, 2013

CALENDAR

AGENDA – City Council June 17th @ 7:00 pm

C. APPROVAL OF MINUTES

▶ the June 3, 2013 Meeting Minutes are enclosed

E. REPORTS FROM COUNCIL COMMITTEES

- the Majority Report for each Committee from the June 10th meetings are enclosed
 - 2. Electric Committee
 - 3. Water & Sewer Committee

G. INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

- 1. **RESOLUTION NO. 025-13** a Resolution Authorizing the City Manager to Enter into a Contract with Defiance Holdings LLC (Metalink) for the Leasing of Space on the City of Napoleon's Water Tower; and Declaring an Emergency.
- 2. **ORDINANCE NO. 028-13** an Ordinance Supplementing the Annual Appropriation Measure (Supplement No. 2) for the Year 2013; and Declaring an Emergency.
- 3. **RESOLUTION NO. 029-13** a Resolution Authorizing the City Manager, Jon Bisher, to Prepare and Submit an Application to Participate in the Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s) and to Execute Contracts as Required; and Declaring an Emergency.
- 4. **RESOLUTION NO. 030-13** a Resolution Authorizing the City Manager to Enter into a Cooperative Agreement with Pleasant, Damascus, Harrison, and Monroe Townships for the Township Roads C2, B1, 5A, 12, K and Industrial Drive Project; and Declaring an Emergency.
- 5. **RESOLUTION NO. 031-13** a Resolution Authorizing the City Manager to Enter into a Contract with Clemans, Nelson and Associates, Inc., for Professional Services Regarding Consultation for Collective Bargaining Issues and Other Personnel Issues; and Declaring an Emergency.

J. GOOD OF THE CITY

- Items 1 thru 4 are recommendations from the June 10th committee meetings.
- 1. Recommendation to Approve June Billing Determinants
- 2. Recommendation to Move Forward with the Utility Bill Assistance Program

- *3.* Information on "CARE Funding Program" that the City of Oberlin has established is enclosed.
- 4. Recommendation to Look at Rate Stabilization from AMP
- 5. Recommendation to Agree to the Concept of a Water Plant that is a Consortium with our Neighbors
- 6. Presentation of 2014 Tax Budget
 - *a)* Enclosed is Greg's Memo and information that has to be submitted to the County Auditor.
- 7. Set Public Hearing on 2014 Tax Budget for Monday, July 1, 2013 at 6:55 p.m.
- 8. Approval of Plans and Specifications for the Kenilworth Inflow & Infiltration Removal Project (L.T.C.P. Project No. 16B)
 > Enclosed is a Memorandum from Chad.
- 9. *Review of 2nd Quarter Budget Adjustments* (Refer to Committee)

INFORMATIONAL ITEMS

- 1. Information included in today's packet from Greg Heath:
 - a. Email from Moody's on Napoleon's rating review
 - b. HB5 News
 - c. Spring 2013 Ohio Coalition for Open Government Newsletter

RELATED ITEMS

- 1. AGENDA Health Care Cost Committee Meeting; Monday, June 17, 2013 @ 8:30 am
- 2. MEETINGS CANCELLED
 - **a.** Tree Commission Meeting
 - **b.** Parks & Rec Committee Meeting
- 3. AMP Update/June 14, 2013
- 4. OML Legislative Bulletin/June 14, 2013

JAB:rd Records Retention CM-11 - 2 Years

Monthly Calendar

June 1 - 30, 2013

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City of Napoleon, Ohio

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

MEETING AGENDA Monday, June 17, 2013 at 7:00 PM

- A. Attendance (Noted by the Clerk)
- B. Prayer & Pledge of Allegiance
- C. Approval of Minutes: June 3 (In the absence of any objections or corrections, the minutes shall stand approved.)
- **D.** Citizen Communication
- E. Reports from Council Committees
 - 1. Technology & Communication Committee did not meet on Monday, June 3 due to lack of agenda items.
 - 2. Electric Committee (Majority Report) met on Monday, June 10 and recommended:
 - a. To approve June billing determinants
 - **b.** To move forward with the utility bill assistance program
 - c. To look at rate stabilization from AMP
 - 3. Water, Sewer, Refuse, Recycling & Litter Committee (Majority Report) met on June 10 and:
 a. Took no action on How to Handle Sanitary Sewer Leads on Upcoming Projects
 - b. Recommended to agree to the concept of a water plant that is a consortium with our neighbors
 - **4.** Municipal Properties, Buildings, Land Use & Economic Development Committee did not meet on June 10 due to lack of agenda items.
- F. Reports from Other Committees, Commissions and Boards (Informational Only-Not Read)
 - 1. Board of Public Affairs met on Monday, June 10 with the following agenda items:
 - a. Review of June electric billing determinants
 - b. Electric Department Report
 - c. Utility Bill Assistance
 - d. Review of Electric Rate Stabilization Program
 - e. Solar Acquisition of Additional Solar Power
 - Records Commission met on Tuesday, June 11 with the following agenda items:
 a. Review of Income Tax RC-2
 - **3.** Board of Zoning Appeals met on June 11 with the following agenda items:
 - a. BZA 13-04 525 Jahns Rd. Front Yard Variance
 - **b.** BZA 13-05 715 Wayne St. Garage Variances
 - 4. Planning Commission did not meet on June 11 due to lack of agenda items.
 - 5. Tree Commission did not meet tonight due to lack of agenda items.

G. Introduction of New Ordinances and Resolutions

- **1. Resolution No. 025-13** A Resolution regarding a contract with MetaLink
- 2. Ordinance No. 028-13 An Ordinance to appropriate \$96,225 for Issue 2 grant.
- **3. Resolution No. 029-13** A Resolution authorizing the City Manager to submit application to participate in the OPWC State Capital Improvement Program
- **4. Resolution No. 030-13** A Resolution to authorize the City Manager to enter into a Co-op Agreement for Issue 2 project
- **5. Resolution No. 031-13** A Resolution to authorize the City Manager to enter into a contract with Clemons and Nelson for HR services

H. Second Readings of Ordinances and Resolutions

There are no second readings of Ordinances and Resolutions.

I. Third Readings of Ordinances and Resolutions

- **1. Resolution No. 023-13** A Resolution authorizing the City Manager to enter into a contract with Courtney and Associates for professional services regarding the electric rate and functionalized cost of service study
- J. Good of the City Any other business as may properly come before Council, including but not limited to:
 - 1. Discussion/Action: Recommendation to approve June billing determinants as follows: Generation Charge: Residential @ \$.07479; Commercial @ \$.08884; Large Power @ \$.04663; Industrial @

\$.04663; Demand Charge Large Power @ \$13.17; Industrial @ \$15.11; JV Purchased Cost: JV2 @ \$.03743; JV5 @ \$.03743

- 2. Discussion/Action: Recommendation to move forward with the utility bill assistance program
- 3. Discussion/Action: Recommendation to look at rate stabilization from AMP
- 4. Discussion/Action: Recommendation to agree to the concept of a water plant that is a consortium with our neighbors
- 5. Discussion/Action: Presentation of tentative 2014 Tax Budget
- 6. Discussion/Action: Setting of Public Hearing on 2014 Tax Budget for Monday, July 1, 2013 at 6:55 PM
- 7. Discussion/Action: Approval of Plans/Specifications for Kenilworth I/I Project
- 8. Discussion/Action: Review of 2nd Quarter Budget Adjustments (*Refer to Committee*)
- K. Executive Session with Municipal Court Judge re: Personnel Compensation
- L. Approve Payment of Bills and Approve Financial Reports (In the absence of any objections or corrections, the payment of bills and financial reports shall stand approved.)
- M. Adjournment

Gregory J. Heath, Finance Director/Clerk of Council

A. Items Referred or Pending in Committees of Council

- **1. Technology & Communication Committee (1st Monday)** (Next Regular Meeting: Monday, July 1 @ 8:00 PM)
- 2. Electric Committee (2nd Monday) (Next Regular Meeting: Monday, July 8 @ 6:30 PM)
 - **a.** Review of Electric Billing Determinants
 - **b.** Electric Department Report
 - **c.** Solar Acquisition of Additional Solar Power
- 3. Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday) (Next Regular Meeting: Monday, July 8 @ 7:00 PM)
- 4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday) (*Next Regular Meeting: Monday, July 8 @ 7:30 PM*)
 a. Updated Info from Staff on Economic Development (as needed)
- 5. Parks & Recreation Committee (3rd Monday) (Next Regular Meeting: Monday, June 17 @ 8:00 PM.)
- 6. Finance & Budget Committee (4th Monday) (Next Regular Meeting: Monday, June 24 @ 6:30 PM)
 a. Mayor's Presentation on Spending Plan (Tabled)
 b. Golf Course Update and Budgetary Plan
- 7. Safety & Human Resources Committee (4th Monday) (Next Meeting: Monday, June 24 @ 7:30 PM) 2013 Regular Meetings with Townships scheduled for July 22, November 25
- 8. Personnel Committee (As needed)

B. Items Referred or Pending In Other City Committees, Commissions & Boards

- 1. Board of Public Affairs (2nd Monday)
 - (Next Regular Meeting: Monday, July 9 @ 6:30 PM)
 - a. Review of Electric Billing Determinants
 - **b.** Electric Department Report
 - c. Solar Acquisition of Additional Solar Power
- 2. Board of Zoning Appeals (2nd Tuesday) (Next Regular Meeting: Tuesday, July 10 @ 4:30 PM)
- **3.** Planning Commission (2nd Tuesday) (Next Regular Meeting: Tuesday, July 10 @ 5:00 PM)
- 4. Tree Commission (3rd Monday) (Next Regular Meeting: Monday, July 15 @ 6:00 PM)
- 5. Civil Service Commission (4th Tuesday) (Next Regular Meeting: Tuesday, July 23@ 4:30 PM) Special Meeting on Thursday, June 27 @ 6:00 PM
 a. Administer and Grade the Written Test for Fire Captain
 b. Certify the Eligible Lists for Fire Captain
- 6. Parks & Recreation Board (Last Wednesday) (Next Regular Meeting: Wednesday, August 28 @ 6:30 PM)
- 7. Privacy Committee (2nd Tuesday in May & November) (Next Regular Meeting: Tuesday, November 12 @ 10:30 AM)
- 8. Records Commission (2nd Tuesday in June & December) (Next Regular Meeting: Tuesday, December 10 @ 4:00 PM)
- **9.** Housing Council (1st Monday of the month after the TIRC meeting) (*Next Regular Meeting: Monday, May 5, 2014 @ 6:30 PM*)
- 10. Health Care Cost Committee (As needed)
- 11. Preservation Commission (As needed)
- 12. Infrastructure/Economic Development Fund Review Committee (As needed)
- 13. Tax Incentive Review Council (As needed)
- 14. Volunteer Firefighters' Dependents Fund Board (As needed)
- 15. Lodge Tax Advisory & Control Board (As needed)
- 16. Board of Building Appeals (As needed)
- **17. ADA Compliance Board** (As needed)
- 18. NCTV Advisory Board (As needed)

City of Napoleon, Ohio CITY COUNCIL Meeting Minutes Monday, June 3, 2013 at 7:00 PM

PRESENT	
Council	John Helberg - President, Jeffrey Lankenau, James Hershberger, Patrick McColley,
counten	Christopher Ridley, Jason Maassel
Mayor	Ronald A. Behm
City Manager	Dr. Jon A. Bisher
Law Director	Trevor M. Hayberger
City Staff	Robert Bennett, Fire Chief
City Stari	Dennis Clapp, Electric Superintendent
	Tony Cotter, Parks & Recreation Director
	Marty Crossland, Staff Engineer
	Nick Evanoff, Police Patrolman
	Chad Moll, Police Lt.
	Jeff Nicely, Police Patrolman
	Christine Peddicord, Asst. Finance Director
	Jeff Rathge, Operations Superintendent
	Dan Wachtman, MIS Administrator
	Robert Weitzel, Police Chief
Recorder	Barbara Nelson
Others	News Media, NCTV, Heather Wilson, representatives from Clemens-Nelson, Jeff
	Marihugh
ABSENT	
Council	Travis Sheaffer
City Staff	Gregory J. Heath, Finance Director/Clerk of Council
·	
Prayer	President Helberg called the meeting to order at 7:00 pm with the Lord's Prayer
	followed by the Pledge of Allegiance.
Approval Of Minutes	Helberg said on Page 6 of the May 20 Council minutes, the middle paragraph
	beginning with "McColley" is different than what went out in the packet. Councilors
	reviewed the new paragraph. Minutes stand approved with no objections.
Citizen	Heather Wilson introduced herself and said she had comments regarding dispatch
Communication	and budget. The City is in some financial disarray as pointed out by the State
	Auditor's office. There are some very important changes that will have to be made.
	These financial problems did not happen overnight and won't clear up overnight.
	The City has been working in a reactive instead of proactive state. Citizens voted to
	increase taxes a few years ago to assist in the revenue stream that was needed. They
	were "threatened with loss of police and fire services" (per Council packet 4/22/13).
	This increase was marketed as additional money for safety services; however, the
	money was not earmarked for police and fire services and was put in the general
	fund. Here we are again having safety services threatened. Looking at big ticket
	items like the dispatch center is not always the best solution. One City office
	complained about losing one full-time employee when there are five individuals in
	the dispatch center that could potentially be out of a job. Each person may have to do
	a little more with a little less in individual departments. The City needs to be more
	cohesive in understanding the needs and wants of the citizens. She would like the
	dispatch center to be intact and available to her loved ones rather than an
	administrator's position being replaced after someone retires. She thanked
	Councilors who agree that a consolidated dispatch is not a good idea. She is a

concerned citizen, a mother of two young children and the spouse of a police officer. Safety of the community and City employees should be the #1 priority. Many citizens are tired of safety services always being on the chopping block. It would be understandable if dispatch wasn't functioning properly. Other cities are modeling their dispatch centers after ours because of how well it works. The State frequently changes their mind on things. If the State proceeds with encouraging this type of consolidation, it would be years in the future. Chances are the State would help foot the cost of mandatory consolidation. It should be irrelevant what other cities have done and how they structure their offices and services. Napoleon needs to do what is right for the viability of the City and the needs of the residents.

Based on recent figures, the cost to maintain dispatch would be \$360,000/year. Removing dispatch will still cost NPD \$76,200/year and we would pay the county about \$150,000/year. This would leave an approximate savings of \$133,800. One dispatcher full-time with benefits already left. Taking out his salary brings the total down to \$79,863/year. (There are \$41,163 in set-up expenses the first year.) The approximate \$80,000 each year could easily be made up by dividing it among the City's 15 departments. This would be about \$445/month per department. That is a more reasonable, safer and secure route. What will the combined dispatch center cost in 10 years after the initial contract? What if this doesn't work out? What are the costs to put it back the way it is currently working? Unemployment benefits will have to be made for 5 individuals. Where do we want the City to be 10 years from now? Bigger and stronger should be the goal. We need to keep our adequate, fully functioning, fully operational dispatch center in place. There is risk based on the number of calls placed and dispatchers per shift that the Sheriff will impose. There should not be further discussion of a topic that will not provide significant savings, value, and a positive impact on the community. When citizens, plus current and retired employees say this is not a good idea, explore other avenues.

Wilson gave a list of pros and cons for consolidating dispatch: <u>CONS</u>

Loss of control of dispatch, loss of adequate coverage for safety employees and citizens, loss of current working system for safety services, loss of 5 City employees and revenue they provide, additional unemployment costs, inadequate personnel at NPD, loss of backup currently in place for outage or overage traffic and downtime when dispatcher must be transported to a backup station. (This could have disastrous or deadly consequences.)

PROS

A little savings, but equivalent savings could be spread out over all departments. The savings is not worth the losses previously mentioned.

The citizens did not elect Council just to save money. Common sense needs to prevail when considering issues like this. An alternate solution is to cut less than \$500 per month from department budgets or percentages based on the size of the department, instead of 5 people losing their jobs and the City losing vital safety services. You wouldn't cut insurance out of your budget if you lost your job. That would be foolish since it's your security and protection. Dispatch is the City's security and protection. It would be foolish to vote for that to go away.

Committee ReportsChairman McColley said the Parks & Recreation Committee met on Monday, May
20 and recommended to approve lengthening the season at the golf course.

Chairman Ridley reported that the Finance & Budget Committee met on Tuesday, May 27 and recommended to approve the requested tuition assistance for paramedic

	training. The Safety and Human Resources Committee did not meet on May 27 due to lack of agenda items.
Resolution No. 025-13 Not Ready At This Time	Hayberger said he put Resolution No. 025-13 on the agenda in case the MetaLink contract details were worked out before tonight's meeting. We do not need a motion since the contract is not ready at this time. No action taken.
Introduction Of Resolution No. 026-13	President Helberg read by title Resolution No. 026-13 A Resolution to adopt the Solid Waste Management Plan for the Henry County Solid Waste Management District; and declaring an emergency
Motion To Approve First Read	Motion: Ridley Second: Maassel To approve first read of Resolution No. 026-13
Discussion	Bisher said the landfill is closing. We are part of the Henry County Solid Waste District and must have a closure plan. Each entity must sign off on the plan with a resolution. Rathge said fees have not changed and there is no foreseeable change in the rate. Bisher said the tipping fee charge comes back here. Suspension is requested because this starts June 1 through August 29. Hayberger said there is an emergency clause because if we wait 90 days, it will be too late.
Motion To Suspend The Rule	Motion: Lankenau Second: Hershberger To suspend the rule requiring three readings
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Passed Yea-6 Nay-0	Roll call vote to pass Resolution No. 026-13 under suspension of the rule Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Introduction Of Resolution No. 027-13	President Helberg read by title Resolution No. 027-13 A Resolution authorizing the expenditure of funds over twenty-five thousand dollars (\$25,000.00) for the purpose of sole sourcing the material testing for the Scott Street Improvements Project and authorizing the City Manager to enter into a contract with Bowser-Morner, Inc. for said testing; and declaring an emergency
Motion To Approve First Read	Motion: Maassel Second: Ridley To approve first read of Resolution No. 027-13
Discussion	Bisher said this is an ODOT project. Extra testing is required. When Lulfs went for quotes, one company was busy and another gave us a per test rate. Bowser-Morner spent more time putting an estimate together. The contract ranges would be \$40,000 to \$50,000. The project is coming up and we would like to single source. An emergency clause is added and suspension requested to get started as required. Ridley said this is within the Scott St. Project budget. Helberg said testing is usually 0.8-1.0% of a contract. The contract is \$4,000,000. This seems reasonable. Bisher said a Bowser-Morner employee lives in Napoleon and can do the testing without having to charge mileage. Maassel asked if we will be reimbursed by ODOT. Hayberger said not fully. It is 90/10. Maassel asked if more things like this are coming from ODOT. Bisher said he hopes not, but probably. We are not accustomed to doing these projects. This is all we know about right now.

Motion To Suspend The Rule	Motion: LankenauSecond: RidleyTo suspend the rule requiring three readings
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Passed Yea-6 Nay-0	Roll call vote to pass Resolution No. 027-13 under suspension of the rule Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Second Read Of Resolution No. 023-13	President Helberg read by title Resolution No. 023-13 A Resolution authorizing the City Manager to enter into a contract with Courtney and Associates for professional services regarding the electric rate and functionalized cost of service study
Motion To Approve Second Read	Motion: RidleySecond: MaasselTo approve second read of Resolution No. 023-13
Discussion	Bisher said nothing changed since the last reading. This study has not been done for about 5 years. It was recommended by the Electric Committee and BOPA.
Passed Yea-6 Nay-0	Roll call vote to approve second read of Resolution No. 023-13 Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
No Third Readings	There were no third readings of Ordinances or Resolutions.
GOOD OF THE CITY Discussion/Action Golf Course Season	Cotter said it looks like lengthening the golf season could result in additional revenue. We will be diligent on staffing in March and November. We won't keep staff there in bad weather. Helberg suggested limiting membership usage of the course to the same time frame as now. Members would pay extra to play during the extended season. Cotter said it seems reasonable for memberships to be valid when the course opens on March 15. Bisher said having a longer season might help the sale of memberships since members will get more for their money. Helberg believes memberships should only be valid for the current time frame. Maassel likes lengthening the season, but he doesn't want to tell members to pay again after October 31. Maybe a rate increase can be implemented for next year's memberships. Lankenau said this issue went through the Parks & Recreation Board and they recommended lengthening the season.
Motion To Lengthen Season At Course	Motion:McColleySecond: MaasselTo lengthen the season at the golf course
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Tuition Assistance For Paramedic Training	Chief Bennett said we need \$11,400 for tuition assistance. We came up with \$9,400. We are short \$2,000 to send two people for training. Bisher said the \$2,000 is new money. Bennett said those getting assistance must stay with the City for three years and payback of the money is prorated for those three years. Ridley said Finance &

