

IN THE SUPREME COURT OF OHIO

STATE ex rel.)	Case No.: 2015-2092
CORNERSTONE DEVELOPERS, LTD.,)	
)	
Relator,)	ORIGINAL ACTION in Mandamus and
-v-)	Prohibition
)	
GREENE COUNTY BOARD OF)	Expedited Election Case Under
ELECTIONS, et al.,)	S.C.Prac.R. 12.08
)	
Respondents.)	

EVIDENCE

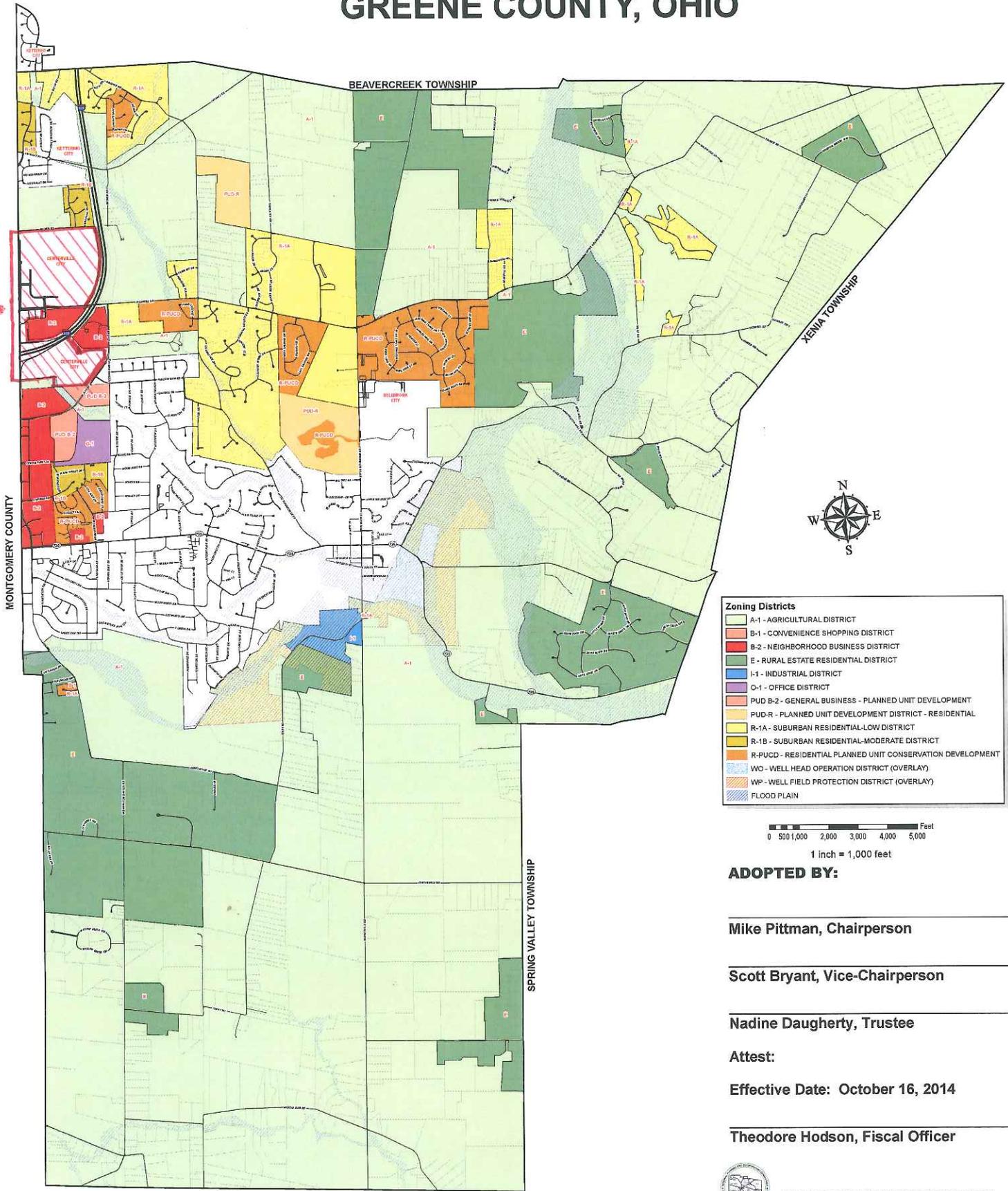
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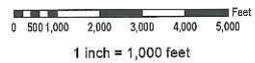
EXHIBIT 1

OFFICIAL ZONING DISTRICT MAP SUGARCREEK TOWNSHIP GREENE COUNTY, OHIO

Impacted Area



Zoning Districts	
	A-1 - AGRICULTURAL DISTRICT
	B-1 - CONVENIENCE SHOPPING DISTRICT
	B-2 - NEIGHBORHOOD BUSINESS DISTRICT
	E - RURAL ESTATE RESIDENTIAL DISTRICT
	I-1 - INDUSTRIAL DISTRICT
	O-1 - OFFICE DISTRICT
	PUD B-2 - GENERAL BUSINESS - PLANNED UNIT DEVELOPMENT
	PUD-R - PLANNED UNIT DEVELOPMENT DISTRICT - RESIDENTIAL
	R-1A - SUBURBAN RESIDENTIAL-LOW DISTRICT
	R-1B - SUBURBAN RESIDENTIAL-MODERATE DISTRICT
	R-PUCD - RESIDENTIAL PLANNED UNIT CONSERVATION DEVELOPMENT
	WO - WELL HEAD OPERATION DISTRICT (OVERLAY)
	WP - WELL FIELD PROTECTION DISTRICT (OVERLAY)
	FLOOD PLAIN



ADOPTED BY:

Mike Pittman, Chairperson

Scott Bryant, Vice-Chairperson

Nadine Daugherty, Trustee

Attest:

Effective Date: October 16, 2014

Theodore Hodson, Fiscal Officer



REGIONAL PLANNING AND COORDINATING COMMISSION

EXHIBIT 2

'06 APR 24 AM 10:39

RESOLUTION NO. 2006-04-20-01

FILED

2006 APR 21 11:43
LAWANNA A. CLAY
GREENE COUNTY, OHIO

DECLARING IMPROVEMENTS TO PARCELS OF REAL PROPERTY
LOCATED IN SUGARCREEK TOWNSHIP, OHIO, TO BE A PUBLIC PURPOSE
UNDER SECTION 5709.73(B) OF THE OHIO REVISED CODE, EXEMPTING
SUCH IMPROVEMENTS FROM REAL PROPERTY TAXATION,
AUTHORIZING THE EXECUTION OF
A SERVICE AGREEMENT AND SUCH OTHER DOCUMENTS AS MAY BE
NECESSARY, ESTABLISHING A TAX INCREMENT EQUIVALENT FUND.

WHEREAS, Section 5709.73 et seq. of the Ohio Revised Code authorizes townships to participate in a financing technique commonly known as tax increment financing; and

WHEREAS, this Board wishes to use the authority granted pursuant to such Sections in connection with certain improvements in the Township in order to meet the public health, safety, welfare and convenience needs of the area, including new development and traffic capacity;

WHEREAS, notice has been given to the Sugarcreek Local School District of the consideration of a resolution providing for tax increment financing, as required by Section 5709.73 and 5709.83 of the Ohio Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Sugarcreek Township, Greene County, State of Ohio, all members elected thereto concurring:

SECTION 1. That this Board hereby finds and declares that certain public improvements in the Township, to wit: the planning, design and construction of public street improvements including pavements, walkways, bike-paths, traffic control devices and alterations to existing streets, including but not limited to widening and extending Clyo Road; altering and improving the existing Possum Run Road; the extension and completion of Center Point Drive; the planning, design and construction of utilities including but not limited to water, sanitary sewers, storm water sewers and detention facilities; the preparation of plans for land use in the area; the creation or enhancement of buffer areas, recreation facilities and open areas necessary for ensuring the compatibility of adjacent land uses; the creation and/or enhancement of public service facilities and operations; and, the purchase of property rights of way and easements or other rights in property necessary for the completion of the Public Improvements listed above, are a public purpose and that those Public Improvements are necessary for the further development of the parcels of land described in Exhibit A attached to this Resolution (such parcels are hereinafter collectively referred to as the "Sugarcreek Township TIF"), but excluding any and all residential property located within Exhibit A, which parcels are located in the unincorporated area of the Township; for the creation of jobs; increasing property values, and the provision of adequate public services in Sugarcreek Township. The further development of the parcels in the Sugarcreek Township TIF will place direct additional demand on the Public Improvements.

SECTION 2. That, pursuant to Section 5709.73 of the Ohio Revised Code, further improvements to the parcels in the Sugarcreek Township TIF District occurring after the date of

this Resolution are exempt from real property taxation commencing on January 1, 2010, and ending on the earlier of (1) December 31, 2019, or (2) the date on which the specific public improvements as described in Section 1 above (the "Public Improvements") that will benefit the Sugarcreek Township TIF District are paid in full from the Tax Increment Equivalent Fund, as defined in Section 4 hereof, but in no case shall the Public Improvements be exempted from taxation for more than ten (10) years. It is hereby determined that (i) a portion of the Improvements shall be exempt from real property taxation, (ii) such portion shall be seventy-five percent (75%) of the assessed value of the Improvements, and (iii) the Public Improvements directly benefit, or once made will directly benefit, the Sugarcreek Township TIF District.

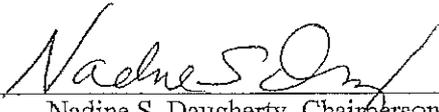
SECTION 3. That pursuant to Section 5709.74 of the Ohio Revised Code, the owner or the owners of the Improvements shall be required to make semi-annual service payments in lieu of taxes (the "Service Payments") to the Greene County Treasurer on or before the final dates for payment of real property taxes. This Board hereby expresses its intention and authorizes the Township Administrator to enter into such agreements as may be necessary and appropriate to assure the payment of such Service Payments.

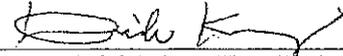
SECTION 4. That pursuant to Section 5709.75 of the Ohio Revised Code, there is hereby established the Sugarcreek Township Public Improvement Tax Increment Equivalent Fund (the "Tax Increment Equivalent Fund"), into which the Service Payments shall be deposited. Money in the Tax Increment Equivalent Fund shall be used to finance the Public Improvement and may be used to make payments to the Sugarcreek Local School District at the discretion of the Board of Township Trustees.

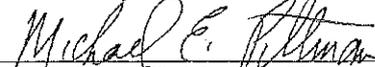
SECTION 5. That the Clerk is hereby directed to forward a copy of this Resolution to the County Auditor of Greene County and the State of Ohio Director of Development.

SECTION 6. That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

ADOPTED: April 20, 2006.


Nadine S. Daugherty, Chairperson


Dick King, Vice Chairperson


Michael E. Pittman, Trustee

Attest:



Theodore L. Hodson, Fiscal Officer

EXHIBIT A

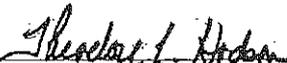
Sugarcreek Township TIF District

Subject property is located within Sugarcreek Township, Greene County, Ohio and is identified by the Greene County Auditor by the following parcel numbers:

L32000100020000100, L32000100020000200, L32000100020007200, L32000100020008100
L32000100020006800, L32000100020008000, L32000100020007800, L32000100020007900,
L32000100020007700, L32000100020000300, L32000100020007400, L32000100020007500,
L32000100020007600, L32000100020005100, L32000100030000800, L32000100030001500,
L32000100030013700, L32000100030013600, L32000100030015600, L32000100030014800,
L32000100030013500, L32000100030014900, L32000100030019300, L32000100030015800,
L32000100030015700, L32000100030015500, and L32000100030021500

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of Resolution No. 2006-04-05-01



Theodore L. Hodson, Fiscal Officer

CERTIFICATE

The undersigned hereby certifies that a copy of the foregoing Resolution was certified this day to the Greene County Auditor.

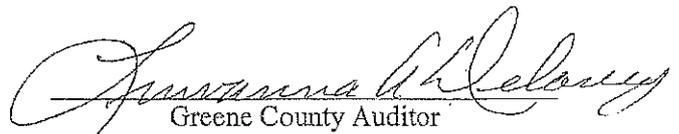


Theodore L. Hodson, Fiscal Officer

Dated: April 20, 2006

RECEIPT

The undersigned hereby acknowledges receipt of a certified copy of the foregoing Resolution.



Greene County Auditor

Dated: 4-21, 2006

NOTICE OF RECEIPT
OR LETTER FROM
SUGARCREEK TOWNSHIP

TO DR. KEITH ST. PIERRE, SUGARCREEK LOCAL SCHOOL DISTRICT

In Re: Receipt of letter

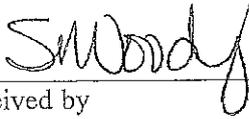
Dear Dr. St. Pierre:

Please take notice that on the 6th day of April 2006 at 12:30 p.m., a letter from Sugarcreek Township was delivered to the Sugarcreek Local School Board.

Sincerely,



Barry Tiffany, Township Administrator
Sugarcreek Township
2090 Ferry Road
Bellbrook, OH 45305



Received by

April 5, 2006

Sugarcreek Local School District
c/o Dr. Keith St. Pierre
60 South Street
Bellbrook, Ohio 45305

RE: PROPOSED TAX INCREMENT FINANCE EXEMPTION

Dear Honorable Board Members:

The Sugarcreek Township Board of Trustees intends to adopt a Resolution to create a Tax Increment Finance (TIF) Exemption for properties located in Sugarcreek Township, Greene County, Ohio as set forth in the attached draft resolution. Please find attached a copy of the draft Resolution, and a list of the specific properties to be included.

The purpose of the Resolution is to declare certain public improvements to be for a public purpose, pursuant to the Ohio Revised Code, Section 5709.73(B). The initial Public Improvement will consist of widening and extending Clyo Road. Future Public Improvements may consist of all or a portion of the following: extending water, sanitary sewer, storm sewer lines; constructing road, curbs, gutters, sidewalks; and other necessary infrastructure improvements that benefit the TIF Exemption (please see attached Resolution). The estimated cost of the initial Public Improvements is approximately \$3,200,000. The Public Improvements are necessary for the further development of the parcels identified in Exhibit A. Improvements will be exempted from taxation for the purposes of collecting service payments in-lieu-of taxes from property owners to pay for the necessary Public Improvements as defined above. Improvements will consist of construction of one million square foot mixed use commercial buildings with an estimated value of approximately \$125,000,000 in the Township.

The value of seventy-five percent (75%) of the Improvements would be exempted from taxation for a period of ten (10) years commencing with the tax year January 1, 2010 until December 31, 2019 or such earlier date on which the costs of Public Improvements have been paid in full from payments in-lieu-of taxes.

The Sugarcreek Board of Trustees meeting is scheduled for April 20, 2006 at 5 p.m., at Township Administration Building, 2090 Ferry Road, Bellbrook, Ohio. If you have any questions prior to the meeting, please feel free to contact me at the below referenced telephone number.

Sincerely,

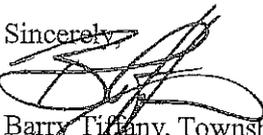

Barry Tiffany, Township Administrator
(937) 848-8426

EXHIBIT A

**Description of Property to Comprise
Tax Increment Financing Area**

Subject property is located within Sugarcreek Township, Greene County, Ohio and is identified by the Greene County Auditor by the following parcel numbers:

L32000100020000100, L32000100020000200, L320001000200007200, L320001000200008100
L320001000200006800, L320001000200008000, L320001000200007800, L320001000200007900,
L320001000200007700, L32000100020000300, L320001000200007400, L320001000200007500,
L320001000200007600, L320001000200005100, L32000100030000800, L32000100030001500,
L32000100030013700, L32000100030013600, L32000100030015600, L32000100030014800,
L32000100030013500, L32000100030014900, L32000100030019300, L32000100030015800,
L32000100030015700, L32000100030015500, and L32000100030021500

April 5, 2006

Greene County Career Center
c/o Marsha Leonard
2960 West Enon Road
Xenia, Ohio 45385

RE: PROPOSED TAX INCREMENT FINANCE EXEMPTION

Dear Honorable Board Members:

The Sugarcreek Township Board of Trustees intends to adopt a Resolution to create a Tax Increment Finance (TIF) Exemption for properties located in Sugarcreek Township, Greene County, Ohio as set forth in the attached draft resolution. Please find attached a copy of the draft Resolution, and a list of the specific properties to be included.

The purpose of the Resolution is to declare certain public improvements to be for a public purpose, pursuant to the Ohio Revised Code, Section 5709.73(B). The initial Public Improvement will consist of widening and extending Clys Road. Future Public Improvements may consist of all or a portion of the following: extending water, sanitary sewer, storm sewer lines; constructing road, curbs, gutters, sidewalks; and other necessary infrastructure improvements that benefit the TIF Exemption (please see attached Resolution). The estimated cost of the initial Public Improvements is approximately \$3,200,000. The Public Improvements are necessary for the further development of the parcels identified in Exhibit A. Improvements will be exempted from taxation for the purposes of collecting service payments in-lieu-of taxes from property owners to pay for the necessary Public Improvements as defined above. Improvements will consist of construction of one million square foot mixed use commercial buildings with an estimated value of approximately \$125,000,000 in the Township.

The value of seventy-five percent (75%) of the Improvements would be exempted from taxation for a period of ten (10) years commencing with the tax year January 1, 2010 until December 31, 2019 or such earlier date on which the costs of Public Improvements have been paid in full from payments in-lieu-of taxes.

The Sugarcreek Board of Trustees meeting is scheduled for April 20, 2006 at 5 p.m., at Township Administration Building, 2090 Ferry Road, Bellbrook, Ohio. If you have any questions prior to the meeting, please feel free to contact me at the below referenced telephone number.

Sincerely,



Barry Tiffany, Township Administrator
(937) 648-8426

NOTICE OF RECEIPT
OR LETTER FROM
SUGARCREEK TOWNSHIP

TO MARSHA LEONARD, GREENE COUNTY CAREER CENTER

In Re: Receipt of letter

Dear Ms. Leonard:

Please take notice that on the 6th day of April 2006 at 1:07 p.m., a letter from Sugarcreek Township was delivered to the Sugarcreek Local School Board.

Sincerely,



Barry Tiffany, Township Administrator
Sugarcreek Township
2090 Ferry Road
Bellbrook, OH 45305

Sumner Dupre for Marsha Leonard
Received by

EXHIBIT 3

SUGARCREEK TOWNSHIP
RESOLUTION NO. 2014.11.17.08
IN RE: Creation of Sugarcreek Township Fire District

WHEREAS, the Sugarcreek Township Board of Trustees has determined it expedient and necessary to guard against the occurrence of fires and to protect the property and lives of the citizens against damages resulting from their occurrence; and,

WHEREAS, in order to adequately guard against the occurrence of fires and to protect the property and lives of the citizens against damages resulting from their occurrence, the Sugarcreek Township Board of Trustees have identified necessary portions of the Township for inclusion into a fire district, as identified in "Exhibit A," which is attached to this Resolution; and,

WHEREAS, Sugarcreek Township has the necessary staff, equipment, and supplies to provide such Fire and EMS service to the proposed fire district; and,

WHEREAS, Ohio Revised Code § 505.37(C) allows for the creation of a fire district,

NOW THEREFORE BE IT RESOLVED, the Sugarcreek Township Board of Trustees hereby creates a fire district known as "Sugarcreek Township Fire District," as illustrated in "Exhibit A," attached hereto. The Sugarcreek Township Fire District shall be created effective February 1, 2015. Upon this effective date, no property outside of the Sugarcreek Township Fire District will be provided Fire and EMS services absent a separately executed contract,

Introduced by Trustee Bryant and seconded by Trustee Daugherty.

Upon roll call, the following resulted:

Trustee Michael E. Pittman: yes

Trustee Nadine S. Daugherty: yes

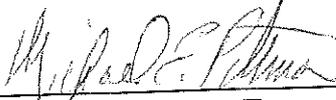
Trustee Scott W. Bryant: yes

Resolution duly adopted this 17th day of November, 2014.

Scott W. Bryant
Scott W. Bryant, Chairperson

Nadine S. Daugherty
Nadine S. Daugherty, Vice Chairperson

Creation of Sugarcreek Township Fire District
Resolution No. 2014.11.17.08



Michael E. Pittman, Trustee



Theodore L. Hodson, Fiscal Officer

EXHIBIT 4

FILED

COURT OF COMMON PLEAS

2015 JA 20 PM 2:46

GREENE COUNTY, OHIO

TESS A. MAZUR, CLERK
COMMON PLEAS COURT
GREENE COUNTY, OHIO

CORNERSTONE DEVELOPERS, LTD.,)
et al.,)
 Plaintiffs/Relator,)
 -v-)
 SUGARCREEK TOWNSHIP, *et al.*,)
 Defendants/Respondents.)

Case No.: 2015 CV 31
 Judge Stephen A. Wolaver
 Mag. Raymond Dundes
 AGREED PRELIMINARY
INJUNCTION ORDER

Now before the Court is a motion for a temporary restraining order and application for preliminary injunction filed by Plaintiffs/Relator. The matter came before the Court for expedited consideration based upon representations in the Verified Complaint and by Plaintiffs' counsel that a TRO is necessary to protect lives and property within a retail development and along an important thoroughfare and an Interstate Highway in Greene County.

The parties in this action are Plaintiff/Relator Cornerstone Developers, Ltd. ("Cornerstone"), and Plaintiffs Oberer Development Co. ("Oberer Development"), Oberer Construction, Ltd. ("Oberer Construction"), and George R. Oberer Jr. (the "Guarantors") (Cornerstone and the Guarantors collectively, the "Plaintiffs"); Defendants/Respondents Sugarcreek Township (the "Township"), Scott W. Bryant in his official capacity as Trustee of the Township, Nadine S. Daugherty in her official capacity as Trustee of the Township, Michael E. Pittman in his official capacity as Trustee of the Township (collectively, the "Trustees"), and Ted Hodson in his official capacity as Fiscal Officer of the Township (collectively, the "Defendants" or "Respondents"); and Third Party Defendants the City of Centerville, C. Mark Kingseed, in his official capacity as Mayor of Centerville, and John J. Beals, Brooks A.

15-01-2494

Compton, Paul M. Gresham, Belinda H Kenley, John E. Palcher, and Joanne Raue, in their official capacities as Centerville Council Members (collectively, "Centerville").

At dispute is a resolution enacted by Defendants/Respondents purporting to cease fire and EMS protection for land owned and controlled by Cornerstone, and on public roads within or near the development including Feedwire Road and I-675. Ramps connecting I-675 to Willmington Pike are also excluded from fire and EMS protection.

Plaintiffs and Defendants have agreed to an order maintaining the status quo pending the expedited resolution of this matter.

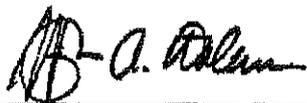
Accordingly, IT IS HEREBY ORDERED the Fire District shall not take effect pending further action by this Court.

Per the agreement of the parties, this order is effective without the need for Plaintiffs to post a bond.

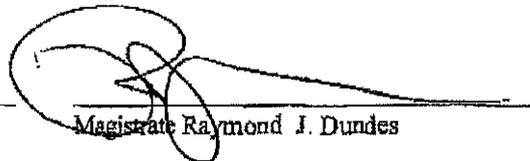
The Court sets this matter for hearing on the merits on Plaintiffs' injunctive claims on March 5, 2015 at 8:30 before Magistrate Raymond J. Dundes. Counts I, II, and IV of Plaintiffs' Complaint are hereby bifurcated. Counts V and VI of the Third-Party Complaint are hereby bifurcated.

Pursuant to Civil Rules 33(A)(3) and 34(B)(1), the time period for responding to interrogatories and requests for production in advance of the preliminary injunction hearing is reduced to 7 days.

So Ordered at 2:40 pm on January 30 2015.

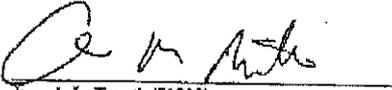


Judge Stephen A. Wolaver

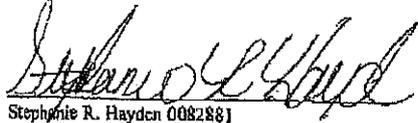


Magistrate Raymond J. Dundes

Approved:

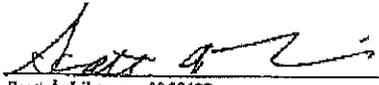


Joseph L. Trauth (21803)
Charles M. Miller (73844)
Sophia R. Jannace (95931)
KEATING MUETHING & KLEKAMP PLL
One East Fourth Street, Suite 1400
Cincinnati, Ohio 45202
Phone (513) 579-6515
Fax (513) 579-6437
jtrauth@kmklaw.com
cmiller@kmklaw.com
sjannace@kmklaw.com
Attorneys for Plaintiffs/Relator



Stephanie R. Hayden 0082881
Assistant Prosecuting Attorney
55 Greene Street
Xenia, Ohio 45385
(937) 562-5669
(937) 562-5258 (Fax)
shayden@co.greenc.oh.us
Counsel to Sugar Creek Twp.

