

**June 22, 2015**

**Agenda**

*Pledge of Allegiance*

Approve Minutes

Transfer of Funds (1)

Supplemental Appropriations (3)

Before/After

Out of County Travel-JFS June 2015

Tolling Agreement-Water & Sewer/City of Dover

Pay Bills

*Other Business*

Adjourn

THE BOARD OF COMMISSIONERS OF TUSCARAWAS COUNTY MET IN REGULAR SESSION, MONDAY THE 22<sup>ND</sup> DAY OF JUNE, 2015, WITH THE FOLLOWING MEMBERS PRESENT:

Belle Everett  
Kerry Metzger  
Chris Abbuhl

Commissioner Everett presiding.

*The Lord's Prayer was said.*

*The Pledge of Allegiance was said.*

**RESOLUTION (561-2015) APPROVE MINUTES**

It was moved by Commissioner Abbuhl, seconded by Commissioner Metzger, to approve the minutes of the previous meeting as written.

VOTE: Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

**RESOLUTION (562-2015) TRANSFER OF FUNDS**

It was moved by Commissioner Metzger, seconded by Commissioner Abbuhl, to approve the following transfer of funds:

DEPARTMENT	FROM	TO	AMOUNT	REASON
Law Library	S20-S13	S20-S11	\$1,884.30	Books

VOTE: Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

**RESOLUTION (563-2015) SUPPLEMENTAL APPROPRIATIONS**

It was moved by Commissioner Abbuhl, seconded by Commissioner Metzger, to approve the following supplemental appropriations:

DEPARTMENT	FROM	TO	AMOUNT	REASON
Water/Sewer	P30-P99	P30-P52	\$4,321.71	Repairs
EMA	B50-B10	B50-B02	\$5,770.00	Air Pack
Commissioners	U40-U10	U40-U02	\$39,806.25	CRTAPP Server Upgrade (IT)
Commissioners	U40-U10	U40-U11	\$376.13	Architect Fees-JFS

VOTE: Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

**RESOLUTION (564-2015) BEFORE/AFTER EXPENDITURE**

It was moved by Commissioner Abbuhl, seconded by Commissioner Metzger, to approve the following before/after expenditures:

Parkway Auto Group (Commissioners)	1292.98
------------------------------------	---------

VOTE: Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

**RESOLUTION (565-2015) TRAVEL –JFS**

It was moved by Commissioner Metzger, seconded by Commissioner Abbuhl, to approve the following travel request as submitted by David Haverfield, Director:

**DATE:** 6/26/2015  
**TITLE:** DOMESTIC VIOLENCE PRESENTATION- “Hurricanes Within Rainbows”  
**LOCATION:** CANTON  
**ATTENDING:** DAVID HAVERFIELD  
**ANTICIPATED EXPENSE:** Mileage of approximately 70 miles equals \$32.20, or an agency van will be utilized, if available, and meals at \$15.00.

VOTE: Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

**RESOLUTION (566-2015) TOLLING AGREEMENT –WATER & SEWER/CITY OF DOVER**

It was moved by Commissioner Metzger, seconded by Commissioner Abbuhl, to approve the following agreement:

**AGREEMENT**

This Agreement is made effective as of the 23rd day of September, 2013, December 16, 2013, March 17, 2014 and July 31, 2014, November 17 and 24, 2014, and June \_\_\_, 2015 between the City of Dover, "Dover" and The Board of Tuscarawas County Commissioners and the Tuscarawas County Metropolitan Sewer District, jointly, "Tuscarawas County". Dover and Tuscarawas County are collectively referred to as the "Parties" or "Claimants."

The Parties deem it to be in their mutual benefit that their alleged claims, ("Claims") against each other will not be asserted in litigation at the present time;

Claimants desire to encourage resolution and/or such further review, via mediation or otherwise, the disposition of each Parties' Claims as may result in no lawsuit or claim being filed and, in any case, wishes to avoid the expense and uncertainty of litigation of the Claims if at all possible. The Parties are willing to make the following stipulations, covenants and agreements in order to defer and postpone the commencement of litigation;

The Parties desire that for the period of this Agreement, they should be able to consider issues relating to the possibility of settling disputes without regard to the time constraints that exist because of any future expiration of any applicable statute of limitations;

In consideration of the mutual agreements for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties covenant and agree as follows:

1. As used in this Agreement, the following terms shall have the following meanings:

(a) "Claims" shall mean any and all claims and/or causes of action, if any, known or unknown, of Dover against Tuscarawas County or of Tuscarawas County against Dover that each party may have in connection with a March 20, 1989 agreement and other alleged contracts and causes of action, legal or equitable, arising out of the course of conduct and dealings between the Parties, regarding wastewater, wastewater treatment, the wastewater treatment plants, all aspects of the construction, operation, maintenance and/or billing of sanitary sewers, and/or sanitary sewer systems, wastewater, wastewater treatment, wastewater treatment plants, including all aspects of those systems, whether specifically listed here or not, and/or all rights, duties, jurisdiction(s) and responsibilities and/or any alleged breach of those rights, duties, jurisdiction(s) or responsibilities, legal or equitable.