	Budget Committee recommended approval of this item.
Motion To Approve	Motion: RidleySecond: LankenauTo approve the requested tuition assistance for paramedic training
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Motion To Award Ohio St. SS Replacement To Vernon Nagel, Inc.	Motion:RidleySecond: HershbergerTo award the bid for the Ohio St. Sanitary Sewer Replacement Project to VernonNagel, Inc. in the amount of \$93,011.00
	Crossland requested that the bid be awarded to Vernon Nagel, Inc. for \$93,011 to replace a section of sewer between Glenwood & Indiana Ave. Lankenau asked if this is part of findings and orders. Bisher said it is not, but the I/I study showed this area as a problem. Helberg stated that the I/I study was part of the findings and orders, the I/I study did expose this problem on Ohio St. therefore the project is part of findings and orders.
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Motion To Approve Plans/Specs For Hudson St. Waterline	Motion: Lankenau Second: Ridley To approve plans/specifications for Hudson St. Waterline Improvements
	Crossland said this project is for replacement of a 1-1/2" waterline on Hudson St. It will take care of some dead end sections and increase the capacity on Hudson. Bisher said this is partially funded through a CDBG grant for \$28,800.
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Motion To Approve C/O #2 For SS Scott St E To VanHyning Creek	Motion: Ridley Second: McColley To approve Change Order #2 – Final for Sanitary Sewer Improvements from Scott St. East to VanHyning Creek
	Crossland said the final change order is a deduct of \$1,807. Maassel asked about mulching on this project. Crossland said the project is still under warranty. We are waiting for them to finish. Helberg said they won't get the final check until it is all finished.
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Motion To Approve CO #1-Final:Welsted Water Main Replace	Motion: McColley Second: Maassel To approve Change Order #1 – Final for Welsted Water Main Replacement Project
	Crossland said the final change order is an additional \$7,537.54. There were unforeseen buried items that had to be taken care of requiring additional concrete & asphalt quantities. McColley said ODOT requires 301 asphalt and 304 base. Maassel
~	5 of 9

	asked if we pay the costs when a company hits our waterline unexpectedly. Helberg said we pay if the waterline was not on our plans. Bisher said if it was on our plans, it would be the company's mistake and the City would not pay that cost.
Passed Yea-5 Nay-0 Abstain-1	Roll call vote on above motion: Yea- McColley, Lankenau, Ridley, Maassel, Hershberger Nay- Abstain-Helberg
Motion To Approve CO#1 Indiana Ave SS	Motion: Maassel Second: Lankenau To approve Change Order #1 – Final for Indiana Avenue Sanitary Sewer Replacement
	Crossland said the final change order amount is \$708.36.
Passed Yea-5	Roll call vote on above motion: Yea- McColley, Lankenau, Ridley, Maassel, Hershberger
Nay-0	Nay-
Abstain-1	Abstain-Helberg
Approval Of Bills	Ridley asked about \$3,980 for the downtown revitalization grant. Bisher said the grant is still active to the end of this year. No other questions. Bills and reports stand approved as presented with no objections.
<u>Good Of The City-Cont</u> Bisher	Bisher thanked the carpentry/operations department for finishing a coffee center to match Council chambers. We spent most of the money set aside for this room this year. He is aware that Council wants murals or pictures on the walls in the future.
	Bisher said Mayor Behm is on OMEA, the legislative branch of AMP. He can't be on there anymore due to other commitments. McColley knows the system and would be good to fill this position. Mayor Behm said most meetings are in Columbus at midweek, midday. That is the worst time for him to get away. He has been using his vacation time to attend. He asked not to serve on this group anymore.
Motion To Appoint McColley To OMEA	Motion: LankenauSecond: MaasselTo appoint Patrick McColley to replace Mayor Behm on OMEA
Passed	Roll call vote on above motion:
Yea-5	Yea- Helberg, Lankenau, Ridley, Maassel, Hershberger
Nay-0 Abstain-1	Nay- Abstain – McColley
Hayberger	Hayberger said representatives from Clemens-Nelson are here to talk to Council.
Lankenau	Lankenau – no items
McColley	McColley – no items
Mayor Behm	Mayor Behm – no items
Helberg	Helberg asked if Council is willing to accept the governance offered to us regarding the water plant. We would be going from running our own plant to having one of 4 or 5 votes on the governing body. Bisher suggested that this be referred out to committee. Hayberger said referring the item as "Water Plant" would allow progress

<i>Water Plant</i> Referred To Water, Sewer, Refuse, Recycling & Litter Committee	reports on the project as well as discussion on governance, etc. Helberg referred <i>Water Plant</i> to the Water, Sewer, Refuse, Recycling & Litter Committee. Helberg posed questions for the committee's future discussion on <i>How to Handle Sanitary Sewer Leads on Upcoming Projects</i> . The homeowner pays if there is no project going on. If there is a new project, the homeowner gets their sewer replaced with the project and we don't charge them for anything. Is it fair to do this? What should we charge? Assessments slow projects down. If we charge to replace a sewer, does it have to go through assessment or can we come up with a policy on this?
Hershberger	Hershberger – no items
Maassel	Maassel asked for the golf course revenue to date. Cotter said at the end of May the golf course was approximately \$9,200 ahead of 2012. It was a poor April or that number would be better.
	Maassel asked about the new Tech person. Bisher said it is just being advertised.
	Maassel asked about geese crossing signs on Glenwood where it becomes a county road. Bisher said a resident thought the number of geese there posed a danger. The sign warns motorists of the geese in the area.
	Maassel requested an Executive Session to discuss land acquisition.
Ridley Golf Course Update & Budgetary Plan Referred To Finance & Budget	Ridley the Parks & Recreation Board asked earlier this year what number the general fund will subsidize for the golf course. At the time, Lankenau said zero and that was echoed around most of this table. Ridley would like the issue referred to Finance & Budget Committee. It is good to have regular updates on where we're at and to develop a budgetary plan. McColley said a new Council will start on January 1, 2014. Lankenau said this Council must come up with a budget for 2014. Bisher said we will invite the new people to sit through budget meetings. Helberg referred <i>Golf Course Update & Budgetary Plan</i> to Finance & Budget Committee.
	Ridley said at the last meeting Greg Heath mentioned a letter from the auditor regarding the SEC filing regarding pursuing elected officials in Harrisburg who made statements about that city's financial situation. Ridley clarified that the reason they were prosecuted was because they hid things in the budget. The SEC wants to encourage people to be forthright.
	Ridley does not have a particular thing he wants to do regarding the golf course and dispatch. There is a really large 7-figure number that we must save to pay for projects if the City will continue to thrive. We are turning over every stone to save as much as possible. We are kidding ourselves if we say financial challenges have not already impacted service levels. Roads, water in basements, etc. are all service level issues. How do we manage what we have with the resources we have available? It is a testament to the great work of Bisher and others that we are in as good shape as we are now.
Peddicord	Peddicord – no items
Crossland	Crossland – no items
Motion To Go Into Executive Session For Collective Bargaining	Motion: McColleySecond: LankenauTo go into Executive Session for collective bargaining

Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Motion To Go Into Exec Session For Acquisition Of Property	Motion: McColleySecond: MaasselTo go into Executive Session to discuss acquisition of property
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Into Exec Session	Council went into Executive Session at 8:05 PM to discuss collective bargaining strategy and acquisition of property.
Motion To Come Out Of Exec Sess	Motion: Maassel Second: McColley To come out of Executive Session.
Passed Yea-6 Nay-0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Out Of Executive Session	Council came out of Executive Session at 9:08 PM. President Helberg reported that discussion regarding collective bargaining ended at 8:52 PM. Discussion regarding purchase of property followed. No action was taken on either item.
Motion To Adjourn	Motion: Maassel Second: Lankenau To adjourn the meeting.
Passed Yea -6 Nay -0	Roll call vote on above motion: Yea- Helberg, McColley, Lankenau, Ridley, Maassel, Hershberger Nay-
Adjournment	Meeting adjourned at 9:08 PM.
Approved: June 17, 2013	John A. Helberg, Council President Ronald A. Behm, Mayor
	Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio

Electric Committee

MAJORITY REPORT

The Electric Committee met on Monday, June 10, 2013, and recommended:

- a. To approve June billing determinants as follows: Generation Charge: Residential @ \$.07479; Commercial @ \$.08884; Large Power @ \$.04663; Industrial @\$.04663; Demand Charge Large Power @ \$13.17; Industrial @ \$15.11; JV Purchased Cost: JV2 @\$.03743; JV5 @ \$.03743;
- **b**. To move forward with the utility bill assistance program;
- c. To look at rate stabilization from AMP.

Travis Sheaffer, Chair

Jason Maassel, Committee

Patrick McColley, Committee

Water, Sewer, Refuse, Recycling & Litter Committee

Majority Report

The Water, Sewer, Refuse, Recycling & Litter Committee met on Monday, June 10, 2013, and:

- **a**. Took no action on *How to Handle Sanitary Sewer Leads on Upcoming Projects;*
- **b**. Recommended to agree to the concept of a water plant that is a consortium with our neighbors.

Jeffrey Lankenau, Chair

Patrick McColley, Committee

Christopher Ridley, Committee

RESOLUTION NO. 025-13

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DEFIANCE HOLDINGS LLC (METALINK) FOR THE LEASING OF SPACE ON THE CITY OF NAPOLEON'S WATER TOWER; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon does, from time to time, lease space on its water towers for telecommunications purposes; and,

WHEREAS, the City is now desirous of leasing space on the North Tower to Defiance Holdings LLC (MetaLink) in exchange for lease payments; Now Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the City Manager is authorized to enter into a contract with Defiance Holdings LLC (MetaLink) for the lease of space on the City's water towers for telecommunications purposes.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible to enter into the contract and to start to receive payments upon the lease terms which would effect the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed:			
			John A. Helberg, Council President
Approved:			
			Ronald A. Behm, Mayor
VOTE ON PASSAGE	Yea	Nay	Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 025-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, _____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

ORDINANCE NO. 028-13

AN ORDINANCE SUPPLEMENTING THE ANNUAL APPROPRIATION MEASURE (SUPPLEMENT NO. 2) FOR THE YEAR 2013; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the annual appropriation measure passed in Ordinance No. 076-12 and 018-13 for the fiscal year ending December 31, 2013 shall be supplemented (Supplement No. 2) as provided in Exhibit "A", attached hereto and made a part hereof.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Napoleon, Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 4. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time for purposes of complying with grant requirements which are related to public peace, health or safety of the City; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

John A. Helberg, Council President

Approved: _____

VOTE ON PASSAGE _____ Yea ____ Nay ____ Abstain

Ronald A. Behm, Mayor

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 028-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the ______ day of ______, ____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

2013 APPROPRIATION BUDGET - SUPPLEMENTAL BUDGET BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY

ORDINANCE No13, Passed 06/17/2013	===== 2013 E	UDGET ADJUS	TMENT =====	2013
Proposed Appropriation Budget Adjustments	PERSONAL			FUND
CATEGORY ->	SERVICES	<u>OTHER</u>	TOTAL	TOTAL
400 CAPITAL IMPROVEMENT FUND				
3500 Economic Development	\$0	\$96,300	\$96,300	\$96,300
······································	==========	=========	=========	· · · · · ·
- Additional Funds for City Share on OPWC Funding for	or MMD&H (Pilo	t Truck Stop) Ec	onomic Develop	ment Project +\$
Accounts - 400.3500.57200 Buildings & Improvements		96,300		
* GRAND TOTAL - ALL FUNDS	\$0	\$96,300	\$96,300	\$96,300
· · · · · · · · · · · · · · · · · · ·				

2013-BUDGET-ORDINANCE-03-ADJ-DETAIL Page - 1 of 1

RESOLUTION NO. 029-13

A RESOLUTION AUTHORIZING THE CITY MANAGER, JON BISHER, TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon must submit an application for said project to the Ohio Public Works Commission; and

WHEREAS, the State Capital Improvement Program and the Local Transportation Improvement Program both provide financial assistance to political subdivisions for capital improvements to public infrastructure; and

WHEREAS, the City of Napoleon is planning to make capital improvements to Industrial Drive; and

WHEREAS, the infrastructure improvement herein above described is considered to be a priority need for the community and is a qualified project under the OPWC programs; **Now Therefore**,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the City Manager, Jon Bisher, is hereby authorized to apply to the OPWC funds as described above.

Section 2. That, the City Manager, Jon Bisher, is hereby authorized to enter into any agreements as may be necessary and appropriate for obtaining this financial assistance.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to be able to submit application to OPWC which would effect the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect at the earliest time permitted by law.

Passed:	
	John A. Helberg, Council President
Approved:	
Approved	Ronald A. Behm, Mayor
VOTE ON PASSAGE Yea Nay	_ Abstain
Attest:	

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 029-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of ______ ____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

RESOLUTION NO. 030-13

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A COOPERATIVE AGREEMENT WITH PLEASANT, DAMASCUS, HARRISON, AND MONROE TOWNSHIPS FOR THE TOWNSHIP ROADS C2, B1, 5A, 12, K AND INDUSTRIAL DRIVE PROJECT; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon desires to participate in the Industrial Drive Project; and,

WHEREAS, the City of Napoleon must enter into a cooperative agreement to submit an application for said project to the Ohio Public Works Commission; Now Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the City Manager is authorized enter into a cooperative agreement with Pleasant, Damascus, Harrison, and Monroe Townships for the Township roads C2, B1, 5A, 12, K, and Industrial Drive Projects.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to be able to submit application to OPWC which would effect the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

John A. Helberg, Council President

Approved: _____

Ronald A. Behm, Mayor

VOTE ON PASSAGE _____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 030-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____

_____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

RESOLUTION NO. 031-13

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CLEMANS, NELSON AND ASSOCIATES, INC., FOR PROFESSIONAL SERVICES REGARDING CONSULTATION FOR COLLECTIVE BARGAINING ISSUES AND OTHER PERSONNEL ISSUES; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon does have all three union contracts about to expire; and,

WHEREAS, the City of Napoleon, at this time, does not have any Human Resource personnel; and,

WHEREAS, the City is now desirous of contracting with Clemans, Nelson and Associates for their professional services to assist in the collective bargaining process, and other personnel issues, Now Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the City Manager is authorized to enter into a contract with Clemans, Nelson and Associates Inc., for their professional services to assist in the collective bargaining process.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible to enter into the contract and to start preparation for the collective bargaining process which would effect the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

John A. Helberg, Council President

Approved: _____

Ronald A. Behm, Mayor

VOTE ON PASSAGE _____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 031-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of ______ ____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

RESOLUTION NO. 023-13

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH COURTNEY AND ASSOCIATES FOR PROFESSIONAL SERVICES REGARDING THE ELECTRIC RATE AND FUNCTIONALIZED COST OF SERVICE STUDY

WHEREAS, the City of Napoleon does, from time to time, update and review its Electric Rate and Functionalized Costs of Service Study; and,

WHEREAS, this review of Electric Rate and Functionalized Costs of Services is helpful for creating fair and equitable utility rates; and,

WHEREAS, the City is now desirous of contracting with Courtney and Associates for their professional services to conduct the Electric Rate and Functionalized Costs of Service Study update, Now Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the City Manager is authorized to enter into a contract with Courtney and Associates for their professional services regarding the Electric Rate and Functionalized Costs of Service Study update.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, this Resolution be in full force and effect at the earliest time permitted by law.

Passed: _____

John A. Helberg, Council President

Approved: _____

Ronald A. Behm, Mayor

VOTE ON PASSAGE _____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 023-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of ______ ____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services (this "Agreement"), made as of ______, 20____, by and between the **City of Napoleon, Ohio** (the "City"), whose contact person shall be designated below or successor, and **Courtney & Associates** (the "Consultant"), whose contact person and address are set forth below.

Whereas, the City is operating under its Charter, Ordinances, Resolutions and Chapter 153 of the Ohio Revised Code and it is the intention of the City to obtain professional services for the following project (the "Project"):

Project Name:	Electric Rate and Functionalized Cost of Service Study
City Contract No.	2013-09
City Contact: Address:	Jon A. Bisher 255 W. Riverview Avenue P.O. Box 151 Napoleon, Ohio 43545-0151
Consultant: Contact: Address:	Courtney & Associates John T. Courtney (Project Manager) 1016 North Blanchard Street, Suite A P.O. Box 676 Findlay, Ohio 45839

WHEREAS, the Client desires to enter into an Agreement for Professional Services; and

WHEREAS, Courtney & Associates is in the business of providing professional services as required under the terms of this Agreement;

Now, THEREFORE, in consideration of the mutual promises herein contained, the City and the Consultant agree as follows:

ARTICLE 1 RESPONSIBILITIES OF CONSULTANT

- 1.1 Consultant's Services
 - 1.1.1 <u>Scope of Services; Applicable Law.</u> The Consultant shall provide professional services for the project in accordance with the terms of this Agreement. The Consultant shall provide such services in accordance with the applicable provisions of the City's Charter, Ordinances and Resolutions, the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations, and the Contract Documents for the Project, as in effect from time to time.

- 1.1.2 <u>Project Budget.</u> The total amount available for the completion of the requested services within this Project is **Twenty Thousand Dollars** (**\$20,000.00**) (the "Budget"). The Budget shall not be exceeded without the written consent of the City. The City shall provide written notice to the Consultant of any change in the Budget.
- 1.1.3 <u>Timeliness; Standard of Care.</u> The Consultant shall perform the Consultant's services in accordance with professional standards of skill, care and diligence in a timely manner in accordance with the Project Schedule, insofar as is practicable. The Consultant will provide a detailed schedule of efforts related to the Project prior to commencing with efforts related to the Project.
- 1.1.4 <u>Personnel.</u> No principal individuals, other than John Courtney (Project Manager), shall complete primary roles and tasks related to the Consultant's services without the written consent of the City.
- 1.1.5 <u>Non-Discrimination</u>. The Consultant represents that the Consultant is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.
- Consultants. The Consultant may provide services through one or more 1.1.6 Subconsultants employed by the Consultant (the "Subconsultants"), provided, however, the Consultant shall remain responsible to the City for all duties and obligations of the Consultant under this Agreement. Unless waived or otherwise modified by the City upon written request of the Consultant, no Subconsultant shall be retained without the approval of the City or upon terms inconsistent with this Agreement. The Consultant shall provide the City with the names and qualifications of any proposed Subconsultant, together with a description of the services to be provided by such Subconsultant for approval. Once approved by the City, the identity of any Subconsultant and the extent of such Subconsultant's participation in performing the Consultant's services shall not be altered without the written consent of the City. Upon the request of the City, the Consultant shall terminate the employment of any Subconsultant. The City may communicate with any Subconsultant either through the Consultant directly with the Subconsultant, with notice to the Consultant.
- 1.1.7 <u>Ethics Laws</u>. The Consultant represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.
- 1.1.8 <u>Limitation of Authority.</u> The Consultant shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Consultant shall not have any authority to authorize any Contractor or Subconsultant to perform additional or extra Work for which the Contractor or Subconsultant will seek compensation. The Consultant shall have authority to act on behalf of the City only to the extent provided herein. The

Consultant's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

1.1.9 <u>Approval or Disapproval of Consultant's Services.</u> The City shall have the right to reasonably disapprove any portion of the Consultant's services for the Project, including, without limitation, any reports or documents prepared by the Consultant. The failure of the City to disapprove does not constitute City approval nor shall it add liability to the City or relieve the Consultant of liability. In the event that any task of the Consultant's services is disapproved by the City, the Consultant shall proceed, when requested by the City, with revisions to the services or documents prepared or performed for that task to attempt to satisfy the objections. The Consultant acknowledges that any review or approval by the City of any services or documents prepared or performed by the Consultant pursuant to this Agreement shall not relieve the Consultant of the Consultant's responsibility to properly and timely perform such services and prepare such documents.

ARTICLE 2 SCOPE OF CONSULTANT'S BASIC SERVICES

2.1 <u>General</u>

The Consultant shall provide the Basic Services to this project as identified in Appendix B. Appendix B is incorporated by reference to the terms and conditions set forth in this Agreement.

ARTICLE 3 ADDITIONAL SERVICES

3.1 <u>General</u>

Consultant will provide additional services as requested by the City as are necessary during the development of the project and as set forth in writing by the City to Consultant. Additional services provided by Consultant will be charged on the basis of the Fee Schedule set forth in Appendix A attached to this Agreement. Appendix A is incorporated by reference to the terms and conditions set forth in this Agreement. Any additional services provided shall be reflected by amendment to the Scope of Services or by addendum in writing to this Agreement.

ARTICLE 4 RESPONSIBILITIES OF THE CITY

- 4.1 <u>Required Actions.</u> The City shall review, approve or take such actions as are required of the City by this Agreement and applicable law in a timely manner
- 4.2 <u>Notification</u>. The City shall provide all criteria and full information as to Consultant's requirements for the project; a designated person to act with authority on the City's behalf and respect to all aspects of the project; examine and respond promptly to Consultant's submissions; and give prompt, written notice to Consultant whenever the City observes or otherwise becomes aware of any defect or objection in the work.

ARTICLE 5 COMPENSATION

5.1 <u>Compensation</u>. Compensation shall be paid by the City to the Consultant for Basic Services, Additional Services and expenses as provided in Appendix "A" attached and made a part of this Agreement, in an amount not to exceed **Twenty-Thousand** (\$20,000.00) Dollars. Invoices will be paid within thirty (30) days of invoice submittal to the City and the orderly and continuous progress of the Project.

ARTICLE 6 INSURANCE AND INDEMNIFICATION

6.1 <u>Insurance</u>

- 6.1.1 <u>Casualty Insurance</u>. Except when a modification is requested in writing by the Consultant and approved in writing by the City, the Consultant shall carry and maintain at the Consultant's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:
 - a.) Worker's Compensation and employer's liability insurance to the full extent as required by applicable law;
 - b.) Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage in not less than the following amounts:
 - i. General Aggregate Limit: \$2,000,000;
 - ii. Each Occurrence Limit: \$1,000,000; and
 - c.) Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.
- 6.1.2 Professional Liability Insurance. Except when a waiver is requested in writing by the Consultant pursuant to Section 153.70 of the Ohio Revised Code and approved in writing by the City, the Consultant shall maintain insurance to protect against claims arising from the performance of the Consultant's services on the Project caused by any negligent acts, errors or omissions for which the Consultant is legally liable ("Professional Liability Insurance"). Except when a modification is approved by the City in writing, such Professional Liability Insurance shall be in an amount not less than One Million Dollars (\$1,000,000) per claim and in the annual aggregate. The Consultant shall endeavor to keep such insurance in effect for so long as the Consultant may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Consultant commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

- 6.1.3 <u>Certificates.</u> The Consultant shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days prior written notice to the City.
- 6.2 <u>Indemnification</u>
 - 6.2.1 <u>Indemnification by Consultant Generally.</u> To the fullest extent permitted by law, the Consultant shall and does agree to indemnify and hold harmless the City and the City's members, officials, officers, employees and representatives from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including reasonable attorney's fees and other costs of defense), of any nature, kind or description, which arise out of, are caused by or result from performance of the Consultant's services hereunder and are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use and consequential damages resulting therefrom, but only to the extent that they are caused by any negligent acts, errors or omissions of the Consultant, anyone directly or indirectly employed by the Consultant or anyone for whose acts the Consultant may be legally liable.
 - 6.2.2 <u>Intellectual Property Indemnification.</u> To the fullest extent permitted by law, the Consultant shall and does agree to indemnify and hold harmless the City and the City's members, officials, officers, employees and representatives from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including reasonable attorney's fees and other costs of defense), of any nature, kind or description, which result from any claimed infringement of any copyright, patent or other intangible property right by the Consultant, anyone directly or indirectly employed by the Consultant or anyone for whose acts the Consultant may be legally liable.
 - 6.2.3 <u>Paragraphs</u> 6.2.1, 6.2.2 and this 6.2.3 shall survive termination of this Agreement.