Agrees as to mediation and trial dates only:



Scott A. Liberman 0058432
Altick & Corwin
1 S. Main St., Suite 1590
Dayton OH 45402
(937) 223-1201
(937) 223-5100 (Fax)
liberman@altickcorwin
Attorney for Third Party Defendants

5876572.1

15-01-2496

EXHIBIT 5

RESOLUTION RESCINDING

RESOLUTION NO. 2015.02.19.02

IN RE: Rescinding Sugar creek Township Fire District

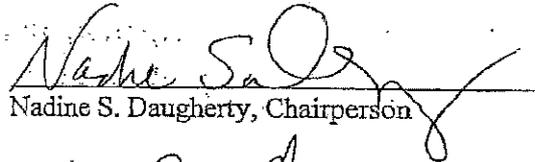
WHEREAS, the Sugar creek Township Board of Trustees passed Resolution Number 2014.11.17.08 titled "In RE: Creation of Sugar creek Township Fire District" on November 17, 2014; and,

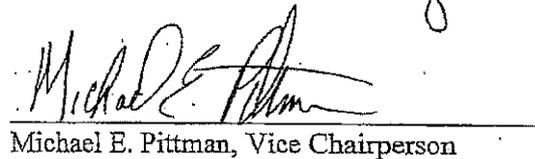
WHEREAS, Sugar creek Township is involved in litigation over the passage of the above referenced Resolution; and,

WHEREAS, the Trustees have determined at this time that it is not in the best interest of the community to continue with the current litigation in court; and,

WHEREAS, the Sugar creek Township Board of Trustees wishes to seek community input with regard to the future of emergency services within Sugar creek Township.

NOW THEREFORE BE IT RESOLVED, the Sugar creek Township Board of Trustees hereby rescinds Resolution Number 2014.11.17.08 titled "In RE: Creation of Sugar creek Township Fire District," effective immediately upon the passage of this Resolution.


Nadine S. Daugherty, Chairperson


Michael E. Pittman, Vice Chairperson


Scott W. Bryant, Trustee


Attest: Barry Tiffany, Township Administrator

EXHIBIT 6

Deposition of
Barry P. Tiffany

March 02, 2015

Cornerstone Developers v. Sugarcreek Township v. The City of Centerville

Case Number: 2015-CV-0031



513.233.3000
877.233.4403
Fax: 513.233.2310
depo@elitereportingagency.com

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COURT OF COMMON PLEAS

GREENE COUNTY, OHIO

<hr/>)
CORNERSTONE DEVELOPERS, LTD.,))
et al.,))
Plaintiffs/Relators,))
vs.)	CASE NO.
)	2015-CV-0031
SUGARCREEK TOWNSHIP, et al.,))
Defendants/Respondents,))
vs.))
THE CITY OF CENTERVILLE,))
Third-Party Defendant.))
<hr/>)

Deposition of: BARRY P. TIFFANY

Pursuant to: Notice

Date and time: Monday, March 2, 2015
9:30 a.m.

Place: Office of Stephen K. Haller
Prosecuting Attorney
61 Greene Street
Xenia, Ohio 45385

Reporter: Linda Schilt
Notary Public - State
of Ohio

Page 2

1 APPEARANCES OF COUNSEL:
 2
 3 For the plaintiffs:
 4 Charles M. Miller, Esq.
 of
 5 Keating, Muething & Klekamp, PLL
 One East Fourth Street
 6 Suite 1400
 Cincinnati, Ohio 45202
 7 513.579.6400
 cmiller@kmlaw.com
 8
 9 For the defendants:
 10
 11 Stephanie R. Hayden, Esq.
 of
 12 The Office of Stephen K. Haller
 Prosecuting Attorney
 Greene County, Ohio
 13 61 Greene Street
 Second Floor
 14 Xenia, Ohio 45385
 937.562.5250
 15 shayden@co.greene.oh.us.com
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Page 3

1 For the third-party defendant:
 2 Steven E. Bacon, Esq.
 of
 3 Altick & Corwin Co., LPA
 One South Main Street
 4 Suite 1590
 Dayton, Ohio 45402-2026
 5 937.608.9460
 bacons@altickcorwin.com
 6
 7 Also present:
 8 Gregory B. Horn
 George Oberer
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I N D E X

1	BARRY P. TIFFANY	PAGE	
2			
3	EXAMINATION BY MR. MILLER:	5	
4	EXAMINATION BY MR. BACON:	60	
5	FURTHER EXAMINATION BY MR. MILLER	95	
6			
7			
8	EXHIBITS	MARKED	REFERENCED
9	TIFFANY EXHIBIT K	31	31
10	TIFFANY EXHIBIT L	33	33
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Page 5

1 BARRY P. TIFFANY
 2 a witness herein, having been duly sworn, was
 3 examined and deposed as follows:
 4 EXAMINATION
 5 BY MR. MILLER:
 6 Q. Good morning, Mr. Tiffany.
 7 A. Good morning.
 8 Q. You've obviously sat through a
 9 number of these already?
 10 A. Yes.
 11 Q. So we'll just cut to the chase
 12 and get started.
 13 What is your position?
 14 A. Township administrator, director
 15 of development.
 16 Q. How long have you been the
 17 township administrator?
 18 A. Nine years, 11 months.
 19 Q. What did you do before that?
 20 A. Was with Liberty Township,
 21 administrator, director of zoning.
 22 Prior to that I was with West
 23 Chester Township and zoning.
 24 Q. So those are both in Butler
 25 County?

<p style="text-align: right;">Page 6</p> <p>1 A. Yes.</p> <p>2 Q. And then prior to those two?</p> <p>3 A. Private business, and with the</p> <p>4 city of Springdale starting with them in</p> <p>5 1991.</p> <p>6 Q. What degrees do you have?</p> <p>7 A. None. Lots of certifications.</p> <p>8 Q. Where are you from originally?</p> <p>9 A. Springfield, Ohio.</p> <p>10 Q. As I stated earlier, you sat</p> <p>11 through a number of these depositions.</p> <p>12 You've obviously been pretty instrumental</p> <p>13 to this whole process.</p> <p>14 So I'm just going to ask you</p> <p>15 first, is there anything based upon what</p> <p>16 you heard so far that you'd like to say</p> <p>17 just to kind of clarify the record in any</p> <p>18 means?</p> <p>19 A. No.</p> <p>20 Q. Does that mean you think</p> <p>21 everything has been pretty clear so far?</p> <p>22 A. Not necessarily.</p> <p>23 Q. Just nothing you're looking to</p> <p>24 volunteer?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. All right.</p> <p>2 So absent probably a reference</p> <p>3 in the work session minutes from October,</p> <p>4 the first document that I found in your</p> <p>5 production that references the fire</p> <p>6 district is a November 13th e-mail</p> <p>7 directed to Steve Tomcisin -- that is</p> <p>8 Steve Tomcisin, T-o-m-c-i-s-i-n -- on</p> <p>9 November 13th, I guess, requesting maybe a</p> <p>10 map; is that what that is?</p> <p>11 A. Correct.</p> <p>12 Q. Was that the first step that</p> <p>13 occurred next?</p> <p>14 A. Yes.</p> <p>15 Q. And then it was also in a</p> <p>16 meeting also on the 13th that this was</p> <p>17 voted don, right?</p> <p>18 A. Without having it in front of</p> <p>19 me, I couldn't say for sure. Sounds about</p> <p>20 right.</p> <p>21 MR. BACON: I think it was the</p> <p>22 17th.</p> <p>23 MR. MILLER: 17th was the</p> <p>24 resolution?</p> <p>25 MR. BACON: I believe so.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Specifically whose idea was it</p> <p>2 to implement the fire district in November</p> <p>3 2014?</p> <p>4 A. I think I brought the subject up</p> <p>5 as an option probably in October of '14.</p> <p>6 Q. The -- okay.</p> <p>7 So you brought it up in October</p> <p>8 '14. And then what happened next?</p> <p>9 A. At that meeting we discussed it</p> <p>10 for the first time. That was in an open</p> <p>11 meeting, work session.</p> <p>12 Mr. Cahill was there for the</p> <p>13 City of Centerville. He approached the</p> <p>14 trustees after the meeting and said, no,</p> <p>15 you guys don't want to do that, something</p> <p>16 to that effect. We're going to get this</p> <p>17 all worked out.</p> <p>18 Then we waited. And I don't</p> <p>19 recall the date following that meeting,</p> <p>20 but it was in short order that we received</p> <p>21 the first draft agreement, I guess is the</p> <p>22 term I'm looking for.</p> <p>23 The trustees were not happy with</p> <p>24 that and said, you know, obviously we're</p> <p>25 getting nowhere, let's move forward.</p>	<p style="text-align: right;">Page 9</p> <p>1 BY MR. MILLER:</p> <p>2 Q. Whose decision was it to go</p> <p>3 ahead and begin the process of creating</p> <p>4 the map?</p> <p>5 A. Probably mine, to have it</p> <p>6 drafted for consideration.</p> <p>7 Q. That was your decision based</p> <p>8 upon the township's displeasure with the</p> <p>9 first draft agreement sent from the city?</p> <p>10 A. Yes.</p> <p>11 Q. What did you not like about the</p> <p>12 first draft agreement?</p> <p>13 A. The dollars weren't adequate,</p> <p>14 the terms were contrary to what we had</p> <p>15 expressed concerns about.</p> <p>16 I had made it very clear to</p> <p>17 Mr. Oberer, who I believe had spoken to</p> <p>18 the city, about the mother-may-I clause,</p> <p>19 is how we refer to it, and other aspects.</p> <p>20 Q. And I certainly understand the</p> <p>21 concerns that were there with respect to</p> <p>22 some of the nonmonetary terms. I want to</p> <p>23 put those aside for a moment and just</p> <p>24 focus on the monetary terms.</p> <p>25 When you say that the monetary</p>

1 terms were not adequate, what do you mean?
 2 A. Trustees felt that it wasn't
 3 sufficient.
 4 Q. That sounds subjective. Was
 5 there any specific objective?
 6 A. It wasn't enough money to
 7 properly fund the department.
 8 Q. But there's no analysis the
 9 township has about what is adequate to
 10 fund the department, correct?
 11 A. It's a consideration of the
 12 trustees that it should be funded the same
 13 as any other property in the township that
 14 pays taxes.
 15 Q. There's no study, correct?
 16 A. Not to my knowledge. Chief
 17 Pavlak did run some numbers.
 18 Q. I have his testimony.
 19 So just you sitting here today,
 20 you have not seen a particular study of
 21 the funding needs of the fire department?
 22 A. A study, no.
 23 Q. All right.
 24 So when we're talking about
 25 adequacy, what we really mean is a view

1 that the township should receive
 2 essentially full compensation for -- to
 3 replace the taxes it's not getting on the
 4 land for fire services; is that right?
 5 A. Can you restate it one more
 6 time?
 7 Q. Yes.
 8 The township is looking to get
 9 100 percent of what the fire taxes would
 10 be?
 11 A. I don't know that that's the
 12 case. You were party to mediation.
 13 Q. Yes. So I'm not talking about
 14 the mediation. It sometimes blurs
 15 together, but I'm trying to understand
 16 what the thought was in November.
 17 So with respect to that and the
 18 testimony I heard from others on your
 19 side -- I apologize, I'm a little sick --
 20 my understanding has been that the view of
 21 the township is that it should be entitled
 22 to 100 percent for fire?
 23 A. I think at the time the trustees
 24 hadn't settled on a number at that time.
 25 Q. Was it your understanding in May

1 of 2014 that there was an agreement that
 2 had been reached between the township, the
 3 school district, the city, and developer
 4 on what the township would receive
 5 dollar-wise?
 6 A. No. The numbers kept changing.
 7 Q. What was your final
 8 understanding of what the numbers would be
 9 once the school district had struck its
 10 deal?
 11 I'm not asking if the township
 12 agreed to it, but what was your
 13 understanding?
 14 A. I understand.
 15 My understanding of the deal
 16 that was reached with the school district
 17 was that the school district was going to
 18 forego 5 percent of their 60 percent if a
 19 deal could be reached with the township.
 20 I believe the agreement with the
 21 school either states or stated that in one
 22 of the renditions.
 23 Q. But there were no -- to your
 24 knowledge, there were no specific dollar
 25 amounts or percent amounts that were

1 allocated to the township?
 2 A. My understanding at that time in
 3 talking with Mr. Oberer was that -- and
 4 the school district -- was that they were
 5 proposing the end number would be 55
 6 percent on retail and zero -- on the
 7 commercial, and zero on the multifamily.
 8 That was the case until we
 9 received the second offer from the city
 10 and that changed.
 11 Q. 55-25?
 12 A. 55-0.
 13 Q. You said the second offer?
 14 A. That's correct.
 15 Q. The second offer became 55-25?
 16 A. Essentially.
 17 Q. When did you personally become
 18 aware that the second offer said 55-25?
 19 A. I think it was after the third
 20 offer.
 21 Q. Would that have been after this
 22 case was filed?
 23 A. I believe so.
 24 Q. How did you miss that?
 25 A. Not sure.

http://www.walrus.ca/010p

<p style="text-align: right;">Page 14</p> <p>1 Q. You seem to be a very smart guy, 2 very detail oriented. 3 What was going on that you 4 didn't necessarily read that second 5 agreement? 6 A. I can't speak to that. All of 7 us missed it. Nobody picked it up. 8 Q. Is it your opinion that had the 9 financial terms of 55-25 been presented in 10 writing to the township in the summer of 11 2014, that the township would have agreed 12 to that? 13 MS. HAYDEN: Objection. The 14 question calls for speculation. 15 Go ahead, answer if you can. 16 A. I would be speculating. I can't 17 say for sure. 18 The trustees even today are not 19 100 percent in agreement on everything. 20 Shocking. 21 BY MR. MILLER: 22 Q. So I understand maybe it calls 23 for speculation. But is it your opinion 24 that had that been presented in the summer 25 of 2014, that would have been --</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. It sounds to me, as you're 2 explaining it now, you actually said 3 nothing. It sounds to me what your 4 statement was was, hey, George, if this 5 would have been presented then, then maybe 6 we would have agreed to it then, who 7 knows. Is that what you were saying? 8 A. I don't recall the exact words. 9 Q. You were a little more 10 definitive at that point in time when you 11 were speaking to Mr. Oberer about your 12 view of the likelihood of that being 13 accepted by the township? 14 A. I will repeat my previous 15 answer. I don't recall the exact words, 16 but it was not a statement of certainty. 17 Q. What was it a statement of? 18 A. Possibility, regret, whatever 19 you want to call it. 20 Q. Blame shifting? 21 A. I don't think so. 22 Q. Hey George, had the city gotten 23 this to us earlier, then maybe, maybe this 24 would have been different. I'm not 25 promising anything but maybe.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Again, I can't speak for those 2 folks. They make those decisions. 3 Q. Have you made any statements to 4 that effect prior to today? 5 A. Mr. Oberer and I may have 6 discussed it as a possibility, but not as 7 a certain statement. I should say as a 8 statement of certainty would be more 9 accurate. 10 Q. You have expressed an opinion to 11 Mr. Oberer that had the city presented it 12 in writing in the summer, that you 13 believed at that time that you were 14 speaking to Mr. Oberer that a deal could 15 have been reached? 16 A. That it may have been reached, 17 working out the balance of the issues in 18 the language. 19 Q. But the dollar percentages would 20 not have been the obstacle at that point 21 in time? 22 A. Possibly. I don't know. 23 Q. Why did you say it to him at 24 all? 25 A. I don't know. Conversation.</p>	<p style="text-align: right;">Page 17</p> <p>1 Is that what the statement was? 2 A. I don't believe so. 3 Q. I don't believe so either. I 4 think it was something more concrete than 5 that. 6 A. I don't recall the exact words. 7 It's been asked and answered. 8 Q. So now you're the attorney, too? 9 A. No. 10 Q. I'm not asking what the words 11 were, I'm asking what your concept was you 12 were trying to convey to Mr. Oberer at 13 that time. 14 A. To date, Mr. Oberer and I have 15 had a good relationship that was 16 conversational. 17 Q. Conversational? Small talk? 18 A. Conversational. 19 Q. I still don't think we have this 20 very clear for the record, so I will ask 21 it one more time. 22 Did you convey to Mr. Oberer on 23 multiple occasions a belief or a statement 24 that had the 55-25 offer been presented in 25 writing in the summer, that the township</p>

<p style="text-align: right;">Page 18</p> <p>1 likely would have agreed to it?</p> <p>2 MS. HAYDEN: I'm going to object</p> <p>3 as asked and answered, but go ahead</p> <p>4 and answer.</p> <p>5 A. To your exact phrasing, no.</p> <p>6 BY MR. MILLER:</p> <p>7 Q. Okay.</p> <p>8 What is wrong with my phrasing?</p> <p>9 A. I don't believe it's accurate.</p> <p>10 Q. Can you correct it for me?</p> <p>11 A. No. I've told you, I don't</p> <p>12 recall the exact words, so I'm not going</p> <p>13 to agree to a statement that I don't</p> <p>14 recall the exact wording.</p> <p>15 Q. Was there some conversation that</p> <p>16 you ever had with Mr. Oberer where you</p> <p>17 indicated that the 55-25 might have been</p> <p>18 agreeable at some point in time?</p> <p>19 A. Probably. Might have been.</p> <p>20 Q. Okay.</p> <p>21 Are those numbers off the table</p> <p>22 now?</p> <p>23 A. I don't make those decisions, so</p> <p>24 I can't say.</p> <p>25 Q. What's changed that would lower</p>	<p style="text-align: right;">Page 20</p> <p>1 like the capital cost for the fire</p> <p>2 department could be for things at either</p> <p>3 fire station. Were you aware of that</p> <p>4 before?</p> <p>5 A. Yes.</p> <p>6 Q. Sounds like you have road</p> <p>7 improvements in the area that can be</p> <p>8 funded from this capital. Were you aware</p> <p>9 of that in the past?</p> <p>10 A. Yes.</p> <p>11 Q. When were you aware of that?</p> <p>12 A. During the court proceedings.</p> <p>13 Q. Is that the same thing about the</p> <p>14 use beyond the one fire station, did you</p> <p>15 become aware of that during the court</p> <p>16 proceedings as well?</p> <p>17 A. No.</p> <p>18 Q. You were aware of that in the</p> <p>19 beginning?</p> <p>20 A. It's all one department.</p> <p>21 Q. I assume to the extent that the</p> <p>22 township has other capital or</p> <p>23 infrastructure needs that somehow benefit</p> <p>24 this development, that you could find ways</p> <p>25 to spend the dollars there, too?</p>
<p style="text-align: right;">Page 19</p> <p>1 the odds from those being probably</p> <p>2 acceptable to you don't know?</p> <p>3 A. I think that as stated early on</p> <p>4 in this entire process, you can't take it</p> <p>5 in part, it's part of the parcel.</p> <p>6 There's a total agreement that</p> <p>7 has to be agreed to, and the balance of</p> <p>8 the terms in the agreement weren't</p> <p>9 agreeable.</p> <p>10 The trustees are not happy</p> <p>11 taking capital improvement money rather</p> <p>12 than being able to fund hours for</p> <p>13 employees.</p> <p>14 Q. Mr. Tiffany, you know that</p> <p>15 that's how TIFs work, capital dollars,</p> <p>16 right?</p> <p>17 A. I do, yes.</p> <p>18 Q. And through this process, I</p> <p>19 think we've discovered that there are a</p> <p>20 lot of places that those TIF dollars for</p> <p>21 this project could go in the township that</p> <p>22 maybe would be even less constraining than</p> <p>23 what the agreement proposed by the city</p> <p>24 has been.</p> <p>25 For instance, one, it sounds</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Can you be more specific?</p> <p>2 Q. I don't know how. I don't know</p> <p>3 what other infrastructure is in the area.</p> <p>4 You may have other things other</p> <p>5 than roads and fire, I just don't know.</p> <p>6 You may have other infrastructure in the</p> <p>7 area, I don't know.</p> <p>8 I've not in this discovery</p> <p>9 looked into the agreements that you have</p> <p>10 in place with the city for police, I just</p> <p>11 don't know?</p> <p>12 But the Clys Road improvement</p> <p>13 sounds like it's a significant cost; is</p> <p>14 that right?</p> <p>15 A. Yes.</p> <p>16 Q. It sounds like that is being</p> <p>17 funded, at least in part, out of your</p> <p>18 township road improvement fund?</p> <p>19 A. In it's entirety from road levy</p> <p>20 funds.</p> <p>21 Q. So those road levy funds could</p> <p>22 certainly be used for road improvements in</p> <p>23 other parts of the township, right?</p> <p>24 A. Correct.</p> <p>25 Q. So it appears to me that the</p>

<p style="text-align: right;">Page 22</p> <p>1 township has means at its disposal to use 2 these TIF dollars in a manner that would 3 be -- of which they are legally 4 restrained, and then free up other 5 township dollars for other uses? 6 Am I missing something? 7 A. Yes. 8 Q. What am I missing? 9 A. You couldn't use it for fire 10 funds. It doesn't fund the fire 11 department. 12 Road levy funds have to be 13 specifically used for road purposes. So 14 it would actually be detrimental to the 15 fire department to divert those funds to 16 some other capital improvement. 17 Q. Is the fire department funded 18 exclusively by fire levies? 19 A. Yes. And EMS. 20 Q. Fire and EMS. 21 So are there any township 22 revenues that come in through just general 23 levies that go to the fire department? 24 A. No. 25 Q. But they could, right?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. You may call it logic, I call it 2 something else. 3 A. I understand. 4 Q. The question was whether you 5 have a study. 6 A. We do not. 7 Q. You don't have a study that 8 tells you the demand that's generated by 9 this development, do you? 10 A. We have looked at numbers 11 provided by the City of Centerville in the 12 past regarding the TIF and the 13 improvements in the area and estimate call 14 load, traffic impacts, things like that. 15 Q. All right. 16 Have you determined how much 17 demand there's going to be for EMS 18 services within the development? 19 A. Based on lives you can deduce, 20 but we have not done study work. 21 Q. What did you deduce? 22 A. You're going to add with the 23 housing that's going in, that's proposed, 24 the proposed office development, the 25 proposed retail, somewhere between two and</p>
<p style="text-align: right;">Page 23</p> <p>1 A. No. 2 Q. You could not take general 3 township levies and put those under the 4 fire? 5 A. Under the statute we could. 6 Under budget constraints, no. 7 Q. It sounds to me like you're 8 trying to fight the statute more than 9 other parties in the room here. 10 Your disagreement seems to be 11 that TIF funds are capital funds. Is that 12 the major source of the concern for the 13 township? 14 A. No. 15 Q. All right. What is? 16 A. The ability to fund the 17 department properly. 18 Q. All right. 19 Look, you sat through these 20 depositions. You don't have a study that 21 says how much it costs to fund the fire 22 department, correct? 23 A. We do. We have logic which says 24 100 percent of the taxes, just like every 25 other taxpayer in the township.</p>	<p style="text-align: right;">Page 25</p> <p>1 4,000 lives a day into that area, when we 2 have a populus of just over 8,000 people 3 in the township. 4 When you add lives, you add 5 call. 6 Q. How much? 7 A. Don't know yet. 8 Q. The owner-occupied housing would 9 be funded at 100 percent, right? 10 A. Correct. 11 Q. Do you agree that the major call 12 volume that has been -- that would have 13 been reduced by the creation of the fire 14 district is for the intersection of 15 Wilmington Pike and 675? 16 A. No. I think it's the corridor, 17 the business corridor through there, not 18 just that intersection. 19 Q. It's the roadways? 20 A. Correct. 21 Q. The roadways are not 22 attributable to this development alone, 23 right? 24 A. Going to be internal roadways 25 also.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. Those internal roadways are not 2 part of that corridor, are they?</p> <p>3 A. We would consider it part of the 4 corridor. They are public streets and 5 build it as such.</p> <p>6 Q. The traffic that's on the actual 7 corridor, which is Wilmington Pike, is not 8 attributed solely to this development, is 9 it?</p> <p>10 A. No.</p> <p>11 Q. The traffic that's on 675 is not 12 attributed solely to this development, is 13 it?</p> <p>14 A. It is not.</p> <p>15 Q. And Chief Pavlak testified that 16 the major intersection where he receives 17 calls is 675 and Wilmington Pike. Do you 18 recall him saying that?</p> <p>19 A. I don't.</p> <p>20 Q. Did you disagree with that 21 statement?</p> <p>22 A. Yeah, I would disagree with 23 that.</p> <p>24 Q. Why is that wrong?</p> <p>25 A. I don't think the numbers would</p>	<p style="text-align: right;">Page 28</p> <p>1 general call volume that wasn't traffic.</p> <p>2 A. Okay.</p> <p>3 Q. So we talked about traffic, and 4 he said the intersection with the 5 interstate was the highest volume area.</p> <p>6 And then he had another study 7 with respect to calls that weren't traffic 8 related, that were to institutions, to 9 stores, et cetera.</p> <p>10 Apparently you're telling me 11 that as the township administrator, when 12 you're viewing this, you're more 13 interested in sort of viewing those things 14 as separate, you just want to view it as a 15 large district and wherever the calls are 16 coming, that's where they are coming from. 17 And they are being generated within that 18 corridor and that's the way you prefer to 19 look at it, right?</p> <p>20 A. I think we were on different 21 pages just now.</p> <p>22 As far as traffic accidents, 23 that may be the most -- highest incident 24 of traffic accidents would be that 25 intersection.</p>
<p style="text-align: right;">Page 27</p> <p>1 bear that out.</p> <p>2 Q. Where is the higher volume?</p> <p>3 A. I think it's that entire 4 corridor, not just that intersection. 5 725, Wilmington Pike, Center Point Drive, 6 Briggs, Clio Road, 675, Whip, Brown Road, 7 all the way through there, Feedwire.</p> <p>8 Q. It sounds like he broke it down 9 differently than you. He's breaking it 10 down within the intersections of the 11 corridor and you're not.</p> <p>12 He said even within the 13 corridor, apparently that intersection is 14 the highest volume call load.</p> <p>15 Are you continuing to disagree 16 with the fire chief's assessment of that?</p> <p>17 A. I would say yes, because I think 18 one of our highest call loads is Wal-Mart.</p> <p>19 Q. Wal-Mart is a store, it's not a 20 traffic area, right?</p> <p>21 A. Are you talking about traffic 22 accidents or call load?</p> <p>23 Q. You were here for the 24 deposition. He broke it down as far as 25 calls for traffic-related issues and then</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. All right.</p> <p>2 But my last question still 3 stands. As the township administrator, 4 when you are looking at this, you are not 5 interested of delineating to that level of 6 traffic accidents and call loads, you want 7 to look at it more globally; is that 8 right?</p> <p>9 A. Not necessarily.</p> <p>10 Q. Why would the township cut out 11 services to half of that corridor if that 12 is the highest volume area of the 13 township?</p> <p>14 A. I think one of the -- one of the 15 reasons was for consistency with the 16 police areas.</p> <p>17 Q. Why didn't you cut out then the 18 other parcels along Wilmington Pike that 19 are incorporated into the city, such as 20 the Cracker Barrel area?</p> <p>21 A. Those taxes are established 22 already.</p> <p>23 Q. What difference does that make?</p> <p>24 A. Future revenue off that isn't 25 being TIF'd away. We're being paid to</p>

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1 provide service 100 percent.
 2 Q. It doesn't have anything to do
 3 with lining up the police district with
 4 the fire district, does it?
 5 A. I said it was one of the
 6 considerations.
 7 Q. It wasn't the driving
 8 consideration. It sounds more like a
 9 talking point.
 10 How does that factor in then to
 11 the lining of the police with the fire if
 12 those properties stayed in?
 13 A. I don't have an answer for you
 14 on that.
 15 Q. Who drafted the fire district
 16 resolution?
 17 A. Legal counsel.
 18 Q. Legal counsel to your right?
 19 A. Yes.
 20 Q. Did you request that draft
 21 resolution the same time you requested the
 22 map?
 23 A. No.
 24 Q. Which did you request first?
 25 A. I believe the map.