(b) "Tolling Period" shall mean the period from and including the effective date of this Agreement, September 23, 2013 until and including the expiration date, as defined below, of this

Agreement. Notwithstanding any other term and condition, this Tolling Agreement can be terminated by either party at any time that either party believes substantial progress in the resolution of claims is not being made by the commencement of litigation. Either party will be permitted to file within thirty days of any early termination of the tolling agreement. The commencement of litigation will not negate or obviate the terms of this tolling of the statute of limitations, tolling of the accrual of the statute of limitations, nor the application of this Tolling Agreement.

(c) "Expiration Date" shall mean January 30, 2017, at 11:59 PM, or such later date as agreed between the parties. The notice for Dover shall be sent to [doug.omeara@doverohio.com](mailto:doug.omeara@doverohio.com) and the notice for Tuscarawas County and TCMSD shall be sent to [john.albers@alberslaw.com](mailto:john.albers@alberslaw.com).

(d) "Timing Defenses" shall mean and include, and shall be limited to, any affirmative defenses to Claims either party may have, if any, to the extent based upon (1) any statute of limitations, (2) laches, and/or (3) any failure of the Parties to institute or commence litigation or other legal proceedings within some specified period, before a specified date, or before the happening of a specified event.

2. The Parties stipulate, covenant and agree that all Timing Defenses applicable to the Claims shall be tolled during the Tolling Period and the Tolling Period shall not be included in the determination of the applicability of any Timing Defenses in any action or proceedings brought by a Claimant. The Parties agree to engage in mediation during the Tolling Period and to exchange all operative documents detailing claims and defenses to facilitate an effective mediation.

3. The Parties stipulate, covenant, and agree that this Agreement shall have no effect on any Timing Defenses that may be available to the Parties prior to the Effective Date, and that all time periods prior to the Effective Date and after the Expiration Date shall be included in the calculation of and running of any applicable Timing Defenses. Nothing contained in this Agreement shall preclude Tuscarawas County or Dover from asserting any Timing Defenses to the extent that such defenses already exist as of the Effective Date, and nothing shall be deemed to revive any Claims barred as of the Effective Date.

4. The Parties stipulate, covenant, and agree that the Parties, by executing and entering into this Agreement, are not waiving or otherwise impairing by estoppel or any other means the Parties' rights and abilities to raise any Timing Defenses available for the periods prior to the Effective Date and after the Expiration Date.

5. Except as provided in section (1)(b), the Parties agree to forebear filing a petition or complaint or initiating any lawsuit or other legal proceeding until on or after the last day of the Tolling Period that is not a Saturday, Sunday, or legal holiday.

6. The provisions of this Agreement comprise all of the terms, conditions, agreements and representations of the Parties respecting the tolling of the Statute of Limitations, Accrual of Statute of Limitations, Statutes or Repose, Timing Defenses, of any alleged causes of action, legal or equitable, or any other defense based on the passage of time in any action or proceeding brought by either party against the other. This Agreement may not be altered or amended except by written agreement executed by both Parties. Both Parties agree that terms of this Agreement have not been changed, modified, or expanded by any oral agreements or representations entered into or made by the Parties prior to or at the execution of this Agreement.

7. The Parties acknowledge that each of them has had the benefit of counsel of their choice and has been offered an opportunity to review this Agreement with chosen counsel. The Parties further acknowledge that they have, individually or through their respective counsel, participated in the preparation of this Agreement, and it is understood that no provision shall be construed against any party by reason of either party having drafted or prepared this Agreement.

8. This Agreement may be executed in one or more original or facsimile counterparts, each of which shall be deemed an original, but also which together will constitute one instrument. This Agreement may be executed in several counterparts and each shall constitute one agreement, binding on all of the Parties, notwithstanding that all of the Parties may not be signatories to the same counterpart. Any signature page to this Agreement transmitted by facsimile machine or electronic mail shall be treated in all manner and respects as an original agreement and the signature of any party to this Agreement transmitted by facsimile machine or electronic mail shall for all purposes be considered an original signature.

9. This Agreement shall terminate on the Expiration Date as provided in paragraph 1(c) above, unless extended in writing by the Parties to be bound.

10. Except as provided in section (1)(b) or on or after the Expiration Date of this Agreement, the Parties shall have the right to file and pursue any and all Claims and to seek any and all legal remedies against each other and the Parties' rights to assert any Timing Defenses or other defenses, if any, subject to the terms of this Agreement.

11. Nothing in this Agreement shall be construed as an admission or denial by any of the Parties as to the merits of any Claims against or defenses.

12. Except to assert that the Tolling Period this Agreement applies, neither the Parties nor any of their agents, witnesses, or attorneys will mention or allude to this Agreement, its terms, its execution, or the existence of any Tolling Period in any way, directly or indirectly, before a jury or any fact finder in any proceeding for any purpose. The terms of this paragraph will survive termination of this Agreement.

13. The Parties represent and warrant that the individuals signing this Agreement on behalf of any Party has authority to sign on behalf of the entity for which they have acted as signatory.