ARTICLE 7 DISPUTE RESOLUTION PROVISIONS

- 7.1 <u>Mediation</u>. Instead of, or in addition to, the procedures set forth below, the City and the Consultant may, by written agreement, submit any claims, requests, disputes or matters in question between them to non-binding mediation upon such terms as shall be mutually reasonably agreeable.
- 7.2 <u>Notice and Filing of Requests.</u> Any request by the Consultant for additional fees or expenses shall be made in writing to the City and filed prior to payment of the final five percent (5%) of the Basic Fee.
- 7.3 <u>Request Information.</u> In every written request filed pursuant to Paragraph 7.2, the Consultant shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing

activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

- 7.4 <u>Meeting With Authorized Representative.</u> If the Consultant files a written request with the City pursuant to Paragraph 7.2, the Authorized Representative shall, within forty-five (45) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by persons expressly and fully authorized to resolve the request on behalf of the Consultant.
- 7.5 <u>Appeal To City Council.</u> If the efforts of the Authorized Representative do not lead to resolution of the request, the Consultant may appeal to the City Council by notice in writing. The Consultant shall be permitted to appear at the next meeting of City Council at which the Consultant's appeal can be reasonably scheduled. The decision of the City Council shall be the final and conclusive determination of the City, subject to litigation in a court of competent jurisdiction.
- 7.6 <u>Delegation</u>. No provision of this Article shall prevent the Authorized Representative from delegating the duties or authorities of the Authorized Representative to any other person selected at the discretion of the Authorized Representative.
- 7.7 <u>Performance.</u> The Consultant shall proceed with the Consultant's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Consultant and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Article.

ARTICLE 8 TERMINATION AND REMEDIES

- 8.1 <u>Termination of Agreement</u>
 - 8.1.1 <u>Means of Termination.</u> This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Consultant shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing and submitting a voucher for all reasonably undisputed amounts due to the Consultant within ten (10) days of receipt of the Consultant's written notice to terminate. This Agreement may be terminated by the City, in whole or in part, without cause upon fifteen (15) days written notice to the Consultant. This Agreement may be terminated at any time upon the mutual consent of the City and the Consultant.
 - 8.1.2 <u>Consultant's Remedies Upon Termination by City Without Cause or Termination</u> <u>by Consultant.</u> In the event of a termination which is not due to the failure of the Consultant to perform in accordance with the terms of this Agreement, the Consultant shall be compensated for all Basic Services and Additional Services performed prior to the termination date together with Reimbursable Expenses incurred prior to the termination date.

- 8.1.3 <u>Consultant's Remedies Upon Termination by City for Cause</u>. In the event of a termination which is due to the failure of the Consultant to perform in accordance with the terms of this Agreement, the Consultant shall be compensated only for the actual documented time for the execution of the Basic Services performed and paid for prior to the termination date, together with the Additional Services completely performed prior to the termination date. In such event, the Consultant shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.
- 8.1.4 <u>Consultant's Remedies Upon Termination by Mutual Consent.</u> In the event of a termination upon the mutual consent of the City and the Consultant, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.
- 8.1.5 <u>Post-Termination Matters.</u> If the City and the Consultant agree that any services are to be performed for the Project by the Consultant after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

8.2 <u>Remedies</u>

- 8.2.1 <u>Cumulative Remedies.</u> No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy provided to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Consultant by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, no remedy conferred upon the Consultant by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Consultant shall be cumulative and shall be in addition to any other remedy given to the Consultant hereunder or now or hereafter existing.
- 8.2.2 <u>Remedies Not Waived.</u> No delay, omission or forbearance to exercise any right, power or remedy accruing to the City or the Consultant hereunder shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power or remedy may be exercised from time to time and as often as deemed expedient.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.1 Ownership And Use Of Documents

- Property Of City. Documents prepared by, or with the cooperation of, the 9.1.1 Consultant or any Subconsultant pursuant to this Agreement including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Consultant or Subconsultant, as applicable, may retain copies, including reproducible copies of such documents for information and reference. Such documents may be used by the City or others employed by the City for reference in any completion, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Consultant or Subconsultant. Such documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Consultant or Subconsultant, as applicable. If an event occurs for which the Consultant or Subconsultant may be liable, the City shall notify the Consultant or Subconsultant of such event as soon as practical after such event. This Subparagraph shall survive termination of this Agreement.
- 9.1.2 <u>Consultant's Intellectual Property.</u> All inventions, patents, design patents and computer programs acquired or developed by the Consultant in connection with or relation to the Project shall remain the property of the Consultant and shall be protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Consultant.

9.2 <u>Public Relations</u>

Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Consultant shall not use the City's name or seal, nor any adoption thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

9.3 <u>Records</u>

The records of all of the Consultant's employees' time devoted to the Project shall be kept on a generally recognized accounting basis and shall be available to the City upon written request and shall be maintained for seven (7) years after Final Acceptance of the Project by the City. All other records kept by the Consultant related to the Project shall be available to the City upon written request and shall be maintained for six (6) years after Final Acceptance of the Project by the City.

9.4 Successors And Assigns

The City and the Consultant, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The
Consultant shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

- 9.5 Extent Of Agreement
 - 9.5.1 <u>Entire Agreement.</u> This Agreement represent the entire and integrated agreement between the City and the Consultant and supersede all prior negotiations, representations or agreements, either written or oral.
 - 9.5.2 <u>Amendments.</u> This Agreement may be amended only by an amendment prepared by the City and signed by both the City and the Consultant.
 - 9.5.3 <u>Multiple Counterparts.</u> This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.
 - 9.5.4 <u>Captions.</u> The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.
 - 9.5.5 <u>Precedence.</u> If there are any inconsistencies between the provisions of the Contract Documents and the provisions of the Announcement of this Agreement, the provisions of the Contract Documents shall prevail.
 - 9.5.6 <u>Conditions To Validity.</u> None of the rights, duties and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with and all necessary funds are available.
 - 9.5.7 <u>Conflict.</u> In the event of conflict between this Agreement provisions, Article 1 thru 9 and Appendix B, said Article 1 thru 9 shall prevail.
- 9.6 <u>Governing Law</u>
 - 9.6.1 <u>Law Of Ohio.</u> This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Henry County, Ohio Court of Common Pleas shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.
 - 9.6.2 <u>Capitalized Terms.</u> Capitalized terms in this Agreement shall have the same meaning as those defined herein or unless another meaning is indicated by the context.
- 9.7 <u>Notices</u>
 - 9.7.1 <u>Addresses.</u> All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the entity for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, or sent by facsimile transmission or electronic mail to the appropriate following address:

If to the City:	Jon A. Bisher City Manager City of Napoleon 255 W. Riverview Avenue P.O. Box 151 Napoleon, Ohio 43545
If to the Consultant:	John T. Courtney Project Manager Courtney & Associates 1016 North Blanchard Street, Suite A P.O. Box 676 Findlay, Ohio 45839

- 9.7.2 <u>Additional Notices.</u> A copy of all notices, certificates, requests or other communications to the City shall be sent to the Authorized Representative.
- 9.7.3 <u>Electronic Transmission.</u> For convenience of communication only, notices, certificates, requests or other communications hereunder of fewer then ten (10) pages, except requests for payment, may be sent by facsimile transmission to the City at (419) 599-8393 or electronic mail at jbisher@napoleonohio.com to the Consultant at (419) 425-2118 or john@courtney-associates.com. Notices, certificates, requests or other communications sent by facsimile transmission shall not be deemed to be given unless confirmed, actually received or a counterpart is received or mailed. Requests for payment may be sent to the City by facsimile transmission or electronic mail only upon specific direction from the City.
- 9.7.4 <u>Emergencies.</u> In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Consultant shall endeavor to immediately notify the City by telephone and simultaneously provide any notification required by federal, state or local laws.
- 9.7.5 <u>Change Of Address.</u> The City or the Consultant may, by notice given hereunder, designate any further or different addresses, telephone numbers, facsimile numbers or electronic mail addresses to which subsequent notices, certificates, requests or communications shall be sent.

9.8 <u>Severability</u>

If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

9.9 Kickbacks.

The parties to this Agreement shall not provide, attempt to provide, offer to provide, solicit, accept, or attempt to accept any kickback nor will it provide, attempt to provide, offer to provide, solicit, accept, or attempt to accept any kickback during the term of this Agreement; nor shall it knowingly include, directly or indirectly, the amount of any kickback in the estimated cost of the project, nor will it knowingly include, directly or indirectly, the amount of any kickback into any request for reimbursement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Courtney & Associates, "Consultant"

By:___

John T. Courtney Title: Owner

City of Napoleon, "City"

By:___

Jon A. Bisher, Title: City Manager

Approval:

The legal form and correctness of the written document is hereby approved.

Trevor M. Hayberger Law Director

CERTIFICATE OF FUNDS

In the matter of: Electronic Rate and Functionalized Cost of Service Study Contract No. 2013-09 Agreement With: Courtney & Associates

Certificate of Fiscal Officer

The undersigned, being the Finance Director of the City of Napoleon, Ohio, hereby certifies that in the case of this continuing contract to be performed in whole or in part in an ensuing fiscal year, the amount required to meet the obligation in the fiscal year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

by:__

Gregory J. Heath Finance Director

APPENDIX A

COMPENSATION OF CONSULTANT

- A1.) <u>Standard Billing Rate</u>
 - A1.1) <u>Standard Billing Rate</u>. Consultant shall be compensated for services provided in connection with this project at Consultant's standard billing rates set for in Attachment A in an amount Not to Exceed Twenty Thousand (\$20,000.00) Dollars. The rates set for in Attachment A may only be modified by mutual written agreement of the parties.
 - A1.2) <u>Subconsultant Costs.</u> Additional compensation for the Subconsultant costs not specifically defined within the Scope of Services will be charged on an hourly rate basis, without additional markup, at rates agreed upon by the City and Consultant in writing prior to commencing any additional services.
 - A1.3) <u>Records</u>. Records of the Consultant's and its Subconsultant's employees for such hours of their time as are devoted to performing services to the Project shall be maintained by the Consultant.
 - A1.4) <u>Limit</u>. The Consultant and its Subconsultant shall use all reasonable means to minimize employees' time devoted to performing services under this Agreement.
- A2.) <u>Reimbursable Expenses</u>
 - A2.1) <u>Definition</u>. Except as provided in this attached Proposal, Reimbursable Expenses means actual expenditures with no markups, incurred by the Consultant or its Subconsultants in the interest of the Project approved by the City for travel expense other than for community between the Consultant offices and the Project, lodging, subsistence and reproduction of documents obtained from persons other than the City. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.
 - A2.2) <u>Limits</u>. The Consultant shall use all reasonable efforts to minimize Reimbursable Expenses.
 - A2.3) <u>Reimbursable Expenses Prohibited.</u> Reimbursable expenses will only be permitted when related to an additional service request.
- A3.) Basis of Compensation
 - A3.1) <u>Basic Fee</u>. For Basic Services provided by the Consultant and all Subconsultants, the City shall pay the Consultant a Basic Fee in accordance with Article 5 Paragraph 5.1. A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.
 - A3.2) <u>Additional Fees</u>. For Additional Services provided by the Consultant and any Subconsultants in accordance with Article 3 of this Agreement, the City shall pay the Consultant Additional Fees based upon the fee schedule as provided for in this Agreement incurred by the Consultant and any applicable Subconsultant in providing those Additional Services. Additional Fees may

be approved only by an amendment in accordance with Subparagraph 9.5.2.

- A3.3) <u>Extent of Basic Fee</u>. The Consultant's Basic Fee includes all compensation for Basic Services, including without limitation, for direct personal expenses, for salaries or other compensation of the Consultant's employees at the principal office, branch offices and the field office, general operating expenses of the Consultant's principal office, branch offices and the field office, general operating expenses of the Consultant's principal office, branch offices and the field office, branch offices and the field office, general operating expenses of the Consultant's principal office, branch offices and the field office, any part of the Consultant's capital expenses, including interest on the Consultant's capital employed for the Project, overhead or expenses of any kind, any costs incurred due to the negligence of the Consultant, the Consultant's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.
- A3.4) <u>Total Compensation</u>. The total compensation of the Consultant and all the Subconsultants shall consist of the Basic Fee, any authorized Additional Fees and Reimbursable Expenses.
- A4.) Method and Terms of Payment
 - A4.1) <u>Basic Fee</u>. Payment of the Basic Fee shall be made monthly in proportion to services performed in each task in accordance with the documented efforts completed by the Consultant.
 - A4.2) <u>Additional Fees, Reimbursable Expenses</u>. Payments of Additional Fees for Additional Services in accordance with Article 3 and Subparagraph A3.2) and for Reimbursable Expenses as set forth in Paragraph A2.) shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown upon statements prepared and submitted by the Consultant in such detail as the City may reasonably require to enable the City to verify, evaluate and approve them.
 - A4.3) <u>Payments by Consultant</u>. Within fourteen (14) business days of receipt of payment made pursuant to this Agreement, the Consultant shall pay all portions thereof due to Subconsultants and to Persons who provided items the expenses of which are Reimbursable Expenses.
 - A4.4) <u>Compensation for Extension of Project Time</u>. If the Consultant notifies the City not less than thirty (30) days prior to the time for completion of the Project that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Consultant, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Consultant. If, as a result of such negotiation, the City agrees that the Consultant shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 before the Consultant renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.



CITY OF NAPOLEON, OHIO

255 West Riverview Avenue • PO 151 • Napoleon, Ohio 43545-0151 Gregory J. Heath, Director of Finance/Clerk of Council phone (419) 599-1235 fax (419)-599-8393 Web Page: www.napoleonohio.com E-mail: gheath@napoleonohio.com

DATE: April 26, 2013

TO: Members of City Council Members of BOPA Dr. Jon A. Bisher, City Manger Trevor Hayberger, Law Director

FROM: Gregory J. Heath, Finance Director/Clerk of Council

SUBJECT: Utility Bill Assistance – CARE Funding Program

With the economic issues that have existed the past few years, requests for Financial Assistance to help pay for Utility Bills have steadily increased. When individuals make requests for Financial Assistance to the City our staff refers them to following Social Service Agencies:

Agency	<u>Funding</u>
- NW Ohio Community Action	Federal, State and Local Funding
- FISH	United Way Funding
- Salvation Army	Donations
- St. Vincent DePaul Church	Donations

Due to the increased demand for assistance, these agency resources become strained at certain times. To help in funding these programs I am aware that other Cities have established funding mechanisms for providing funds to assist their Social Service Agencies to meet the need of those requesting assistance.

Please "*SEE ATTACHED*" information from the City of Oberlin, Ohio, on a program they established in 2005. The basis of the program is to "Round Up" Utility Bills to the nearest even dollar and then pay these funds into a Caring Fund. Distributions of the funds are independent of the City and are run by a Social Service Agency through a contract with the City.

Example: Utility Bill \$100.01 – Rounded to \$101.00, so \$0.99 is paid into the CARE Fund. Utility Bill \$100.99 – Rounded to \$101.00, so \$0.01 is paid into the CARE Fund.

This program is VOLUNTARY (Not Mandatory) to the Customer, and would require signup by those interested in participating in the program.

I am requesting this be assigned to the Electric Committee of Council and the BOPA for review.

Thank you.

ATTACHMENT



December 5, 2005

City of Oberlin Utility Customer:

We are excited to announce the Caring Fund Rounding Up Program that you will see on your January utility bill. Your bill will include a "CARE" amount. This represents the amount that your bill was rounded up to the next whole dollar, a maximum amount of .99 cents to a minimum of .01 cent per month. This amount will then be deposited into the Caring Fund.

The Caring Fund was established many years ago with the sole purpose of assisting Oberlin utility customers who are experiencing financial hardship such as loss of income, illness, or death of a family member. Oberlin Community Services determines eligibility for these funds.

If you would like to contribute more than the rounded amount (.01-.99 cents) each month, simply complete and sign the section below for a fixed amount to be added to your bill each month

If you choose to "Opt out" of the Caring Fund Rounding Up Program, you can remit the second stub below to the City of Oberlin Finance office, 69 South Main St., Oberlin, 44074 or call 440-775-7214 or 440-775-7211.

City of Oberlin

I would like to have \$	added to my utility bill each month to benefit the Ca	ring
Fund.		

Signature

Date

Account #

I wish to opt out of the rounding program that will be used to help utility customers in need as described above.

Name

Account #

Address

Date

"Ohio's Best College Town" --OHIO Magazine



Oberlin Community Services

285 S. Professor St. Oberlin, OH 44074 (440) 774-6579

<u>General Guidelines for Use of Caring Fund Monies by</u> <u>Oberlin Community Services Personnel.</u>

Utility assistance constitutes the largest expenditure category for Oberlin Community Services. The Caring Fund is an extremely valuable resource for providing utility assistance for Oberlin residents. OCS certifies residents who meet income guidelines and have a City utility shut-off notice to receive utility assistance through the City of Oberlin's Caring Fund.

- OCS uses an intake process that is consistent with that used for our other emergency assistance programs. All applicants must show proof of identity, Oberlin City residence and verification of family income. In addition, they must provide utility shut-off notices and any relevant bills.
- As with other funds and resources, all Caring Fund assistance decisions are made on a case-by-case basis. Consideration is given to the amount requested, the amount of the total bill, size of the family, other resources used and sustainability of the current household situation.
- Clients are generally limited to one assistance per year from the Caring Fund, unless OCS personnel determine that there are extenuating circumstances that would justify an additional payment.
- Clients are referred to Lorain County Community Action Agency first, when that organization has funds available. If appropriate, clients are also referred to other organizations that might be able to provide utility assistance.
- Payment history and accounts receivable information is always requested from the city and reviewed by the caseworkers prior to any disposition of funds.
- Funds are dispensed after a process of consultation between the caseworker(s) and client. Final decisions are made prior to shut off dates by the members of the client services team. Clients are encouraged to do a co-pay on their utilities and casework is done with the client to try to avoid repeat instances of need for assistance.
- Caseworkers maintain a monthly log for City of Oberlin utility requests showing what was requested and the disposition of each case.
- OCS keeps appropriate records, similar to those used for other emergency assistance programs. Caseworkers keep a running tally of dollars expended from the Caring Fund so as to maintain an acceptable balance in the fund at all times.

Memorandum of Understanding between the City of Oberlin and Oberlin Community Services regarding administration of the Caring Fund

- 1. The City of Oberlin hereby contracts with Oberlin Community Services (OCS) to certify low- to moderate-income residents who have a City utility shut-off notice and meet income guidelines to receive utility assistance through the City of Oberlin's Caring Fund.
- 2. OCS will use an intake process that is consistent with that used for our other emergency assistance programs. All applicants must show proof of identity, Oberlin City residence, and family income. In addition, they must supply utility shut-off notices, relevant bills, and information on payment history. Attached are the General Guidelines to be utilized for the application process.
- 3. After the application process is complete and the resident is approved for assistance from the Caring Fund, OCS will notify the City to use the Caring Fund to cover a designated amount of the resident's City utility bill.
- 4. OCS will keep appropriate records, similar to those used for other OCS emergency assistance programs.
- 5. OCS shall carry public liability insurance in an amount and form as approved by the City, and agrees to hold harmless and indemnify the City from any and all losses, claims, damages, and judgments that may arise out of this contract or any of the activities contemplated herein.
- 6. This contract may be terminated by either party upon seven (7) days notice.

For Oberlin Community Services:

E Kulu

Ann L. Fuller Executive Director

For the City of Oberlin:

Robert DiSpirito City Manager

Approved as to Form: 9-13-26

Eric R. Severs Oberlin Law Director

ORDINANCE NO. 05-63 AC CMS

AN ORDINANCE ESTABLISHING A UTILITY BILLING "ROUNDING-UP" PROGRAM FOR THE CITY OF OBERLIN, FORMALLY ESTABLISHING A FUND FOR ALL MONIES RECEIVED AS A RESULT OF THE PROGRAM, AND DIRECTING THAT ALL FUNDS SO RECEIVED BE UTILIZED TO ASSIST OBERLIN UTILITY CUSTOMERS WITH THE PAYMENT OF THEIR UTILITY BILLS

WHEREAS, the City of Oberlin has previously established a utility "Caring Fund" to assist needy Oberlin utility customers with the payment of their Oberlin utility bills; and

WHEREAS, the City desires to expand that program by establishing a utility billing "Rounding-Up" program so that additional monies will be available to assist Oberlin utility customers with the payment of those bills.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That the City of Oberlin does hereby establish a utility billing "Rounding-Up" Program for its utility bills, which means that each bill of any City of Oberlin utility customer will be "rounded-up" to the next whole dollar.

SECTION 2. That all monies generated as a result of the City of Oberlin utility billing "Rounding-Up" Program, and any other donations received for the same purpose, shall be deposited into a separate fund which shall be called the City of Oberlin "Caring Fund", and said fund is hereby so established.

SECTION 3. That all monies deposited into the City of Oberlin Caring Fund shall be utilized to assist needy Oberlin utility customers with the payment of their City of Oberlin utility bills.

SECTION 4. That any City of Oberlin utility customer that does not desire to participate in the City of Oberlin utility billing "Rounding-Up" Program shall have the right to "opt out" of the program. The City Finance Director shall establish regulations relating to the program.

SECTION 5. That the City of Oberlin utility billing "Rounding-Up" Program shall commence with the January, 2006, utility bills.

Page 2 – ORDINANCE NO. 05-63 AC CMS

SECTION 6. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were held in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7. That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading - September 6, 2005 2nd Reading - September 19, 2005 3rd Reading - October 3, 2005 (Effective in 30 days)

ATTEST:

POSTED:

COUNCIL PRESIDENT OF

EFFECTIVE DATE: October 3, 2005

October 3, 2005

a:/ORD05-63.RoundingUp



CITY OF NAPOLEON, OHIO

255 West Riverview Avenue • PO 151 • Napoleon, Ohio 43545-0151 Gregory J. Heath, Director of Finance/Clerk of Council phone (419) 599-1235 fax (419)-599-8393 Web Page: www.napoleonohio.com E-mail: gheath@napoleonohio.com

DATE: June 17, 2013

TO: Members of City Council Ronald A. Behm, Mayor Dr. Jon A. Bisher, City Manager Trevor M. Hayberger, City Law Director

FROM: Gregory J. Heath, Finance Director/Clerk of Council

SUBJECT: 2014 Tax Budget – Public Hearing, July 1, 2013 at 6:55 PM

Attached herewith is a copy of the Proposed 2014 Tax Budget for review at the Public Hearing scheduled for July 1, 2013 at 6:55 PM at City Hall.