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1 (Tiffany Exhibit K was marked
 2 for identification.)
 3 BY MR. MILLER:
 4 Q. Mr. Tiffany, you have been
 5 handed what's been marked as Exhibit K for
 6 this deposition.
 7 MR. MILLER: I'm just going to
 8 note for the record that, Stephanie,
 9 when we received these documents, we
 10 went ahead and just tried to Bates
 11 number them just for our internal
 12 controls.
 13 I know you didn't produce them
 14 like that, but we put those on there.
 15 BY MR. MILLER:
 16 Q. This is an e-mail chain from
 17 November 25, 2014. And this was a
 18 document that you produced.
 19 Do you know who Brian Seedhouse
 20 is?
 21 A. I know the name. I don't know
 22 that I met him.
 23 Q. The attachment to this e-mail,
 24 which is the third page of the exhibit,
 25 page number 75 of the Bates range, have

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1 you reviewed this document before today?
 2 A. I've looked at it, yes.
 3 Q. What does this document tell
 4 you?
 5 A. These were Mr. Seedhouse's
 6 estimates, I believe.
 7 Q. That's correct. He prepared
 8 this. Estimates of what?
 9 A. Breakdown on it says Cornerstone
 10 of Centerville TIF analysis.
 11 Q. Do you know how these numbers
 12 align with your own analysis?
 13 A. I know there was more than one
 14 e-mail that came out and his numbers were
 15 very high at first and they were
 16 corrected. And I don't know where this
 17 falls in that chain.
 18 Q. Looking at the numbers yourself,
 19 you can't recall -- you can't recall if
 20 this is more aligned with yours or with
 21 another that was higher?
 22 A. Correct.
 23 Q. On February 19th of 2015, the
 24 township had a meeting where it passed a
 25 resolution rescinding the fire district;

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1 is that correct?
 2 A. Correct.
 3 Q. Why?
 4 A. It was discussed in executive
 5 session with legal counsel and when we
 6 came out, that was the determination of
 7 the board.
 8 MR. BACON: Can you read that
 9 back, please?
 10 (The record was read.)
 11 BY MR. MILLER:
 12 Q. Is there a public reason you can
 13 express?
 14 A. Other than the press release we
 15 put out, no.
 16 (Tiffany Exhibit L was marked
 17 for identification.)
 18 BY MR. MILLER:
 19 Q. Sir, you have been handed what's
 20 been marked Exhibit L.
 21 Can you tell me who drafted
 22 this?
 23 A. I worked with legal counsel on
 24 this.
 25 Q. Is this the press release you

<p style="text-align: right;">Page 34</p> <p>1 just referenced?</p> <p>2 A. Yes.</p> <p>3 Q. All right.</p> <p>4 Can you explain to me what this</p> <p>5 says?</p> <p>6 A. I think it speaks for itself. I</p> <p>7 don't know that I can explain it any</p> <p>8 further than what it says.</p> <p>9 Q. I'll walk you through it.</p> <p>10 First sentence says that the</p> <p>11 fire district resolution was rescinded; is</p> <p>12 that correct?</p> <p>13 A. Yes.</p> <p>14 Q. All right.</p> <p>15 Next there's been a</p> <p>16 determination by the trustees at this time</p> <p>17 that it is not in the best interest of the</p> <p>18 community to continue with the current</p> <p>19 litigation.</p> <p>20 That's what that says, right?</p> <p>21 A. Those are the words.</p> <p>22 I don't know that I would have</p> <p>23 that emphasis on at this time. It was</p> <p>24 more at this time.</p> <p>25 Q. Is the potential, at a later</p>	<p style="text-align: right;">Page 36</p> <p>1 A. I didn't hear what the question</p> <p>2 was. I'm waiting.</p> <p>3 Q. I said tell me if I'm wrong.</p> <p>4 A. Okay. I don't think the</p> <p>5 trustees have a problem providing fire</p> <p>6 service to the Cornerstone development. I</p> <p>7 don't believe it was ever their intent not</p> <p>8 to see there's adequate fire protection</p> <p>9 and EMS protection to that area.</p> <p>10 I don't believe they think the</p> <p>11 developers should pay anything more than</p> <p>12 what he is in payments in lieu of taxes.</p> <p>13 Q. All right.</p> <p>14 The next paragraph mentions a</p> <p>15 community forum that's upcoming.</p> <p>16 Can you explain to me what's</p> <p>17 going to happen there?</p> <p>18 A. I don't know yet.</p> <p>19 Q. What are going to be some of the</p> <p>20 topics of discussion?</p> <p>21 A. I don't know yet. We've heard a</p> <p>22 lot from the community over the past two</p> <p>23 months about these issues, actually, the</p> <p>24 last two years, but in particular to the</p> <p>25 fire district over the past couple of</p>
<p style="text-align: right;">Page 35</p> <p>1 date, it would be in the best interest in</p> <p>2 the community to have litigation on this</p> <p>3 issue?</p> <p>4 A. I can't speculate on that.</p> <p>5 I don't think it's ever the</p> <p>6 intent to have litigation.</p> <p>7 Q. The third paragraph states, The</p> <p>8 board of trustees remain committed to</p> <p>9 providing the finest emergency services to</p> <p>10 its citizens and business partners located</p> <p>11 in Sugarcreek Township. That commitment</p> <p>12 includes seeing that the citizens and</p> <p>13 business partners do not bear an undue</p> <p>14 cost to provide those services to a</p> <p>15 portion of the township that the fair</p> <p>16 share of property taxes are not provided</p> <p>17 to help cover the cost.</p> <p>18 Do you agree with that</p> <p>19 statement?</p> <p>20 A. Yes.</p> <p>21 Q. That indicates to me -- tell me</p> <p>22 if I'm wrong -- that the township has some</p> <p>23 displeasure still of providing fire</p> <p>24 services to the Cornerstone development.</p> <p>25 The question was if I'm wrong.</p>	<p style="text-align: right;">Page 37</p> <p>1 months.</p> <p>2 Q. Do you anticipate talking about</p> <p>3 the Cornerstone development?</p> <p>4 A. I'm sure.</p> <p>5 Q. Do you anticipate talking about</p> <p>6 your levy that's going to need to be</p> <p>7 renewed or replaced?</p> <p>8 A. Possibly.</p> <p>9 Q. Is there the possibility you're</p> <p>10 going to discuss reenacting the fire</p> <p>11 district?</p> <p>12 A. I don't know.</p> <p>13 Q. Why don't you know?</p> <p>14 A. I don't know yet.</p> <p>15 Q. When is the target date for this</p> <p>16 forum?</p> <p>17 A. We haven't set one.</p> <p>18 Q. Is it going to happen?</p> <p>19 A. I think so.</p> <p>20 Q. So everything is just up in the</p> <p>21 air?</p> <p>22 A. Pretty much.</p> <p>23 Q. If you reimplemented the fire</p> <p>24 district, what's it going to look like?</p> <p>25 A. Again, I'd be speculating. I</p>

1 have no idea.
 2 Q. Have you given it any
 3 consideration?
 4 A. We've not discussed it.
 5 Q. Have you personally given it any
 6 consideration?
 7 A. I think about things, sure, but
 8 I don't know the answer to that yet.
 9 Q. What are some of the
 10 possibilities that you personally
 11 considered for reimplementing the fire
 12 district?
 13 A. I don't know that I've thought
 14 about it that specific.
 15 Q. What exactly have you thought
 16 about for a new fire district?
 17 MS. HAYDEN: Actually, before
 18 you answer, I'm going to interpose an
 19 objection to the extent your answer
 20 calls for any communications that you
 21 and I have had together or with the
 22 trustees. I'm going to ask you not
 23 to answer that.
 24 THE WITNESS: Okay.
 25 BY MR. MILLER:

1 Q. The question still stands.
 2 A. I think any thoughts that I've
 3 had on it and verbalized have been to
 4 counsel.
 5 Q. So you've had communications
 6 with counsel about the possibility of
 7 reimplementing the fire district?
 8 MS. HAYDEN: I'm going to object
 9 and direct you not to answer as it's
 10 privileged.
 11 MR. MILLER: The existence of
 12 the communication is not privileged.
 13 I'm not asking for the content.
 14 MS. HAYDEN: One more time, I'm
 15 sorry.
 16 MR. MILLER: The existence of
 17 the communication isn't privileged,
 18 and I'm not asking for the content.
 19 MS. HAYDEN: You specifically
 20 asked him whether or not we had
 21 discussions about reimplementing the
 22 fire district, which would be the
 23 subject of the communication.
 24 MR. MILLER: Yes, the subject.
 25 It's not the content. I'm not

1 asking about the advice, just whether
 2 there's been communication on that.
 3 MS. HAYDEN: Without getting
 4 into it, if you can answer it, go
 5 ahead.
 6 A. I don't know that I can answer
 7 it.
 8 We've discussed the fire
 9 district.
 10 BY MR. MILLER:
 11 Q. Sitting here today, can you rule
 12 out the possibility that the township
 13 would attempt to reimplement a fire
 14 district excluding the Cornerstone
 15 development?
 16 A. No. I think may is more
 17 appropriate as opposed to would.
 18 Q. Can you explain why you're
 19 distinguishing between may and would?
 20 A. The way the question was asked
 21 is that we would and that is a pretty
 22 affirmative thing. May to me is less
 23 definitive.
 24 Q. Assuming that the township's
 25 negotiations with the city don't progress

1 and an agreement is not achieved, at what
 2 point is the township going to need to
 3 make a decision on whether it reimplements
 4 a fire district excluding the Cornerstone
 5 development?
 6 A. I don't know. I have not
 7 considered that.
 8 Q. Chief Pavlak indicated that his
 9 budget for 2016 may run a deficit; is that
 10 right?
 11 A. Not a deficit.
 12 Q. Not a deficit?
 13 A. It would have an inadequate
 14 carryover for '17.
 15 Q. Can you explain what that means?
 16 A. Each year we need to carry over
 17 a certain percentage of the budget into
 18 the following year. Because we don't
 19 receive any funding from the county until
 20 March, so we have to cover the first
 21 quarter, so we like to carry 25 percent
 22 over to make sure we make it through our
 23 first quarter.
 24 Our fiscal year is January 1st
 25 to January 1st, but it would probably be

1 more logical to do April 1st to April 1st
2 from that standpoint.

3 Q. So are there some budgeting
4 tricks that you can do to get you through
5 that, or what needs to happen to fix that
6 issue for 2017?

7 A. We're going to talk about it
8 tonight, as a matter of fact, at our
9 meeting.

10 I think more than anything, he's
11 got to change the way he does business in
12 the meantime.

13 Q. Can you explain what you mean by
14 that?

15 A. There's several things on the
16 table he wants as part of his budget. He
17 has some new apparatus that is in his
18 budget.

19 We don't have a final budget for
20 '15 yet. We do that at our next meeting.

21 But, you know, if we put off the
22 purchase of those vehicles that he wants,
23 if we -- we have two open full-time
24 positions right now that we cannot fill
25 those. That would reduce cost.

1 There's been some educational
2 reimbursements that he's been doing for
3 the employees and those can stop. There's
4 a lot of things to consider.

5 Q. Is your fire department
6 unionized?

7 A. It is, partially, I should say.

8 Q. How would not filling those two
9 positions affect the provision of
10 services?

11 A. Shouldn't, because the plan
12 would be to fill the hours with
13 part-timers at about a third of the cost.

14 Q. And then by 2017, you would
15 expect to have either a renewed or
16 replacement levy?

17 MR. BACON: Is that yes?

18 A. Yes. Thank you.

19 BY MR. MILLER:

20 Q. I'm sure nothing has been
21 decided upon this yet, but is it your
22 thought it's best to wait for 2017 for
23 that or is that something you might
24 approach the voters for sooner?

25 A. I think it would be probably in

1 '16 at this point is when it will end up
2 being on the ballot.

3 Q. I'm obviously not in your line
4 of work, but it would seem to me sometimes
5 presidential years are sometimes better to
6 go to the ballot.

7 A. It depends on the issue.

8 Sometimes -- as the school district is
9 doing this year, they have a levy out in
10 the spring, which a lot of people disagree
11 with. But generally the people that
12 support it come out in the spring and
13 others who would not support it, don't
14 show up.

15 So it depends on the issue.
16 There's a lot of strategy to it.

17 Q. Okay.

18 A. I have a trustee up for election
19 this year and they never like to be on the
20 ballot with a levy.

21 Q. You'll have two up in '17?

22 A. Correct.

23 Q. Based upon your projections, do
24 you believe the levy will need to be a
25 renewal versus a replacement?

1 A. I don't know. It's not that
2 old. I don't think the renewal would be
3 sufficient. It really is not going to
4 bring additional money.

5 The replacement would bring
6 some, but very little, because it's been a
7 short time since it was replaced before.

8 Q. And to the extent that you would
9 do a replacement levy or a new increase of
10 some form or other, you agree with me that
11 the Cornerstone development, to the extent
12 you're still providing fire services to
13 it, would pay its share of that increase,
14 correct?

15 A. Sure, at this time, yes.

16 Q. Is that a fact that you intend
17 to highlight to your residents at your
18 forum?

19 A. I don't know. We don't have
20 that planned out yet.

21 Q. Have you conveyed to your
22 citizens that the owner-occupied housing
23 within the Cornerstone development pays
24 100 percent of the taxes?

25 A. I don't know that we've said

<p style="text-align: right;">Page 46</p> <p>1 anything to the contrary.</p> <p>2 Q. That wasn't my question.</p> <p>3 A. I think anyone I've had</p> <p>4 discussion with about it, yes, the</p> <p>5 subject's come up.</p> <p>6 Q. Do you convey to your citizens</p> <p>7 that the Cornerstone development continues</p> <p>8 to pay the tax on the base values?</p> <p>9 A. I have.</p> <p>10 Q. Do you convey that at the</p> <p>11 expiration of the TIF, that the property</p> <p>12 will be taxed at full value?</p> <p>13 A. I don't know that I discussed</p> <p>14 that with anybody specifically. I don't</p> <p>15 know.</p> <p>16 Q. Which infrastructure</p> <p>17 improvements to the Cornerstone</p> <p>18 development do you think should not happen</p> <p>19 so that the township can receive</p> <p>20 additional revenues for fire and EMS?</p> <p>21 A. Haven't considered it.</p> <p>22 Q. The township passed a TIF in</p> <p>23 2006, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Has this TIF been funded?</p>	<p style="text-align: right;">Page 48</p> <p>1 taxes levied on that property.</p> <p>2 Q. The township would still be</p> <p>3 generating revenue off that property for</p> <p>4 its 2006 TIF, correct?</p> <p>5 A. After a fire district?</p> <p>6 Q. Regardless of whether there's a</p> <p>7 fire district.</p> <p>8 A. Not fire funds for the TIF, no.</p> <p>9 Q. All you're saying is that there</p> <p>10 would be a lower tax base to fund the TIF,</p> <p>11 right?</p> <p>12 A. It would be absent any fire</p> <p>13 funds, any fire levies. They would no</p> <p>14 longer be on the property.</p> <p>15 Q. All right.</p> <p>16 Let's just for a moment assume</p> <p>17 that those fire levies are there.</p> <p>18 What would happen to tax dollars</p> <p>19 as they came in? The property taxes are</p> <p>20 collected by the county treasurer, then</p> <p>21 what happens?</p> <p>22 A. Are you talking about currently</p> <p>23 or under a fire district?</p> <p>24 Q. Currently with your TIF.</p> <p>25 A. It's a 75 percent non-consent</p>
<p style="text-align: right;">Page 47</p> <p>1 A. When you say funded, explain</p> <p>2 what you mean.</p> <p>3 Q. Have there been any dollars that</p> <p>4 have gone into the TIF account?</p> <p>5 A. Not to date. I don't know about</p> <p>6 this year, but not in the past. There's</p> <p>7 been no activity to generate those</p> <p>8 dollars.</p> <p>9 Q. But the building of the Costco</p> <p>10 can now generate dollars for that fund,</p> <p>11 correct?</p> <p>12 A. I would think so, yes.</p> <p>13 Q. It's your position in the</p> <p>14 township to exclude governmental services</p> <p>15 to a property that it is receiving tax</p> <p>16 revenue and TIF money on?</p> <p>17 A. You have to restate that.</p> <p>18 Q. I apologize. I'm a bit sick.</p> <p>19 Why would your township exclude</p> <p>20 fire and EMS protection from a property on</p> <p>21 which it is receiving base taxes and it</p> <p>22 has imposed a TIF upon?</p> <p>23 A. Our understanding is that -- or</p> <p>24 was -- that if a fire district is placed</p> <p>25 on the property, there would be no fire</p>	<p style="text-align: right;">Page 49</p> <p>1 TIF. Seventy-five percent of those funds</p> <p>2 would be shifted over to the TIF until the</p> <p>3 amount of money spent on the project was</p> <p>4 satisfied. 25 percent of the taxes would</p> <p>5 be passed through to each of those</p> <p>6 entities as always.</p> <p>7 Q. Would it only be taxes, real</p> <p>8 estate taxes that go to the township that</p> <p>9 are diverted?</p> <p>10 A. No. I should clarify, it's only</p> <p>11 on improvements.</p> <p>12 Q. Would school district tax</p> <p>13 dollars be diverted to your TIF?</p> <p>14 A. Correct.</p> <p>15 Q. County park dollars would be</p> <p>16 diverted to your TIF?</p> <p>17 A. I would have to look at the</p> <p>18 statute to be sure. There are some that</p> <p>19 are exempted out, but I'm not sure what</p> <p>20 they are.</p> <p>21 Q. So now let's talk about with</p> <p>22 your fire district.</p> <p>23 With your fire district, your</p> <p>24 assumption is that those real estate tax</p> <p>25 dollars for fire service go away, correct?</p>

1 A. Correct.

2 Q. But the township still receives

3 the tax dollars that are being diverted

4 from the school district and any other

5 governmental entity that's receiving

6 taxes?

7 A. That's correct.

8 Q. And so that is the purpose of my

9 initial question.

10 Why do you think it's okay for

11 the township to divert other entity's tax

12 dollars so that the township can fulfill a

13 capital need and then reduce the services

14 it's providing to that property?

15 A. It's the law.

16 Q. What's the law?

17 A. We're permitted to form a fire

18 district and remove that area under the

19 statute. We're not receiving tax dollars

20 to provide the service anymore.

21 Q. So you think it's okay for the

22 township to up its total take on the

23 property because it's taking other

24 entity's tax dollars and cut services to

25 that same property. You think that's

1 okay?

2 MS. HAYDEN: Objection. The

3 answer to the question is not

4 reasonably calculated to lead to

5 discoverable evidence.

6 You can go ahead and answer.

7 A. I think it's an unreal

8 expectation to provide services if you're

9 not being paid for it.

10 BY MR. MILLER:

11 Q. So the school district should

12 stop serving kids who move into that

13 multifamily property then?

14 A. No. The school district is

15 receiving 100 percent of the taxes on that

16 property, correct?

17 Q. On the multifamily?

18 A. Uh-huh.

19 Q. I don't know what they're

20 receiving. I know they negotiated for

21 less with the city.

22 A. My understanding was they're

23 getting 55 percent if the city makes a

24 deal with us, 60 percent if they don't on

25 commercial and 100 percent on the

1 residential piece, commercial residential

2 apartments. I believe that's in the

3 document.

4 Q. They're still not receiving full

5 taxes on the entire development, right?

6 A. On the commercial piece,

7 correct. But they're not providing any

8 services either.

9 Q. They don't provide -- school

10 district doesn't provide services to any

11 commercial area?

12 A. Correct.

13 Q. That is part of the tax base?

14 A. That was negotiated with the

15 schools.

16 Q. Why couldn't the school district

17 say, hey, we're not getting tax dollars

18 from this retail development, so we're not

19 going to serve the kids in the adjoining

20 residential development? Why couldn't it

21 say that?

22 A. Which residential development?

23 Q. The Cornerstone development,

24 residential.

25 A. I understand. Multifamily or

1 owner-occupied?

2 Q. Both, just like you did. Say

3 we're not providing it to either one.

4 A. I don't believe they could to

5 the owner-occupied because it's not part

6 of the TIF or -- TIF agreement or any kind

7 of negotiation with the TIF.

8 They absolutely could on the --

9 by not agreeing to anything different on

10 the commercial residential, the

11 apartments, if they don't agree to a TIF,

12 they are going to receive 100 percent of

13 the fund. That's the way the statute

14 works.

15 Q. Why couldn't they just redraw

16 the district lines and say we're not going

17 to provide?

18 A. They can. They've done it in

19 the past. They did with the City of

20 Kettering. There was another annexation

21 on Swigert Road.

22 Q. If they do that, they're not

23 continuing to receive dollars off it like

24 you intend to with the 2006?

25 A. The agreement they made with the

1 City of Kettering to make it happen, they
2 received millions of dollars. Kettering
3 needed the students.

4 Q. Kettering ran its own school
5 district, right?

6 A. Correct, I believe so.

7 Q. So that's not an
8 apples-to-apples comparison?

9 A. No.

10 Q. With respect to your 2006 TIF,
11 what dollars does the school district get
12 from the retail development, 25 percent,
13 right?

14 A. Correct. Until the TIF is paid
15 off. It's also a ten-year TIF maximum.

16 Q. What percentage do they get on
17 the multifamily?

18 A. Twenty-five percent.

19 Let me say I don't know, because
20 at the time that that TIF was passed,
21 multifamily was not considered commercial.
22 That was a recent statute, I believe, in
23 2013.

24 Q. You just don't know?

25 A. I can tell you at the time it

1 A. I can't rule out anything at
2 this point.

3 MR. MILLER: Let's take a break
4 for a couple of minutes.

5 (A recess was taken from 10:55
6 to 11:08.)

7 MR. MILLER: I just have a
8 couple more questions, Mr. Tiffany.

9 BY MR. MILLER:

10 Q. Who specifically selected which
11 parcels to be excluded from the fire
12 district?

13 A. I think I put together the map
14 for the trustees to consider.

15 Q. Why did you exclude the highway
16 interchange?

17 A. I think the initial thought was
18 the -- it was part of the annexation. It
19 was all part of that.

20 There's always been kind of a
21 fuzzy line there of whose jurisdiction
22 that is with the police department. It is
23 like an imaginary line on 675 somewhere
24 around Five Seasons, so we end up
25 responding to a lot of calls out there

1 was passed, they would have received 100
2 percent, because it was not considered
3 commercial.

4 Q. Do you not see any
5 inconsistencies at all on the position of
6 the township here in diverting other tax
7 entity's dollars into its own capital
8 account and then saying it's not going to
9 provide services for fire and EMS to this
10 development because TIF dollars are being
11 diverted?

12 A. No, I do not. It's not apples
13 and apples.

14 Q. Why isn't it apples to apples?

15 A. It's just not. It's a ten-year
16 TIF, it's for about a million dollars that
17 can pay off in three to four years, as
18 opposed to a 30-year TIF.

19 Q. Who drafted the February 2015
20 resolution rescinding the fire district?

21 A. Legal counsel.

22 Q. Sitting here today, you cannot
23 rule out the township may in 2015 enact
24 another fire district excluding this
25 development?

1 that aren't necessarily within our
2 jurisdiction.

3 Q. A lot of police calls?

4 A. Both.

5 Q. Whose jurisdiction is it in?

6 A. The police would be City of
7 Centerville. Fire calls would be
8 Washington Township.

9 Q. You're still going to have a
10 section -- you still would have had a
11 section of the interstate in your fire
12 district?

13 A. To the north, correct.

14 Q. So don't you think that
15 confusion would still exist with the calls
16 coming in?

17 A. I don't know.

18 Q. There were a series of parcels
19 that are in the TIF but were in the fire
20 district. Who made the decision to
21 include those parcels within the district?

22 A. Again, I think I put together
23 what was going to be included or not and
24 put it before the trustees for
25 consideration.