**DOVER:**

Date: \_\_\_\_\_

By: Richard Homrighausen, Mayor

**TUSCARAWAS COUNTY:**

Date: June 22, 2015

 \_\_\_\_\_

By: Belle Everett  
Tuscarawas County Commissioner



## VOTE:

Belle Everett, yes;  
 Kerry Metzger, yes;  
 Chris Abbuhl, yes;

**RESOLUTION (567-2015) PAYMENT OF BILLS**

It was moved by Commissioner Metzger, seconded by Commissioner Abbuhl, to approve the following bills for payment:

**Commissioners**

Tuscora Electric	Supplies	85.50
RJ Beck Protective Systems	Alarm Monitoring Service	93.00
Independence Business Supply	Tables	699.96
American Electric Power	Electric/107 EH	2,557.94
American Electric Power	Electric/125 EH	5,967.48
Tusc Co General Health District	Reimb Concrete Repair Work per lease	46.00
Widder Architectural Services	Architect Service/Veterans Service Office	228.75

**Common Pleas**

Elizabeth Stephenson	Reimb/Supplies	29.79
RJ Beck Protective Systems	Security Monitoring	93.00
Hilscher Clarke Electric	Service Call	184.15

**Clerk of Courts**

Liberty Distributors	Supplies	275.70
First Data	Service	371.54

**Community Corrections**

Staples	Supplies	144.95
Stacy Martin	Travel	48.52
Stacy Martin	Travel	20.08
Robert Fair	Travel	64.13
Vance's Law Enforcement	Duty Ammo	452.10
Tusc Co Sheriff's Office	Gas	136.64
American Court & Drug Testing Service	Electronic Monitor & Drug Testing	73.00
Steve Pompey	Travel	499.13
Cristal Studer	Travel	288.30
Express Diagnostics	Drug Tests/Supplies	6,958.14
Julie Laughlin	Travel	301.01
Julie Laughlin	Travel	301.72
Carey Publishing Group	Behavioral Mgmt/Intervention Tools	1,506.00

**Law Library**

Thomson Reuters	Books	233.96
Tusc Co Clerk of Courts	Notary Public Fees	126.00

**Veterans**

VFW Post #7943	Memorial Day Expenses	262.97
VFW Post #3463	Memorial Day Expenses	98.50
VFW Post #9338	Memorial Day Expenses	310.00
American Legion Post #491	Memorial Day Expenses	465.00
Helbling's	Coffee Lids	12.42
VISA	Travel/Training	1,604.54
Holly Lane	Travel	44.16
James Thornton	Travel	97.97
Senior Centers	Transportation	130.00
Tusc Co JFS	BCI Criminal History Search	22.00
Society for Equal Access	Transportation	9,391.64

**Child Support**

Jeffrey Mamarella	IV-D Contract/Juvenile Court Magistrate	6,997.56
Jeffrey Mamarella	IV-D Contract/Common Pleas Magistrate	2,486.93

**Juvenile/Probate**

Barbara DeBord	Travel/Training	153.56
Times Reporter	Legal Advertising	158.10

**Community & Economic Development**

Ohio Regional Development Corp	CHIP Soft Costs	1,463.00
Leggett & Harr Siding	CHIP Home Repair	6,651.00
D & H Way Construction	CHIP Home Repair	20,413.00

**Engineer**

Ohio Machinery	Repairs/Parts	51.44
Snyder Brothers Sales & Service	Repairs/Parts	391.08
Tusc Construction Supply	Bridge & Culvert Supplies	130.00
Staples Credit Plan	Supplies	185.16
Tusc Co Water & Sewer	Water & Sewer	36.20
Stanearth Equipment	Repairs/Parts	72.30
Ziegler Bolt & Nut House	Bridge & Culvert Supplies	43.00
Leppo	Equipment Rental	1,125.00
Kuester Implement	Repairs/Parts	65.70
Kimble Recycling & Disposal	Trash Dumpster/Port & NP	56.05
Martin Mobile Glass	Repairs/Parts	297.72
Truck Sales & Service	Repairs/Parts	2,964.36
Airgas USA	Bridge & Culvert Supplies	200.69
Clum Tire Service	Repairs/Parts	30.00
Dover Brake	Repairs/Parts	47.28
Fastenal	Bridge & Culvert Supplies	182.94

VOTE:

Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

**NO OTHER BUSINESS COMING BEFORE THE BOARD.**

**RESOLUTION (568-2015) ADJOURN**

It was moved by Commissioner Abbuhl, seconded by Commissioner Metzger, to adjourn at 1:06 p.m. to meet in Regular Session, Thursday, the 25th day of June, 2015.

VOTE:

Belle Everett, yes;  
Kerry Metzger, yes;  
Chris Abbuhl, yes;

*We hereby certify the above and foregoing to be a true and correct account of the proceedings as had by and before us on the day and year first written above.*

Belle Everett

Kerry Metzger

Chris Abbuhl

Attest: Maria A. Kautenschleger  
Clerk of the Board