Previously, under the ORC statutory code 5705.25, Departments, Divisions, Boards and Commissions would be requested to submit an estimate of contemplated Revenues and Expenditures for 2014 by the 1st of June for inclusion in the 2014 Tax Budget. These numbers would be utilized by the Budget Commission (County Auditor, County Treasurer and County Prosecutor) to determine the allocation of the Undivided Local Government Fund.

However, as allowed by statute, the Political Subdivisions within the County a number of years ago adopted an *Alternate Method* for the allocation of the Undivided Local Government Fund. Now the primary purpose of the Tax Budget is determination of need and use of the Unvoted Inside Ten (10) Mill Property Tax Allocation, plus any Voted Property Taxes. The City currently does not have any Voted Property Taxes.

The purpose of the Public Hearing is to review the Unvoted Inside Ten (10) Mill Tax Rates as allocated to the City and listed in the 2014 Tax Budget.

Thank you.

Aleath

Gregofy J. Heath, ' Finance Director/Clerk of Council

County Auditors Form No 32(Rev.3-90)- Prepare in Triplicate

On or before July 20th two copies of this Budget must be submitted to County Auditor

Henry County, Ohio June 17 ₂₀13 Office of NAPOLEON CORP, _____

To the County Auditor: City The Council of Said-Village hereby submits its annual Budget for the year commencing January 1st, 20 for consideration of the county budget Commission pursuant to Section 5705.30 of the Revised Code.

Whatate Fiscal Officer

City

County Auditor

Gregory J. Heath, **Finance Director/Clerk of Council** City of Napoleon, Ohio

2014 TAX BUDGET

County Treasurer

County Prosecuting Attorney

Schedule A

SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION AND COUNTY AUDITOR'S ESTIMATED TAX RATES

ty of Napoleon, Ohio		1		Г			County	Auditor's	
City Tax Valuation: \$144,228,20 FUND	50 Mills	comi	ount approved by Budget mission Inside M Limitation		Amount to be derived from Levies Outside 10 M Limitation		Inside 10 M Limit	side 10 M Outside 10 M	
1. General Fund	2.0	\$	288,457	Γ		Π		-	
4. Road and Bridge Fund									
5. Cemetery Fund									
9. Police District Fund	0.6	\$	86,537						
10. Fire District Fund	0.3	\$	43,269						
11. Road District Fund									
12. Park Levy Fund									
14. Miscellaneous Funds		<u> </u>							
15. General Bond Retirement Fund									
20. Special Levy Funds									
21. Capital Equipment Fund									
28. Ambulance and Emergency Medical Services	und	<u> </u>						-	

\$ 418,263

LEVIES OUTSIDE 10 MILL. LI	MITATION, EXCLUSIV	E OF DEBT LEVIES	
	Τ	County Auditor's Est. or	
FUND	Max. Rate Authorized	Yield of Levy (Carry to	
FUND	to be Levied	Schedule A, Collumn II)	
GENERAL FUND:			
Current Expense Levy authorized by voters on 20			
not to exceed 5 years.			<u></u>
SPECIAL LEVY FUNDS:			
Levy authorized by voters on 20			
not to exceed 5 years			
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SCHEDULE B

COUNTY AUDITER'S ESTINATE

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12/14/12 14:31:19

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28 LIDERTY T/NAPOLEON	34340 971880 1,006	20 2,145510	4,906120	860 7,052490	354920	8,413630
41 HAPOLEON /NAPOLEON	183860100,896100101,079		1,919200	2130 26,237810	675900	127,993670
NAPOLEON CORP Napoleon Corp	386,900 106,781,1 196,394,210	0 28,393,580 0	8,011,030	2,990 36,407,600	L,039,550	144,228,260 0

TAX;				TX/R HILL		REAL Receipts	UTILITY *PERSONAL	GENERAL PROPERTY×	TUTAL Receipts	(includes rollback ants)
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				*****		an this day wat you did not this way the same of the same because on the		
			*****			************		

Do you propose any changes to levies? (please note above)

NOTICE OF PUBLIC HEARING For the City of Napoleon, Ohio 2014 Tax Budget Monday, July 1, 2013 at 6:55 PM

A Public Hearing for the 2014 Tax Budget of the City of Napoleon, Ohio, has been set for Monday, July 1, 2013, at 6:55 PM, in City Hall, 255 West Riverview Avenue, Napoleon, Ohio. The purpose of the Public Hearing is to review the proposed 2014 Tax Budget and the Inside Ten (10) Mill levy rates allocated to the City. Gregory J. Heath Finance Director/Clerk of Council



City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151 Napoleon, OH 43545 Chad E. Lulfs, P.E., P.S., Director of Public Works Telephone: (419) 592-4010 Fax; (419) 599-8393 www.napoleonohio.com

Memorandum

To: From:	Dr. Jon A. Bisher, City Manager Chad E. Lulfs, P.E., P.S., City Engineer
<i>cc</i> :	Mayor & City Council
	Greg Heath, City Finance Director
Date:	June 17, 2013
Subject:	Kenilworth Area Inflow & Infiltration Removal Project (L.T.C.P. Project No. 16B) Approval of Plans & Specifications

The City of Napoleon's Department of Public Works requests approval of the plans and specifications for the Kenilworth Area Inflow & Infiltration Removal Project (L.T.C.P. Project No. 16B). This project consists of replacing the existing sanitary sewer under Oberhaus Creek near Lynne Street, constructing an interceptor storm sewer outletting into Oberhaus Creek near Lynne Street, and replacing the existing 6" waterline crossing under Oberhaus Creek near Lynne Street with a new 8" PVC waterline on Clairmont Avenue. This project is partially funded through a grant from the Ohio Public Works Commission.

Engineer's Estimate of Construction: \$325,000.00. Budgeted amount for this project: \$375,000.00. O.P.W.C. Grant Amount: \$225,000.00 (60% of Final Cost Max.)

CEL

Fw: NAPOLEON (CITY OF) OH

From: "Gregory J Heath" <gheath@napoleonohio.com>

To: "Roxanne Dietrich" <rdietrich@napoleonohio.com>

----Original Message----From: "MOODY'S EPI" <<u>epi@moodys.com</u>> To: <u>gheath@napoleonohio.com</u> Date: 06/10/2013 03:54 PM Subject: NAPOLEON (CITY OF) OH

Moody's Confirms City of Napoleon's (OH) Aa3 General Obligation Limited Tax Rating and Removes the Rating From Review

Aa3 Rating Applies to \$2.75 million of Outstanding General Obligation Debt

NAPOLEON (CITY OF) OH Cities (including Towns, Villages and Townships) Ohio

NEW YORK, June 10, 2013 -- Moody's Investors Service has completed its review and confirmed the City of Napoleon's (OH) General Obligation Limited Tax rating of Aa3. The city has \$2.75 million of GOLT debt outstanding.

SUMMARY RATIONALE

The city's GOLT debt is secured a pledge of all available revenues, including its property tax, subject to the State of Ohio's (GO rated Aa1, stable outlook) 10-mill limitation. The confirmation of the Aa3 reflects the city's significant role as a regional employment centered, despite its moderately sized tax base, stable and healthy financial operations, manageable debt profile, and above average pension liability exposure due to its participation in two state cost-sharing plans.

The city's rating was placed on review due to its large net pension liability relative to its rating category. The review resulted from our new approach to analyzing government pensions. For further detail, please see the April 17, 2013 release, "Moody's announces new approach to analyzing state, local, government pensions; 29 local governments placed under review." The review was completed with a confirmation of the Aa3 rating as we believe the Aa3 rating incorporates the city's sizeable adjusted net pension liability in the context of the city's other long-term credit fundamentals.

STRENGTHS

-Strong role as regional employment center

-Healthy income tax collection trends, despite sluggish economic recovery

-Stable and healthy financial reserves

-Manageable debt burden with limited plans for additional new debt

CHALLENGES

-Modestly sized tax base, with limited potential for future growth

-Sizeable adjusted net pension liability due to city's participation in the Ohio Public Employee Retirement System (OPERS) and Ohio Police and Fire Pension System (OP&F) MODESTLY SIZED TAX BASE SERVES AS IMPORTANT EMPLOYMENT CENTER FOR REGION

The city's modestly sized tax base of just \$410 million in 2010 is expected to remain relatively stable going forward, following a nearly 6% decline as of the most recent revaluation in 2011. Located in Henry County, the city is the home to several major employers for the region, including government, health care, and small manufacturing entities. The city reports that these employers all remain stable. The countywide unemployment rate of 7.8% as of April 2013 exceeds both the state and the U.S. rates for the same time period, however, reflecting ongoing economic challenges and a sluggish recovery. The city's population is also modest, at less than 9,000 as of the 2010 census count, which reflected a 6% decline from the 2000 census count. The city's daytime population is likely much higher, given the high concentration of employers, in contrast to the largely agricultural base in the surrounding county. Top employers that provide over 5% of the city's income tax collections are Tenneco, an auto parts manufacturer, a Campbell soup plant, and the Napoleon City School District. Resident income levels are just below state and national levels, with median family income at 81.4% of the U.S. as of the 2006-10 average, in part reflecting lower cost of living and real estate costs. Overall, the city's economy is expected to remain relatively stable going forward.

CITY'S FINANCIAL OPERATIONS REMAIN STABLE, SUPPORTED BY HEALTHY RESERVE LEVELS

Management policies and demonstrated ability to maintain positive operations point to ongoing healthy financial operations. The city's General Fund reserves and liquidity remain healthy at 34.7% and 22.6% of General Fund revenues, respectively. Healthy reserve levels help to offset the city's dependency on economically sensitive income taxes, which comprise half of combined General Fund and Debt Service Fund revenues. While many Ohio cities with similar dependence on income taxes suffered significant revenue losses and some draws on reserves during the economic downturn, Napoleon successfully stabilized operations with a combination of expenditure controls and revenue enhancements. In 2009, the city increased the income tax rate from 1.2% to 1.5%, with .2% dedicated to recreation. While income tax receipts declined slightly in 2007 and 2008, dropping to \$2.8 million from a high of nearly \$3 million in 2006, the rate increase brought total collections up to nearly \$3.4 million by fiscal 2010. As a result, General Fund balances have remained at approximately \$2 million.

The city's other funds also remain relatively healthy, with water and sewer funds projecting improved unrestricted cash reserves following recent healthy rate increases. To further increase efficiencies, the city is also in the process of consolidating its water treatment process with neighboring communities by creating a separate authority. While not yet finalized, the sharing of treatment costs will help moderate direct costs to the city. Debt service for the new authority are expected to be paid by direct assessments to customers throughout the authorities service area, with additional fees paid by the city on a contractual basis. The city will continue to provide distribution services within its boundaries.

The city's proactive approach to maintaining healthy finances through enhancing revenues when necessary and seeking operational efficiencies are an important factor in our expectation of healthy and stable finances going forward.

MODEST DEBT BURDEN EXPECTED TO REMAIN MANAGEABLE

The city's net debt burden is minimal at 0.5% and 0.9% of full value for direct and overall debt burden, respectively. The city's direct debt is largely paid from water and sewer revenues and assessments. Amortization of principal is rapid with 90.2% of principal repaid in the next 10 years. At this time, the city has no plans to issue new direct debt. There is one series of notes outstanding for \$2.5 million, which was issued as part of the financing for the water treatment facility for the new regional water authority. The notes are expected to be repaid with a grant from the USDA Rural Development Authority. Additional debt for the water treatment plant will be issued by the new regional water authority and will not be a direct obligation of the city. The city has no variable rate debt and is not party to any derivative agreements.

CITY'S PENSION LIABILITY ABOVE AVERAGE, BUT EXPECTED TO REMAIN MANAGEABLE FOR THE MEDIUM TERM

The city has a high employee pension burden as measured by its allocated share derived from its participation in two multi-employer plans administered by the state. Moody's has allocated the total liabilities of the state cost-sharing plans in proportion to the city's contributions to each plan for analytic purposes. The city's share of the unfunded accrued liabilities as reported by each plans consist of an estimated \$6.2 million share of OPERS and \$3.1 million share of the OP&F plan, as of the actuarial valuation dates of December 31, 2010 and January 1, 2011, respectively. The city's annual contribution to the retirement systems in fiscal 2011 was \$931 thousand, less payments borne by the city's water, sewer and electric enterprise funds. This payment was equal to 17% of operating revenues. We note that the state implemented retirement system benefit reforms effective as of January 2013 that are intended to lower unfunded liabilities and moderate otherwise projected growth in annual costs, although we expect unfunded liabilities to still remain high. Favorably, the reforms enacted did not require increased contributions from employers, insulating the city from any increased expenditures related to pension funding for the medium term.

Moody's adjusted combined net pension liability (ANPL) for the city as of fiscal 2011, including both the OPERS and OP&F plans, under our methodology for adjusting reported pension data, is \$17.1 million, or a high 2.96 times operating revenues, compared to less than 1 times on average in the sector. Moody's ANPL reflects certain adjustments we make to improve comparability of reported pension liabilities. The adjustments are not intended to replace the district's reported liabilities information, but to improve comparability with other rated entities. We note that the ANPL ratio to operating revenues has been reduced from our original calculation at the time of placing the credit under review, due to netting out obligations related to the water, sewer, and electric enterprises, as well as inclusion of approximately \$150,000 of additional operating revenues dedicated to payment of pensions that are not recorded in the General Fund. While the ratio has been reduced, it remains high for the sector, though less so for the city's current rating level, particularly given recent reforms. If reforms do not have the intended effect and plan liabilities continue to increase due to investment performance, long-term pressures could warrant future rating action.

WHAT COULD MAKE THE RATING GO UP

-Tax base expansion and improvement in resident socioeconomic indicators

-Significant moderation of the city's allocated share of unfunded liabilities of the cost-sharing pension plans in which the city participates

WHAT COULD MAKE THE RATING GO DOWN

-Deterioration in the city's financial reserves and liquidity -Economic pressures as reflected by elevated unemployment, particularly as a result of losing major employers -Further growth in pension burden relative to peers

KEY STATISTICS:

Fiscal 2012 full valuation: \$410 million (-1% five year average annual trend)\ Estimated full value per capita: \$46,818 2006-10 Median family income: \$51,263 (81.4% of U.S.) April 2013 unemployment rate (Henry County): 7.8% (6.7% Ohio, 7.1% U.S.) Fiscal 2012 General Fund balance: \$1.95 million (34.7% of General Fund revenues) Debt burden as % of full valuation: 0.5% direct, 0.9% overall Principal amortization: 90.2% in 10 years Moody's adjusted net pension liability: 2.96 times General Obligation debt outstanding: \$2.75 million General Obligation BANS outstanding: \$2.5 million

PRINCIPAL METHODOLOGY

The principal methodology used in this rating was General Obligation Bonds Issued by US Local Governments published in April 2013. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

REGULATORY DISCLOSURES

For ratings issued on a program, series or category/class of debt, this announcement provides certain regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides certain regulatory disclosures in relation to the rating action on the support provider and in relation to each particular rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides certain regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on www.moodys.com. Regulatory disclosures contained in this press release apply to the credit rating and, if applicable, the related rating outlook or rating review.

Please see www.moodys.com for any updates on changes to the lead rating analyst and to the Moody's legal entity that has issued the rating.

Please see the ratings tab on the issuer/entity page on www.moodys.com for additional regulatory disclosures for each credit rating.

ANALYSTS: Hetty Chang, Lead Analyst, Public Finance Group, Moody's Investors Service Rachel Cortez, Additional Contact, Public Finance Group, Moody's Investors Service

CONTACTS: Journalists: (212) 553-0376 Research Clients: (212) 553-1653

Moody's Investors Service, Inc. 250 Greenwich Street New York, NY 10007 USA

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URGENT HB 5 News

From: "Gregory J Heath" <gheath@napoleonohio.com> To: "Roxanne Dietrich" <rdietrich@napoleonohio.com> 06/13/13 08:50 AM

Rox, for Council Packet.

-----Original Message-----From: "Ohio Municpal Advocates" <michael.bowen@lakewoodoh.net> To: info@napoleonohio.com Date: 06/12/13 17:42 Subject: URGENT HB 5 News



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HB 5 Opposition,

Thank you for your continued support in our efforts to oppose House Bill 5. We are at a critical stage of the bill and ask for your support in our effort. Attached to this email you will find a template for a letter that will be sent in support of Chairman Beck, who is in a struggle with the co-sponsors of the bill. The letter asks you to send this letter to your state representative and send a carbon copy to Chad Hawley, an aide for Speaker Batchhelder. His contact information is:

Chad Hawley Chad.Hawley@ohiohouse.gov

It is extremely important that we move fast in this process because Rep. Grossman would like the bill to be passed by June 30th. Click <u>here</u> for a PDF version of the letter written in support of Rep. Beck. There is also a copy of the letter as Microsoft Word document on our website, <u>http://ohmuniadvocates.com/related-documents-2/</u>. Once again, thank you for all you have done in this effort and your continued opposition to HB 5.

Thanks, Ohio Municipal Advocates

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The City of Lakewood Ohio | 12650 Detroit Avenue | Lakewood | OH | 44107

Dear Representative _____.

I am writing to you today to share with you the city of ______ 's support for the efforts that are underway in the House Ways and Means Committee, through the leadership of Chairman Peter Beck regarding HB5, the municipal income tax uniformity bill.

You may not be aware that for more than a year, a delegation of statewide municipal officials have been continually meeting with Chairman Beck, the Sponsors on HB5, and representatives of a Coalition of interest groups who initiated the legislation seeking greater standardization of the current municipal income tax system. The meetings have been important to work out differences between the various interested parties and have resulted in a greater understanding of the effects HB5 would have on already reduced municipal revenues and detrimental consequences through the additional loss of local control.

Recently the bill sponsors have advocated for expedited passage of the bill; however, we remain confident that the process laid out by Chairman Beck will yield the best possible bill. We believe the Chairman's process will produce a bill that will provide Ohio businesses the enhanced predictability in rules and procedures they seek in fulfilling their local tax obligations while ensuring Ohio cities and villages continue to have the ability to raise the revenues necessary to support basic services that residents and workers depend on every day.

We remain committed to working out solutions to the sometimes complicated changes being considered in HB5 that will keep Ohio on the right economic development recovery path resulting in more jobs and stronger communities. The issues being discussed in HB5 are much too important to rush through the legislative process and need to be done in a measured, deliberative manner.

We ask you to support Chairman Beck as he and the House Ways and Means committee members proceed with the process that has been established to include as many perspectives as in the conversation about who is impacted by the municipal income tax, how the changes in state law being proposed would affect businesses, municipalities and other local governments across Ohio.

Thank you,

Fw: Spring 2013 Ohio Coalition for Open Government newsletter

From: "Gregory J Heath" <gheath@napoleonohio.com> To: "Roxanne Dietrich" <rdietrich@napoleonohio.com> 06/13/13 09:29 AM

Rox, please include as an attachment to the Council Packet.

-----Original Message-----From: "Ohio Newspaper Association" <jsanford@ohionews.org> To: gheath@napoleonohio.com Date: 06/12/2013 09:16 AM Subject: Spring 2013 Ohio Coalition for Open Government newsletter

OHIO NEWSPAPER ASSOCIATION

OCOG spring 2013 newsletter

The spring 2013 electronic edition of the Ohio Coalition for Open Government newsletter is now available. Highlights of the issue include:

- Updates on a push for positive public records reform from OCOG President Dennis Hetzel;
- Analysis on a number of recent Ohio Supreme Court open government decisions by OCOG counsel David Marburger of Baker Hostetler;
- Open government news and editorials from around the state and nation.

To open the PDF, click on the link below or copy and paste the link into a Web browser:

http://www.ohionews.org/wp-

content/uploads/2013/06/OCOGspring2013.pdf If you have any questions or comments, feel free to contact us. Thanks, Dennis R. Hetzel OCOG President Office: 614.486.6677 Cell: 614.940.5067 dhetzel@ohionews.org Jason Sanford Manager of Communications and Content Ohio Newspaper Association Office: 614.486.6677 jsanford@ohionews.org

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Ohio Supreme Court ignores 'actual cost' precedents in public records ruling

By David Marburger, Baker and Hostetler

The reasoning in unsigned Ohio Supreme Court opinions is increasingly disappointing, as the court's recent ruling against an Ohio trucking firm illustrates.

A federal law regulating commercial motor vehicles requires trucking companies that haul goods across state lines to verify the existence and accuracy of their truck drivers' commercial driver's licenses.

Ohio driver's licenses are public record in Ohio, but the Ohio Driver's Privacy Protection Act generally bars Ohio's Bureau of Motor Vehicles from disclosing a driver's "personal information" and "sensitive personal information." Those categories include a driver's name, photo, driver's license number, address and all other information that identifies the driver. But one of the law's exceptions applied to Ohio trucking firms. The exception: The Bureau of Motor Vehicles can disclose personal information and sensitive personal information from a driver's license to a company seeking to verify an employee's commercial driver's license information.

Because of this exception, the bureau adopted a rule that requires anyone seeking a copy of a driver's record that includes the driver's personal information to complete a form that certifies that an exception applies, allowing the disclosure.

Although the bureau charges 5¢ per page for someone to get a copy of a driver's record with the personal information removed, the bureau's rule requires someone seeking a

(see ACTUAL COST page 3)

Do you want to know a secret? Court says public lease terms don't have to be released

By John C. Greiner, Graydon Head

Readers my age may read that headline and immediately think of the 1964 Beatles classic by the same name – their first top 10 single featuring George Harrison on lead vocals. But for public records requesters, the answer to that rhetorical question may be "tough luck."

In the recently decided case of State ex rel. Luken v. The Corporation for Findlay Market of Cincinnati, the Ohio Supreme Court reiterated the legal principle that a public body may deny access to records maintained by a public body, even if those records disclose how the public body collects and expends and receives public funds.

The requesting party in Luken asked for lease agreements between the corporation that operated the city's Findlay Market and the vendors who rented space there. The records produced were redacted to prevent disclosure of the term and rent provisions. Luken filed a mandamus case in Ohio's First District Court of Appeals challenging the decision to redact the information. While there were a number of collateral issues concerning whether the Corporation for Findlay Market even was a public body, the court ultimately decided that in any event, the lease provisions concerning the term and rent qualified for protection under Ohio's Trade Secret statute.