<p style="text-align: right;">Page 58</p> <p>1 Q. Have you continued to include 2 those because of your belief there would 3 not be any additional development that 4 would generate TIF dollars, but would 5 divert fire taxes? 6 A. Speaking specifically about the 7 ones in the City of Centerville? 8 Q. Yes. 9 A. Yes. 10 Q. Why did you exclude the area of 11 the Cornerstone development that was going 12 to be subject to owner-occupied 13 development? 14 A. It wasn't -- we hadn't seen it 15 defined at this point. 16 Q. In other words, you didn't know 17 where to draw the line within the 18 development to include them? 19 A. Correct. 20 Q. Had you known where to draw the 21 line, would that have made a difference? 22 A. Possibly. 23 Q. There was testimony at prior 24 depositions about the outside counsel 25 being consulted for this.</p>	<p style="text-align: right;">Page 60</p> <p style="text-align: center;">EXAMINATION</p> <p>1 BY MR. BACON: 2 Q. While it's fresh in my mind, you 3 mentioned talking, I guess, to this 4 attorney, Mr. Brosius. 5 You were here for the trustees' 6 depositions, correct? 7 A. Correct. 8 Q. My impression from their time 9 talking to us is there had been some 10 consultation with an attorney somewhere in 11 northern Ohio prior to the enactment of 12 the fire district. 13 A. I believe Mr. Pittman made that 14 statement in error. 15 Q. So there was no consultation 16 with any counsel from northern Ohio or 17 anybody other than somebody from the 18 prosecutor's office prior to enactment of 19 the fire district? 20 A. Correct. 21 Q. Okay. 22 And then I was looking through 23 the pleadings prior to today and I saw 24 that one of the paragraphs, I think it was 25</p>
<p style="text-align: right;">Page 59</p> <p>1 Do you know who that was? 2 A. Don Brosius, B-r-o-s-i-u-s. 3 Q. Who is he? 4 A. He's an attorney. 5 Q. Why was he consulted? 6 A. For legal matters. 7 Q. Why was he selected? 8 A. He works closely with the Ohio 9 Township Association, so he's got 10 experience and he's a nice guy. 11 Q. Who spoke with him? 12 A. I did. 13 Q. How many times? 14 A. Probably three times now. 15 Q. Over what time period? 16 A. Gosh, within the last 30 to 45 17 days. 18 Q. Did you speak with him at all in 19 2014? 20 A. No. Well, at conference, yes, 21 but not in respect of this. 22 MR. MILLER: Mr. Tiffany, thank 23 you very much. 24 And Steve is going to take over. 25 THE WITNESS: Sure.</p>	<p style="text-align: right;">Page 61</p> <p>1 number 51 -- and I'm not going to mark the 2 complaint. Everybody has it. But I'll 3 let you take a peak so you know what I am 4 talking about. 5 And I'll just read it for 6 purposes of the record. 7 In an interview with the Dayton 8 Daily News regarding the resolution 9 published on December 6, 2014, township 10 administrator Barry Tiffany said a 11 decision was made because Centerville was 12 not offering enough funds from its tax 13 collection on the Cornerstone property to 14 cover the operating costs of the fire 15 departments, and then that was admitted in 16 your folks' answer? 17 Is that the quote as you 18 remember it? 19 A. So what's been quoted in 51 is a 20 direct quote from the newspaper, which is 21 not a direct quote from me. 22 Q. So you're saying that is not an 23 accurate restatement of what you said? 24 A. I don't recall. 25 Q. So it could be and it may not</p>

<p style="text-align: right;">Page 62</p> <p>1 be?</p> <p>2 A. Exactly, word-for-word verbatim.</p> <p>3 Q. Do you think it was a true</p> <p>4 statement?</p> <p>5 A. I think it's part of the total</p> <p>6 equation, yes.</p> <p>7 Q. Part of the total equation?</p> <p>8 A. Yes.</p> <p>9 Q. When you are making that, when</p> <p>10 Centerville has this TIF, is Centerville</p> <p>11 collecting tax or are taxes simply</p> <p>12 diverted away for capital improvements?</p> <p>13 A. Diverted.</p> <p>14 Q. It's not actually Centerville</p> <p>15 collecting taxes for themselves, but for a</p> <p>16 specific capital improvement project?</p> <p>17 A. The county is.</p> <p>18 Q. So the county is?</p> <p>19 A. Yes.</p> <p>20 Q. So it's not Centerville's tax</p> <p>21 collection?</p> <p>22 A. Correct.</p> <p>23 Q. And then you're saying they were</p> <p>24 not offering enough funds to cover the</p> <p>25 operating cost of the fire department.</p>	<p style="text-align: right;">Page 64</p> <p>1 enough taxes from the Cornerstone property</p> <p>2 to cover the operating cost for the entire</p> <p>3 township?</p> <p>4 A. I need to look at it again, I'm</p> <p>5 sorry. I handed it back prematurely.</p> <p>6 Q. That's fine.</p> <p>7 A. This is where I don't know it's</p> <p>8 an accurate statement by the press of what</p> <p>9 I said.</p> <p>10 Q. Do you think that statement is</p> <p>11 accurate?</p> <p>12 A. Well, I don't know from its tax</p> <p>13 collection would be the questionable part.</p> <p>14 The township believes that</p> <p>15 Centerville is not offering enough funding</p> <p>16 to properly fund the fire department.</p> <p>17 Q. Are they offering more than</p> <p>18 their marginal cost for this development?</p> <p>19 A. Again, I'll restate. We don't</p> <p>20 look at things on a marginal cost basis.</p> <p>21 We look at these things as a total cost to</p> <p>22 the community and everybody pays their</p> <p>23 share based on valuation, assessment, and</p> <p>24 millage.</p> <p>25 Q. Depends what happens in a given</p>
<p style="text-align: right;">Page 63</p> <p>1 Were you ever able to delineate</p> <p>2 what exactly those operating costs were,</p> <p>3 put a dollar figure to that?</p> <p>4 A. There -- it's part of the</p> <p>5 problem in the total process. Fire</p> <p>6 departments are funded collectively,</p> <p>7 basically like an insurance policy for the</p> <p>8 entire community. No one in the township</p> <p>9 is billed on a</p> <p>10 cost-for-services-to-their-home basis.</p> <p>11 Q. Okay.</p> <p>12 A. It's based on home evaluation --</p> <p>13 home valuation, excuse me -- assessed</p> <p>14 value by the county auditor times the</p> <p>15 millage that's on the books that's voted</p> <p>16 on.</p> <p>17 Q. So are you saying you can't</p> <p>18 really determine what the operating cost</p> <p>19 of the fire department is?</p> <p>20 A. For the entire township we can,</p> <p>21 yes.</p> <p>22 Q. So I'm trying to figure out what</p> <p>23 this statement really means.</p> <p>24 Are you saying they couldn't</p> <p>25 collect enough tax or couldn't receive</p>	<p style="text-align: right;">Page 65</p> <p>1 year, someone may pay more than their</p> <p>2 marginal cost?</p> <p>3 A. I would say probably 80 percent,</p> <p>4 just a guess, of the residents in</p> <p>5 Sugarcreek Township may never have the</p> <p>6 need for fire services and EMS at their</p> <p>7 home.</p> <p>8 Q. You hope that is true?</p> <p>9 A. That is like the insurance</p> <p>10 policy that everyone is sharing the cost</p> <p>11 for.</p> <p>12 Q. So your determination of whether</p> <p>13 you are getting enough money is based</p> <p>14 solely on whether it's 100 percent or not;</p> <p>15 is that what I'm hearing?</p> <p>16 A. Not necessarily 100 percent.</p> <p>17 Q. Is there a certain percent that</p> <p>18 you think would be fair?</p> <p>19 A. I don't know. It's up to the</p> <p>20 trustees.</p> <p>21 Q. All right.</p> <p>22 Who informs the trustees on</p> <p>23 these issues, things like marginal cost</p> <p>24 versus total operating cost and things</p> <p>25 like that?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. It's a discussion. Everybody. 2 It's discussion with myself, legal 3 counsel, fire chief, department heads, 4 fiscal officer. 5 Q. Are all those people necessary 6 to form opinions on that? 7 A. I don't think it hurts. 8 Q. Are they necessary parts of the 9 conversation? 10 A. That would be a matter of 11 opinion. I don't know. 12 Q. Is it your opinion that the fire 13 chief plays an integral role in figuring 14 out what the needs are of the township and 15 what areas are best served and the volume 16 of service they require? 17 A. I think that there's value to 18 his opinions. Otherwise he wouldn't be in 19 the position he's in. 20 Q. Do you think that's input that 21 any good administrator or board of 22 trustees would want to seek? 23 A. Sure. 24 Q. I notice there specifically in 25 that quote, which we don't know</p>	<p style="text-align: right;">Page 68</p> <p>1 appropriations? 2 A. Correct. 3 Q. One thing we talked specifically 4 about the fire district is where it talks 5 about personnel services and other. 6 A. Uh-huh. 7 Q. Is that yes? 8 A. Yes, sorry. 9 Q. Do you recall him saying that 10 other would include capital? 11 A. As part of that, correct. 12 Q. What I just don't quite 13 understand, because it seems to me -- I 14 think you refer to it as a mother-may-I 15 clause, do you know what I am referring 16 to? 17 A. Yes. 18 Q. That is saying the funds you 19 receive have to be used for capital 20 expenditures as opposed to operating costs 21 as you define them; is that correct? 22 A. No. 23 Q. Okay. 24 A. The initial offer had -- when I 25 refer to mother may I, it wasn't -- it</p>
<p style="text-align: right;">Page 67</p> <p>1 necessarily if it's verbatim what you 2 said, but it refers to operating costs. 3 Do you see where it refers to 4 operating costs in there, or did you see 5 where it refers to operating costs? 6 A. Sure. 7 Q. Is that an important distinction 8 for the trustees? 9 A. There are differing opinions on 10 what operating costs means. That to us 11 means, to myself and the trustees, chief 12 may look at it differently, but that would 13 be payroll. 14 Q. We sat down with the chief. You 15 were here for the chief's deposition, 16 right? 17 A. Yes. 18 MR. BACON: I'm not sure what 19 this was marked as. 20 (Tiffany Exhibit M was marked 21 for identification.) 22 BY MR. BACON: 23 Q. This is something we looked at 24 with the chief. 25 Is this the temporary</p>	<p style="text-align: right;">Page 69</p> <p>1 gave total discretion to the City of 2 Centerville on a permissive basis, so we 3 have to request permission to spend money 4 on certain things. 5 Q. Okay. 6 It's my understanding that a 7 subsequent offer made that really your 8 expenditure of funds merely subject to an 9 audit provision, correct? 10 A. We were close through the 11 process, we were close on language. 12 Q. If there were, say, an audit 13 provision as opposed to you have to 14 authorize each dollar we spend, what 15 prevents simply using TIF funds that the 16 township would receive as a capital item 17 to free up other money for operating 18 expenses? 19 A. In the first few years, 20 depending on how quickly it develops, it 21 wouldn't be an issue. 22 It was the later years when 23 we're talking about a 150 to \$200,000 a 24 year that the 472 that you see there, 25 472 --</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. That's under the police 2 district. Are you referring to the 580? 3 A. Thank you. I was looking at 4 police. 5 That's not all capital. That's 6 a lot of other things also. Educational 7 expense -- I can't think of a bunch of 8 them off the top of my head, but not all 9 of that is capital. 10 So there's going to be years 11 when we're not -- we don't have to spend 12 it on fire trucks and gear and things like 13 that. 14 Q. Have you run through those 15 numbers with the chief as to how much can 16 be defrayed, what portion of this is 17 capital, how much of that can be defrayed 18 from TIF dollars, and what that would free 19 from operating expenses? 20 A. Yes. 21 Q. Has that issued or generated any 22 kind of report or anything in writing? 23 A. Not to my knowledge. 24 Q. Has anybody actually run those 25 numbers to see if that's feasible?</p>	<p style="text-align: right;">Page 72</p> <p>1 about whether you need a written opinion. 2 Under action needed in the far 3 right column it says, yes. 4 Do you see that? 5 A. Yes. 6 Q. Was a written opinion obtained? 7 MS. HAYDEN: Object. That calls 8 for privileged information. 9 MR. BACON: It also talks about 10 whether it's from the prosecutor or 11 the AG. 12 Simply whether it's been 13 obtained. 14 MS. HAYDEN: I don't think it's 15 an appropriate line of question. 16 Let me see the extent of the 17 advice. I don't think that's an 18 appropriate question. 19 BY MR. BACON: 20 Q. Are you familiar with the 21 process, say, where township administrator 22 or other people will submit things to the 23 Ohio Attorney General to review and have 24 an opinion on? 25 A. Yes.</p>
<p style="text-align: right;">Page 71</p> <p>1 A. I don't -- I don't know. In 2 writing I'm not aware of. 3 (Tiffany Exhibit N was marked 4 for identification.) 5 BY MR. BACON: 6 Q. What's been marked as N is -- is 7 this an e-mail that you received from 8 Chief Pavlak? 9 A. Yes. 10 Q. I think this is the one that was 11 missing an attachment or so when we were 12 at the last deposition. 13 You forwarded this? 14 A. Yes. 15 Q. He created a to-do list there, I 16 guess, as part of an Excel sheet. 17 Do you notice that in the body 18 of the e-mail? 19 A. Yes. 20 Q. I wanted to talk to you about a 21 few items on that to-do list. 22 One in particular, it's on the 23 bottom, it says concerns, opinion on 24 formation of district by ORC. It says 25 it's been reviewed. And then it talks</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. And those opinions are actually 2 part of the public record, right? 3 A. I believe so. 4 Q. Did the attorney general prepare 5 an opinion for you as to the formation of 6 the fire district? 7 A. No. 8 Q. Did you ever submit a question 9 to the Attorney General's Office? 10 A. No. 11 (Tiffany Exhibit O was marked 12 for identification.) 13 BY MR. BACON: 14 Q. This is a copy of an e-mail, I 15 guess, from Chief Pavlak to you. 16 A. Correct. 17 Q. It refers to something from a 18 David Buccolo? 19 A. Correct. 20 Q. I see Mr. Buccolo's name appears 21 in multiple e-mails. 22 Who is this gentleman and why 23 does he seem to have the, quote, crystal 24 ball that he refers to in here? 25 A. Second part of your question is</p>

1 a very good question that I can't answer.
2 David is an ex-township trustee
3 from many, many years ago, and I think he
4 was the mayor for the City of Bellbrook,
5 councilman at one time.

6 Bellbrook lies within Sugarcreek
7 Township. I shouldn't say within, inside
8 of or separate from one another. We
9 pretty much surround them.

10 He's an active pot-stirrer, for
11 lack of a better term.

12 Q. Did you ever speak to him about
13 the issues regarding running the fire
14 district?

15 A. I have not.
16 (Tiffany Exhibit P was marked
17 for identification.)

18 BY MR. BACON:

19 Q. Is this an e-mail that you
20 received from Mr. St. Pierre, or
21 Dr. St. Pierre?

22 A. Yes.

23 Q. Does this reference an e-mail
24 from Mr. Buccolo?

25 A. I believe so.

1 Q. Is that how you pronounce the
2 name? I want to make sure.

3 A. Buccolo.

4 Q. Apologize.

5 It refers to, I guess,
6 correcting or working with Mr. --
7 Dr. St. Pierre to correct some police
8 information in an e-mail from Mr. Buccolo.

9 Do you see that in the top part
10 of the string?

11 A. Sorry, one more time.

12 Q. Sure.

13 What is Dr. St. Pierre asking
14 you in this e-mail?

15 A. If he wanted me to respond or
16 work with him to correct his
17 misinformation.

18 Q. Did you give any information to
19 respond to this?

20 A. I called Dr. St. Pierre.

21 Q. What did you discuss concerning
22 this?

23 A. Because it was a school district
24 issue, he needed to talk to them. We were
25 out.

1 Q. Also, if you can grab the
2 complaint a second. It's in Exhibit F
3 attached to that --

4 A. Yes.

5 Q. -- looking for a specific
6 paragraph in there.

7 In the first paragraph on that
8 page --

9 MS. HAYDEN: When you say, that
10 page, are you talking about the
11 second page of the exhibit.

12 MR. BACON: Page 2, I'm sorry.
13 Second page.

14 BY MR. BACON:

15 Q. Did you feel that you had been
16 able -- you use the phrase in here that
17 Bellbrook/Sugarcreek school board stood
18 firm along you in your negotiations.

19 A. Yes.

20 Q. Did you feel that's an accurate
21 statement?

22 A. I think what the board was
23 trying to convey was the school district
24 went to bat and tried to help.

25 Q. Did you think at some point they

1 cut their own separate deal to serve their
2 best interest?

3 A. I don't know that it crossed my
4 mind.

5 (Tiffany Exhibit Q was marked
6 for identification.)

7 BY MR. BACON:

8 Q. Mr. Tiffany, this is a November
9 21, 2014 letter addressed to you and
10 trustees from Chief Pavlak, isn't it?

11 A. Yes.

12 Q. If you look on -- I believe it's
13 page 3 of this letter, do you see the
14 summary down at the bottom where it says,
15 summary?

16 A. Yes.

17 Q. To your knowledge, is this
18 Chief Pavlak's estimate of the service
19 calls anticipated for the Cornerstone area
20 for that TIF'd area and the cost per run?

21 A. I have to look at the body to
22 see what he said. I think he was just
23 trying to put together something to try
24 and move things along.

25 Q. Is it your understanding that

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1 this is his estimate of the runs that
 2 would be needed and their per-run cost?
 3 A. I don't know if it was that or
 4 just trying to come up with some kind of
 5 an idea.
 6 Q. Was there ever any effort on
 7 your part or the part of the trustees to
 8 compare the chief's numbers here with any
 9 actual funds being offered by Centerville
 10 as a part of trying to resolve this issue?
 11 A. No. Because I think -- well, I
 12 shouldn't say no.
 13 I think the trustees would have
 14 to answer those questions for themselves
 15 because they received this e-mail, I
 16 believe.
 17 We didn't dissect this in a
 18 meeting at any time or discuss it as a
 19 group, specifically this document, that I
 20 can recall.
 21 I think the underlying principle
 22 for the trustees was the fair share
 23 aspect. They hear from the residents.
 24 Q. Do you know how many residents
 25 they heard from?

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1 A. I do not.
 2 Q. Do you know how many residents
 3 you've heard from?
 4 A. I've probably spoken to 20 or
 5 30. I heard from two over the weekend in
 6 Kroger's.
 7 Q. Prior to implementing the fire
 8 district, how many have you heard from?
 9 A. On what issue? A lot over the
 10 years regarding Centerville.
 11 Q. On Centerville and that
 12 Cornerstone development's paying its fair
 13 share for fire services.
 14 A. I don't recall.
 15 Q. Less than 10?
 16 A. Probably.
 17 Q. How many people are in --
 18 A. Eight thousand.
 19 Q. So 10 out of 8,000?
 20 A. Probably.
 21 Q. Did you request Chief Pavlak to
 22 assemble numbers like these at any point?
 23 A. No, no.
 24 Q. When the first document came
 25 over from Centerville outlining some

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1 terms, proposed terms, do you recall that
 2 that document had the word draft stamped
 3 across the front of it?
 4 A. Yes.
 5 Q. Do you recall, I guess, an
 6 e-mail from Mr. Cahill that invited any
 7 response or response from the township to
 8 that document?
 9 A. I recall an e-mail. I don't
 10 recall the particulars of it.
 11 Q. Would it surprise you --
 12 A. I have no reason not to believe
 13 that.
 14 Q. Is there any reason you wouldn't
 15 call Mr. Cahill or call to engage anyone
 16 from the City of Centerville on those
 17 terms?
 18 A. I think the trustees were just
 19 tired, fed up at that point.
 20 Q. What about you, though; would
 21 anything prevent you from calling about
 22 those terms?
 23 A. I take the direction from the
 24 board. They decided to do what they did.
 25 Q. Well, you indicated that you

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1 initially had the fire district drawn up
 2 and presented it to the board, correct?
 3 A. Correct.
 4 Q. So the board is listening to you
 5 at least on these issues?
 6 A. Sure.
 7 Q. Did you consult with them or
 8 suggest to them that they contact
 9 Centerville if they didn't like those
 10 terms?
 11 A. I know that we had a lot of
 12 discussion at that time on the subject
 13 which way to go. We had tried several
 14 times to negotiate something.
 15 Trustee Bryant had tried, Mike
 16 Pittman had tried, sent Chief Pavlak over
 17 in the spring to see if he can get
 18 something accomplished.
 19 Q. I'm talking specifically to the
 20 document stamped draft.
 21 A. It is all part and parcel. That
 22 was taking place through the spring and
 23 all the way through the summer, and all
 24 those months later after promising,
 25 promising it's coming, it's coming -- and

1 I understand there was extenuating
 2 circumstances for Mr. Horn in his office.
 3 When it finally did show up, I
 4 think the trustees found it insulting.
 5 Q. What did they find insulting
 6 about it?
 7 A. The dollar amount, the
 8 mother-may-I clause, all the terms.
 9 Q. Did they tell you they were
 10 insulted or is that just an inference you
 11 made?
 12 A. I don't think it's an inference,
 13 I think it was a perception. They were
 14 not happy with it, obviously.
 15 (Tiffany Exhibit R was marked
 16 for identification.)
 17 BY MR. BACON:
 18 Q. Looking at the document that we
 19 just marked -- what is that marked as?
 20 I'm sorry.
 21 A. R.
 22 Q. Is this an e-mail to you from
 23 Jessie Liddle?
 24 A. Correct.
 25 Q. Do you know why Mr. Liddle was

1 Washington Township -- not Washington
 2 Township, Kettering.
 3 A. No.
 4 Q. What about Bellbrook?
 5 A. Yes.
 6 Q. What communications did you have
 7 with anybody at Bellbrook with regard to
 8 the RFP?
 9 A. Mr. Schlagheck let me know he
 10 was sending me a response and copied me on
 11 the e-mail.
 12 Q. Did he consult with you at all
 13 before formulating that response?
 14 A. No.
 15 Q. When you formulated that map for
 16 the fire district, I think you said you
 17 were the one who determined the parcels to
 18 be in it?
 19 A. The trustees determined. I
 20 created the draft.
 21 Q. So you drafted the map?
 22 A. Yes. Well, through Steve
 23 Tomcisin, yes.
 24 Q. Did you instruct him what
 25 parcels you would like to --

1 forwarding you a request for proposal from
 2 Mr. Cahill?
 3 A. It's Mrs.
 4 Q. My apologies.
 5 A. It's okay. That was for choice.
 6 I believe the city of Bellbrook's manager
 7 copied us on it also. Keep us in the
 8 loop. I can't speak for her reasons.
 9 Q. Did you speak to her about this
 10 request for proposal?
 11 A. She did -- I did talk to her, I
 12 don't know at what point, if it was before
 13 or after she responded. But I did talk to
 14 her on the phone.
 15 Q. What did you discuss?
 16 A. The fact that she had received
 17 it, the request, and responded or was
 18 responding. I don't remember the timing.
 19 Q. Did you talk to her at all about
 20 her response?
 21 You don't know whether it
 22 occurred before or after she responded?
 23 A. Yeah, I don't recall.
 24 Q. Did you have similar
 25 communications with anybody over at

1 A. We did. Our planner who works
 2 with Steve on a regular basis had the
 3 communications with him.
 4 Q. It sounds to me from his
 5 deposition like Chief Pavlak was not
 6 consulted with regard to what properties
 7 to include in that map; is that correct?
 8 At least when you are formulating the
 9 draft?
 10 A. Correct.
 11 Q. Why would you not consult him
 12 when you were figuring out what's needed
 13 for the safety and necessary for providing
 14 services?
 15 A. It was part of the discussions
 16 when we got to the point of talking with
 17 the trustees.
 18 Q. Prior to presenting your draft,
 19 you didn't feel they needed to be part of
 20 the process?
 21 A. No.
 22 Q. I believe there were some
 23 minutes from that meeting where he said he
 24 didn't like it, but he gets it.
 25 Did you have any further

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1 discussions about things at that meeting
 2 that the chief didn't like about this?
 3 A. I don't recall.
 4 Q. Did you have any discussions
 5 before the meeting with the chief about
 6 why you were doing this?
 7 A. Oh, yes.
 8 Q. What did you tell him?
 9 A. He was part of the discussions.
 10 Q. Okay. What did you --
 11 A. Personally discussions with the
 12 chief separate and apart from those
 13 meetings? No.
 14 Q. All right.
 15 A. If that helps.
 16 Q. Why would you not have brought
 17 the chief in earlier when you were drawing
 18 up the map?
 19 A. Didn't feel a need to.
 20 Q. Did you consider it, should I
 21 have the chief be a part of figuring out
 22 where we're going to provide fire
 23 protection, or did that occur to you at
 24 some point?
 25 A. Again, he was going to be part

1 of the process.
 2 Q. So if the Cracker Barrel were to
 3 expand or there would be some improvements
 4 on the strip mall in front of there, would
 5 it be your thought they are no longer
 6 going to be paying their fair share of
 7 taxes for fire and EMS services?
 8 A. I don't believe so.
 9 Q. So would it be your intent then
 10 to exclude them or would they have been
 11 excluded -- withdraw that question.
 12 Why would you believe that they
 13 were paying a fair share of taxes, but
 14 that Cornerstone and that whole area would
 15 not be paying their fair share of taxes?
 16 A. The valuation for the existing
 17 structures and everything on those parcels
 18 is not subject to the TIF. So the tax
 19 revenue from those parcels today paying at
 20 100 percent continues to come through.
 21 Cornerstone we receive, I think,
 22 \$1,200 in fire revenue off that property
 23 prior to development. Everything on that
 24 going on now would be diverted.
 25 Q. When you are going to put up

1 something like a Costco, or even a
 2 Cabela's or Kroger, you need roads to
 3 those places, don't you?
 4 A. Yes.
 5 Q. It's generally good for the
 6 community to have some development like
 7 that, isn't it?
 8 A. Generally, depending.
 9 Q. Doesn't the TIF -- isn't the
 10 purpose of the TIF statute to encourage
 11 development like that?
 12 A. Yes.
 13 Q. And help finance it for the
 14 longer term bigger picture for a
 15 community?
 16 A. Yes.
 17 Q. Money that we don't get now, but
 18 we promise an even greater return in the
 19 future, correct?
 20 A. Not necessarily.
 21 Q. At least the potential for
 22 greater?
 23 A. Well, not necessarily. The
 24 mindset is what I'm saying.
 25 Q. I'm sorry?

1 A. That's not necessarily the
 2 mindset behind all TIFs.
 3 Q. Do you think that is one of the
 4 mindsets that can be validly behind a TIF?
 5 A. Could be.
 6 Q. In this instance, is it
 7 necessary to have roads, sewer, and
 8 infrastructure to have that kind of
 9 development?
 10 A. Yes.
 11 Q. Won't that employ people from
 12 the township in all likelihood?
 13 A. Possibly.
 14 Q. And then ultimately the township
 15 is going to get 100 percent from the
 16 residential properties owned by the
 17 occupants, correct?
 18 A. Correct.
 19 Q. So in looking at that, and
 20 looking to the benefit of the township,
 21 aren't multiple jurisdictions taking a hit
 22 with regard to their immediate tax revenue
 23 for a longer term better picture?
 24 A. They don't have a choice.
 25 Q. Because that's what the law

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1 allows?

2 A. That's the statute.

3 Q. Now, without that law or without

4 the ability to develop like that, would

5 there even be able to be a Cornerstone

6 development?

7 A. Possibly.

8 Q. But possibly not?

9 A. Correct.

10 Q. So looking in terms of raw

11 dollars generated, if that development

12 would not have occurred, without this kind

13 of infrastructure, you would still be

14 looking at a future of \$1,200

15 approximately on that land?

16 A. Correct.

17 Q. With that development occurring,

18 that infrastructure being formed, there's

19 certainly, especially on some of the deals

20 proposed in mediation, potential for a

21 return that's much, much greater than

22 \$1,200 a year; is that true?

23 A. Along with additional cost, yes.

24 Q. But at no point has anyone ever

25 determined that those additional costs

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1 will exceed the revenue generated; is that

2 true?

3 A. I can't say that.

4 Q. Have you ever done that?

5 A. No.

6 Q. To your knowledge, has anyone

7 ever done that?

8 A. Not to my knowledge.

9 Q. So if we're looking at net cost

10 versus income coming in, it would at least

11 appear that the money that was offered

12 exceeds that marginal cost?

13 A. You're asking --

14 Q. Is that true?

15 A. I can't say. We don't know.

16 It's all speculation.

17 Calls for service may exceed the

18 revenue, we don't know. That's the

19 insurance policy.

20 Q. Chief Pavlak has run some

21 numbers, hasn't he?

22 A. Yes.

23 Q. Correct?

24 A. Yes.

25 Q. It looks like approximately

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1 \$36,000 a year for calls; is that correct?

2 A. I don't recall.

3 Q. You wouldn't dispute the math,

4 though?

5 Just the numbers he has there

6 add up if you take a calculator.

7 A. Fair enough. Fair enough.

8 Q. You would agree that certainly,

9 say, \$2.2 million is more than \$1 million,

10 as long as we're talking about basic math

11 here?

12 A. Yes.

13 Q. You could actually come out far

14 ahead if those were the numbers? Over 30

15 years it's a million dollars to provide

16 service and over that same time you get \$2

17 million plus in revenue. That's a

18 surplus, correct?

19 A. Possibly.

20 Q. Wouldn't that be something that

21 could help offset this deficit that's been

22 identified to begin in potentially 2016?

23 By deficit, I mean the carryover

24 you talked about.

25 A. Probably not realistically.

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1 We're looking at probably eight to \$10,000

2 a year for Costco. That doesn't touch the

3 deficit.

4 Q. Would it help offset the

5 deficit?

6 A. Nominally.

7 Q. Have you put that number from

8 pen to paper to figure if that number is

9 nominally --

10 A. If you figure he has probably a

11 half million dollar deficit for '16 for

12 his carryover, that's nominal.

13 Q. You talk about some of the

14 things that the chief has requested that

15 you say he may need to eliminate. You

16 look at some engines, correct?

17 A. Correct.

18 Q. The TIF, regardless how you

19 allocate the funds, can clearly apply?

20 TIF funds can apply to capital for things

21 like that?

22 A. Correct.

23 Q. In a way those funds could be

24 used to offset the tax burden that would

25 be forthcoming?

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<p style="text-align: right;">Page 94</p> <p>1 A. Working on the assumption that 2 the engines and vehicles are needed, 3 possibly.</p> <p>4 Q. Okay.</p> <p>5 Has Sugarcreek Township incurred 6 any risk with regard to this development?</p> <p>7 A. In what sense?</p> <p>8 Q. Well, I know we have a developer 9 and the developer has taken out loans and 10 put up capital and placed certain 11 materials and financial interest at risk. 12 You understand that is part of the 13 development when you take out a loan?</p> <p>14 A. Yes, yes.</p> <p>15 Q. And Centerville is going to post 16 some bonds and taking on some risk as 17 well?</p> <p>18 A. Correct.</p> <p>19 Q. And certainly that's not a risk 20 the township is bearing?</p> <p>21 A. No.</p> <p>22 Q. So is the township wanting to 23 collect 100 percent of the taxes but not 24 bear any of the risk?</p> <p>25 A. We weren't a party to those</p>	<p style="text-align: right;">Page 96</p> <p>1 that that was one of the mindsets.</p> <p>2 What are the other mindsets 3 behind a TIF?</p> <p>4 A. I think that TIFs can be 5 beneficial or they can be detrimental.</p> <p>6 A prime example is the TIFs that 7 Westchester Township and Butler County has 8 done, they've seen \$2 billion in new 9 valuation come in from those TIFs, but not 10 all of that \$2 billion in valuation is 11 within the TIF.</p> <p>12 So if you have additional areas 13 that can develop outside of the TIF'd 14 area, it may be a good investment to TIF 15 an area with the expectation of seeing 16 growth outside of it that will help offset 17 those costs, if that makes sense.</p> <p>18 Conversely, Liberty Township and 19 Butler County has a TIF along the regional 20 highway that diverts 100 percent of the 21 funding to the county TIF for decades to 22 come. So they don't see any local revenue 23 to provide services and they had to create 24 JEDDs on top of TIF'd areas to impose a 25 local tax to create revenue to provide</p>
<p style="text-align: right;">Page 95</p> <p>1 decisions. We would be party to the risk.</p> <p>2 Q. So you want all the benefits of 3 the development and infrastructure by the 4 increase in taxes, but you don't want to 5 incur any risks?</p> <p>6 A. Benefit is a matter of the 7 community. There is a lot of people in 8 the community that don't want to see this 9 going on here.</p> <p>10 Q. Do you agree? Do you think it 11 would be better if there wasn't a 12 development going on in Sugarcreek 13 Township like that?</p> <p>14 A. No, I don't agree.</p> <p>15 MR. BACON: I don't have 16 anything else.</p> <p>17 MR. MILLER: I do have, I guess, 18 a couple of follow-ups.</p> <p>19 FURTHER EXAMINATION 20 BY MR. MILLER:</p> <p>21 Q. Earlier Mr. Bacon asked you a 22 question about the purpose of the TIF, and 23 basically his theory is you defer revenue 24 and get more later.</p> <p>25 And you were skeptical and said</p>	<p style="text-align: right;">Page 97</p> <p>1 services.</p> <p>2 So they can be very beneficial 3 long term or very detrimental long term.</p> <p>4 Q. In your mind, the primary driver 5 in determining whether it's beneficial is 6 whether the TIF'd area is spurring 7 development outside of the TIF?</p> <p>8 A. Again, depends on the type of 9 the TIF also and amount of the TIF and 10 term and how much structure and commitment 11 of the TIF.</p> <p>12 There's not an easy answer, I 13 guess, is what I'm saying.</p> <p>14 Q. How would you characterize the 15 Cornerstone development?</p> <p>16 A. I think it's overcommitted. 17 There is no benefit to Sugarcreek as far 18 as additional development that's going to 19 happen. There are no additional lands 20 that are going to be developed from that 21 TIF.</p> <p>22 Q. Why can't the -- start over. 23 Why would you not expect the 24 next land to be developed the land on 25 Feedwire east of this development across</p>

1 675?

2 A. It's a park district.

3 Q. All of it?

4 A. Yes, 247 acres.

5 Q. Then you have the Clyo Road

6 area?

7 A. Yes.

8 Q. And although Clyo Road partially

9 passes through the TIF area, there's areas

10 of Clyo Road that are outside the city,

11 right?

12 A. Correct.

13 Q. And do you anticipate any

14 development along there?

15 A. The infrastructure is already

16 there.

17 Q. But do you not see this

18 development, including that TIF'd parcel,

19 spurring additional development and better

20 development in that portion of the

21 township?

22 A. Probably. It's already

23 positioned. The infrastructure is there,

24 the road is already built.

25 Q. Yes.

1 When you were earlier talking

2 about spurring development, I don't think

3 you were talking about just creating

4 infrastructure outside of there. I think

5 you were talking about having a

6 development such as IKEA stores or

7 whatever it is that draws other

8 development, were you not?

9 A. Well, restate it for me. I'm

10 sorry.

11 Q. So the development, the benefit

12 of having the TIF sometimes is once you

13 have development and you have good anchor

14 tenants in there, or whatever you want to

15 call them, that can itself spur additional

16 development?

17 A. Correct.

18 Q. Could you not see that happening

19 in the township near Clyo Road?

20 A. I don't know the mix that's been

21 proposed on the south side there along

22 Clyo would do that. We don't have any big

23 users like that.

24 Q. I just want to understand. Was

25 the distinction that you drew between the

1 township and the county and some of the

2 other governmental agencies with respect

3 to the TIF was that the other governmental

4 entities don't have a choice?

5 A. The only one that has to

6 negotiate the TIF process is the school

7 districts. Nobody else has a say-so in

8 that process.

9 Q. How does the fact that this was

10 a Type II annexation impact the TIF for

11 the township?

12 A. Does not.

13 Q. If this was a Type I annexation,

14 would the township still be the taxing

15 entity for these services?

16 A. No.

17 MS. HAYDEN: I'm going to object

18 to the line of questioning to the

19 extent it calls for a legal

20 conclusion, but go ahead.

21 A. No, I don't believe it would,

22 because it's no longer left in the

23 township. It wouldn't be subject to our

24 tax levies.

25 BY MR. MILLER:

1 Q. Just so I understand, one final

2 point. You referred to the potential

3 proposed payment from the city to the

4 township for the fire and EMS services to

5 be nominal compared to the deficit that

6 the fire department was facing; is that

7 right?

8 A. In early years.

9 Q. Is that -- would it also be true

10 that the full payment on the parcel if you

11 were receiving 100 percent would also be

12 nominal in the early years compared to the

13 overall deficit?

14 A. Correct, yes.

15 MR. MILLER: All right. Those

16 are all the questions I have. Thank

17 you.

18 MR. BACON: I don't have

19 anything else.

20 MS. HAYDEN: We'll waive

21 signature.

22

23 (Signature waived.)

24 BARRY P. TIFFANY

25 - - -

DEPOSITION ADJOURNED AT 12:10 P.M.

- - -

1 C E R T I F I C A T E

2 STATE OF OHIO :

 : SS

3 COUNTY OF FRANKLIN:

4 I, Linda Schilt, the undersigned, a duly
5 qualified and commissioned notary public within
6 and for the State of Ohio, do certify that before
7 the giving of his deposition, BARRY P. TIFFANY
8 was by me first duly sworn to depose the truth,
9 the whole truth and nothing but the truth; that
10 the foregoing is the deposition given at said
11 time and place by BARRY P. TIFFANY, that I am
12 neither a relative of nor employee of any of the
13 parties or their counsel, and have no interest
14 whatever in the result of the action; that I am
15 not, nor is the court reporting firm with which I
16 am affiliated, under a contract as defined in
17 Civil Rule 28(D).

18 IN WITNESS WHEREOF, I hereunto set my hand
19 and official seal of office at Columbus, Ohio,
20 this 10th day of March 2015.

21
22 
 Linda Schilt

23 Notary Public - State of Ohio
24 My commission expires July 29, 2019

25

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Barry Tiffany

From: Keith StPierre [keith.stpierre@bss.k12.oh.us]
Sent: Tuesday, November 25, 2014 10:49 AM
To: Barry Tiffany
Subject: FW: TIF spreadsheet
Attachments: Analysis 11.15.14.pdf; ATT00001.txt

From: Brian Seedhouse [mailto:Brian.Seedhouse@huntington.com]
Sent: Monday, November 24, 2014 6:42 PM
To: Keith StPierre; George R. Oberer Jr. (grojr@oberer.com); Kevin Liming
Subject: RE: TIF spreadsheet

Sorry for the slow response. I have attached the summary sheet that shows what the 55% reimbursement would produce for everyone. I do want to note that I did not assume 100% reimbursement on the Residential portion, 55% across the board. Also, this full build out was about \$115 million- Kevin mentioned \$110 million. Let me know if you need anything else. I am most of the day tomorrow and some Wednesday.

Brian Seedhouse
Director | Public Finance
Phone: 513.366.3435
Mobile: 513.532.5580
Fax: 877-733-4309

The Huntington Investment Company
3805 Edwards Road Suite 370
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Cincinnati, OH 45209
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From: Keith StPierre [mailto:keith.stpierre@bss.k12.oh.us]
Sent: Monday, November 24, 2014 12:52 PM
To: Kevin Liming; Brian Seedhouse; Dennis G. Schwallie (dschwallie@peckshaffer.com)
Subject: FW: TIF spreadsheet

From: George R. Oberer Jr. [mailto:grojr@oberer.com]
Sent: Monday, November 24, 2014 12:00 PM
To: Keith StPierre
Subject: TIF spreadsheet

Hi Keith,

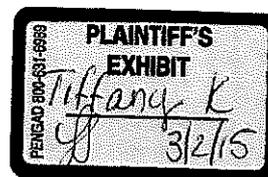
I just wanted to remind you of my request for a copy of (I think it was Brian Seedhouse's) spreadsheet showing the Schools and the Township with 55%.

Centerville believes that they only agreed to increase the Township from their originally proposed 25% to 30% as a result of the School District going from 60% to 55%.

Their claiming that they would not have agreed to 55% for the fire & EMS because it leaves a 2.5M shortfall.

Any supporting spreadsheets or evidence would be helpful.

Thanks,
George



George R. Oberon, Jr.
3475 Newmark Drive
Miamiburg, Ohio 45342
937-531-5501

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Competition of Certain Utilities

11/24/2014

<u>Tax Rates</u>	<u>Residential</u>	<u>Commercial</u>
Total	71,452	75,195
Bellbrook-Sugarcreek Schools	39,913	41,609
Greene County CTC	2,855	2,854
Township Fire Levies	6,059	6,647
<u>Development</u>	<u>30 Year/100/100 Reimb.</u>	<u>30 Year/55/55 Reimb.</u>
Commercial	\$96,596,401	\$96,596,401
Residential(100% Reimbursement)	\$19,713,798	\$19,713,798
<u>Commercial Revenue on Increment</u>		
Bellbrook-Sugarcreek Schools	\$42,202,436	\$23,211,340
Greene County CTC	\$2,894,704	\$1,592,087
Township	\$6,741,801	\$3,707,991
Infrastructure	\$24,337,222	\$47,664,745
<u>Residential Revenue(100% Reimb)</u>		
Bellbrook-Sugarcreek Schools	\$8,612,850	\$8,612,850
Greene County CTC	\$590,763	\$590,763
Township	\$1,375,895	\$756,742
Infrastructure	\$4,966,842	\$5,585,995
<u>Total Revenue</u>		
Bellbrook-Sugarcreek Schools	\$50,815,286	\$31,824,190
Greene County CTC	\$3,485,468	\$2,182,851
Township	\$8,117,696	\$4,464,733
Infrastructure	29,304,064	53,250,740





Sugarcreek Township Board of Trustees

Press Release

On February 19, 2015, the Sugarcreek Township Board of Trustees passed a resolution rescinding the Sugarcreek Township Fire District resolution passed in November, 2014. The Trustees have determined at this time that it is not in the best interest of the community to continue with the current litigation in court. It has therefore taken action today to rescind its resolution that created the Fire District and instructed legal counsel to immediately file a Motion to Dismiss in the Court.

Negotiations have been ongoing with the City of Centerville for several years. Unfortunately, the Township has been unable to reach an agreement with Centerville that would properly fund the demand for Fire and EMS service to the Cornerstone development and also be equitable to the citizens of the Township.

The Board of Trustees remains committed to providing the finest emergency services to its citizens and business partners located in Sugarcreek Township. That commitment includes seeing that the citizens and business partners do not bear an undue cost to provide those services to a portion of the township that the fair share of property taxes are not provided to help cover the cost.

The future of the funding of public safety services within the Township is an important issue; the action taken by the Trustees was an important and necessary first step to involving the Sugarcreek Township community in the decision making process for the future of the scope of public safety services within the Township. The Board will be holding a forum in the Spring to discuss this and to hear input from the community.



SUGARCREEK TOWNSHIP
RESOLUTION NO. 2014.12.15.01
IN RE: Year 2015 Temporary Appropriations

WHEREAS, the need exists to adopt temporary appropriations for the Year 2015; and,

WHEREAS, this temporary appropriation shall be in effect commencing at the close of business December 31, 2014, and extending until the Year 2015 Permanent Appropriations are approved no later than March 31, 2015; and,

WHEREAS, this temporary appropriation will permit the Township Offices to function without interruption as well as allowing ample time to establish exact carry-over figures,

NOW THEREFORE, BE IT RESOLVED, the Year 2015 Temporary Appropriations are as follows:

1000	General Fund	
	Personal Services (Salaries)	\$ 185,042.00
	Employee Benefits	\$ 140,550.00
	Purchased Services	\$ 74,100.00
	Supplies & Materials	\$ 11,000.00
	Other Dues and Fees	\$ 2,000.00
	Health Districts	\$ 31,000.00
	<i>Total General Fund:</i>	<u>\$ 443,692.00</u>
2011	Motor Vehicle Tax	\$ 15,000.00
2021	Gasoline Tax	\$ 100,000.00
2031	Road and Bridge	
	Personal Services	\$ 415,850.00
	Other	\$ 420,344.00
	<i>Total Road and Bridge:</i>	<u>\$ 836,194.00</u>
2081	Police District	
	Personal Services	\$1,905,000.00
	Other	\$ 472,200.00
	<i>Total Police District:</i>	<u>\$2,377,200.00</u>
2112	Fire District	
	Personal Services	\$1,942,065.00
	Other	\$ 580,552.00
	<i>Total Fire District:</i>	<u>\$2,522,617.00</u>
2181	Zoning	\$ 40,000.00



Year 2015 Temporary Appropriations
Resolution No. 2014.12.15.01

2231	Permissive Motor Vehicle License	\$ 80,000.00
2261	Law Enforcement Trust	\$ 11,000.00
2281	Ambulance and Emergency Medical	
	Personal Services	\$ 109,766.00
	Other	\$ 117,295.00
	<i>Total Ambulance and Emergency Medical:</i>	\$ 227,061.00
2902	Community Outreach	\$ 2,000.00
2903	9-1-1 Enhancement	\$ 30,500.00
2906	Police Trust Fund	\$ 89,000.00
3101	Bond Anticipation Note	\$ 198,900.00
3102	General Bond Retirement	\$ 142,675.00
4402	Ohio Public Works	\$1,544,937.72
4901	Clyo Road Capital Projects	\$ 308,738.00
Total Temporary Appropriations		\$8,969,514.72

FURTHER BE IT RESOLVED, that the above aggregate amounts be appropriated based upon the attached submittals (hereby incorporated) and a copy shall be sent to the Greene County Auditor.

Scott W. Bryant, Chairperson

Nadine S. Daugherty, Vice Chairperson

Michael E. Pittman, Trustee

Theodore L Hodson, Fiscal Officer

Barry Tiffany

From: Randy Pavlak
Sent: Friday, January 09, 2015 1:56 PM
To: Barry Tiffany
Cc: Joann Zimmerman
Subject: Information FD
Attachments: Certification of Levy for Ballot.pdf; Ballot Language Fire Levy 2013.pdf; Fire District Review 2014.xls

Barry,

Attached is a fire district excel sheet on items to verify, change or concerns. Also attached is a copy of the ballot language and certifications to the Board of Elections on the FD levy's. All languages are to Sugarcreek Township for the purpose of fire and ems coverage. This should help us with my concern on the money following us to a district.

Let me know if you need anything else.

Randall J. Pavlak,



Fire Chief

Sugarcreek Township Fire Department

4398 Clyo Road, Dayton, Ohio 45459

Office: (937)-848-7344

Fax: (937)-848-5185

Website: <http://sugarcreektownship.com/fw/main/Fire-Department-10.html>



DTE Form 140R
 O.R.C. §5705.03(B)
 Revised 05/06

Certificate of Estimated Property Tax Revenue

(Use this form when a taxing authority certifies a millage rate and requests the revenue produced by that rate)

The County Auditor of Greene County, Ohio, does hereby certify the following:

1. On July 8, 2013, the taxing authority of the Sugarcreek Township certified a copy of its resolution or ordinance adopted July 1, 2013 Res #2013-07-01-01 requesting the auditor to certify the current tax valuation of the subdivision and the amount of revenue that would be produced by two and zero hundredths (2.00) mills, to levy a tax outside the ten-mill limitation pursuant to Revised Code §5705.19, to be placed on the ballot at the November 5, 2013, election. The levy type is Fire Levy- Renewal- 5 years 2013-2017.
2. The estimated property tax revenue that will be produced by the stated millage, assuming the tax valuation of the subdivision remains constant throughout the life of the levy, is calculated to be \$590,000.
3. The total tax valuation of the subdivision used in calculating the estimated property tax revenue is \$342,954,440.



 auditor's signature

7/8/13

 Date

INSTRUCTIONS

1. "Total tax valuation" includes the taxable value of all real property in the subdivision as indicated on the tax list most recently certified for collection and estimates of the taxable value of personal and public utility personal property for the first year the levy will be collected as set forth on the worksheets prescribed in conjunction with this form. If the subdivision is located in more than one county, the home county auditor (where the greatest taxable value of the subdivision is located) shall obtain the assistance of the other county auditors to establish the total tax valuation of the subdivision.
2. For purposes of the certificated, "subdivision" includes any agency, board, commission, or other authority authorized to request a taxing authority to submit a tax levy on its behalf.
3. "Levy type" includes the following: (1) additional, (2) renewal, (3) renewal with an increase, (4) renewal with a decrease, (5) replacement, (6) replacement with an increase, and (7) replacement with a decrease levies.
4. Please file this certificate with the subdivision as soon as possible, so the taxing authority can pass a resolution to proceed not later than 75 days before the election.

Sugarcreek Township
Fire District Creation Check List

Fire District Items	Reviewed	Notes	Action Needed
State Fire Marshal Office	Yes	Marshal Flower name change only	Yes/File
Fire Department ID Status	Yes	Stays the same/FM Flowers	No
Medicare/Medicaid	Yes	Agreements are with Township	No
3 party EMS billing	Yes	Agreement is with Township	No
Regional M/A Agreement	Yes	Name change only/Agreement with Township	No
AMARS with Bellbrook FD/WTFD	Yes	Name change only/Agreement with Township	No
Ohio Drug License	Yes	Name change only/Agreement with Township/on Renewal	No
Federal Funds/Grants	Yes	Sugarcreek Township Federal ID/DUNNS linked	No
Re-mark apparatus to Fire Dist./Supplies	Yes	No immediate need/change as funding allows	Yes-Over time
Check Levy Language for Levy's	Yes	Sugarcreek Township listed on Ballot and Certification for Fire/EMS	See Below
Concerns			
Actual District lines	Yes/Trustees	Roadways should be included/Change	Yes
Fire Levy funding	Yes/Trustees/David Graham/Pros. Office	Fire levy funding follows?	Yes
Recoup CAUV/2014 Tax Distribution	Yes/David Graham	Need to verify STFD will receive this funding in 2015	Yes
Future funding by changing to District	Yes/Trustees	Long term effect if TIF paid early verse Department	Yes
Actual Effective date of TIF	Yes/Barry	Verify?	Yes
Opinion on formation of District by ORC	Yes/Barry/Stephanie	Need written opinion? Prosecutors Office/AG Opinion?	Yes



Barry Tiffany

From: RPAV2@aol.com
Sent: Tuesday, January 06, 2015 4:34 PM
To: Barry Tiffany
Subject: Fwd: Another round

From: Truck2611@aol.com
To: rpav2@aol.com
Sent: 1/6/2015 3:37:09 P.M. Eastern Standard Time
Subj: Another round

David Buccalo

1 hr.

Crystal ball says the twp will be sued this week over the fire district. They need to play a different game for the future of the community. Once the suit is filed there will be headlines, words and drama. And the future of the Bellbrook-Sugarcreek Community will be less secure and not more secure. Meanwhile lets see if my prediction is right or wrong.



Barry Tiffany

From: Keith Stpierre [keith.stpierre@bss.k12.oh.us]
Sent: Wednesday, May 14, 2014 3:16 PM
To: Barry Tiffany
Subject: FW: Centerville Tax Deal

Barry,

Would you like to respond or work with me to correct his misinformation?