In short, according to the First District Court, the lease information derived value from not being generally known, and the Corporation took reasonable steps to guard against its disclosure. The Supreme Court unanimously upheld that ruling. Missing from the decision was any discussion of whether it makes sense to shield from the public information about how the city collects revenue from renting public property. Thus, voters are left with virtually no means to determine if the city is discharging its duties in an efficient and effective manner.

The Luken decision is striking for the perfunctory manner in which the court addressed the issue. It is difficult to see any concern for the virtues of transparency or public access.

(see **SECRET** page 3)

For continually updated OCOG news, go to www.ohionews.org/ category/ocog.

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ONA pushes positive public records reforms

By Dennis Hetzel, OCOG President

he Ohio Newspaper Association has begun pushing four suggestions to improve Ohio's open records laws.

When Ohio's current open records statute became law, it was seen as nationwide model in many respects. That's no longer the case due to a combination of problematic court decisions and the phenomenon known by the cliché "death by a thousand cuts." We estimate there are more than 300 exceptions to the open records law in Ohio statutes, including 29 listed in the law itself.

Every legislative session brings new reasons for why new exceptions to openness are needed. As I write this on May 29, a House committee just fast-tracked an amendment to the House



Hetzel

floor that appears to reduce transparency of JobsOhio. Despite Auditor Dave Yost's request to at least wait a week so the proposed language can get a proper hearing, the House placed new restrictions on access to information about the economic development agency, which is funded with profits from the state-run liquor stores.

Meanwhile, issues raised by our digital age emerge all the time. In fairness, many of these issues raise legitimate concerns for public officials. For example, the sheer explosion in content means that many records requests take additional staff time to address.

We also are encouraged by the efforts of several well-meaning legislators and statewide elected officials to improve transparency. There are pending bills and initiatives to put a considerable volume of information about state government spending online. Two Republican House members are working to set standards so that information posted to the Internet is easier to search and organize – and remain freely available to the public.

A group of editors, legal experts and OCOG board members met over the winter to discuss the problems. We decided to continue to deal with the rollback efforts case-by-case and suggest four improvements to improve access to information in Ohio. Here they are:

1. Improve the definition itself

Attorney Dave Marburger calls this the "stealth exemption." Court decisions have become so literal that the burden of proof has shifted so that the party wanting the record has to prove it should be open. This is the opposite of any good open records law. Examples are myriad and troubling.

The problem lies in a clause that says a record has to "document the organization, function, policies, decisions, procedures, operations, or other activities of the office."

We are proposing a definition that rests on the information that is recorded by government in any medium without a focus on documenting specific items. This definition also corrects the problem of records created by the unauthorized actions by public officials not being seen as records.

In our definition, a record is simply anything that is "recorded on a tangible medium" and "recorded or received by any person on behalf of a public office, or its retention or disclosure is controlled by any person on behalf of a public office."

This would not change any existing exceptions in the law, and we added language to protect incidental, personal items that public employees bring to work.

2. Improve language on attorney fees for violations

Violations of open meetings and open records law should provide a realistic opportunity for the plaintiff to recover legal costs while recognizing that these are taxpayer dollars. The purpose of the law should not be punitive except in the most egregious of cases. When a violation occurs, however, some award of reasonable costs should be required. The other side continues to have a right to question the amount of the award.

Right now this is optional, and it is rare indeed for fees to be awarded. Few citizens and even media outlets will undertake the costly court battles that can ensue over open records if there isn't a chance of at least breaking even.

This also could be applied to the open meetings.

HETZEL, continued from page 2

3. Fix the charter school problem

The ONA has no position on whether charter schools are good or bad public policy. However, we have a strong belief in the importance of open records when it involves public education and public money. Ohio journalists and other citizens have had a difficult or impossible time getting meaningful information on the expenditure of taxpayer dollars and school performance metrics.

We have offered a simple language suggestion: Every charter school contract should include a provision that the entity must comply with the open records law.

4. Don't encourage document destruction

Business, historians, archivists and everyday citizens have lots of reasons to see older public records. We think the

Legislature went too far in 2011 when it eased any penalties or liability for public bodies that improperly destroy public records.

For example, there is no penalty unless an action is started within five years of the violation instead of starting the clock upon discovery of the violation. You don't know what you don't know. The caps on legal fees also are way too low, and actually make it attractive for a public official with something to hide to go ahead and accept the penalty for destroying a record that might prove damaging.

We are just starting to show these ideas to potential legislative sponsors. Please lend your voice in support, and definitely let us know if you would like more details.

Dennis Hetzel is executive director of the ONA and president of OCOG. Send e-mail to dhetzel@ohionews.org.

ACTUAL COST, continued from page 1

driver's information under an exception to receive only a certified copy, and to pay 100 times more for it: \$5 per page. A copy is "certified" when a clerk at the bureau stamps a notation on the record saying that it is an authentic copy from the bureau. The bureau's rule does not address the cost of uncertified copies of driver's records with the personal information left intact.

A trucking firm, Motor Carrier Service of Toledo, completed the bureau's form, and asked to verify the driving record of an employee who has an Ohio commercial driver's license. The company asked for "personal information" – that which identifies the driver – and certified that an exception applies.

But the firm specified that it did not need or want a certified copy. And it insisted that, because the firm did not want the bureau to certify the copy, the bureau's usual fee of 5ϕ per page should apply because that's what the bureau typically charges under the Public Records Act as its actual "cost."

The bureau, however, insisted on supplying only a certified copy and charging no less than \$5 per page. The trucking firm sued the bureau in the Ohio Supreme Court, which ruled unanimously in an unsigned opinion against the trucking firm.

The opinion reasoned that the bureau's rule superseded the Public Records Act because the rule applied specifically to the bureau's driver's information, whereas the Public Records Act applies generally to all public records kept by all public offices.

But the court did not faithfully apply its precedents. In an earlier case, for example, attorney Jim Slagle asked a common pleas court to provide photocopies of a transcript filed in a court case, demanding a low "actual cost" fee under the Public Records Act. Because a specific law required the court to charge \$2.60 per page for "copies" of court "transcripts prepared from audio tape," that specific law trumped the Public Records Act.

But Slagle also asked for a copy of the audio tape from which the transcript was typed. The local judge refused to lower the fee, arguing that the lower fee of the Public Records Act would allow anyone to circumvent the \$2.60/page statutory fee for the verbatim record in transcript form.

Slagle sued in the Ohio Supreme Court, and the court ruled for Slagle in 2004. The Court ruled that the specific law displaced the Public Records Act only when the verbatim record was a "transcript," but it did not displace the Public Records Act when the verbatim record was in some other form not mentioned in the statute. Similarly, last year, the Ohio Supreme Court ruled that a specific law requiring county recorders to charge \$2/page for "photocopying" recorded deeds displaced the Public Records Act only for duplicating recorded deeds on paper using the process of photocopying. The court ruled that the Public Records Act's much lower "actual cost" governed copies of a county recorder's compact disks containing digital copies of recorded deeds. The court limited the county recorder's fee to \$1 for each copy of each disk.

Yet in the trucking firm's case, the court did not apply that reasoning. Had it applied its precedents validly, the court would have ruled that the bureau's \$5/page fee displaced the Public Records Act only for the "certified" copies specifically addressed in the bureau's rule. For uncertified copies – which the rule did not mention – the Public Records Act should have governed, and so its "actual cost" limit should have applied.

SECRET, continued from page 1

But all is not lost. In a decision handed down by the First District just months after its May, 2012 Luken decision, the court ruled that a vendor who'd submitted a bid to construct the city of Cincinnati's streetcar system could not prevent the city from turning over an unredacted version of that bid in response to a public records request.

In that case, Brookville Equipment Corp. v. Cincinnati, the First District noted that the streetcar vendors submitted their bids pursuant to a Cincinnati ordinance that expressly required those bids be open to public inspection. Because that ordinance gives the public the right to inspect the bids, parties submitting bids thus waive any trade secret protection that might otherwise apply. The Supreme Court's decision in Luken does not in any way limit the Brookville decision. In Luken no ordinance required public inspection of the leases.

If the Luken decision is a step backwards for transparency, the Brookville decision at least limits the size of the step. So if you want to know a secret, you may want to take a close look at the ordinances and regulations surrounding the submission of the "trade secret" information.

John C. Greiner is a partner at Graydon Head LLC, where he practices commercial litigation and First Amendment law.

David Marburger's Open Government Commentary

Despite Ohio Supreme Court ruling, copyrighted software should not be bar to public records

By David Marburger

"The county engineer in this case has intertwined public records with proprietary software and expects citizens seeking public records to pay an exorbitant price to untie the knot." With that opening dissenting remark, Ohio Supreme Court Justice Paul Pfeifer pinpointed the overall flaw in a remarkably misguided, unsigned opinion by the Ohio Supreme Court.

The court's decision came in March in a suit by Robert Gambill, Portsmouth, against the Scioto County Engineer, Craig Opperman. Gambill owns and operates a real-estate-appraisal business that relies on tax maps and aerial photographs that the county engineer keeps in digital form. The tax maps and photographs, together, show all land within the county.

Before 2007, the county engineer allowed the public to buy digital copies of tax maps and photographs on compact disks for \$200, with updates available for \$50. Gambill bought a disk in 2006, which covered tax maps and aerial photographs created in 1999 and 2000. He could display them on his own computer and then print them.

The tax maps relied on data kept by the Scioto County Auditor, derived from deeds recorded by the Scioto County Recorder. To use that data, the auditor relied on software created by a company called Manatron, Inc. In 2007, Manatron updated the software, which made it incompatible with the software used by the county engineer for the tax maps and aerial photos.

The county engineer then hired another firm, Woolpert, Inc., to create software to allow the engineer's digital information system to be compatible with the auditor's updated software. The result: When someone wants a tax map or aerial photo of particular real estate, that person types in information as a search; the software then enables the county's computer system to pull information from electronic data files to create a readable tax map. The data downloads from the auditor data system to the engineer's data system to create the tax map. Without the software, the data cannot be compiled into a readable tax map.

Woolpert registered the software with the United States Copyright Office, and

insisted that the federal copyright law barred the county engineer from making a copy of the software without Woolpert's permission. So the county engineer could no longer provide electronic data to the public for tax maps and aerial photos without also providing a copy of Woolpert's copyrighted software.

Gambill asked to purchase a copy of the 2010 version of the engineer's electronic database for the tax maps and aerial photographs. But Engineer Opperman said that copyright law barred the county from also providing the software that would enable Gambill to comprehend the data, so Opperman insisted that Gambill pay an estimated "minimum" fee of \$2,000 for Woolpert to retrieve the data by separating it from the copyrighted software.

Gambill sued the county engineer directly in the Ohio Supreme Court and lost, 6-1 with Justice Pfeifer dissenting. Agreeing that Gambill had requested public records under the Public Records Act, the majority ruled that the federal copyright act barred the county from providing Gambill with a copy of the decoding software. The court decided that, because the data was "inextricably intertwined" with the copyrighted software, Gambill would have to pay the minimum fee of \$2,000 to have Woolpert un-entangle the data from the software.

The court applied an unrelated statutory provision that, on its face, applies only to Ohio's Bureau of Motor Vehicles, which allows the bureau to pass on to the public 100% of a private contractor's fee to extract requested data. Therefore, forcing Gambill to pay Woolpert's minimum \$2,000 fee to extract the data away from Woolpert's software made was "reasonable," the court ruled.

Dissenting, Justice Pfeifer blasted the ruling. "A person seeking public records should expect to pay the price for copying the records, but not the price for a public entity's mistake in purchasing inefficient software," Pfiefer wrote. "Will every citizen asking for what realtor, Robert Gambill, seeks – access to records that the majority acknowledges are public records – also have to pay \$2,000?"

Justice Pfeifer validly criticized the court's decision, but an even more compelling ground undermines the court's

decision. The authority for the county to buy and use the Woolpert software came solely from the citizenry. And the money to buy the software came solely from the citizenry. The only public policy that makes sense, then, is that the citizen's agents in conducting public business can't deprive the citizenry from the benefit that we citizens authorized the agents to buy and for which we supplied all of the money. If, in working to benefit the public, the public's agents found organizing electronic records a particular way was beneficial for the way that they use records in performing their public duties, they can't deprive the public of that same benefit when the public wants to use that same information.

And pricing copies of public records out of reach of ordinary citizens effectively strips copies of public records of their availability to the public, relegating the public to onsite inspection only. The Public Records Act gives us a right to take home copies of public records, but the court's decision effectively destroys that right as applied to people of ordinary financial means. Only the wealthy can afford to have copies of public records under the court's reasoning.

Moreover, the federal copyright act should be no bar, and Gambill should have tested the act's provisions in this context. He didn't. He should have argued, and the court should have ruled, that, when a private firm contracts with an Ohio government agency to provide copyrighted software for organizing public records, the firm implicitly grants a license to the agency to provide copies of that software to the public to enable the public to comprehend copies of those public records.



Ohio Supreme Court: Requested public records are never "meaningless"

By David Marburger

Public offices don't get to withhold public information by deciding that the information would be "meaningless" to the person requesting it, the Ohio Supreme Court has ruled.

The court required the City of Vermilion to release portions of bills that the city received from its outside law firm. The city's former mayor, Jean Anderson, asked for the bills to compare the cost to the city of outside legal services under the city's new mayor with the cost for those services under Anderson's administration.

The bills showed the title of the matter that outside law firms handled, a narrative description of the services rendered, the hours spent, and the amount of fees to be paid. However, the city withheld all of the billing information, claiming attorneyclient privilege.

The court ruled that the attorney-client privilege allowed the city to withhold the narrative descriptions, but not the title of the matter being handled, the dates that the services were performed, the hours spent, the lawyers' hourly rates, and the fees ultimately charged.

The city claimed that it rightfully withheld the information that the court ordered it to disclose because, after redacting the privileged narrative descriptions, the remainder of the bills would be "meaningless." The court rejected that argument, concluding that the requester gets to decide which information matters to the requester, not city officials.

About David Marburger

David Marburger is a partner in the Cleveland office of Baker & Hostetler and an authority on legal issues arising from the content side of communications and around issues of constitutional



Marburger

law. Marburger is a member of the Ohio Coalition for Open Government committee and has represented many clients in Sunshine Law cases. He has also co-authored *Access with Attitude*, a 350-page "advocate's guide to freedom of information in Ohio," published by Ohio University Press.

Ohio Supreme Court grants new open records exception to attorney general's office

By David Marburger

Where someone holds a local public office unlawfully, Ohio's attorney general can seek a court order to unseat that person. That was the setting last January when the Ohio Supreme Court ruled that, when lawyers within the attorney general's office confer about bringing such suits, their written communications are not public records.

The court reached that decision when a Clermont County man, Kent Latham, asked the attorney general's office to provide copies of internal records about a complaint that the office had received about a state representative, Danny Bubp, who was holding two public offices at the same time. Ohio's Constitution bars members of the general assembly from holding other state or local government posts. Bubp was a magistrate in a southern Ohio mayor's court while also serving as a state representative from the same area.

The attorney general provided Latham with a variety of records but withheld several internal e-mails, citing the attorney-client privilege. Latham sued in the Ohio Supreme Court, arguing that the privilege did not apply because there was no "client," but only government lawyers of the same office talking among themselves.

The Ohio Supreme Court disagreed. The court ruled that the e-mails were "communications between a client – in this case, members of the administration of the attorney general's office who asked for legal advice – with an attorney – in this case, members of the opinions section of the attorney general's office." The court called its ruling "obvious," but given that only lawyers within the attorney general's office decide how to administer it and decide for themselves what actions the attorney general takes in its own right – as opposed to when the state agency makes those decisions with the attorney general in the subordinate role as counsel – the court's ruling seems to provide an especially extensive privilege to the attorney general's office.



Shadows lengthen on access to public records

By Dennis Hetzel, OCOG President

Every year, Sunshine Week underscores the importance of open government across the nation. It is a perfect moment to share concerns in Ohio about evergrowing exceptions to an open records law that should ensure you have access to information about what your government officials do and how well they do it.

Whether you're a Tea Party activist, just an everyday citizen or an unrepentant liberal, we think you should be able to agree on this subject. The exception train needs to slow down.

Ohio's statute once was considered a model open records law nationally. Most public officials are well-intentioned, and it's often the case that each idea for a new exception has a justification that appears reasonable in isolation. It is the cumulative effect that alarms us.

We now have 29 categories of records that are secret under Ohio law. They've run out of single letters, so the latest exception was lettered "cc." I have seen proposals already in the new legislative session involving fees for county recorder records, new restrictions on school-related records and more. Certain categories require repairs, too. For example, the lack of information on how taxpayer money is being spent at many Ohio charter schools should be fixed.

Government is a custodian of public records, not the owner. Restrictions on access should leap a high bar; there should be no reasonable doubt that secrecy is the better option.

For example, no one would argue that everything in an active criminal investigation should be public record. However, did you know that a criminal case file isn't considered closed in many Ohio jurisdictions if the defendant ever could file something in the case for any reason? This blocks the work of not only journalists but also organizations such as the Ohio Innocence Project that have freed people from prison for crimes they didn't commit. (And, by the way, many Innocence Project investigations show that law enforcement arrested the right person.)

Government officials also complain about the amount of staff time and expense it takes to manage records requests, particularly with the explosion of records in the Internet age. That's a reasonable concern. Still, if there weren't so many exceptions and complexities in our open records laws, it would be faster to review records with much less need to redact information by blacking it out either on paper or digitally. In other words, making more records open makes it easier for government to handle requests.

There have been positive developments

in recent months, too. We urge citizens to make use of the new open records mediation process announced in 2012 by Ohio Attorney General Mike DeWine.

This is a good way to resolve disputes without having to hire a lawyer and go to court, and the process can be initiated with a simple phone call or filling out a form on the Attorney General's website.

However, the program is limited in that both sides have to agree, and it only applies to local governmental bodies. We hope a way can be found to expand this in the future. Most states have a stronger appeal process.

The other aspect of "sunshine law" involves open meetings. Here, I think

Ohio's statute once was considered a model open records law nationally. Most public officials are wellintentioned, and it's often the case that each idea for a new exception has a justification that appears reasonable in isolation. It is the cumulative effect that alarms us. the situation is more positive in Ohio. We only are aware of one pending measure to expand the use of secret meetings called executive sessions. We would like to see better record-keeping or recording in executive sessions, and our association hopes to

pursue that idea in the coming months.

We also have been working positively with government groups to set good standards for situations in which it might make sense to allow some members of a board to participate remotely through audio or video technology.

Even though Sunshine Week is now past, I hope you will continue to let your elected officials know that transparency matters. And if you need help making contact or need any background information, just let us know, because a government operating in lengthening shadows will not serve the people properly in the long run.

Receive discount on open government reference book and support OCOG

David Marburger and Karl Idsvoog have written a book that should be in every Ohio newsroom. Access with Attitude: An Advocate's Guide to Freedom of Information in Ohio is an essential user's guide to navigating the complexities and occasional weirdness of Ohio's open records laws.

Now, Buckeye State journalists and open-record advocates have another reason to purchase this book: Marburger and Idsvoog are donating their proceeds from this book to the Ohio Coalition for Open Government.

Marburger, an attorney with Baker & Hostetler in Cleveland, is a member of the OCOG committee and has represented many Ohio Newspaper Association members in Sunshine Law cases. Idsvoog is a journalism professor at Kent State and an awardwinning investigative reporter.



The retail price for the book is \$29.95, but Ohio University Press is offering ONA members a 30 percent discount on orders between one to four copies. To get the discount, use discount code M1121 when ordering on the Ohio University Press website, www.ohioswallow.com. For a 40 percent discount on orders of five or more books, contact Ohio University Press's business manager, Kristi Goldsberry, at (740) 593-1156 or goldsbek@ohio.edu.

A public-records primer: How to make a request

By Randy Ludlow, The Columbus Dispatch

Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

- James Madison

In celebration of Sunshine Week, here's a primer on making public-records requests in Ohio. It's your government, your money, your records. Government merely is the custodian of the people's records – not the owner.

Know the law because an alarming number of government officials and employees don't. Download a copy of the newly updated "Yellow Book" manual of Ohio Sunshine laws (from www. ohioattorneygeneral.gov) and familiarize yourself with the law. It can be complex.

It's generally best to request routine records verbally. Written requests can be seen as adversarial and drag in the lawyers to delay and complicate your request. However, if your request is complex or could generate push-back, file a written request to bring clarity to the matter and document your request should trouble ensue.

Here's a fill-in-the-blanks form letter you can download to request public records. (Link to letter available at www. dispatch.com/content/blogs/your-rightto-know/2013/03/primer.html)

Know that asking to inspect records in person should allow you to see them more quickly. Requesting copies buys government more time to provide the records. You also are entitled to receive records in the form in which they are kept (electronic, database, etc.) and they must be delivered in the manner you prefer – email, CD, fax, or in-person pick-up. If you ask for records to be mailed, you can be asked to pre-pay postage costs.

Ohio is among only a handful of states that sets no deadline for government to provide records. The legal standard is "prompt." Court rulings have signaled, though, that waits of more than two weeks likely are unreasonable.

Outside of minimal copying costs – such as 5 cents a page for paper copies or \$1 for a CD containing electronic copies – government cannot charge you to provide records. Don't allow government to bill you for employee time or other "costs."

"Overly broad" has become government's new mantra in denying records requests. Be very specific in describing the records you seek. Provide names, date ranges, topics and describe the records you seek in full detail. If your request is confusing or denied, government is required to work with you to clarify your request so records can be provided.

If your request is denied, or information is redacted, an explanation must be provided in writing. Government that denies records or blacks out information is required to cite specific public-records exemptions or other sections of law that it believes allows it to withhold records. Again, consult the law and evaluate the reasons for denial; appeal and argue if the excuse is iffy.

If dealing with a local government or school district that denies your request or is slow to respond, ask for help through the public-records mediation program offered by the office of Ohio Attorney General Mike DeWine. Lawyers who know Sunshine laws could help shake your records loose.

They're your records. Go get 'em.

Grants could help local officials to make records more accessible

Editorial from The Columbus Dispatch

Taxpayers should know where their money goes, what their local government does and whether it is a good steward of public dollars.

While Ohio has better-than-average "sunshine" laws governing public-records accessibility, a proposed new law would help ensure that public information from Ohio's hundreds of local-government entities is available online, is searchable and can be compared oranges to oranges with data from other local governments throughout the state.