Keith

From: Sheila Woody
Sent: Wednesday, May 14, 2014 10:50 AM
To: Keith Stpierre
Subject: FW: Centerville Tax Deal

From: David Buccalo [mailto:dbuccalo@gmail.com]
Sent: Wednesday, May 14, 2014 10:49 AM
To: Sheila Woody
Subject: Centerville Tax Deal

Keith St Pierre,

Part of what I am hearing is that Centerville agreement with the schools excluded the twp in it's entirety. I had heard the twp was to get 5% but that it fell apart when the twp wanted to be a party to the agreement as in signing the papers, that Centerville balked and was fearful of an additional lawsuits from the twp going foward (that it would give the twp standing to take the issue to court) Is that true?

I also heard that the developer has no other big box stores lined up other than Costco. I am hearing these rumblings out of Montgomery county and that no one says they know the names of the additional stores. Drawings at this point are all speculation as it is anyways. I don't think Centerville has looked at plans for anything big except Costco. The employment figures and other information from the developer has been described to me as exaggerated.

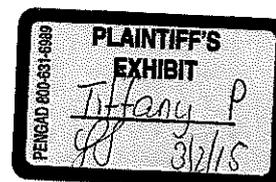
I know that for a while the twp and school board were working closely with each other or that is the impression I had.

I wish the tif laws had not changed. Beaver creek schools did not put a penny into the Greene. The school bd there just said forget it when they were approached. Politicians and developers think school money is for them, not schools.

And the last substantive rumor was the twp would seek an injunction and try to put a stop to he deal. I don't see how that would change the outcome though if they did. I am not getting any of this from the twp, it is what I am hearing from people in Montgomery and Greene County.

Can you provide and information that would be accurate for me?

As always thank you



Dave Buccalo

This e-mail is covered by the Electronic Communication Privacy Act, 18 U.S.C. Section 2510-2521 and is legally privileged. The information contained herein may contain confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or if an attachment is made in error, the reader is hereby notified that any dissemination, distribution, copying or printing of this communication is strictly prohibited. If you have received this transmission in error, please notify the above person by telephone immediately or by return e-mail and delete/trash the original message from your system. Thank you for your cooperation

November 21, 2014

To: Board of Trustees and Mr. Tiffany

From: Fire Chief Pavlak

Ref: Centerville EMS/Fire Coverage TIF

Board of Trustees and Mr. Tiffany,

Since the Trustee meeting on Monday night, I have reviewed our services for the City of Centerville annexed area and the potential impact the new development will have on our demand for service in terms of call load. I have attached an excel spread sheet to illustrate the amount of tax evaluations, fire taxes, and call load for several business in our corridor area. Please see attachment (A).

I do agree that declining the proposed TIF service agreement was the correct decision to make. Sugar creek Township should receive 100% of the tax revenue for providing emergency services. If we cannot obtain this amount then we need to negotiate. I also believe we need to openly and honestly negotiate with the City of Centerville to bring a successful conclusion to the TIF agreement. We must be ready to counter their offer with an acceptable level of funding. I have attached a draft agreement (attachment B) that I believe would benefit our department and the citizens of Sugar creek Township. This agreement would bring about 81% of the estimated taxes. The agreement contains a baseline number along with the percentage of taxes as they grow. Remember that the money from this TIF service payment would be on top of the taxes we collect from the current tax base. This has a great advantage in the matter of not needing to ask the citizens of Sugar creek for this amount of money on any upcoming fire tax levy. This new money will help us greatly.

If the City of Centerville rejects this offer I recommend that we offer a similar base plus percentage of taxes, with the base being paid until the taxes match or exceed the base number. Once the base number is achieved, we would receive the greater amount. This offer has a percentage of about 69%



The third offer we could propose would be a base fee with a per call fee schedule. The fee schedule could be made up of three levels of EMS response and three levels of fire response. Each level would be based on the amount of resources we send to appropriately manage the call. The base fee would consider the overhead, fire inspections, and community activities we conduct each year. The base fee would be billed January 1 each year and the request for service calls would be billed quarterly. Please see attachment (C).

These three proposals offer several different ways to approach the funding issue with the City of Centerville. Each proposal places Sugarcreek Township in a better financial position than what was proposed by the City of Centerville.

The first proposal, upon build out of the project, is equivalent to .60 of a mil that we do not have to ask our citizens to vote on to increase fire funding. The first proposal brings stability to the budget for planning and staffing.

I do want to mention we have service areas that pay no taxes for our services. These include park lands, churches, state owned and county owned land.

In addition, I spoke with the Fire Chief that has covered Costco in Springdale, Ohio for the last 10 years. He states that they only run 2-3 calls per year to Costco.

Please review these ideas and let me know how you would like to proceed. Time is of the essence at this stage. Once we determine our plan, I believe that three of us should meet with three Centerville officials to come to a conclusion. It would be important to include myself, Mr. Tiffany, and one of the Trustees in the meeting to discuss with Mr. Horn, Mayor Kingseed and one other staff member from Centerville.

Please do not hesitate to call me or let me know and we can sit down and review.

Respectfully Submitted,

Randall J. Pavlak

Fire Chief

Attachment C

Base \$12,000.00 for 10 million tax base (This base would adjust for every 5 million in tax base added by \$6,000.00)

EMS

EMS Level 1 Fee \$500.00 (Medic and Battalion)

EMS Level 2 Fee \$700.00 (Medic, Battalion and Engine)

EMS Level 3 Fee \$ 900.00 (Medic, Battalion, Engine, Chief Officer/Squad)

We would also file for the EMS billing fee as appropriate by our current policy.

FIRE

Fire Level 1 Fee \$ 600.00(Engine and Battalion)

Fire Level 2 Fee \$800.00 (Engine, Battalion and 2nd fire apparatus)

Fire Level 3 Fee \$1200.00 (All call response)

Any billable event by State statute would also be billed. IE; Haz.-Mat.

Summary:

If we assume 40 request for service in this TIF area of Centerville the call mixture matrix could look like this:

30 EMS calls: 11 BLS and 25 ALS and 5 ALS II (This is based on our current EMS run mix)

11 times 500.00 =\$5500.00

25 times \$700.00=\$17,500.00

5 time \$900.00 =\$4500.00

10 Fire calls: 5 building and 5 car crashes

5 times \$800.00 =\$4000.00

5 time \$900.00 =\$4500.00

One year total of base and call load: \$48,000.00

Barry Tiffany

From: Jesse Lightle [jlightle@washingtontwp.org]
Sent: Monday, December 08, 2014 1:22 PM
To: Barry Tiffany
Subject: FW: City of Centerville RFP - Fire and EMS Services
Attachments: RFP_Map.pdf; RFP_FireServices_12-8-14.doc

From: Cahall, Nathan [mailto:NCahall@centervilleohio.gov]
Sent: Monday, December 08, 2014 1:19 PM
To: Jesse Lightle
Subject: City of Centerville RFP - Fire and EMS Services

Dear Jesse,

On behalf of the City of Centerville, attached is a request for proposal for the provision of fire and EMS service to a portion of the City of Centerville. The City hopes that Washington Township will submit a proposal. If you should have any questions regarding the City's RFP, please feel free to contact me or city manager Greg Horn. Proposals are due on Monday December 29, 2014. The City appreciates your attention to this matter and looks forward to receiving your proposal in the near future. Thank you.

Nathan E. Cahall
Economic Development Administrator
City of Centerville, Ohio
(937) 428-4766

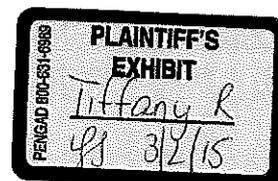


EXHIBIT 7

Deposition of

Randy Pavlak

February 17, 2015

CORNERSTONE DEVELOPERS, LTD v. SUGARCREEK TOWNSHIP v. THE CITY OF CENTERVILLE

Case Number: 2015-CV-0031



513.233.3000

877.233.4403

Fax: 513.233.2310

depo@elitereportingagency.com

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COURT OF COMMON PLEAS
GREENE COUNTY, OHIO

<hr/>)
CORNERSTONE DEVELOPERS, LTD.,))
et al.,))
Plaintiffs/Relators,))
vs.)	CASE NO.
)	2015-CV-0031
SUGARCREEK TOWNSHIP, et al.,))
Defendants/Respondents,))
vs.))
THE CITY OF CENTERVILLE,))
Third-Party Defendant.))
<hr/>)

Deposition of: RANDY PAVLAK

Pursuant to: Notice

Date and time: Tuesday, February 17, 2015
1:05 p.m.

Place: Office of Stephen K. Haller
Prosecuting Attorney
61 Greene Street
Xenia, Ohio 45385

Reporter: Linda Schilt
Notary Public - State
of Ohio

Page 2

1 APPEARANCES OF COUNSEL:
 2
 3 For the plaintiffs:
 4 Charles M. Miller, Esq.
 5 of
 6 Keating, Muething & Klekamp, PLL
 7 One East Fourth Street
 8 Suite 1400
 9 Cincinnati, Ohio 45202
 10 513.579.6400
 11 cmiller@kmlaw.com
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 13 For the defendants:
 14
 15 Stephanie R. Hayden, Esq.
 16 of
 17 The Office of Stephen K. Haller
 18 Prosecuting Attorney
 19 Greene County, Ohio
 20 61 Greene Street
 21 Second Floor
 22 Xenia, Ohio 45385
 23 937.562.5250
 24 shayden@co.greene.oh.us.com
 25

Page 3

1 For the third-party defendant:
 2 Steven E. Bacon, Esq.
 3 of
 4 Altick & Corwin Co., LPA
 5 One South Main Street
 6 Suite 1590
 7 Dayton, Ohio 45402-2026
 8 937.608.9460
 9 bacons@altickcorwin.com
 10
 11 Also present:
 12 Barry P. Tiffany
 13 Gregory B. Horn
 14
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I N D E X

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Page 5

1 RANDY PAVLAK
 2 a witness herein, having been duly sworn, was
 3 examined and deposed as follows:
 4 EXAMINATION
 5 BY MR. MILLER:
 6 Q. Sir, my name's Charles Miller.
 7 I go by Chip. I'm here today representing
 8 the Cornerstone development and the
 9 developer there in litigation related to
 10 the formation of the fire district.
 11 Can you just for the record
 12 state your name and profession?
 13 A. Randy Pavlak, Sugarcreek
 14 Township fire chief.
 15 Q. And how long have you been the
 16 chief?
 17 A. I've been the chief 20 years and
 18 with Sugarcreek for 26.
 19 Q. Can you explain to me if there's
 20 any special training or certifications
 21 that you have specifically for the chief
 22 position?
 23 A. There's a lot of different ones.
 24 There's chief classes, National Fire
 25 Academy classes, Ohio Fire Academy

1 classes, business, business laws.
 2 Different things we all take
 3 to -- there's not a chief executive
 4 requirement in the state of Ohio. It's an
 5 appointed position.
 6 Q. So there are certain courses and
 7 instruction that you have gone to listen
 8 to and participate, but there's nothing
 9 that's required; is that what I hear you
 10 saying?
 11 A. Not to be a fire chief. Other
 12 than state certifications of firefighter
 13 1, 2, EMS, depending on what the board
 14 wants their fire chief to have.
 15 Q. What do you have?
 16 A. I have that long (indicating).
 17 I'm a firefighter II, paramedic,
 18 fire inspector.
 19 Q. Tell me about the evolution of
 20 the fire department in your history there.
 21 You say you have been there for 26 years.
 22 A. Prior to 19 -- I think it was
 23 '86, Sugarcreek/Bellbrook was one fire
 24 department. They split.
 25 Bellbrook -- Sugarcreek

1 contracted with Bellbrook for a couple of
 2 years.
 3 In spring of 1988 I got a phone
 4 call from our former chief, Marvin Mohler
 5 and Daryl Meyers on the request of the
 6 board of trustees to help them form a new
 7 fire department.
 8 I came on board in August of '88
 9 and developed the fire department plan,
 10 business plan.
 11 And January 1st of 1989,
 12 Sugarcreek Township Fire Department was
 13 back on its own.
 14 Q. You mentioned a business plan.
 15 Can you explain to me what that is for a
 16 fire department?
 17 A. Well, we had to figure out how
 18 we're going to fund it, how we're going to
 19 staff it, what levels of staffing.
 20 It's much like a regular
 21 business plan. You need to figure out
 22 what directions and who's going to do
 23 what.
 24 Marvin Mohler was the chief,
 25 Daryl Meyers was the assistant chief, and

1 I became the captain.
 2 My responsibility was EMS and
 3 training and the development of the plan.
 4 Q. Is there a current business plan
 5 for the fire department?
 6 A. We have a five-year plan.
 7 Q. When was that most recently
 8 updated?
 9 A. Couple of years ago.
 10 Q. What does that five-year plan
 11 do?
 12 A. We assess where we were at,
 13 where we're going tomorrow. Take a
 14 picture of some unanticipated needs,
 15 funding needs, equipment needs, staffing
 16 needs. All elements that make up the fire
 17 department from prevention, education,
 18 inspections.
 19 Q. When your most recent five-year
 20 plan was prepared, did it contain
 21 projections for the development of the
 22 Cornerstone property?
 23 A. Not per se Cornerstone.
 24 Sugarcreek Township as a whole.
 25 Q. But did those plans encompass

1 the type of development that's occurring
 2 there at the Cornerstone property now, and
 3 maybe not for that specific parcel, but
 4 did it assume there would be that type of
 5 development that's occurring, such as the
 6 retail?
 7 A. Our plan did not take that into
 8 account.
 9 Q. Now, from the time that you're
 10 talking about, within the last couple of
 11 years, I would think at that point in time
 12 it would have been known to you and those
 13 who were preparing the plan there would be
 14 some type of development that was
 15 contemplated for this area; is that true?
 16 A. It's known, yes.
 17 Q. Were there any assumptions made
 18 of what the development would look like
 19 within the five years?
 20 A. I've seen so many plans on that
 21 property over the last 15 years. You
 22 know, it went from different values to
 23 different values to different plans to
 24 different values.
 25 So you can't speculate on those

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<p style="text-align: right;">Page 10</p> <p>1 kind of plans until you start seeing --</p> <p>2 Q. When you were preparing your</p> <p>3 plan, your decision at the time was we</p> <p>4 don't know what's going to be there, we're</p> <p>5 not going to make it up, we'll wait until</p> <p>6 we know what is coming in before we add it</p> <p>7 to our five-year plan?</p> <p>8 A. We review our plans every year</p> <p>9 based on what happens. So it's a fluid</p> <p>10 plan and it moves. It needs to be able to</p> <p>11 move in this business.</p> <p>12 We look at our normal growth</p> <p>13 rates of what we're seeing up or down and</p> <p>14 that's how we assess those plans.</p> <p>15 If someone brings in a plan like</p> <p>16 this, we will look at that and go back to</p> <p>17 the board and say we need to make</p> <p>18 revisions.</p> <p>19 Q. Are you undergoing a revision of</p> <p>20 the five-year plan right now?</p> <p>21 A. No.</p> <p>22 Q. Do you know when the next</p> <p>23 revision will occur?</p> <p>24 A. 2017 I think is the due date.</p> <p>25 Q. I'm going to go back to the</p>	<p style="text-align: right;">Page 12</p> <p>1 don't recall exact year.</p> <p>2 Q. Where was that?</p> <p>3 A. We rented the old Shell station</p> <p>4 at the corner of Wilmington Pike and 725</p> <p>5 where the empty car lot sits today.</p> <p>6 Q. When did the Clyo Road facility</p> <p>7 open up?</p> <p>8 A. We started building in 1994 and</p> <p>9 opened up in 1995.</p> <p>10 Q. Are those two locations, the</p> <p>11 Clyo Road location and Bellevue</p> <p>12 location -- excuse me, Bellbrook</p> <p>13 location -- are those the two locations</p> <p>14 you operate from today?</p> <p>15 A. Yes.</p> <p>16 Q. Is there need for a third fire</p> <p>17 station within the township at this time?</p> <p>18 A. In our master planning we have</p> <p>19 two sites identified for future growth.</p> <p>20 As of today, the call load</p> <p>21 doesn't support those two stations.</p> <p>22 Q. Are those two locations both</p> <p>23 needed or would just one of them be</p> <p>24 sufficient for kind of the next stage of</p> <p>25 development once your call load is high</p>
<p style="text-align: right;">Page 11</p> <p>1 earlier line of questioning.</p> <p>2 You discussed the formation of</p> <p>3 the fire department, I believe, in 1988.</p> <p>4 What was the initial size of the</p> <p>5 fire department?</p> <p>6 A. Three of us. I mean, we were</p> <p>7 hired by the board of trustees to</p> <p>8 formulate the fire department.</p> <p>9 Q. You had the chief, assistant</p> <p>10 chief, and the captain. That was the</p> <p>11 initial?</p> <p>12 A. Right.</p> <p>13 Q. Once you got up and operational,</p> <p>14 what was the initial staff?</p> <p>15 A. We had 30 when we opened the</p> <p>16 door.</p> <p>17 Q. Did you have two locations at</p> <p>18 the time or one as far as engine houses?</p> <p>19 A. The first year we had one.</p> <p>20 Q. Where was that?</p> <p>21 A. In the center of Bellbrook, 33</p> <p>22 East Franklin Street.</p> <p>23 Q. When did your second location</p> <p>24 open?</p> <p>25 A. I believe we did it in 1990. I</p>	<p style="text-align: right;">Page 13</p> <p>1 enough?</p> <p>2 A. Actually depends on what</p> <p>3 develops where and when. One is northeast</p> <p>4 and one is southeast.</p> <p>5 Q. So they're not necessarily</p> <p>6 alternative to one another, they're</p> <p>7 mutually exclusive sites depending upon</p> <p>8 demand?</p> <p>9 A. That's correct.</p> <p>10 Q. What is your current complement</p> <p>11 of firefighters and EMS personnel?</p> <p>12 A. Right now we're 63</p> <p>13 firefighter/EMS.</p> <p>14 Q. What's the rest of your staff?</p> <p>15 A. Pardon me?</p> <p>16 Q. What's the rest of your staff?</p> <p>17 You have firefighters, EMS?</p> <p>18 A. Sixty-three total. Everybody in</p> <p>19 our department has a fire/EMS</p> <p>20 certification of some kind, except for</p> <p>21 maybe one or two that's newer.</p> <p>22 Q. Is that current complement of</p> <p>23 63, is that sufficient to meet the demands</p> <p>24 of your department?</p> <p>25 A. The staffing levels are adequate</p>

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1 for today's call load.
 2 Q. At what point would the current
 3 staffing level become inadequate?
 4 A. That's a hard trigger point to
 5 put out. There's a lot of factors that go
 6 into that trigger point.
 7 Type of developments, type of
 8 call loads, funding levels, staffing
 9 levels, turnover rates.
 10 I mean, all those things have --
 11 Obamacare affected us greatly on our
 12 staffing and ability to staff because of
 13 the restrictions they put out.
 14 So all those factors are huge
 15 factors in answering that question to you,
 16 because they all play a part in this as
 17 far as how we staff and when that change
 18 will have to happen.
 19 Q. Obamacare has hit you as an
 20 employer?
 21 A. Hit the fire service, yes.
 22 Q. Remarkable.
 23 A. That's what I say.
 24 Q. I understand.
 25 Although it's a simple question

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1 and it's a complex answer, and there's a
 2 lot of facets as to what might affect
 3 that, but based on your current
 4 projections, is there a certain time
 5 horizon which you say hey, we're going to
 6 need more staff?
 7 A. Again, that becomes a multiple
 8 answer, because call load really will
 9 drive that.
 10 If you put in businesses that
 11 have high call loads -- and can't tell you
 12 what those are, there's no real pattern,
 13 but if you put a business that creates
 14 high call load --
 15 Q. Like a nursing home?
 16 A. There you go. Nursing home is
 17 usually a high call load. Now you got to
 18 start staffing more medics.
 19 Traffic volume can create
 20 problems. Just depends on all those
 21 factors.
 22 Q. Let me ask it this way: Is
 23 there a percentage increase in the call
 24 load that you can tolerate or internalize
 25 before you need to add staff?

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1 A. We will look at the call load on
 2 multiple calls, multiple requests that
 3 strips us of our resources. So that's how
 4 we'll look at it.
 5 Q. How close are you to that
 6 threshold?
 7 A. Some days we're there and some
 8 days we're not.
 9 Q. So do you need more staff now?
 10 A. Not currently.
 11 Q. How much does your call load
 12 need to increase before you will be at
 13 that?
 14 A. It's not always a number. It's
 15 demand of what type of service that will
 16 drive that.
 17 Q. But you do not have any current
 18 projections for adding more staff?
 19 A. I have no plans to ask the board
 20 of trustees to add staff at this time.
 21 Q. Does providing service to
 22 Costco -- actually, let me strike that
 23 question.
 24 You currently provide service to
 25 the Costco store, correct?

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1 A. Yes.
 2 Q. How many runs have occurred to
 3 that store?
 4 I'm not talking about the
 5 vicinity, I mean the actual store itself.
 6 A. I don't know the exact number.
 7 I know we've been there three, four, five
 8 times.
 9 Q. Do you know the nature of those
 10 runs?
 11 A. Majority is EMS. I know there
 12 is a fire run or two also.
 13 Q. False alarm for the fire or what
 14 were those?
 15 A. I don't know.
 16 Q. Have you done any research to
 17 determine the average run requirement for
 18 Costco?
 19 A. I talked to a couple of
 20 different jurisdictions that have Costcos
 21 and was inquiring what kind of call load
 22 that they had.
 23 Q. What response did you get?
 24 A. One chief -- I actually got to
 25 talk to one chief himself. His was about

1 three or four a year to the store itself,
 2 not the vicinity.
 3 Q. Do you recall who that chief
 4 was?
 5 A. That's Costco in Springdale,
 6 Ohio.
 7 Q. Assuming his numbers are
 8 accurate over the long term, five or six
 9 runs a year, would that cause you in your
 10 current situation to need additional
 11 staff?
 12 A. No.
 13 Q. What if the runs per year were
 14 say one a month, 12, would that require
 15 you to need additional staff?
 16 A. Again, that all becomes a time
 17 issue. As the call issue comes up, the
 18 timing issues all play together.
 19 Q. Just trying to isolate that one
 20 factor.
 21 If all else remains equal and
 22 you get an additional one call a month,
 23 would that require additional staff?
 24 A. No.
 25 Q. Both were delineating just

1 talking about the store itself and talking
 2 about the roads.
 3 Is Feedwire Road -- particularly
 4 the stretch of Feedwire that's along this
 5 development here, basically between the
 6 underpass for 675 and to the east --
 7 Wilmington Pike to the west, is that a
 8 high demand area for you?
 9 A. It varies. It can be.
 10 Q. Is there any particular variable
 11 that seems to delineate when that becomes
 12 high demand?
 13 A. Traffic patterns.
 14 Q. What about weather?
 15 A. Definitely weather.
 16 Q. What are the major roadways or
 17 intersections that you have to deal with
 18 that seem to be kind of high volume
 19 traffic incident areas that you have to
 20 respond to on a regular basis?
 21 A. Feedwire and Wilmington,
 22 Feedwire and Clys and Wilmington, 675 and
 23 Wilmington.
 24 Q. All those areas that you just
 25 delineated are actually depicted on that

1 Exhibit B in front of you, right?
 2 A. Yes.
 3 Q. This is just one small portion
 4 of the overall township, right?
 5 A. Yes.
 6 Q. Are there other areas outside of
 7 this -- I won't even say quadrant, because
 8 it's smaller than that -- this area that
 9 have high demand traffic locations?
 10 A. Little Sugarcreek and Feedwire.
 11 Q. That's near the high school; is
 12 that right?
 13 A. It's just half a mile, three
 14 quarter miles down from 675. It's right
 15 here (indicating).
 16 Q. Take a look at this map here.
 17 This is Exhibit C.
 18 So this is the area of the
 19 development, so we're talking about that
 20 intersection there?
 21 A. Uh-huh.
 22 Q. Where else?
 23 A. Waynesville and Centerville.
 24 Q. Okay.
 25 A. The rest of them are fairly

1 pretty equal as far as -- but it's your
 2 high volume, high traffic areas.
 3 Q. This other one was what
 4 intersection again?
 5 A. Centerville and Waynesville
 6 Road.
 7 Q. That location would be responded
 8 to from your first fire station, Bellbrook
 9 1?
 10 A. Yes. This district is covered
 11 first by this.
 12 Q. The other locations that you
 13 talked about, are those all covered by the
 14 Clys Road station primarily?
 15 A. On Sugarcreek everything is
 16 covered by both stations. If we have a
 17 crash, there's activation from each
 18 station that will cover those crashes.
 19 Because we're not the size of
 20 department that we can man everything you
 21 need in one station. It's a combo.
 22 Q. Tell me how you divide up your
 23 units that are active.
 24 A. Distance and time. So they're
 25 all assigned quadrants.