Championed by Rep. Mike Duffey, R-Worthington, and Christina Hagan, R-Alliance, the DataOhio Initiative sets guidelines and establishes grant funding for local governments to put their data in a common, searchable format online. The effort would use commonly available, free software and would establish \$10,000 grants to help pay for the time that Ohio's 2,334 general-purpose governments – counties, cities, villages and townships – would need to dedicate to making their data accessible through a common portal.

This is a common-sense idea that

would provide benefits to everyone at a modest cost.

The state budget now being considered by the Ohio Senate initially would provide \$3.5 million for the grant program, with the opportunity to expand funding later.

The initiative is voluntary, but Duffey thinks the \$10,000 grants for a project that needn't be time-consuming should prove compelling to local governments. Local officials themselves could benefit from benchmarking against peer cities; Duffey recalls that as a member of Worthington City Council, he found it difficult to compare metrics on how his city was doing with other cities around the state.

"With more information, people are going to make better choices," Duffey told The Dispatch recently. "And with better choices, the cost of government is going to come down...natural efficiencies of scale are going to occur."

The basic idea of the initiative has been championed for years by Gene Krebs, a former Ohio House member. Representing the Greater Ohio Policy Center, with which he was working a year ago, Krebs told the Ohio Senate that "Ohio is still a data desert" for those seeking to evaluate their local government's performance and compare it with its peers.

The drive to encourage efficiency at the local level is critical to the state's interest in making Ohio tax-friendly for residents and businesses. Rob Nichols, spokesman for Gov. John Kasich, told The Dispatch in discussing the issue a year ago that while state-level taxes have been reduced, "Ohio's local-government taxes increased 41.6 percent from 1999 to 2009" according to the U.S. Census. "It's unsustainable and is a barrier to job creation," Nichols said.

Duffey also predicts making data easily accessible would create opportunities for private-sector research that could be commercialized or create jobs; he cites the growing field of "big data," based on data analytics, and the recent decision of IBM to locate its new Client Center for Advanced Analytics in the Tuttle Crossing area.

He says the DataOhio Initiative would encourage more jobs in Ohio in the wellpaying and growing field.

By simply making already-public data more accessible, this project can benefit all: residents, the private sector and the public sector.



Kasich signs bill to close JobsOhio's books

Editor's Note: The ONA sent letters to both House and Senate members urging them to delay this bill so the changes in the law to limit the auditor's authority could be debated more fully.

From The Columbus Dispatch

Gov. John Kasich signed the bill that will keep the state auditor's eyeballs largely off of JobsOhio's books.

Senate Bill 67 – which will prohibit state Auditor Dave Yost from inspecting the state's wholesale liquor profits funding JobsOhio – was one of five bills the governor signed in private (on June 4).

That Kasich signed these pieces of legislation outside of a public ceremony is nothing new. The Republican governor signs most of the bills the legislature sends him without calling a news conference, but there's an irony in signing a bill in private that strips a level of transparency away from JobsOhio.

The bill ensures that the \$100 million a year JobsOhio will be getting from a lease of state wholesale liquor profits is considered private money and cannot be audited by Yost. The funds will undergo an audit by a private firm.

But Kasich's signature might not end the argument over whether the state's liquor profits are private dollars. The liberal policy group ProgressOhio and some Democratic legislators have a lawsuit pending that says the state cannot "invest" public money in JobsOhio.

"The money came from a source that is public, it's been audited and used as public ... and just because the legislature plays games with the law, legislatures can't supersede the Ohio Constitution," said Brian Rothenberg, executive director for ProgressOhio. The lawsuit is waiting on the Ohio Supreme Court to decide whether the plaintiffs have standing to sue.

Unless indicated, all articles excerpted from state and national news sources. For links to the complete articles, go to www.ohionews.org/category/ocog.

Group criticizes Ohio's transparency on spending

From The Akron Beacon Journal

Ohio does a poor job of providing online transparency when it comes to government spending, a watchdog group says in a report released (March 26).

The state received a "D+" – one of only 12 states to receive a "D" or "F" grade – in the annual report by the Ohio Public Interest Research Group Education Fund. Ohio's grade improved from last year's "D."

"We could have done a lot better," said Tabitha Woodruff, an advocate for the Ohio watchdog group. "There is an improvement

... but it still leaves us as one of the lagging states. So, very disappointing."

She added that Ohioans are demanding transparency, so it should be a greater priority.

The report, called Following the Money 2013: How the States Rank on Providing Online Access to Government Spending Data, reviewed the Ohio website transparency.ohio.gov.

It says the site provides checkbooklevel information on contracts, economic development tax credits and grants. But it lacks other details such as noncontract payments to vendors and spending through some agencies.

Other states provide such information, Woodruff said.

She added that both Republican and Democratic-run states fared equally well, so transparency isn't a partisan issue.

Attorney General releases 2013 edition of Ohio Sunshine Laws, touts open records mediation

On March 11, Ohio Attorney General Mike DeWine marked Sunshine Week with the release of the 2013 edition of Ohio Sunshine Laws: An Open Government Resource Manual.

In a statement DeWine said, "Part of our mission to protect Ohio families includes protecting the public's right to know and to hold their government accountable The Ohio Attorney General's Office offers many resources to help Ohioans access open government, including our Sunshine Laws Manual, Sunshine Laws trainings, and our Public Records Mediation Program."

As reported by Gongwer News Service, Mr. DeWine said the mediation program was "a win-win for both local governments and those requesting records. Requesters get the information they seek and taxpayers avoid costly litigation."

The AG's office told Gongwer that as of March the program had received 59 requests for mediation, and 23 of those were resolved prior to going through mediation. Of the seven mediations completed, six were successful. Of the requests for mediation that met program criteria and where the persons requesting the mediation chose to pursue their request to resolve the matter, the program has fully resolved 32 of the 38 disputes, or 84%.

Cincinnati Enquirer analysis finds state government keeping more secrets

n a detailed analysis released by The Cincinnati Enquirer in December, the newspaper found that Ohio's state government is keeping more secrets as exceptions to open government laws increase and fees keep many from accessing the public's information.

As the Enquirer detailed, since the state enacted its first public records law in 1963, the number of legal exemptions to the law has grown from the one – medical records – to 29. That doesn't include hundreds of other exemptions, or fees charged to access the information.

As examples, the paper stated that when Ohio legislators created an arson offender registry much like the state's sex offender registry, supposedly to deter the crime, they made the names not subject to open records. Another example is when the Ohio Supreme Court ruled that asking for the emails sent to and from public officials was too "ambiguous" for public records requests.

Fill open records requests ASAP, AG official says

From The Vindicator

Astate attorney general office official advises local government to "go above and beyond" when it comes to honoring legitimate open-records requests.

That means filling the request as soon as possible, working with those seeking the information, and it's not a bad idea to forgo charging a fee to those making the inquiries to create good will, said Jeff Clark, principal assistant attorney general.

Clark spoke (April 29) to about 60 to 70 government officials and community activists at a three-plus-hour training session at the Newport Branch of the Public Library of Youngstown and Mahoning County on the city's South Side.

Nearly all of the session focused on open records with about 10 minutes at the end discussing open meetings.

"It can be very confusing when you get a request" for public records, said Youngstown Councilwoman Annie Gillam, D-1st, who attended Monday's session. "It can get complicated. It's always good to hear it for yourself."

The state Legislature has changed Sunshine Laws – those dealing with open records and open meetings – over the years, and there have been court decisions resulting in other changes, so it's important for public officials to understand the law, Clark said.

Otterbein University won't demand students keep mum on sexual assaults

From The Columbus Dispatch

Ostudents involved in sexual-assault cases to sign confidentiality agreements, after student journalists discovered that the school was violating federal law.

After initially denying it, an official at the private liberal-arts school in Westerville told reporters for the student newspaper on (May 6) that he didn't realize Otterbein had had victims, as well as others, sign a nondisclosure clause. The requirement is being dropped.

Earlier, (Otterbein's vice president of Student Affairs) told the student reporters that the nondisclosure clause was included in the form to conform with the Family Educational Rights and Privacy Act – FERPA – which prevents colleges from releasing student academic records, such as grades.

But public-records advocates said FERPA is not intended to allow schools to hide crimes.

Court: Hamilton County judge can't kick reporters out without holding a hearing

From The Cincinnati Enquirer

Acourt ruled (March 29) that a Hamilton County judge can't kick reporters out of court without holding a hearing.

The Cincinnati-based Ohio 1st District Court of Appeals granted a request by The Enquirer to prohibit Juvenile Court Judge Tracie Hunter from kicking a reporter out of court without the legally required hearing.

"Representatives of the Enquirer shall be permitted in the courtroom," Appeals Court Judge Lee Hildebrandt, Jr., wrote in (the March) ruling.

Hunter twice (in March) kicked the reporter out of court, accusing the Enquirer of ignoring her court order to not print names of juveniles charged in a beating case that drew national attention. The Enquirer never was served with Hunter's order before the evictions.

Website to help Ohioans track rules and regulations

From The Dayton Daily News

State agencies make more than 9,000 actions on rules and regulations each year about everything from driver's licenses to air quality regulations to lowincome housing programs.

Lawmakers launched on (April 29) an online tracking system to make it easier for average Ohioans to navigate and track rule changes and public hearings on proposed rules. The RuleWatchOhio. gov website allows anyone to track specific rules or rules by subject, such as agriculture, cosmetology or education.

Lawmakers on the Joint Committee on Agency Rule Review said the goal is to better inform business owners and other Ohioans of rule changes that impact them.

Butler judge wants Enquirer suit dismissed

From The Cincinnati Enquirer

A Butler County judge wants the Ohio Supreme Court to dismiss The Enquirer's suit against him, saying he fixed his mistake in improperly sealing a case involving the Miami University rape flier and the issue is moot.

In a brief filed with the Supreme Court, part-time Judge Rob Lyons of Area I Court in Oxford also maintains The Enquirer has no right "to insert itself into judicial and prosecutorial functions that determined the outcome of the underlying criminal case."

"Once the Respondent Judge realized that the defendant's underlying plea agreement was being undermined, it was far more important to deal with that issue than to alter the process to cater to a newspaper looking for a story," the brief written by Butler County Assistant Prosecutor Dan Ferguson said.

The Enquirer sued Lyons in November after he immediately sealed the conviction of the former student who posted the "Top Ten Ways to Get away with rape," flier in a co-ed dorm. The Enquirer alleged the sealing was improper because Lyons did not hold a hearing and that Lyons had cited the wrong law on a form he signed to seal the case.

After The Enquirer filed suit and Lyons found out he had improperly sealed the case, the student was allowed to withdraw his plea and prosecutors decided not to pursue further charges. That allowed Judge Rob Lyons to correct a mistake he made sealing the case the first time. He sealed it again immediately after the plea withdrawal. Lyons said he routinely sealed cases of Miami University students.

Enquirer investigation: Thousands of Butler County crimes sealed from view

From The Cincinatti Enquirer

A few thousand people – many of them students at Miami University – have committed crimes in Butler County in the past 14 years that are kept secret. Their conviction records have been sealed.

It's a routine practice in the Butler County courtroom of Judge Rob Lyons. His use of the practice came to light after he granted secrecy to a former Miami student who admitted to creating a flier about how to get away with rape.

Lyons, a part-time judge whose private law practice helps clients seal their criminal records, admitted in a sworn deposition that he's been sealing cases improperly for the 14 years he's been on the bench. Lyons has sealed 2,945 cases – more than a third of the new misdemeanor cases filed – in the past five years, an Enquirer analysis shows, using data from area court officials and the Ohio Supreme Court.


Ohio Association of Chiefs of Police says bill to block access to gun records clouds government transparency

From The Cincinatti Enquirer

Abill proposed (in early March) by a Southwest Ohio legislator would prevent journalists from looking at concealed carry gun permit applications – the latest in a nationwide surge of efforts to seal gun records from public view.

A spokesman of the Ohio Association of Chiefs of Police said the legislation clouds government transparency. But gun rights advocates say there's no news value in knowing who has a permit and the information should be private.

In the four-county Southwest Ohio region, 9,639 new and renewed permits were issued in 2012, according to an annual report by the Ohio attorney general's office. Statewide it was a record year with 78,810 concealed carry permits being issued. A license lasts five years and costs \$55. More than 300,000 Ohioans have permits.

When the concealed carry law was enacted in April 2004, all the records were public. Three months later the Cleveland Plain Dealer published a list of all carriers and their ages in Northeast Ohio, which prompted the Legislature to tighten the law to its current status.

Under current law, only journalists, not the general public, are allowed to view concealed handgun information after filing a request with a county sheriff, who keeps the local permit information.

Court reversal not in Blade's favor

From The Toledo Blade

After 10 Toledo police officers and two civilians sued The Blade over a 1990 investigative series that probed into police misconduct, the lawsuit Unless indicated, all articles excerpted from state and national news sources. For links to the complete articles, go to www.ohionews.org/category/ocog.

was dismissed on the grounds that the newspaper accurately reported the contents of public records.

The Blade later sought, and won, a further court ruling saying it was entitled to attorney fees for defending itself after that dismissal was appealed. Now, the 6th District Court of Appeals has reversed that decision, saying The Blade should pick up its \$163,301 legal tab.

In a 21-page ruling filed recently, the appeals court ruled that Napoleon attorney George C. Rogers, who represented the police officers in the case, did not act "frivolously" and therefore attorney fees could not be awarded in the case.

"We're unhappy with the decision," said David Waterman, outside counsel to Block Communications, Inc., the parent company of The Blade. "We disagree with the decision, and we are still reviewing it and discussing it with representatives of The Blade."

Mr. Waterman said attorneys are evaluating whether to appeal the decision to the Supreme Court of Ohio or file a motion for reconsideration with the 6th District Court of Appeals.

Move to broadcast Ohio House hearings will be a public service

From The Columbus Dispatch

The Ohio House opened its 130th session on (Jan. 7) by vowing to be more open with constituents, by expanding the use of technology.

House Speaker William G. Batchelder announced that for the first time, some House committee hearings, particularly those involving the state's next two-year budget, will be broadcast live online and on public-access television. The House also will broadcast those hearings on issues that are of special interest to the public, he said.

The broadcasts will make it easier for average Ohioans – who can't just drop everything and come to Columbus to attend these sessions – to see in real time what their representatives are doing and saying on their behalf.

Knowing that the public is looking over their shoulder as they work might have a salutary effect on lawmakers. And the Ohio Senate should consider emulating the House.

The House committees also plan to move toward going paperless, with electronic tablets for bills and amendments. Not only does that cut expenses and waste, it also allows the public to access documents online more quickly.

Mandel settles suit over public records

From The Columbus Dispatch

The office of Ohio Treasurer Josh Mandel has turned over once-denied documents and paid \$5,250 to settle a lawsuit claiming it acted illegally by failing to provide public records.

The agreement between the liberalleaning political blog Plunderbund and Mandel's office led last week to the dismissal of the blog's filing that asked the Ohio Supreme Court to order the release of records.

Plunderbund claimed that, while other statewide officeholders complied with identical requests, Mandel's office denied its bid for records as overly broad and voluminous, constituting illegal interference with the office's work.

Joseph Mismas, Plunderbund's managing editor, expressed satisfaction with the settlement.

"We understand not every Ohioan has the time, knowledge or resources to pursue legal remedies when confronted with a stubborn statewide officeholder, so we consider this a big win for little guys," he said.

Arena board's operations will stay mostly private

From The Columbus Dispatch

The semiprivate board created to manage publicly owned Nationwide Arena says it will hold at least one public meeting per year, but it still plans to operate mostly in private as part of an agreement with Columbus and Franklin County officials.

The four board members of Columbus Arena Management, or CAM, met privately on (April 10) for the first time to sign the operating policy, 10 months after canceling their initial meeting because Mayor Michael B. Coleman, county commissioners and county Prosecutor Ron O'Brien rejected their plan to meet in private.

The board agreed to hold one open meeting a year, most likely in June, to discuss and vote on Nationwide Arena's operating budget. The board also agreed to hire an accounting firm to audit the arena's finances.

Coleman said (April 11) through his spokesman that the new policy is "significant progress" compared with CAM's original desires, though he said "it falls short" of his expectations for transparency.

Until this week, attorneys for Nationwide Realty Investments and Ohio State University – two of the four entities with representatives on the board – had included language in the policy to allow future CAM board members to make the board completely private.

Coleman and county Administrator Don Brown balked at that idea, and the language was deleted.

Colleges rarely publicize names of those banned from campus

From The Columbus Dispatch

Many central Ohio colleges ban people from campus for being disruptive, disobeying rules or breaking laws, including burglary, domestic violence and even deer poaching.

Oberlin College in northeastern Ohio made national headlines last month when an activist group complained that the school's no-trespass list is so secret that some people don't know they're on it or how they got there.

Nine local schools contacted by The Dispatch said people barred from their campuses shouldn't be surprised; they're notified in person or sent a certified or hand-delivered letter.

However, that doesn't mean that the public can see all of the names on the lists.

Oberlin refused to share its list, but a nearby newspaper got the names of 323 people banned from the school from records at the Oberlin Police Department.

Of all of the schools contacted by The Dispatch, only Columbus State Community College provided the names of students who have been banned. Others said they were involved in disciplinary hearings that are protected by federal privacy laws.

State Auditor to gauge Sunshine Law compliance

From Gongwer

She would conduct a test of sorts for Sunshine Law compliance throughout the state, with reviews of 20 counties and cities.

Yost said in a news release that the review, timed to coincide with Sunshine Week, will fulfill a promise he made last year to audit public records compliance during the 2012 audit cycle.

"These records belong to the people, and our governments know the right way to make them available," Mr. Yost said. "This week will be a good test to see how well we're doing."

Yost said his local government examination is based on a 2011 bulletin he issued titled "Best Practices for Responding to Public Records Requests-Updated."

"The audit will analyze procedures to determine if each entity has controls to ensure compliance with the Ohio Public Records Act. Auditors from eight regions will each examine two or three cities or counties," his office reported.

Blog sues for records of threats against Kasich

From The Columbus Dispatch

The liberal-leaning blog Plunderbund is pushing back against state claims that investigations of threats against Ohio Gov. John Kasich are not public records.

Plunderbund Media filed a complaint with the Ohio Supreme Court on (April 12) seeking the release of records it contends are being illegally withheld by Department of Public Safety Director Thomas P. Charles.

On Aug. 14, Plunderbund managing editor Joseph Mismas says he filed a public-records request seeking copies of State Highway Patrol investigative files involving threats against Kasich or his staff.

Public safety officials declined to release a word, argung the documents were exempt from release as "security records" containing information about protection of the governor, who is guarded by state troopers.

Online tool reports teacher, school employees' salaries

From The Dayton Daily News

Assalary data for every public school employee in Ohio is now available online,

thanks to a right-leaning Columbus-based think tank that published the information.

Opportunity Ohio (www.opportunityohio. org) also has on its website pay data for employees of Ohio's 600 public school districts dating back to 2004, and roughly 65,000 state government employees' pay data from 2003 through 2011.

Opportunity Ohio President Matt Mayer said the pay data isn't meant to entertain gawkers. It helps voters make more informed choices and promotes government transparency, he said.

Monroe County Auditor charging \$180 a year to access online records

From The Columbus Dispatch

Monroe County Auditor Pandora Neuhart has some explaining to do. It seems she has opened herself to a big box of questions.

Her office requires those who want to view property records or sales on the auditor's website to pay a \$15 monthly fee - \$180 a year - to examine public records.

Problem is, it is illegal under Ohio law to charge the public to view public records, whether online or in person.

Ohio Auditor Dave Yost fired a warning letter across the bows of a few county recorders last year when his office found them illegally charging fees to access public records online.

Olentangy board member sues colleagues, alleges illegal meetings

From The Columbus Dispatch

One member of the Olentangy school board is suing the other four over a series of emails and phone calls that he says violated state public-meeting laws.

In the lawsuit, (Adam) White says the other board members held an illegal, private meeting to discuss district business, although he doesn't say that they met in person. Instead, he says a series of emails and phone calls constitutes a meeting as defined in Ohio law.

For elected bodies, the law says a meeting is "any prearranged discussion of the public business of the public body by a majority of its members." Public business is to be handled in public, the law says.

Open Government Editorials

Access to public records is vital, but shouldn't be abused

Editorial from The Columbus Dispatch

Two things are certain about the controversy surrounding a Westchester, N.Y. newspaper's decision to publish and map the names and addresses of everyone in three counties who holds a gun permit:

- The information is, and should be, a public record.
- Nevertheless, without any compelling reason nor any purpose that benefits the public, the Journal News was wrong – and foolish – to invade the privacy of so many people.

There's plenty of bad behavior to go around in this mess, including threats of violence which prompted the newspaper to hire armed guards temporarily. But it started with the paper's decision to publish the information. The rationale, as stated by publisher Janet Hasson, is flawed: "We felt sharing information about gun permits in our area was important in the aftermath of the Newtown shootings."

In what way is the fact that Joe Smith of 123 Maple St. has a gun permit relevant to the awful tragedy at Sandy Hook Elementary in Newtown, Conn.? Did the paper mean to suggest a connection between those presumably law-abiding gun owners and the deranged Adam Lanza's carnage? Surely it didn't, but the outrage of gun owners and those who feel strongly about gun rights is understandable. And what the paper did mean to convey is impossible to discern.

Even staunch defenders of the public's right to open records have criticized the newspaper's decision. As AI Tompkins, senior faculty for broadcasting and online at the journalism think tank Poynter Institute, argued in a Dec. 27 post, journalists regularly and rightly use public records to invade people's privacy – when it legitimately serves the public good.

If the Journal News had compared the list of gun-permit holders to a database of felony offenders and found that permits were given to felons, or if it found that those with personal or political connections were given special access to permits, that would have justified naming some permit holders. If analysis showed a meaningful connection between gun-ownership rates and high or low crime, that could justify mapping the locations of permit holders, though their names would be irrelevant.

The newspaper's move is not only misguided but foolish, because of the predictable backlash it has triggered. A New York state senator is calling for legislation to limit public access to gunpermit information. That's a bad idea: Without records of what government does, the public can't assess the legality, ethics or efficiency of government action. In the case of gun permits, open records are the only way to be sure officials aren't granting them to people who shouldn't have them or denying them to people who should.

Ohio's public-records law repeatedly has been weakened by the powerful gun lobby; it allows concealed-carry permit information to be shared with journalists but not the public, and forbids any duplicating or even taking of notes, making it virtually impossible to analyze and detect problems.