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<p style="text-align: right;">Page 22</p> <p>1 Q. You have fire and EMS at both 2 locations?</p> <p>3 A. Yes.</p> <p>4 Q. You're saying you're activating 5 from both. Does that mean you activate 6 EMS from the closest location and fire 7 from the other if you need both to 8 respond?</p> <p>9 A. If we need to, yes.</p> <p>10 Q. If it was an EMS only run, would 11 you activate from both stations if it was 12 one call?</p> <p>13 A. In our case, yes. Station 71, 14 our battalion is at the other station. We 15 send a supervisor on every call.</p> <p>16 If it was EMS only, here it does 17 get him, but it doesn't take out those 18 units, just the battalion.</p> <p>19 Q. The battalion would be 20 responding in like a pickup truck or car?</p> <p>21 A. He's in a rescue, it's a mini 22 rescue.</p> <p>23 Q. You say it's Station 71?</p> <p>24 A. Downtown Bellbrook, yes.</p> <p>25 Q. What's the number for the other?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Between the ones that you 2 delineated, which one would you say was 3 the highest?</p> <p>4 A. 675 and Wilmington.</p> <p>5 Q. Is that both the entrance ramp 6 and exit ramp or one of them higher than 7 the other?</p> <p>8 A. I don't know the difference in 9 the numbers. I look at everything in a 10 specific area.</p> <p>11 Q. So you treat that, the 12 intersection, as a whole?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Wilmington Pike is technically 15 the bounds of your territory, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Now, if there's a call, say, for 18 the entrance ramp heading 675 east or 19 south, whatever they call it there, 20 heading over to 75, is that a call you 21 would respond to for mutual aid or 22 otherwise, or is that usually getting 23 covered by some other entity?</p> <p>24 A. Washington Township and 25 Sugarcreek Township, we have an AMAR</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Station 72.</p> <p>2 Q. So is the 70 series for 3 Sugarcreek?</p> <p>4 A. Yes. Our countywide numbering 5 system, 70 is Sugarcreek.</p> <p>6 Q. Have you seen any type of 7 traffic study or any other type of study 8 that delineates what the current demand 9 for fire and EMS services is within the 10 Cornerstone development?</p> <p>11 A. No.</p> <p>12 Q. Have you seen anything that 13 delineates that from the township as a 14 whole?</p> <p>15 A. Related to fire and EMS?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Earlier you listed for me kind 19 of the high volume, high incident 20 intersections. I believe first you said 21 Feedwire and Wilmington.</p> <p>22 A. Uh-huh.</p> <p>23 Q. Did you list that first because 24 it's the highest volume intersection?</p> <p>25 A. No. Just closest to Costco.</p>	<p style="text-align: right;">Page 25</p> <p>1 agreement, AMAR agreement, so our 2 agreement --</p> <p>3 Q. You call it the what?</p> <p>4 A. AMAR, automatic mutual aid 5 response.</p> <p>6 We don't want them passing calls 7 back and forth on EMS and fire. So if 8 Washington gets it, if it's in the 9 corridor, they go. If we get it, we go. 10 So we're not delaying response times based 11 on a line.</p> <p>12 Q. I think what I heard you say is 13 whoever receives the call responds?</p> <p>14 A. The 911 center, if there's a 15 crash and it's in that area, they send 16 them or we send them.</p> <p>17 Q. So the 911 center gets the -- 18 receives the call and it selects between 19 the two of you, and then you respond if 20 you're selected from the 911 center, is 21 that what I'm hearing you say?</p> <p>22 A. Not sure really what you're 23 asking on that question.</p> <p>24 Q. I just don't quite understand 25 how it's selected who responds.</p>

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1 A. If Washington Township's 911
 2 center receives the call, or in this case
 3 Centerville may receive the call for them,
 4 Washington Township is a secondary,
 5 Centerville will find out it's on the
 6 southbound lanes, they'll decide it's in
 7 the city, they will send it to Washington.
 8 If they don't know, they can
 9 send it to us or Washington. In Greene
 10 County if it's in the corridor and they
 11 don't know where it is, they will send us
 12 because we want fire and EMS to get there.
 13 Don't want to debate
 14 jurisdiction boundaries. Same thing with
 15 Bellbrook.
 16 Q. When you say the corridor here,
 17 specifically what's the range of that
 18 corridor, how far does it run?
 19 A. 675 to Wilmington Pike -- I
 20 mean, Wilmington Pike to Brown Road. It
 21 goes -- we have an automatic aid with each
 22 other on 675 also. That's our corridor,
 23 from Beaver Creek line down to basically
 24 around Route 48.
 25 Q. So the 911 call routing, how is

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1 it determined where those calls go?
 2 Someone is on their cell phone and makes a
 3 call, is it just based upon which tower it
 4 hits? How does it work?
 5 A. Which tower hits. Every tower
 6 is assigned a 911 center. From that
 7 point, that 911 center will try to figure
 8 out where those people are at and send to
 9 the appropriate 911 center.
 10 That system is flawed.
 11 Q. So then back on the original
 12 question, when you were talking about runs
 13 to the intersection with 675 and
 14 Wilmington Pike, you're discussing not
 15 just the entry and exit ramps that are
 16 within Greene County, you're also talking
 17 about those that are in Montgomery County
 18 as well, correct?
 19 A. Could be.
 20 Q. When you are talking about the
 21 number of runs you receive, it includes
 22 whatever portion of the calls that you
 23 respond to within Montgomery County,
 24 right?
 25 A. It could include them, yes.

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1 Q. Did you mention this Clyo Road
 2 intersection is another one that is a main
 3 one?
 4 A. Yes.
 5 Q. That's Clyo and Wilmington Pike?
 6 A. Yes.
 7 Q. What is your second highest
 8 volume area? I know 675 is the first.
 9 A. I don't know the difference. I
 10 just know that's number one.
 11 Q. After number one you don't know
 12 the particular --
 13 A. No.
 14 Q. Would you say the rest of them
 15 are pretty similar then?
 16 A. Generally.
 17 Q. But 675 definitely stands out?
 18 A. Yes.
 19 Q. Do you know the volume of calls
 20 you receive for that area for the 675
 21 exchange?
 22 A. I do not.
 23 Q. So the township fire district
 24 excludes that intersection of 675, are you
 25 aware of that?

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1 A. Yes.
 2 Q. Were you asked by the trustees
 3 to provide any feedback on excluding that
 4 interchange from the district?
 5 A. No.
 6 Q. Did you provide any information
 7 to them about that?
 8 A. No.
 9 Q. If the fire district were to
 10 take effect and the Cornerstone
 11 development, 675 interchange, and
 12 Cornerstone southern property through
 13 which Clyo Road passes through is excluded
 14 from the fire district as depicted here in
 15 Exhibit C -- these wide areas being
 16 excluded, these two. Those areas being
 17 excluded.
 18 If there was no contract that
 19 Centerville was able to obtain with either
 20 your entity or some other community to
 21 provide fire service there, would you have
 22 a mutual aid obligation to respond to
 23 calls there?
 24 A. Mutual aid agreement is between
 25 the entities of the mutual aid pact. If

<p style="text-align: right;">Page 30</p> <p>1 that covering governing unit was part of 2 that mutual aid, they can request it. 3 But requesting mutual aid is not 4 a guarantee. You don't have to provide 5 mutual aid. It's only if you have the 6 resources to provide. 7 Q. On a call-by-call basis? 8 A. Exactly. 9 Q. Is Centerville part of that 10 mutual aid? 11 A. Centerville does not have a fire 12 department. Washington Township is part 13 of that mutual aid agreement. 14 Q. So the City of Centerville 15 itself is not a member of the mutual aid 16 because they don't offer fire and EMS? 17 A. Correct. 18 Q. So if there was a period in 19 which Centerville had not contracted with 20 anyone to provide services here for that 21 area, and the area was excluded from your 22 fire district, is it your understanding 23 there would be no obligation for any fire 24 service to respond to calls? 25 A. I can't speculate on that,</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Prior to the fire district being 2 enacted? 3 Q. Yes. 4 A. No. 5 Q. Had you been asked to provide 6 information, what information could you 7 have provided regarding the demand for 8 services within the Cornerstone 9 development? 10 A. Could have done a statistical 11 analysis of call loads, demand for 12 service. 13 Q. That was not done prior to the 14 enactment of the fire district, correct? 15 A. Correct. 16 Q. Has it been done since then? 17 A. I have looked at numbers. 18 Q. You've looked at them. 19 Does that mean you pulled up 20 some database on a computer screen and 21 looked at them, or does that mean there 22 was a report that was generated? 23 A. I did generate a report. 24 Q. Has that been provided to us -- 25 A. Yes.</p>
<p style="text-align: right;">Page 31</p> <p>1 because I don't know who's covering it. 2 Q. Well, if -- under this theory no 3 one is covering it. 4 The City of Centerville land, 5 it's been excluded from your fire 6 district. 7 Are you aware of anybody that 8 would have the obligation to respond? 9 A. No. 10 Q. If there's no one who has an 11 obligation to respond at that point, would 12 mutual aid provide for a response? 13 A. I can't answer that, because I 14 don't know the answer. 15 Q. Your understanding is that 16 mutual aid is only between entities that 17 provide fire service and EMS service? 18 A. That's part of the mutual aid 19 pact. 20 Q. You have to give before you can 21 get? 22 A. You have to be a member. 23 Q. Were you asked to provide any 24 input to the trustees before this fire 25 district was enacted?</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. -- in the stack of documents 2 that you provided? 3 A. Yes. 4 Q. You were even thorough enough to 5 provide text messages, which was nice. 6 A. Took a lot of effort. 7 Q. I bet. All right. 8 Can you provide a summary for me 9 of what the call load shows for this area? 10 A. I don't know specific numbers. 11 I can tell you that the 72 12 district creates 63 percent of my call 13 load and that's pretty consistent. 14 Q. Would you attribute the bulk of 15 that discrepancy to the 675 interchange? 16 A. No. 17 MR. BACON: What was the 18 percentage you ascribed to it? 19 MR. MILLER: 63. 20 MR. BACON: Chief, I'm not 21 trying to be difficult. I'm down 22 here. You are speaking clearly, but 23 not as loudly as you might. So I'd 24 appreciate it -- 25 THE WITNESS: Okay.</p>

<p style="text-align: right;">Page 34</p> <p>1 BY MR. MILLER: 2 Q. When did you perform that 3 analysis? 4 A. I don't remember the date. 5 Q. Would it have been January and 6 November just approximately? 7 A. I don't remember the dates. 8 Q. This analysis was broken down 9 simply by the two stations, 71 versus 72; 10 is that right? It wasn't anymore specific 11 than that? 12 A. No. I looked at some of the car 13 crashes and some of the call loads to 14 certain stores and plazas in one of those. 15 I don't remember which one it was. 16 Just trying to familiarize 17 myself with what could become. 18 Q. What did you find through doing 19 that? 20 A. A large variance depending upon 21 the type of occupancy. Not necessarily 22 what the value of the building is, but 23 what the occupancies are and demand of 24 services on those occupancies. 25 Q. Which occupancies demand more</p>	<p style="text-align: right;">Page 36</p> <p>1 calls? 2 A. Kohl's does. Target just 3 happens to be one of our other ones. 4 MR. MILLER: Can you mark this, 5 please? 6 (Plaintiffs' Exhibit D was 7 marked for identification.) 8 BY MR. MILLER: 9 Q. Sir, you've been handed what's 10 been marked Exhibit D for the purposes of 11 this deposition. That is an e-mail that 12 indicates you printed it off, because your 13 name is at the top, and it appears to be 14 an e-mail sent to you -- who sent that? 15 A. Captain Ken Collier. 16 Q. And that was sent when? 17 A. November 19, 2014. 18 Q. Is this discussing some of the 19 call volumes we were just also discussing? 20 A. That's correct. 21 Q. It shows Wal-Mart at 31; is that 22 right? 23 A. Yes. 24 Q. And then no other provider there 25 is in the double digits?</p>
<p style="text-align: right;">Page 35</p> <p>1 service? 2 A. Wal-Mart had the highest demand 3 for service. 4 Q. Any other high demand? 5 A. Kroger's has a fairly high 6 demand to it. I don't remember all the 7 numbers and what I used in it. 8 Q. Where is the Wal-Mart? 9 A. Plaza II on Wilmington Pike 10 south of Clio. 11 Q. That is located within the fire 12 district? 13 A. Correct. 14 Q. And the Kroger store, where is 15 that located? 16 A. At 725 and Wilmington on the 17 south end of the corridor. 18 Q. Which fire station responds to 19 that primarily? 20 A. 72. 21 Q. Do you have any department 22 stores that are within this area? 23 A. Kohl's, Target. Those are the 24 big ones. 25 Q. Do they create much demand for</p>	<p style="text-align: right;">Page 37</p> <p>1 A. That's correct. 2 Q. Okay. 3 Now that you have this data, 4 what data -- what can you do with this 5 data to determine the demand for services 6 to the development that would be on the 7 north side of Feedwire there for 8 Cornerstone? 9 A. Repeat the question. 10 Q. What does this data do to 11 indicate to you what the demand would be 12 in Cornerstone? 13 A. Well, just gives me a picture of 14 what kind of stores create what kind of 15 volumes. 16 Again, it just reinforced our 17 occupancy means quite a bit. What kind of 18 traffic volumes that they do is an 19 indicator to what the call loads are. 20 Q. What is your anticipated call 21 load for the Costco? 22 A. I have not set one. 23 Q. Is there a reason you've not set 24 one? 25 A. I usually use history as my</p>

<p style="text-align: right;">Page 38</p> <p>1 indicator when I do budgeting and staffing 2 and planning to the board of trustees. 3 Q. When will you have sufficient 4 history to set a projection? 5 A. We always look at every past 6 year's data. If we see an abnormality in 7 that area or that response, then we'll 8 start making changes or plans. 9 Q. Do you do this based upon a 10 calendar year? 11 A. Yes. 12 Q. So your 2014 data for Costco 13 would show maybe three runs? 14 A. Possibly. I don't know the 15 number. 16 Q. Is there anything that's going 17 on within your fire department that would 18 indicate to you that you could not 19 continue to provide fire services at your 20 current level of funding for the entire 21 township, including the Cornerstone 22 development, for the foreseeable future? 23 A. We have a funding issue coming. 24 Q. Is that a levy? 25 A. It's a levy.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. I can't speculate. I have not 2 looked at that or studied that. 3 Q. Would it be in excess of 4 \$10,000? 5 A. I can't speculate. 6 Q. You just don't know? 7 A. I don't. 8 Q. If the fire district were to 9 take effect, would you say that the 10 greatest savings that you would receive 11 would be from not being primary response 12 to calls from the 675 interchange with 13 Wilmington Pike? 14 A. Yes. 15 Q. What is a higher volume of calls 16 for you, 675 and Wilmington or Wal-Mart? 17 A. I don't know. 18 Q. Do you think they're close to be 19 comparable or you just don't know? 20 A. I don't know. 21 Q. In the document production that 22 you made, do you think that there's a 23 similar document that would show the 24 interchange calls? 25 A. There would be statistics that</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Is it a renewal or replacement? 2 A. I don't know yet. 3 Q. When is that funding issue 4 arising? 5 A. We'll be talking about it here 6 in 2015. 7 Q. When does it expire? 8 A. 2017. 9 Q. Short of 2017 when those funds 10 may go away, do you see anything that 11 would prevent you from providing services 12 to the entire township, including this 13 development? 14 A. Not today. 15 Q. From your planning prospectus, 16 does excluding coverage for the Costco and 17 the other portions of the Cornerstone 18 development save you any money? 19 I'm just talking about the 20 development, not the roads. 21 A. Every call has a financial 22 impact. 23 Q. How much do you think not 24 covering the Cornerstone development will 25 save you over the course of 2015?</p>	<p style="text-align: right;">Page 41</p> <p>1 could be had. 2 Q. Have you given those to us? 3 A. I haven't produced them. 4 Q. Okay. 5 Whatever those statistics may 6 be, you didn't generate those for the 7 trustees when they were determining 8 whether to create the fire district? 9 A. No. 10 Q. Would they have been able to 11 generate those on their own or would they 12 have to come to you to get them? 13 A. They would come to us. 14 Q. The township submitted a FEMA 15 application for a grant for the new 16 equipment, ladder truck, within the last 17 year or so; is that right? 18 A. Yes. 19 Q. Can you tell me about that 20 truck? What is it? 21 A. It's 102-foot ladder fire truck. 22 Q. Does it have the quint built-in 23 pumps so that it automatically has the 24 pump at the top of the ladder? 25 A. It's a quint.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. So it's a quint?</p> <p>2 A. Yes.</p> <p>3 Q. In that FEMA application, was</p> <p>4 the new development that was taking place</p> <p>5 at Cornerstone a part of the demand that</p> <p>6 you were listing as a reason for needing</p> <p>7 the grant?</p> <p>8 A. The whole area was listed as a</p> <p>9 potential.</p> <p>10 Q. When you say the whole area, you</p> <p>11 mean the entire township?</p> <p>12 A. Sugarcreek Township.</p> <p>13 Q. Was there a specific reference</p> <p>14 mentioned of additional development,</p> <p>15 retail development that's taking place?</p> <p>16 A. What I mentioned in the grant</p> <p>17 was the possibility of lack of funding</p> <p>18 from that area to support a purchase of a</p> <p>19 ladder truck.</p> <p>20 Q. So because the TIF was</p> <p>21 potentially diverting those taxes to other</p> <p>22 uses, you wouldn't have them for yours?</p> <p>23 A. That's correct.</p> <p>24 Q. This map here, this Exhibit B,</p> <p>25 is an indication of the Sugarcreek</p>	<p style="text-align: right;">Page 44</p> <p>1 works, yes.</p> <p>2 Q. Did that cause you concern?</p> <p>3 A. It always concerns the fire</p> <p>4 chief when you reduce funding.</p> <p>5 Q. Did it cause you any specific</p> <p>6 concerns?</p> <p>7 A. I did do some questioning about</p> <p>8 TIFs with some other fire chiefs and they</p> <p>9 found them beneficial when they are their</p> <p>10 own TIFs, because when there are excess</p> <p>11 TIFs, general fund through the TIF,</p> <p>12 capital --</p> <p>13 Q. In other words, there could be</p> <p>14 TIF dollars that would be available for</p> <p>15 capital improvements for the fire</p> <p>16 department?</p> <p>17 A. That's correct. Out of that 75</p> <p>18 percent.</p> <p>19 Q. Those TIF dollars could be used</p> <p>20 for any type of equipment with life longer</p> <p>21 than five years; is that correct?</p> <p>22 MS. HAYDEN: Interpose an</p> <p>23 objection, continuing objection to</p> <p>24 the extent you're asking questions</p> <p>25 that call for a legal conclusion.</p>
<p style="text-align: right;">Page 43</p> <p>1 Township TIF district that was created in</p> <p>2 approximately 2006.</p> <p>3 Are you aware of a TIF district?</p> <p>4 A. I knew we created a TIF.</p> <p>5 Q. At the time that that was</p> <p>6 created, I believe it was created for road</p> <p>7 improvements, do you recollect that?</p> <p>8 A. That's my understanding.</p> <p>9 Q. Did any of the trustees or</p> <p>10 township administration come to you at the</p> <p>11 time and say, hey, chief, if we're</p> <p>12 diverting these tax dollars from this TIF</p> <p>13 district to road improvements, will that</p> <p>14 cause you a headache?</p> <p>15 A. We did not discuss this</p> <p>16 specifically, no.</p> <p>17 Q. That was going to be a 75</p> <p>18 percent TIF; is that right?</p> <p>19 A. My understanding it's a 75</p> <p>20 percent TIF with a ten-year maximum.</p> <p>21 Q. For those up to ten years, your</p> <p>22 tax -- excuse me -- the tax receipts you</p> <p>23 can receive from that area can be reduced</p> <p>24 by 75 percent?</p> <p>25 A. My understanding of how TIF</p>	<p style="text-align: right;">Page 45</p> <p>1 Go ahead.</p> <p>2 A. I lost the question.</p> <p>3 BY MR. MILLER:</p> <p>4 Q. The question was: You</p> <p>5 understand that you can use those dollars</p> <p>6 for equipment that has a life longer than</p> <p>7 five years?</p> <p>8 A. Capital improvements. What is</p> <p>9 allowable by the Ohio Revised Code is my</p> <p>10 understanding.</p> <p>11 Q. That would include not just</p> <p>12 buildings, but it could include equipment</p> <p>13 itself, such as the ladder trucks, right?</p> <p>14 A. It could.</p> <p>15 Q. It could include radios, right?</p> <p>16 A. Yes.</p> <p>17 Q. Have you performed any</p> <p>18 projections of the dollar amounts that the</p> <p>19 fire department might need from the area</p> <p>20 that's been TIF'd by Centerville?</p> <p>21 A. Clarify that question for me.</p> <p>22 Q. Yeah, sure.</p> <p>23 So we're in this litigation, I</p> <p>24 think, basically because Centerville</p> <p>25 created a TIF for the Cornerstone</p>

<p style="text-align: right;">Page 46</p> <p>1 development and so that's redirecting 2 dollars that would otherwise go to levy 3 pools and moving those to capital 4 improvements. 5 So as a result, some levies that 6 would go to Sugarcreek Township are going 7 to be diverted, including those -- is it 8 five fire levies currently in place? 9 A. Yes. 10 Q. So my question to you is: Have 11 you performed any type of economic 12 analysis of how much money would be 13 necessary to continue to provide service 14 to this area, the Cornerstone development, 15 in light of the TIF? 16 A. I have not done one on just that 17 area. 18 Q. What area have you done one for? 19 A. I looked at the township as a 20 whole. 21 Q. You don't have any reason to 22 believe that this specific area of the 23 Cornerstone development is a driver of 24 cost? 25 A. It does drive cost.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. We don't know that. 2 Q. For your projections, it doesn't 3 seem it would be as great as Wal-Mart? 4 A. Haven't made the projections. 5 Q. So you just don't know? 6 A. Right. 7 Q. So what does Chief Pavlak do 8 after this fire district takes place? 9 Centerville hasn't gotten its act together 10 to get a contract with someone else and 11 911 call comes in for Feedwire Road, what 12 do you do? 13 MS. HAYDEN: Objection. Calls 14 for speculation. 15 Go ahead and answer. 16 A. That call should be routed to 17 the proper authority if we're not covering 18 it. Whoever received that call would 19 route that call to the proper authority 20 that is covering that district. 21 BY MR. MILLER: 22 Q. So there's nobody calling yet 23 because they have not put a contract 24 together? 25 A. They're not going to call -- it</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Okay. How so? 2 A. We spent hundreds of hours on 3 inspection bureaus up there, plan review, 4 meetings, multiple people, companies, fire 5 operations, trainings. 6 There is a lot of cost to any 7 new development. 8 Q. Once that development is in 9 place, you expect it to be a driver of 10 cost for call load? 11 A. Yes. 12 Q. To what extent? 13 A. Fire prevention, fire 14 inspections, fire education, call loads. 15 Q. Those are things that you are 16 responsible for that you have to any 17 development that occurs anywhere? 18 A. That's correct. 19 Q. So is there anything specific 20 about this development that would cause 21 its call volume or load to be greater than 22 that of other similar developments? 23 A. Won't be greater than, no. 24 Q. It will not be as great as 25 Wal-Mart?</p>	<p style="text-align: right;">Page 49</p> <p>1 won't come in to us. 2 Q. 911 call comes in, it just 3 rings? 4 A. Depends, landline versus cell 5 phone. 6 Q. Cell phone call comes in, pings 7 off a tower, and sends it to whatever call 8 center is -- 9 A. Greene County. 10 Q. Greene County gets a call, EMS 11 dispatch, fire dispatch for a wreck at the 12 end of Feedwire and Wilmington, there's no 13 specific fire department that's assigned 14 to that area, what happens next? 15 A. I can't answer that. 16 Q. You will have given a directive 17 to the 911 dispatch that it is not your 18 area and not call you? 19 A. I would not be giving that 20 directive. 21 Q. How would they get that 22 information? 23 A. The county, trustees, whoever is 24 planning to cover that between the two 25 political jurisdictions.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. All right.</p> <p>2 So 911 dispatcher gets this call</p> <p>3 and there's nobody primarily responsible</p> <p>4 for it, they just on their own decide to</p> <p>5 bring it to your shop, do you respond or</p> <p>6 not respond?</p> <p>7 A. We will always respond to a call</p> <p>8 for help, if somebody calls and asks us.</p> <p>9 Q. Other than your fire station,</p> <p>10 what's the closest fire station to this</p> <p>11 interchange of 675 and Wilmington Pike?</p> <p>12 A. Washington Township 44.</p> <p>13 Q. What is the response time from</p> <p>14 there?</p> <p>15 A. I don't know.</p> <p>16 Q. That's Washington Township, is</p> <p>17 that what you said?</p> <p>18 A. Yes.</p> <p>19 Q. Are they interstate certified?</p> <p>20 A. Explain to me what interstate</p> <p>21 certified is.</p> <p>22 Q. Do they have certification to</p> <p>23 respond to interstate-related crashes or</p> <p>24 issues?</p> <p>25 A. I don't know of any</p>	<p style="text-align: right;">Page 52</p> <p>1 than or less than five minutes, would you</p> <p>2 say?</p> <p>3 A. I do not know.</p> <p>4 Q. What's your response time to</p> <p>5 that intersection?</p> <p>6 A. I don't know that specific</p> <p>7 number.</p> <p>8 Q. From the time that your door</p> <p>9 goes up and the vehicle starts moving,</p> <p>10 would it take more than two minutes to get</p> <p>11 there?</p> <p>12 A. Traffic has a great effect on</p> <p>13 that. Sit in that traffic sometimes</p> <p>14 trying to get to a crash. Generally we're</p> <p>15 five minutes or less.</p> <p>16 Q. The traffic could have an impact</p> <p>17 on any department that's responding,</p> <p>18 right?</p> <p>19 A. That's correct.</p> <p>20 Q. Other than Washington Township,</p> <p>21 what would be the next closest station</p> <p>22 after that?</p> <p>23 A. Probably Bellbrook 22 or</p> <p>24 Kettering 36. I'm not sure which one is</p> <p>25 closest.</p>
<p style="text-align: right;">Page 51</p> <p>1 certification. There's training.</p> <p>2 Q. To your knowledge, there is no</p> <p>3 requirement from ODOT or otherwise to have</p> <p>4 certain training or certification to</p> <p>5 respond to accidents on interstates?</p> <p>6 A. There's training. There's not</p> <p>7 necessarily a certification.</p> <p>8 Q. So there's training.</p> <p>9 To your understanding, you don't</p> <p>10 have to have the training to respond, is</p> <p>11 that what you're saying?</p> <p>12 A. I did not say that.</p> <p>13 Q. Do you have to have the training</p> <p>14 to respond?</p> <p>15 A. For safety you should have the</p> <p>16 training.</p> <p>17 Q. Do you know if Washington</p> <p>18 Township has personnel that have been</p> <p>19 trained?</p> <p>20 A. Yes.</p> <p>21 Q. And they do have personnel who</p> <p>22 are trained?</p> <p>23 A. Yes.</p> <p>24 Q. I know you said you didn't know</p> <p>25 the specific response time. Is it greater</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Bellbrook 22, is that closer</p> <p>2 than your station 71?</p> <p>3 A. Yes.</p> <p>4 Q. How much closer?</p> <p>5 A. Mile and a half, I'm guessing.</p> <p>6 Q. So they're not quite within</p> <p>7 sight of each other, but pretty close.</p> <p>8 You weren't happy about the idea</p> <p>9 of excluding this development from your</p> <p>10 service area, were you?</p> <p>11 A. I don't think that's a fair</p> <p>12 assumption of what I think.</p> <p>13 Q. Tell me what you think.</p> <p>14 MS. HAYDEN: I'm going to object</p> <p>15 that his answer is not reasonably</p> <p>16 calculated to lead to discoverable</p> <p>17 evidence.</p> <p>18 A. I'm not sure I have an answer</p> <p>19 for you.</p> <p>20 BY MR. MILLER:</p> <p>21 Q. Is that because the</p> <p>22 administrator is sitting over there?</p> <p>23 A. No.</p> <p>24 Q. So this -- part of this excluded</p> <p>25 area, the southern portion almost abuts</p>

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1 your fire station, right?