Fair and responsible regulation of firearms is too important to be exempt from public scrutiny, and honoring the general principle of open records is all-important to democracy. That's why Putnam County (N.Y.) Clerk Dennis Sant is way out of bounds to announce he won't honor the Journal News' latest freedom-of-information request, declaring, "There is the rule of law, and there is right and wrong."

He needed to stop after the first part. While it would be unwise for the newspaper to publish more handgunpermit information without good cause, Sant is obligated to follow the law. Openrecords laws exist for very good reason. But as with any powerful tool, they should be used with care and common sense.

Ruling strikes blow against secrecy

Editorial from The Canton Repository

The issue: Ohio's open-meeting laws Our view: 'Attorney-client privilege' doesn't give school board carte blanche

Thanks to a Franklin County court magistrate's decision (in February), public boards in Ohio may be less tempted to try to dodge the state's open meetings law.

This is good news for all of us who want to know how local school boards, city councils and other public bodies do business on our behalf.

Here's the backstory:

Columbus City Schools is in hot water with the state for changing enrollment figures to make its students' achievement test scores look better on the district's report card. Under state law, the board can meet privately with its attorney if it faces "pending or imminent court action." But the Columbus district doesn't face a lawsuit, so it can't use that exemption to the open meetings law.

Even so, last year as the "scrubbing" scandal unfolded, board members closed seven meetings to talk with their attorney. He had claimed that any time he's in the room with them, the meeting can be closed to preserve attorney-client privilege.

Wow. Just imagine the possibilities for shutting you out of a meeting. All a public board would have to do is pay a lawyer to sit in.

The Columbus Dispatch protested the closings and sued the board. This

week, Franklin County Common Pleas Magistrate Tim McCarthy issued a preliminary injunction that bars the board from closing meetings under the "attorney-client privilege" rationale.

Boards have any number of reasons for wanting to meet in secret. They may want to get their ducks in a row. They may want to duck questions. They may feel defensive or profoundly uncomfortable about discussing high-stakes situations in an open meeting. Too bad. State law gives them only five exceptions to the openmeetings rule, and in this case, the law comes down squarely against secrecy.

Thanks, Magistrate McCarthy, for the additional weight your injunction gives to this protection for the public.

Right to know is under attack, bit by bit

Editorial from The Cincinnati Enquirer

Open, transparent government is a foundation of democracy.

But the foundation is slowly being chipped away in Ohio. Little by little, nick by nick, state leaders are chipping away Ohio's Open Records Law, the law that allows the public to know what their government is up to.

Taken individually, these exemptions to our right to know might seem insignificant. Taken together, they represent a piecemeal attack on open government that deserves attention from anyone concerned about the quality and fairness of government.

Over the years, Ohio's Open Records Law was weighed down with so many exemptions that, in keeping track of them, they've lapped the alphabet and are now on (cc). That's 29 exemptions. As The Enquirer's Paul Kostyu reported, the just-ended legislative session saw at least 44 bills related to open records, most of them restricting access.

More are expected in the upcoming session. Some legislators and public officials are saying they see a trend of political opponents using public records requests as tools of harassment. With that as their cover, they're contemplating further restrictions on the public's access to records, ostensibly to ward off "harassment" of public officials.

It may be true that, in some cases, repeated requests for public records may be used as a form of political harassment. But that doesn't warrant restricting access to the general public. That kind of a "fix" would be worse than the "problem" they're trying to cure.

It's also questionable how much of a problem this really is. "This seems to be one of those 'accepted' truths that has taken on a life of its own," says Enquirer attorney and open records expert Jack Greiner. "This 'harassment' stuff is a solution in search of a problem."

It's also part of the territory of an elected or appointed public official. They are doing the public's business now, and the public has the right to know how that business is being conducted. "That's part of the job you signed up for," says Monica Dias, a public records expert with Cincinnati's Frost Brown Todd law firm. "There is no 'harassment' in public-records land."

Both these experts point out that remedies already exist to deal with serial public records requesters that truly intend to harass. Ohio already has a "vexatious litigator" law on the books to deal with the rare instances of people who abuse their access to the courts by filing harassment lawsuits. "If someone is a repeat offender, use this tool to address that problem," Greiner says.

Kentucky law allows an agency to refuse to disclose records if the request "places an unreasonable burden" on the agency. That burden, however, must be proven "by clear and convincing evidence."

Maintaining and producing public records is simply one of the jobs of our public agencies. These records belong to the public, not to the agency that maintains them on behalf of the public. That concept was first articulated more than 100 years ago by a Cincinnati judge.

"Public records are the people's records," wrote Judge Rufus B. Smith. "The officials in whose custody they happen to be are mere trustees for the people."

With that in mind, we'll be watching our state legislatures this year for any attempts to further restrict access to the people's records. We'll let you know when those bills come up and how your representatives voted on them. And we encourage you to let them know how you feel about restricting access to public information by contacting them. In Ohio, you may contact your representative by going to www.legislature.state.oh.us. In Kentucky, you can go to www.lrc.ky.gov/ legislators.htm.

The more everyone knows about Sunshine, the better

Editorial from The Vindicator

It was encouraging to see a number of veteran public officials attend a three-hour seminar held by Ohio Attorney General Mike DeWine's office in Youngstown (in April).

There were a few private citizens there, too, but not enough. Because while the press does its best to hold government officials to account when they operate or try to operate behind closed doors, an informed and vigilant public can be just as effective.

It's one thing for an official to disagree with a reporter over whether or not the state's Sunshine Law applies to a specific situation. It's a little different if the challenge comes from a voter, or five voters or 20 voters on whom that official must rely for support.

Those attending the session this week at the Newport Branch of the library in Youngstown heard Jeff Clark, principal assistant attorney general, say that when it comes to legitimate record requests, it's easier to comply than fight. And it's cheaper, too, because Ohio law allows citizens to sue for damages and recover legal fees when elected or public officials flout the law.

DeWine continues a tradition of Ohio attorneys general in attempting to educate public officials and the public about the state's Sunshine laws, a body of law that has evolved over the last 40 years to cover public meetings and open records.

Anyone eager to educate themselves on the law can go to the attorney general's website. The office periodically updates its "Sunshine Laws Manual or "Yellow Book," which explains the law in layman's terms and answers questions. It can be easily downloaded.

The office also created a model open records policy that local governments can adopt or use as a guide for their own open records policies.

State law now requires every elected

official to attend a Sunshine seminar during his or her term. If they comply and if the entity has adopted a Sunshine policy, there is no legitimate reason to run afoul of the law.

Unfortunately, too many elected officials continue to view what should be public records as their property and believe that they can meet to discuss business outside of the public eye.

Clark advised elected officials in Youngstown to "go above and beyond" what they may think is their duty in complying with open government requests.

That's another way of saying what has been Ohio law for more than 40 years. The preamble to the state's Sunshine law says specifically that it should be "liberally construed" toward openness. In other words, when in doubt, err on the side of being open. Those public officials who choose to err on the side of keeping the public in the dark are, to mix metaphors, playing with fire.

Open Government Editorials

Republicans double down to hide JobsOhio from public

Editorial from The Vindicator

You know the Republican majority in the Ohio General Assembly, with the full backing of Republican Gov. John Kasich, are up to no good when they push through a measure so quickly that not even the officeholder directly affected by it is given a chance to testify. And to add insult to injury, the officeholder is a Republican.

Last week, the House and Senate added an amendment to an innocuous bill that says the state wholesale liquor profits are private when they are used by JobsOhio, the so-called private economic development agency created by Kasich and his Republican allies in Columbus.

What's at stake? At least \$100 million. The money is generated from the sale of bonds backed by the profits from the state's monopoly on liquor sales. JobsOhio will use the annual revenue to award grants and loans for economic development projects and fund a state program that pays for the cleanup and redevelopment of commercial and industrial sites.

Yet, Kasich and his cohorts in the General Assembly insist that it's nobody's business how JobsOhio spends the money. It especially isn't any concern of Ohio Auditor David Yost, a Republican who has gone to the mat with the governor over the need for full transparency with regard to the development agency's operation.

Leaders Throw Yost to the Side

Yost has obviously become an irritant and isn't being a good party foot soldier, so the GOP majority in the Legislature has neutered him by pushing through the amendment. The message to Yost is clear: Back off. What JobsOhio does with \$100 million is outside your realm of responsibilities as the state auditor.

Who will audit the books? A private firm appointed by the auditor and JobsOhio.

To understand just how committed the governor and his GOP colleagues are to keeping the public in the dark about JobsOhio, consider this comment from Kasich about the amendment as reported by the Columbus Dispatch:

"Number one, it says what we intended it to say, which is the liquor money is private money. JobsOhio is a private organization. And that's most important."

Translation: I am the decider when it comes to determining what's private and what's public.

Kasich and Republicans in the General Assembly are going down a dangerous path of governance.

State Auditor Yost must not give up the fight for transparency.

Get Attorney General Involved

Indeed, this is an issue that Ohio Attorney General Mike DeWine should delve into, given his strong commitment to the state's public records and open meetings laws. DeWine, a Republican, has long championed transparency in government and has continued a tradition of Ohio attorneys general in attempting to educate public officials and the public about the state's Sunshine laws. Those are a body of law that has evolved over the last 40 years to cover public meetings and open records.

It seems to us that the governor and Republicans in the General Assembly are in need of a refresher course.

Meanwhile, we would urge DeWine, as the state's chief lawyer, to review what has transpired with the JobsOhio amendment and to let the people of Ohio know whether the distinction being made between private money and public money is legitimate.

ONA, OCOG help improve guidelines for school seclusion rooms

By Dennis Hetzel, OCOG President

The Columbus Dispatch has done some exceptional reporting on the use of seclusion rooms to discipline students or handle other student situations in Ohio schools and the lack of accountability or guidelines.

In response, the state Board of Education adopted first-ever rules for how schools should make use of these rooms and report on their use. Unfortunately, as drafted, the rules could lead many school superintendents to conclude that all records would be confidential. This is particularly ironic because it was the use of records that helped The Dispatch disclose questionable practices.

After the Dispatch raised the issue in stories and editorials, I wrote a letter on behalf of both ONA and the Ohio Coalition for Open Government urging the Ohio Dept. of Education and the state board to adopt rules that make it clear that these records should be open. We pointed out that redaction, not complete closure, is the answer when redaction will prevent identification of students as prohibited by federal FERPA guidelines.

FERPA (the Family Educational Rights and Privacy Act) is turning out to be the new HIPAA as an excuse for public officials to block access to information, but that's a larger topic for another day.

As a result of our efforts, the state board removed the word "confidential" from the opening sentence of the new guidelines. That change, combined with the attention the access issue has received, may help avoid denials or expensive court battles. The ODE did not respond to our suggestion that districts create a log of seclusion room activity that would be a public record.



Supreme Court says states can restrict access to records

From USA Today

States may have little reason to restrict public records access to their own residents, but the practice is not unconstitutional, the Supreme Court ruled (April 29).

The unanimous decision, allowing Virginia to favor its residents under its Freedom of Information Act, goes against media organizations and professional data miners that had sided with the law's out-of-state challengers.

During oral arguments in February, several justices had questioned whether the state's law served any purpose, since non-residents can hire residents to get information. In his ruling, Justice Samuel Alito noted much of the data is available on the Internet.

Still, Alito said, the state law "did not abridge any constitutionally protected privilege or immunity" because access to public records is not a "fundamental" privilege, such as employment.

While the Constitution's privileges and immunities clause "forbids a state from intentionally giving its own citizens a competitive advantage in business or employment, the clause does not require that a state tailor its every action to avoid any incidental effect on out-of-state tradesmen," Alito said. Unless indicated, all articles excerpted from state and national news sources. For links to the complete articles, go to www.ohionews.org/category/ocog.

Reporters Committee asks DOJ to overturn new Marshals Service policy blocking release of federal mug shots

From the Reporters Committee for Freedom of the Press

The Reporters Committee for Freedom of the Press, joined by 37 media organizations, has written to U.S. Attorney General Eric H. Holder Jr., asking that a recently enacted Marshals Service policy to block the release of federal criminal booking photographs be rescinded.

"The new policy stifles the public's lawful access to booking photographs under FOIA without legal justification," according to the Reporters Committee letter.

The Reporters Committee letter was prompted by a Dec. 12 Marshals Service memo stating that it would no longer comply with Freedom of Information Act requests for booking photographs as required under appellate court precedent in the U.S. Court of Appeals in Cincinnati (Sixth Circuit).

Under the 1996 ruling in Detroit Free Press v. Department of Justice, federal booking photographs must be released under FOIA when a named, indicted criminal suspect has appeared in open court and the court proceedings are ongoing. The Sixth Circuit ruling found that under such circumstances an individual has no privacy right in such records. By refusing to follow the appellate court precedent, the Marshals Service has essentially shut off access to federal mug shots under FOIA.

The Marshals Service had previously limited release of booking photographs to FOIA requests originating from within the Sixth Circuit and only allowed their release to non-Sixth Circuit requesters if the images had already been made public under FOIA. The December memo states that the Marshals Service will no longer comply with its FOIA obligations under the Detroit Free Press decision particularly in light of two subsequent U.S. appellate courts decisions finding that subjects may have some level of privacy under FOIA in their booking photograph images.

It's not a crime to record cops, Supreme Court decides From The Chicago Tribune

The U.S. Supreme Court on (May 26) declined to hear an appeal of a controversial Illinois law prohibiting people from recording police officers on the job.

By passing on the issue, the justices left in place a federal appeals court ruling that found that the state's antieavesdropping law violates free-speech rights when used against people who audiotape police officers.

Illinois' eavesdropping law is one of the harshest in the country, making audio recording of a law enforcement officer – even while on duty and in public – a felony punishable by up to 15 years in prison.

Feds deny request to look at Father Sam records

From The Akron Beacon Journal

The U.S. Department of Justice has denied a public records request by the Akron Beacon Journal to review court and investigatory records regarding the arrest and conviction of the Rev. Samuel Ciccolini.

The release of the records "would result in an unwarranted invasion of personal privacy and would be in violation of the Privacy Act," the department wrote in a letter dated March 8.

The letter goes on to say that court records are available to the public and another request could be filed to see those.

The newspaper had sought last year to examine the records through the U.S. Attorney's Office in Cleveland, but was later instructed to file a Freedom of Information Act request through the Department of Justice in Washington, D.C.

The newspaper is appealing the March 8 denial.

Ciccolini, a well-known Catholic priest from Akron, is serving a six-month sentence in federal prison for cheating on his taxes and committing banking fraud in 2003. He also embezzled \$1.28 million from the Interval Brotherhood Home Foundation, but paid it back when he was being investigated and was never charged with theft.

Ohio Coalition for Open Government

1335 Dublin Road, Suite 216-B, Columbus, Ohio 43215 Tel. (614) 486-6677 • Fax (614) 486-4940

The Ohio Coalition for Open Government (OCOG) is a tax-exempt 501 (c)(3) corporation established by the Ohio Newspapers Foundation in June 1992. The Coalition is operated for charitable and educational purposes by conducting and supporting activities to benefit those who seek compliance with public access laws. It is also affiliated with a national network of similar state coalitions.

The Coalition serves as a clearinghouse for media and citizen grievances that involve open meetings and open records, and offers guidance to reporters in local government situations. The activities of the Coalition include monitoring government officials for compliance, filing "amicus" briefs in lawsuits, litigation and public education.

The annual memberships to OCOG, as approved by the board, entitle a group or individual the use of the new FOI telephone hotline, handled directly by attorneys at Baker & Hostetler in Cleveland, and subscription to the newsletter.

OCOG is funded by contributions from The Ohio Newspapers Foundation and other outside sources. It's seven-member board includes public trustees from organizations with an interest in freedom of information. For board members, please see the masthead on page 2.

Donations to OCOG

OCOG represents a broad coalition of not only media people but also everyday citizens who support the cause of open government in Ohio through various means, including regular newsletters. OCOG sometimes is asked to do more. In 2011, for example, OCOG underwrote a "friend-of-the-court brief" to support an appeal in an Ohio case in which a government office was charging thousands of dollars to provide a CD with public records.

"We haven't scratched the surface of OCOG's potential to reach out and educate more citizens on the importance of open government," says Dennis Hetzel, ONA executive director and OCOG president. "I'm particularly intrigued about how we might use social media to educate, provide resource material and build coalitions. Unfortunately, OCOG's present resources will not keep pace with current needs, let along expansion of our efforts. So please consider donating to OCOG."

Donations to OCOG can be mailed to the address above. You can also submit donations online at www. ohionews.org/legislative/open-government.

Open Government Report subscriptions and news items

The OCOG Open Government Report newsletter is emailed twice yearly. To be placed on the distribution list, send your email address to Jason Sanford, Manager of Communications and Content at the Ohio Newspaper Association, at jsanford@ ohionews.org. You can also access continually updated OCOG information on the web at www.ohionews.org/category/ocog.

If you have news or information relevant to OCOG, please email it to Jason Sanford at the address at left.

Join OCOG

Any non-Ohio Newspapers Foundation member may submit an application for OCOG membership to the OCOG trustees for approval. Membership includes use of the OCOG hotline through the OCOG retainer to Baker & Hostetler and two issues of the OCOG newsletter. The cost of OCOG dues varies with the membership category the applicant falls under. The categories and dues prices are as follows:

Attorneys and Corporate Members	\$70
Non-Profit Organizations	\$50
Individual Membership	\$35
College & University Students	
High School Students	\$10

To download the OCOG application form, please go to www.ohionews.org/legislative/open-government.

City of Napoleon, Ohio

HEALTH CARE COST COMMITTEE

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

Meeting Agenda

Monday, June 17, 2013 at 8:30 AM

- I. Approval of Minutes from September 14, 2012 (In the absence of any objections or corrections, the minutes shall stand approved.)
- II. Changes to Health Care Options for 2014
- III. Any Other Matters to Come Before the Committee

Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio HEALTH CARE COST COMMITTEE

Meeting Minutes Friday, September 14, 2012 at 8:30 AM

PRESENT	
Commission Members	Mike Foreman (PD) - Chair, Chad Lulfs (NB), Mary Thomas (NB), Joel
	Frey (Fire), Roger Eis (AFSCME), Greg Heath (AD), Jon Bisher (AD)
Recorder	Barbara Nelson
City Staff	Gloria Mikolajczak
ABSENT	
	Jamie Mendez, Eric Rohrs, Leonard Durham
Call To Order	Chairperson Foreman called the meeting to order at 8:30 AM.
Approval Of Minutes	Minutes from the July 26, 2012, meeting stand approved.
Procedures For Implementing Multiple Plan Types Including Spousal Survey Updates	Members reviewed an email from Cindy Stever and a spreadsheet created by Heath, who said we must start now with a Spousal Waiver Form to correspond with spouses opting in or opting out of health insurance at their employers. Thomas said there is a choice whether to penalize spouses whose signup period has already passed, or to let them ride without paying the \$50 until our next signup. Heath said we need surveys back by the end of October or earlier. We could make 11/1/2012 to 10/31/2013 a phase-in period for spousal waivers.
	Bisher reported that Council went along with the Committee's proposal. Many things will go up and there are a lot of "what if" questions that we won't know until later, but the package was accepted for the next two years - 2013 and 2014. The percentage increases were very important because it acknowledges that we are going to 15% very quickly.
	Members reviewed two sample forms: the <i>Spousal Coverage</i> <i>Questionnaire</i> and the <i>Spouse Eligibility Inquiry Form – 2013 Open</i> <i>Enrollment</i> . It was decided that children will not be affected by the spousal coverage issue, since they were never discussed as part of that proposal. Thomas said one spouse's employer said she cannot get health insurance from her employer if she can get it here. Heath said the new rule will prevent that. The employer is doing the same thing we're trying to do. Bisher said that's why we have the new rule. Foreman noted that if no insurance is offered for your spouse, you don't have to pay the spousal fee.
	Members decided to use the <i>Spouse Eligibility Inquiry Form – 2013 Open</i> <i>Enrollment</i> only. The other form is a survey, but we already know what we are doing and don't need that one. The spouse takes this form to their employer and the employer will verify if they have health insurance. Lulfs asked if stepchildren living in your house are eligible for insurance if their parent cannot cover them. Heath said guardianship or a court decree determines that. Bisher said in general, if a child was covered before, they're still covered. This change has to do with spouses.

Members agreed to insert *City of Napoleon* for EMPLOYERS NAME. The employee can mail or fax the form or bring it back. The employee will fill out the top of the form and the spouse's employer will fill out the bottom.

Bisher asked what we will do if the spouse is covered by other insurance, but not employed. Mikolajczak said we have a form to fill out proving that what we offer is comparable or better than Medicare. If so, a person can go with the employer's insurance instead of Medicare. Our plan will always be better than Medicare. Bisher said if the spouse is not employed, they are eligible to be on the City plan.

Heath said someone could be eligible through a retirement system. Bisher said there are other situations where the spouse has insurance, but doesn't work. Lulfs said, the form says, "Is your spouse employed?" not "Does your spouse have other health insurance?" Heath said the regular health insurance enrollment form asks this. Mikolajczak said the insurance company will find this out for coordination of benefits. Foreman said the proposal is for working spouses. Heath said the Obama plan will force the issue. Mikolajczak said they are streamlining the system, just like PERS.

Members agreed to put the spouse's employer's name, address, phone, fax and email address on the bottom of the form. Open enrollment is in November, so the form must be back by October 31, 2012. The transition period for spousal coverage will be 10/31/12 - 10/31/13. Mikolajczak will do a memo to attach to the form explaining the Spousal Waiver Program.

ANY OTHER MATTERS

More employees may want to use the 125 Plan due to higher deductibles next year. The money put into the plan is pre-tax. The disadvantage is you don't get the money back if you don't spend it by the end of the year. The City keeps it. Lulfs said daycare expenses can come off his taxes or he could do the 125 Plan. He isn't sure which is better. Heath said one affects your tax bracket and the other becomes a deduction.

Heath said we will still have AFLAC as our provider for the 125 Plan, but the program will be administered by WageWorks. Members discussed the advantages and disadvantages of having a debit card as opposed to mailing/faxing expenses to the company and being reimbursed later. Heath said the problem with debit cards is that someone could buy something that is ineligible and the employer is ultimately responsible. The way it is set up now, you have to take a receipt to get reimbursed. The debit card pays immediately.

Lulfs asked if you can still do receipts with debit cards. His dentist won't take plastic. Bisher said if your card is stolen, you are responsible for charges on a debit card but not on a credit card. Heath said for his audit purposes, it is easier to stay the same with receipts. For Bisher, it is easier for employees to have a debit card. Bisher said it is not cumbersome the way it is now.

Foreman suggested members talk to their people and let them decide. We will discuss this at the next meeting. Thomas said there are about 12

	people in the 125 Plan now. The \$50 spouse charge will be tax-deferred too on that plan. Open enrollment for the 125 Plan is in November.			
	Cindy Stever is willing to do employee sessions to explain these changes. This can be done at the shift change at police, operations, etc. Heath woullike to schedule Cindy to come here around October 1 to explain the spousal thing. Lulfs suggested that Sam Merillat come in at the same time and talk about the 125 plan. Heath said we'll try to get these meetings scheduled before the end of October.			
	Eis said paying more for health insurance premiums means people will have less money to put into the 125 Plan. Bisher said there is no doubt that discretionary income will go down. He's sure this will come up in negotiations.			
Motion To Adjourn	Motion: Heath Second: Thomas To adjourn the meeting at 10:05 AM			
Passed	Approved by unanimous voice vote.			
Date	Micheal Foreman, Chair			
	Whenear Foreman, Chan			

Memorandum

To: Tree Commission, Council, Mayor, City Manager, City Law Director, City Finance Director, Department Supervisors
From: Gregory J. Heath, Finance Director/Clerk of Council
Date: 6/13/2013
Re: Tree Commission Meeting Cancellation

The regular meeting of the Tree Commission, which was scheduled for Monday, June 17 at 6:00 PM, has been canceled due to lack of agenda items.

Memorandum

To:	Parks & Recreation Committee, Council, Mayor, City Manager,
	City Law Director, City Finance Director, Department Supervisors,
	Media
From:	Gregory J. Heath, Finance Director/Clerk of Council
Date:	6/10/2013
Re:	Parks & Recreation Committee Meeting Cancellation

The regular Parks & Recreation Committee meeting scheduled for Monday, June 17 at 8:00 PM has been <u>canceled</u> due to lack of agenda items.



June 14, 2013

Gorsuch demolition brings down stack

By Marc Gerken – president/CEO

Demolition of the Richard H. Gorsuch Generating Station has been progressing on schedule with one of the last major components of the original structure coming down last week. On June 8, the smoke stack was brought down using explosive charges. The work was done by Contract Drilling and Blasting, LLC, working closely with Brandenburg, the demolition contractor.

The stack demolition was completed prior to 7 a.m. on a Saturday to mitigate any impacts on local industries and the public. A portion of State Route 7 was closed as a precaution during the actual demolition; however, the closure lasted less than 15 minutes. The demolition was completed as planned with no unexpected challenges.

The 362-foot-tall stack was constructed in 1971. It was made of concrete, with a 36-foot outside diameter at the bottom tapering to 27 feet at the top. The inner flue was made of brick. The walls of the stack were 12-16 inches thick. Contractors used 50 pounds of gelatin nitroglycerin dynamite in the demolition.

AMP staff, coordinated by Scott Barta, and contractors spent a great deal of time planning and preparing for the demolition, working closely with Washington County safety personnel and local industries. The efficiency of the operation is a tribute to their preparation. The Gorsuch demolition is expected to be completed in early fall.

A video of the stack demolition has been added to the AMP Member Extranet website and can be viewed here: <u>https://amppartners.org/sign-in/</u>



Photos courtesy of Frank Tuttle

Crews answer the call for Mutual Aid in Wapakoneta

By Michelle Palmer – assistant vice president of technical services

Strong storms, including a confirmed tornado in New Knoxville, blew through the Midwest earlier this week. Wapakoneta issued a request for Mutual Aid assistance just before 3 a.m. June 13.

According to Wapakoneta Electric Department Superintendent Don Schnarre, 14 poles came down during the storm and a substation had to be taken out of service until it was tested. Approximately two thirds of the city's customers lost power, but half of those were back on within two hours and the rest of the city was restored by 10 p.m. June 13 (with the exception of three customers who had extensive damage to the meters in their homes, and they should be restored by June 14).

In addition to larger municipals Bryan and Bowling Green, Pemberville and Deshler also stepped up to the call. Each community responded with a two-man bucket crew to assist with the damage sustained in Wapakoneta.

AMP's Mutual Aid program is a network of municipal systems that stands ready to provide assistance to fellow municipal systems when local utility emergencies occur that are too widespread to be handled by one system alone.

Members who have not yet signed a Mutual Aid agreement are encouraged to do so. The agreement is set up to allow interstate mutual aid, eliminate the need for individual agreements between communities, and maintain existing policies and procedures (including rates to be charged). A total of 91 AMP members have executed the agreement.

If you have any updates for Mutual Aid contacts or point persons, please let us know so we can be sure to have correct email addresses and phone numbers for every Mutual Aid community. Contact Jennifer Flockerzie at jflockerzie@amppartners.org or 614.540.0853 with updates.

Trends in Sustainability

By Julia Blankenship - director of energy policy & sustainability

Water is increasingly becoming more of a potential area of concern for the energy industry. As reported in May by the *Christian Science Monitor* (<u>http://www.csmonitor.</u> <u>com/Environment/Energy-Voices/2013/0519/Water-mayreshape-energy-industry</u>), freshwater in general is undervalued, and in many cases there is no cost at all for the actual resource itself – simply the costs of any water rights, treatment, or transportation.

While recent droughts in some areas and extended droughts in others have caused local officials concern, a 2009 study conducted for the 2030 Water Resources Group by McKinsey & Co. predicted that global demand for freshwater could outstrip supply by 40 percent by 2030 (<u>http://www.2030waterresourcesgroup.com/water_full/Charting_Our_Water_Future_Final.pdf</u>). As a large user of freshwater, the global energy industry is paying attention.

Some types of fuel extraction can be particularly waterintensive. For example, with fracked natural gas, about one gallon of water is required for each mmBtu recovered (approximately enough to meet the natural gas needs of an average home for four days). For electric generation, a 2011 EPRI study reported that while 37 percent of U.S. freshwater withdrawals were for agricultural/irrigation purposes, 36 percent were for once-through thermoelectric cooling, and an additional 4 percent were for recirculating cooling water for power generation units. The EPRI study looked only at freshwater withdrawals and did not assess use of freshwater for hydroelectric generation. The EPRI study, which used 2005 data, can be accessed at http:// www.epri.com/abstracts/Pages/ProductAbstract.aspx?Prod uctId=00000000001023676.

Multiple options face all freshwater users, ranging from reducing overall usage through conservation, increasing water-use efficiency, changing industrial processes, developing new technologies/crops that use less water, or even adopting lifestyle changes; but costs are predicted to rise. The *Christian Science Monitor* article predicts that the waterintensive energy and industrial sectors will be the most politically viable places to increase costs with the goal of influencing freshwater use.

AMP wants your opinion

By Krista Selvage – manager of publications

A survey on AMP's *Public Power Connections* (PPC) consumer publication was sent out last week to PPC contacts and we'd like to remind you how important your opinions are to the organization. The survey is intended to get your input on what you think of PPC, including its content, design and frequency, and on how members use it in their customer-communications program.

The survey, which closes June 17, is anonymous and should only take 5 to 10 minutes. We appreciate our members in helping us with our efforts. If you receive PPC, please visit this site to begin the survey <u>http://s.zoomer</u> ang.com/s/AMPPublicPowerConnectionsSurvey

This will be very helpful to us as we evaluate ways to improve the value of PPC to our members and their customers.

If you have any questions or comments about the survey, please contact Greg Grant, AMP director of publications, at 614.540.1067 or ggrant@amppartners.org.

For current and past editions, please visit the Member Extranet section of AMP's website.

On Peak (16 hour) prices into AEP/Dayton Hub

Week end	ling June 14			
MON \$42.11	TUE \$40.77	WED \$42.88	THU \$34.33	FRI \$33.33
Week end	ling June 7			
MON \$39.10	TUE \$36.73	WED \$39.94	THU \$37.66	FRI \$37.11
AEP/Davton 2014 5x16 price as of June 14 — \$41.98				

AEP/Dayton 2014 5x16 price as of June 14 — \$41.98 AEP/Dayton 2014 5x16 price as of June 7 — \$42.10

Mutual Aid in Wapakoneta

continued from Page 1

As a reminder, the Mutual Aid guidelines, standard operating procedures, and sector coordinator contact information are available in AMP's online Member Directory, found on the Member Extranet section of AMP's website.

Please contact me with questions, or if you are a member that has not yet completed a Mutual Aid agreement at <u>mpalmer@amppartners.org</u> or 614.540.0924.

2013 AMP Golf Outing, Organization and Project Update scheduled for Aug. 20

By Michael Beirne – assistant vice president of government affairs $\&\ publications$

The annual AMP Golf Outing and AMP Organizational Dinner have been scheduled for Aug. 20. The outing will be held at Rattlesnake Ridge Golf Club and will begin with a shotgun start at 9:30 am. That evening, the annual organizational dinner will be held at the Crowne Plaza Hotel, beginning at 6 p.m.

Regarding the golf outing, we want to make you aware of a few changes to this year's event:

- Due to significant interest in recent years, the 2013 event will have a hard limit of 144 golfers.
- Registration is based on a first-come, first-served basis and AMP member system officials will receive first priority through July 9. Member registration will be accepted following July 9, but cannot be guaranteed as registration will open to nonmembers beginning July 10. Each member community will be limited to one foursome (or up to four individual golfers).

Members should be receiving the golf outing brochure via email June 14. Please contact me if you did not receive the brochure. Nonmembers will receive the registration materials in the coming weeks. Note that registration for nonmembers will not be accepted until July 10.

In addition to the outing, AMP will also hold its annual Organization and Project Update Dinner on Aug. 20. AMP President and CEO Marc Gerken, and members of AMP's executive management team will provide insight on various AMP initiatives. Additional information on this event will be provided at a later date.

Please contact me at <u>mbeirne@amppartners.org</u> or 614.540.0835 if you have questions or need additional information.

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Webinar to cover OMEA legislative topics

By Michael Beirne

The Ohio state budget, an update on Ohio Statehouse activity and other legislative issues that affect OMEA's membership will be discussed during a legislative webinar for OMEA members and consultants from 10 to 11 a.m. on June 21.

If you'd like to participate, please contact me for webinar login information at 614.540.0835 or **mbeirne@amppartners.org**.

Calendar

June 14-19—APPA National Conference and Public Power Expo Nashville, Tennessee

June 17-21—AMP Intermediate Lineworker training AMP Headquarters, Columbus

June 21—Legislative Webinar 10 a.m. via computer and conference call Contact mbeirne@amppartners.org or 614.540.0835

July 25—AMP finance & accounting subcommittee meeting: "Financial Planning for Municipalities" course AMP Headquarters, Columbus

Aug. 20—AMP Golf Outing & Organization and Project Update Dinner Golf, Rattlesnake Ridge Golf Club Dinner, Crowne Plaza Hotel

APPA Academy Webinar Series

An internet connection and a computer are all you need to educate your entire staff for just \$89. Register today at www.APPAAcademy.org. Non-APPA members enter coupon code **AMP** to receive the member rate.

- The Basics of Filing Electric Quarterly Reports July 1
- PM 2.5 Modeling: New Challenges to Air Permits July 8
- Regional Transmission Organizations: RTO 201 July 10
- Utility Governance Webinar Series Strategic Planning for Utility Boards and City Councils July 16
- Information Technology Governance for Auditors and Accounting & Finance Personnel July 23
- Pole Attachment Issues July 30

Copies of past webinars can be purchased through the APPA Product Store at www.PublicPower.org/store

Co-hosted by





May Operations Statistics				
	JV6 Wind Output	Belleville Output	Avg. A/D Hub On-Peak Rate	
May 2013	23%	94%	\$45.44/MWh	
May 2012	16%	81%	\$36.15 /MWh	
	Fremont Energy Center Output	Blue Creek Wind Output	Napoleon Solar Output	
May 2013	43%	32%	24%	
May 2012	50%			
*Fremont capacity factor based on 675 MW rating *Solar capacity factor based on 3.54 MW rating				

AFEC weekly update

By Craig Kleinhenz – manager of power supply planning

Last Friday through this Wednesday saw very consistent production out of AFEC. Almost all of those days saw the plant at base minimum during the overnight hours and base maximum during the on-peak hours. The exception to this was on Tuesday and Wednesday, when higher temperatures caused around six hours of duct fired generation across peak hours (three hours each day).

Temperatures then plummeted after the storms swept through Ohio on Wednesday night, causing the plant to be dispatched of-fline all day on Thursday. For the week, AFEC averaged a 56 percent load factor (based on 675 MW). AFEC was \$5.56/MWh cheaper than on-peak market prices over the last seven days.

Markets have quiet week

By Craig Kleinhenz

After the last several weeks of volatility in natural gas prices, the market had a quiet week. The amount of natural gas injected into storage this week was right in line with analysts' expectations.

In addition, temperature forecasts for the next two weeks do not show any major warm weather. These two factors resulted in a calm week for the energy markets.

July natural gas prices finished trading down \$0.02/MMBtu from last week to end at \$3.81/ MMBtu. 2014 on-peak electric prices at AD Hub finished down \$0.12 MWh from last week, closing at \$41.98/MWh.



News or Ads?

Call Krista Selvage at 614.540.6407 or email to kbselvage@amppartners.org if you would like to pass along news or ads.

Update Classifieds

Danville seeks chief engineer

City of Danville Utilities Department: Water & Gas Chief Engineer. Performs difficult professional work planning, designing and engineering the present and long-range programs for rehabilitation and/or extensions to the water and gas distribution systems; Administers construction projects and contracts; Administers governmental regulations to ensure compliance; Oversees and directs engineering staff and contract firms; Supervises GIS, corrosion control and other programs; Comprehensive knowledge of the theories, principles and practices of Water & Gas distribution engineering and of the construction, operation and maintenance of Water & Gas distribution systems; Thorough knowledge of supervisory principles and practices; Must be familiar with CAD and drafting software.

Bachelors' degree in Engineering from an accredited college or university; Mechanical or Civil preferred; Extensive experience as an engineer in the water & gas distribution field; Possession of valid drivers' license; Engineer in Training Certification required and the ability to obtain valid registration as a Professional Engineer in the State of Virginia within 6 months of employment.

Starting Salary Range: \$55,524 - \$86,954/ DOQ. Position will remain open until filled. Equal Opportunity Employer. Visit <u>www.danville-va.gov</u> for more information.

Cuyahoga Falls gives notice of open competitive examinations

The City of Cuyahoga Falls has given notice that the Cuyahoga Falls Civil Service Commission will administer a written examination for the following positions: Web Developer (Open – Competitive Exam) at 6:30 p.m. July 10; Water-Sewer Repair Specialist II (Open – Competitive Exam) at 6 p.m. June 27; and Assistant Street/Sanitation Superintendent (Open – Competitive Exam) at 6 p.m. June 18.

All three exams will take place in the Cuyahoga Falls High School Library, 2300 Fourth Street, Cuyahoga Falls, OH 44221 (Registration will begin one hour prior to the exam). A valid driver's license or state issued ID must be presented on the evening of the examination.

For full descriptions and qualifications, please visit <u>www.cityofcf.com</u>, where you can also print Civil Service applications. Applications are also available at the City Building, 2310 Second Street, Cuyahoga Falls, OH 44221 from 8 a.m. to 5 p.m. weekdays.

Lineman apprentice needed in Village of Wellington

The Village of Wellington is seeking candidates for the position of lineman apprentice. This position will be responsible for performing entry level work in the construction, operation, maintenance and repair of electrical distribution lines.

Duties will include assisting with all aspects of electric distribution line construction, maintenance and trouble-

shooting, including responding to power outage service calls. Will also operate equipment, read and install meters and other duties as directed. After completing probationary period, will enter into a structured program of apprenticeship and must be able to complete the physical and educational demands of such a program.

Applicants should be a high school graduate, GED or equivalent experience and education and have a valid Ohio Drivers License. Preferred qualifications will include a CDL and completion of a pre-apprenticeship lineman program. A competitive rate of pay, benefits and OPERS retirement is offered.

Applications will be accepted at Village of Wellington, Att: Steve Pyles Village Manager 115 Willard Memorial Square Wellington OH 44090. Applications are available at <u>www.villageofwellington.com</u>, Town Hall or the Electric Dept. and will be accepted until June 17, 2013 or until filled. Wellington is an EEO/AA Employer.

City of Coldwater seeks finance director/treasurer

The City of Coldwater and Coldwater Board of Public Utilities is seeking a dynamic and creative individual to lead its administrative and financial operations. The qualifying candidate must have strong management skills and significant experience in governmental accounting or auditing and/or utility financial operations. Required Bachelors' Degree in Accounting or related studies. CPA certification or Master's degree is considered a plus.

Primary responsibilities include treasury and investment portfolio management, budgeting and financial reporting. Position will provide oversight for utility billing, customer service, utility rate setting, financial and compliance audits. Candidate will oversee a total combined operating budget in excess of \$45 million. Find entire job description at <u>www.coldwater.org</u>.

Salary will be based on experience, but will be in the range of \$76,500 to \$88,000, plus benefits.

Coldwater is a progressive community of 10,000 residents located in south central Michigan. The City provides electric, water, wastewater and telecommunications services through the Coldwater Board of Public Utilities.

Interested candidates should submit a resume and cover letter by June 21, 2013, to Joan Sherman, City of Coldwater, 1 Grand St., Coldwater, MI 49036 or email to resume@coldwater.org. Equal opportunity employer.

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Legislative Bulletin

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Committee Schedule

June 14, 2013

OHIO HOUSE TELLS SENATE MORE WORK NEEDED ON BUDGET

On Wednesday, members of the Ohio House of Representatives received the recommendations approved by the Ohio Senate to the state's biennial budget bill and decided that the differences between the two versions were too great for them to be able to accept HB 59, as returned. As in all past state budget bills, HB 59 has been assigned to a Conference Committee to hammer-out the final legislative package. The conferees, House members Reps. Ron Amstutz (R-Wooster), Jeff McClain (R-Upper Sandusky) and Vernon Sykes (D-Akron), and Sens. Scott Oelslager (R-Canton), Bill Coley (R-West Chester) and Tom Sawyer (D-Akron) from the Senate, were to have their first committee meeting Thursday but it has been rescheduled for Tuesday, June 18.

Big issues that remain unresolved in the bill include changes proposed to the state's Severance tax, Medicaid expansion, school funding and who will be the beneficiaries of whatever tax relief plan the legislative leaders decide upon. The deadline for the budget plan to be on the Governor's desk is June 30th.

Outside of the activities surrounding the budget, the legislative action around the Statehouse this past week was relatively light, at least for issues that we are following. With the final push being made to complete the budget, most of the legislative energy will be focused towards that goal next week. If there are any changes to the schedule that you need to be aware of, we will be sure to alert our members through a special legislative bulleting next week.

Below is the committee schedule that has been released so far, for the coming week. We hope everyone has a safe and happy weekend.

Past Bulletins:

- <u>2013</u>
- <u>2012</u>
- <u>2011</u>
- <u>2010</u>



Tuesday, July 2:

9:00 am - 9:00 p.m. Hole In One Contest - sponsored by the Napoleon American Legion. Any person scoring a hole-in-one will receive \$1,000 compliments of the American Legion. (Two or more winners shall split the prize). Gift certificates will be awarded daily to persons closest to the pin. Located near wooden shelterhouse at Glenwood Park.

1:00 pm - 9:00 p.m.3 on 3 Basketball Tournament - Glenwood Park
Age groups - 13- 15 (boys and girls)1:00 p.m. start
5:00 p.m. start
Teams shall consist of a maximum of four (4) players.
Double elimination format. \$20.00 entry fee per team.
Trophies and shirts awarded to winners. Registration deadline is
Monday, July 1.



Wednesday, July 3:

9:00 am - 6:00 p.m.

Hole In One Contest - sponsored by the Napoleon American Legion. Any person scoring a hole-in-one will receive \$1,000 compliments of the American Legion. (Two or more winners shall split the prize). Gift certificates will be awarded daily to persons closest to the pin. Located near wooden shelterhouse at Glenwood Park. 6:00 - 7:30 p.m

Big Wheel Race – Napoleon Middle School rear parking lot. Age groups for those 7 and under. Prizes for winners. Register at the site.



Thursday, July 4:

8:00 a.m.

Red, White, and Blue Golf Scramble – Golf Course

This will be a unique 5 person scramble where teams will play from the red, white, and blue tees. Prizes will be awarded to winning teams as well as individual awards for closest to the pin, long drive, and longest putt. Entry fee will be \$100.00 per team (10 team minimum). Contact the clubhouse at 592-5526 to enter your team or for more information.



- 9:00 a.m. 6:00 p.m Hole-In-One Contest Glenwood Park
- 9:00 a.m. 1:00 p.m. Basketball Hotshot Contest Glenwood Park Basketball Court. Boys and Girls age groups are 9-12, 13-15, and 16-18. Registration at 9:00 a.m. with competition to begin at 9:30 a.m. Trophies to winners in each age group
- **10:00 a.m. 6:00 p.m** Free Open Swim at the Napoleon Municipal Pool

12:00 p.m.Chicken Barbecue - located inside at the American Legion.
Chicken dinners and bratwurst sandwiches. Eat in or carry-outs
available. Outside beverage stand also open at 11:00 a.m.

2:00 - 3:00 p.m Kids Games at the Municipal Pool - prizes and candy donated by the American Legion.



- 1:00 p.m. Girls Softball All-Star Game All Stars from the Girls Fastpitch Softball Minor League program to compete at the High School.
 1:00 p.m. Junior Little League All-Star Game – Glenwood Park.
 4:00 p.m. Girls Softball Challenge – High School Softball Fields
- sion stand will be open through the fireworks. (tentative)

Skills challenges, homerun derby, alumni game, and more. Conces-

5:00 p.m. Sr. Little League Baseball All-Star Game – Glenwood Park



- 8:00 p.m. Napoleon Community Band Glenwood Park Local instrumental band playing all of the traditional Independence Day music leading up to the fireworks display.
- **10:00 p.m.Fireworks Display** Glenwood Park
(Please park in the parking lots at Glenwood Park and the
High School there will be no parking on Bales Road from
Briarheath Dr. to Chelsea Ave. and on Briarheath Dr. from Kenil
worth to Bales)