2 A. Yes.

3 Q. And you don't have an opinion

4 whether or not you should be providing

5 service to that territory?

6 A. I provide service to Sugarcreek

7 Township as a whole, and as long as it's

8 within Sugarcreek, I will provide the

9 service.

10 Q. I'm going to read you from the

11 minutes of the November 17th board of

12 trustees of Sugarcreek Township work

13 session.

14 Says, Mr. Tiffany gave the board

15 a copy of the second resolution regarding

16 the fire district. Mr. Bryant asked Chief

17 Pavlak what he thought. Chief Pavlak said

18 he doesn't necessarily agree with it, but

19 he gets it. He says sometimes you need to

20 do what you need to do.

21 So do you agree with excluding

22 coverage from this development or not?

23 MS. HAYDEN: Object. Same

24 objection. Go ahead.

25 A. There's more to excluding or not

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1 excluding. This all deals with funding.

2 I need proper funding to protect.

3 If I'm going to protect

4 Sugarcreek Township with the City of

5 Centerville in it, it needs to be funded

6 properly.

7 If I'm going to protect

8 Sugarcreek Township excluding the

9 Cornerstone, it still has to be properly

10 funded.

11 My job is to protect what I was

12 hired to protect and legally obligated to

13 protect.

14 BY MR. MILLER:

15 Q. I believe you testified earlier

16 you can't project at any particular time

17 before your next levy renewal or

18 replacement at any point where you have

19 insufficient ability to provide protection

20 to the entire township, including the

21 Cornerstone development; is that right?

22 A. Correct.

23 Q. At this time are you able to

24 project what your levy needs will be when

25 it comes up for renewal?

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1 A. We are looking at all those

2 issues right now.

3 Q. You don't have an answer yet?

4 A. No.

5 Q. To the extent there was an

6 increase for that fire levy, do you know

7 whether the Cornerstone development would

8 have to pay that increase?

9 A. You're talking about new

10 millage?

11 Q. New millage.

12 A. I do not know.

13 Q. If the Cornerstone development

14 did have to pay that new millage, would

15 that provide justification for providing

16 services there?

17 A. If I'm properly funded and

18 that's the proper funding number, then it

19 could have an impact.

20 Q. What does proper funding mean?

21 A. Provide the level of service

22 that we provide with the amount of funding

23 needed to provide that service.

24 Q. For the foreseeable future until

25 that levy expires, you are properly

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1 funded, including the Cornerstone

2 development?

3 A. I will have a deficit in 2016.

4 Q. Will you have that deficit

5 regardless of whether you cover

6 Cornerstone?

7 A. Yes.

8 Q. What does the tax funding from

9 Cornerstone have to do with providing

10 services to 675?

11 A. Again, I look at everything as a

12 whole. Everybody is putting their fair

13 share into that fire levy fund that covers

14 everything in this township.

15 If they're not putting their

16 fair share in --

17 Q. What does the fair share for

18 this Cornerstone development north of

19 Feedwire and this undeveloped land south

20 of 675 have anything to do with providing

21 fire and EMS protection to 675 and the

22 interchange Wilmington Pike?

23 A. That in a whole makes up the

24 funding, those parcels.

25 Q. You've never gotten any funding

<p style="text-align: right;">Page 58</p> <p>1 from the interstate, have you?</p> <p>2 A. No.</p> <p>3 Q. Residents of Sugarcreek Township</p> <p>4 use that highway interchange, do they not?</p> <p>5 A. Yes.</p> <p>6 Q. And Feedwire Road is probably</p> <p>7 one of the main entry points into the</p> <p>8 township, is it not?</p> <p>9 A. Yes.</p> <p>10 Q. Don't you think it's important</p> <p>11 for those taxpayers who use those</p> <p>12 interchanges and that thoroughfare to have</p> <p>13 fire and EMS protection when they are on</p> <p>14 those roads within the township?</p> <p>15 A. They should have fire and EMS</p> <p>16 protection, yes.</p> <p>17 (Plaintiffs' Exhibit E was</p> <p>18 marked for identification.)</p> <p>19 BY MR. MILLER:</p> <p>20 Q. Chief, you have been handed</p> <p>21 what's been marked as Plaintiff's</p> <p>22 Exhibit E.</p> <p>23 This is correspondence, I</p> <p>24 believe, from you to the township board of</p> <p>25 trustees dated November 21, 2014.</p>	<p style="text-align: right;">Page 60</p> <p>1 adequate funding level for the fire</p> <p>2 department in different ways of doing it.</p> <p>3 Everybody knows I'm a very</p> <p>4 creative guy, so I'll look at things</p> <p>5 different ways.</p> <p>6 Q. We've used that term a couple of</p> <p>7 times. I just want to understand, what</p> <p>8 does adequate funding mean with respect to</p> <p>9 this Cornerstone development and the</p> <p>10 letter from November 21st?</p> <p>11 A. Again, I look at everything as a</p> <p>12 whole and everybody needs to be</p> <p>13 contributing to that whole.</p> <p>14 From what I've seen in this, I</p> <p>15 need -- I have been asked what amount of</p> <p>16 money do you need and there's not a dollar</p> <p>17 figure.</p> <p>18 It needs to be a shared adequacy</p> <p>19 of what it takes to make that fire</p> <p>20 department healthy and run and provide the</p> <p>21 service levels we do today.</p> <p>22 Q. What are the alternatives that</p> <p>23 you discuss in this letter?</p> <p>24 A. Looks like Centerville's</p> <p>25 proposal, counterproposal. Couple of</p>
<p style="text-align: right;">Page 59</p> <p>1 Is this the first formal input</p> <p>2 that you provided to the trustees</p> <p>3 regarding the creation of the fire</p> <p>4 district?</p> <p>5 MR. MILLER: Let's take a break</p> <p>6 for a couple of minutes while you</p> <p>7 look at that letter.</p> <p>8 (A recess was taken from 2:20 to</p> <p>9 2:30.)</p> <p>10 BY MR. MILLER:</p> <p>11 Q. Chief, have you had the</p> <p>12 opportunity to take a look at that letter?</p> <p>13 A. I did.</p> <p>14 Q. So the question was: Was this</p> <p>15 the first kind of written information you</p> <p>16 provided to the trustees about the fire</p> <p>17 district?</p> <p>18 A. Yes.</p> <p>19 Q. And there's a section of the</p> <p>20 letter where you propose different</p> <p>21 potentials for funding.</p> <p>22 Can you just explain to me the</p> <p>23 thought process of generating that and</p> <p>24 what you were trying to accomplish?</p> <p>25 A. I was trying to accomplish an</p>	<p style="text-align: right;">Page 61</p> <p>1 different levels of counterproposal and a</p> <p>2 base plus cost.</p> <p>3 Q. What does base plus cost mean?</p> <p>4 A. Trying to figure out a base that</p> <p>5 covers all the other things that we do</p> <p>6 besides the actual fire/EMS call.</p> <p>7 Q. Then having like a per-run</p> <p>8 charge for the calls?</p> <p>9 A. On top of that, yes.</p> <p>10 Q. I'm trying to understand the</p> <p>11 math of how you determine whether a</p> <p>12 particular formula is adequate.</p> <p>13 Are you saying that you take a</p> <p>14 look at what your overall demand is, and</p> <p>15 then you look at the hole in funding, and</p> <p>16 this is a way to capture that hole --</p> <p>17 cover that hole in funding for the entire</p> <p>18 service area?</p> <p>19 A. I use the county's tax base for</p> <p>20 the whole township, figure out the dollars</p> <p>21 on it I need.</p> <p>22 Q. Dollars you need, does that mean</p> <p>23 the dollars that you would receive just</p> <p>24 based upon the tax base?</p> <p>25 A. Correct.</p>

1 Q. So by dollars you need, you mean
2 dollars that you're otherwise entitled to
3 if all the properties were assessed
4 according to their levies?

5 A. That's correct.

6 Q. Then what do you do once you get
7 that number --

8 A. Then I have a budget, what it
9 costs me to operate the fire department.

10 Base everything on a minimum of
11 a five-year funding level. The millages
12 are there to fund that. Go to the
13 trustees, here is what I need. They say
14 yes or no.

15 Q. That's for an increase in levies
16 or additional amounts once --

17 A. That's for everything.

18 Q. Right. So that's a very general
19 high-level discussion.

20 I'm trying to figure out how
21 that gets into the potential solutions
22 that are offered in this letter here.

23 In other words, does this letter
24 then find a way to cover that entire gap
25 that you're looking at?

1 A. It's more difficult than just
2 talking about a gap.

3 I always believed that the fire
4 department should not be in the TIF
5 period, should be excluded.

6 What we were trying to do is
7 find solutions to a partnership here
8 between the City of Centerville and
9 Sugarcreek Township.

10 These were my suggestions to
11 Barry and the board of trustees of how do
12 we come to a resolution. And I say that
13 right in the beginning of the letter. I
14 still believe it should be 100 percent,
15 but here's some idea of trying to come to
16 a solution of the problem.

17 Q. You believe it should be 100
18 percent because you're the fire chief?

19 A. No. Because we're the ones that
20 have to deal with this every day.

21 Q. Did you call up the state, hey,
22 this is the way TIFs work and I don't
23 think it's right that fire departments
24 don't receive full funding and what --

25 A. Yes.

1 Q. What was the response?

2 A. Two bills since last year.

3 Q. And what happened?

4 A. They are on the shelf. Another
5 one got introduced this year.

6 Q. These bills have not received
7 committee hearing?

8 A. One went to committee January
9 28th of this year.

10 Q. Do you know the bill number?

11 A. Thirteen.

12 Q. Who introduced it?

13 A. I don't know.

14 Q. That's okay. That's a house
15 bill?

16 A. Yeah, house bill.

17 Q. So up until the time that you
18 get the state legislature and our esteemed
19 governor to act to remedy this solution,
20 you have to live with the laws that exist
21 now?

22 A. Correct.

23 Q. And so if there's a TIF that's
24 legally enacted and reduces your funding,
25 that's just a problem that you're going to

1 have to learn to address, right?

2 A. Yes.

3 Q. And do you think the TIF
4 structure has under its guise a solution
5 or you simply remove those areas from
6 service?

7 A. I need you to reask that
8 question.

9 Q. Do you think it's contemplated
10 on the TIF statute the way to address the
11 lack of funding is to remove those areas
12 from service?

13 A. That's beyond my knowledge path.

14 Q. Are there any, to your
15 knowledge, tax-abated properties within
16 the township?

17 A. Not to my knowledge.

18 Q. There are properties that are
19 not taxed, right?

20 A. Correct.

21 Q. Such as schools?

22 A. Schools, churches, parks,
23 highways.

24 Q. With the exception of this
25 section of 675 and the ramps to Wilmington

<p style="text-align: right;">Page 66</p> <p>1 Pike, the rest of the governmental and 2 tax-exempt properties receive service, 3 right? 4 A. Correct. 5 Q. Do you think -- so do you think 6 fire protection services should be removed 7 from those tax-exempt properties? 8 A. No. 9 Q. Is there any distinction in your 10 mind between those properties and the 11 Cornerstone development? 12 A. Yes. 13 Q. And that is? 14 A. Tax-exempt properties versus 15 taxable property. 16 Q. The owners of the Cornerstone 17 development, they pay their full allotment 18 of taxes, right? 19 A. Today? 20 Q. Yes. 21 A. Yes, today. 22 Q. Under the TIF, they pay the full 23 allotment of taxes, do they not? 24 A. Not to the fire department. 25 Q. To some governmental entity,</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. And your funding was still going 2 to come from the township? 3 A. Correct. 4 Q. Do you know, other than coverage 5 area, of any distinctions between a fire 6 department for a township and a fire 7 district? 8 A. No. 9 Q. Do you know if a fire district 10 is its own separate governmental entity? 11 A. Depends on what section of the 12 code you're looking at. 13 Q. Explain that to me. 14 A. Code talks about two or more and 15 it becomes its own taxing authority with a 16 board. 17 Q. It's your understanding if it's 18 a fire district that is within one entity, 19 it's not a combination, it's not a joint 20 district, then it's not its own taxing 21 entity? 22 A. It's still part of the 23 township's tax, is my understanding, yes. 24 Q. What is your understanding of 25 what happens with the existing fire</p>
<p style="text-align: right;">Page 67</p> <p>1 right? 2 A. My understanding, yes. 3 Q. So if they're paying full 4 freight, shouldn't they get service? 5 A. They're not paying full freight 6 to fire service. 7 Q. I didn't ask about the 8 allocation and use of money. 9 If they're paying full freight, 10 shouldn't they get full service? 11 A. That's up to the political 12 entities that cover them. 13 Q. So what political entity do you 14 work for? 15 A. Sugarcreek Township. 16 Q. There was -- a fire district was 17 scheduled to take effect on February 1st 18 or 2nd of this year, right? 19 A. Yes. 20 Q. What was going to change for you 21 on that day? 22 A. Nothing, to my knowledge. 23 Q. You were still going to be an 24 employee of Sugarcreek Township? 25 A. Correct.</p>	<p style="text-align: right;">Page 69</p> <p>1 levies? 2 A. They stay in place. 3 Q. Including for the areas that 4 have been removed from coverage? 5 A. Ask that again, please. 6 Q. Do those levies also remain in 7 place for the areas that are removed from 8 coverage? 9 A. No. Not for fire. 10 Q. Why do you think that those 11 levies go away? 12 A. Because it's not covered by the 13 district. 14 Q. And so all of a sudden those 15 levies just disappear? 16 A. My understanding is they come 17 off of the areas outside the district. 18 Q. What was the mechanism that 19 removes those? 20 A. I don't know. 21 Q. Have you sent any letter to the 22 county auditor or treasurer designating 23 those parcels? 24 A. No. 25 Q. Has anyone from the township, to</p>

<p style="text-align: right;">Page 70</p> <p>1 your knowledge?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. The documents that you produced,</p> <p>4 I saw a fair amount of correspondence</p> <p>5 between you and Greg Horn.</p> <p>6 A. Yes.</p> <p>7 Q. Why were you corresponding --</p> <p>8 talking with Mr. Horn?</p> <p>9 A. I was asked by the board of</p> <p>10 trustees and Mr. Tiffany to meet with</p> <p>11 Mr. Horn to get this proposal in writing.</p> <p>12 Q. Approximately what time of year</p> <p>13 did they ask you to do that?</p> <p>14 A. I don't know. Maybe August. I</p> <p>15 don't remember. July maybe.</p> <p>16 Q. Some point over the summer?</p> <p>17 A. Yes.</p> <p>18 Q. So from that point -- from July</p> <p>19 or August of 2014 going forward, you were</p> <p>20 the point person on behalf of the township</p> <p>21 for negotiating for the fire services with</p> <p>22 the City of Centerville?</p> <p>23 A. I wasn't the point person to</p> <p>24 negotiate, I was a point person for</p> <p>25 contact to get their offer in writing.</p>	<p style="text-align: right;">Page 72</p> <p>1 township was going to receive as well?</p> <p>2 A. Correct.</p> <p>3 Q. Did you have an understanding of</p> <p>4 where the 55 percent was going to come</p> <p>5 from, whether that was all coming from the</p> <p>6 city or whether a portion was coming from</p> <p>7 the school district?</p> <p>8 A. My initial understanding was the</p> <p>9 5 percent from the school was going to</p> <p>10 cover that and make that 55 percent.</p> <p>11 I was not privy to numbers prior</p> <p>12 to that conversation.</p> <p>13 Q. When you say prior to that</p> <p>14 conversation, conversation with who?</p> <p>15 A. Mr. Horn.</p> <p>16 Q. Who represented the township was</p> <p>17 going to receive 100 percent on the</p> <p>18 apartments?</p> <p>19 A. I was at the school board</p> <p>20 meeting when they presented, and my</p> <p>21 understanding from that meeting was we</p> <p>22 were going to have the same deal, that 5</p> <p>23 percent would create the same deal that</p> <p>24 the school board got by giving their 60 to</p> <p>25 the 55, would create 55, and then the 100</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. You said the trustees asked you</p> <p>2 to do that?</p> <p>3 A. Trustees and Mr. Tiffany.</p> <p>4 Q. Was this some sort of meeting?</p> <p>5 A. I don't remember exactly where</p> <p>6 they asked me.</p> <p>7 Q. What do you understand the offer</p> <p>8 to have been from the city?</p> <p>9 A. My understanding of the offer</p> <p>10 was it was going to be equivalent to 55</p> <p>11 percent of the tax base and 100 percent of</p> <p>12 the residential tax base, like the school.</p> <p>13 Q. So that's 55 percent for</p> <p>14 commercial, 100 percent for residential,</p> <p>15 like the school.</p> <p>16 What about the multifamily?</p> <p>17 A. That's the residential part.</p> <p>18 Q. Okay.</p> <p>19 A. Residential, single-family</p> <p>20 residential is 100 percent because it's</p> <p>21 excluded from the TIF.</p> <p>22 Q. Sure.</p> <p>23 So your understanding was that</p> <p>24 the school district received 100 percent</p> <p>25 on the apartments and that is what the</p>	<p style="text-align: right;">Page 73</p> <p>1 percent on the residential.</p> <p>2 That was my understanding.</p> <p>3 Q. So that was your understanding</p> <p>4 you received from those who were speaking</p> <p>5 at the school board meeting?</p> <p>6 A. Correct.</p> <p>7 And the document that you handed</p> <p>8 out in the first meeting, between those</p> <p>9 two documents -- you handed out a document</p> <p>10 at the first school board meeting. That</p> <p>11 had us at 25 percent. And then the second</p> <p>12 school board meeting I attended the 5</p> <p>13 percent was going to make it equal to 55</p> <p>14 percent.</p> <p>15 Q. When you say you were handing</p> <p>16 out, who is you?</p> <p>17 A. Oberer Development Company or</p> <p>18 their representative. I'm not sure who</p> <p>19 the gentleman was.</p> <p>20 MR. BACON: Sorry, so I don't</p> <p>21 have to go over this again, what were</p> <p>22 the percentages you believe were in</p> <p>23 the first handout?</p> <p>24 THE WITNESS: The first Oberer</p> <p>25 handout?</p>

<p style="text-align: right;">Page 74</p> <p>1 MR. BACON: You referred to a</p> <p>2 first school board meeting.</p> <p>3 THE WITNESS: First one showed</p> <p>4 like a 25 percent number in it.</p> <p>5 MR. BACON: For?</p> <p>6 THE WITNESS: For fire</p> <p>7 department.</p> <p>8 MR. BACON: For everything,</p> <p>9 across the board 25 percent?</p> <p>10 THE WITNESS: Uh-huh.</p> <p>11 BY MR. MILLER:</p> <p>12 Q. The second handout showed 55</p> <p>13 percent for commercial and 100 percent for</p> <p>14 residential, which either stated or you</p> <p>15 understood to mean 100 percent for the</p> <p>16 apartments?</p> <p>17 A. Correct.</p> <p>18 MR. BACON: Just so I can</p> <p>19 clarify.</p> <p>20 That was to come from that 5</p> <p>21 percent that the school was</p> <p>22 essentially moving from 60 to 55?</p> <p>23 THE WITNESS: My understanding</p> <p>24 was the 5 percent the school board</p> <p>25 was giving up would have made the</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Was that draft agreement that</p> <p>2 precipitated the whole fire district</p> <p>3 creation?</p> <p>4 A. I have no idea.</p> <p>5 Q. When you say draft agreement,</p> <p>6 are you referring to the draft agreement</p> <p>7 for the school board?</p> <p>8 A. I was talking about one that I</p> <p>9 had produced based off of the school board</p> <p>10 draft agreement.</p> <p>11 Q. You created?</p> <p>12 A. Yes.</p> <p>13 Q. So you took the school board</p> <p>14 agreement and retooled that to be an</p> <p>15 agreement for the township?</p> <p>16 A. Correct.</p> <p>17 Q. That draft document reflects</p> <p>18 what you thought the deal was?</p> <p>19 A. Correct.</p> <p>20 Q. At what point did you learn that</p> <p>21 that's not what Centerville was offering</p> <p>22 or Centerville was no longer offering what</p> <p>23 you thought they were offering for?</p> <p>24 A. I don't know at what point.</p> <p>25 Late December, early January.</p>
<p style="text-align: right;">Page 75</p> <p>1 fire department total number 55</p> <p>2 percent for commercial and 100</p> <p>3 percent for residential.</p> <p>4 MR. BACON: Okay. Thank you.</p> <p>5 BY MR. MILLER:</p> <p>6 Q. You reported that information</p> <p>7 back to the trustees?</p> <p>8 You reported back to the</p> <p>9 trustees after each of these meetings to</p> <p>10 give them an update on where --</p> <p>11 A. I did.</p> <p>12 Q. Was there any communication from</p> <p>13 you to Oberer Development, the school</p> <p>14 district, or the City of Centerville</p> <p>15 indicating that you believe that those</p> <p>16 numbers would be acceptable to the</p> <p>17 township?</p> <p>18 A. I sent the trustees and Barry a</p> <p>19 draft agreement that listed those numbers.</p> <p>20 Q. When was that?</p> <p>21 A. I don't know.</p> <p>22 Q. Was that a draft agreement that</p> <p>23 came late in the fall or was it --</p> <p>24 A. Probably. It was late in the</p> <p>25 year.</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. So it wasn't until after the</p> <p>2 creation of the fire district that the</p> <p>3 offer seemed to be something different</p> <p>4 than what you thought originally?</p> <p>5 A. I don't know when we created the</p> <p>6 fire district.</p> <p>7 Q. Were you at the meeting when the</p> <p>8 fire district was created?</p> <p>9 A. I don't know. It was right</p> <p>10 around -- I go on vacation that time every</p> <p>11 year, so I don't know if I was at that</p> <p>12 meeting or not.</p> <p>13 Q. Well, I read to you from the</p> <p>14 minutes earlier of a work meeting that was</p> <p>15 held on November 17th where there was some</p> <p>16 discussion item about the resolution and</p> <p>17 you spoke.</p> <p>18 So you were at least present at</p> <p>19 that work session, right?</p> <p>20 A. May have been the day I got home</p> <p>21 from vacation.</p> <p>22 Q. November 17th would have been</p> <p>23 the day you got back? That's yes?</p> <p>24 A. Yes.</p> <p>25 Q. When did you first see the draft</p>

<p style="text-align: right;">Page 78</p> <p>1 agreement from the city -- I'm sorry, you 2 look at me like you're confused. 3 When was the first time you saw 4 any type of draft agreement that the city 5 prepared? 6 A. Nathan Cahill e-mailed it to me. 7 I believe Greg was out of town, I was on 8 vacation. I forwarded it to Mr. Tiffany 9 while I was out of town. 10 I still communicated with 11 Mr. Horn and Nathan Cahill when I was out 12 of town. 13 Q. When you were out of town, were 14 you reading over the document or were you 15 more just directing correspondence at that 16 time? 17 A. I just passed them on. I 18 indicated that in my messages to Mr. Horn. 19 Q. Right. 20 If the TIF agreement with the 21 city was for funding levels that was for 22 100 percent for the apartments and 55 23 percent for the commercial, would that be 24 acceptable to you? 25 A. 55 percent for commercial, 100</p>	<p style="text-align: right;">Page 80</p> <p>1 A. That's unforeseen, because I 2 don't know what the numbers up there are 3 going to be. 4 Q. What happens if this Cornerstone 5 development was not TIF'd, you were 6 receiving full funding, but the impact was 7 greater than the tax dollars you generate, 8 what happens then? 9 MS. HAYDEN: Objection. Calls 10 for speculation. 11 Go ahead. 12 A. We'd analyze it, figure out what 13 that impact is, go to the board of 14 trustees, Mr. Tiffany, tell them what we 15 feel the solution is to that. 16 BY MR. MILLER: 17 Q. What might your solutions be? 18 A. Different funding options. 19 Q. Do you use EMS call fees 20 currently? 21 A. Yes. 22 Q. It's my speculation is that you 23 simply bill insurers, and if they're 24 insured, they pay. If they're not 25 insured, you don't send bills to</p>
<p style="text-align: right;">Page 79</p> <p>1 percent for -- 2 Q. Apartments. 3 A. It would be a discussion I had 4 with the trustees and Mr. Tiffany. 5 Q. What about 55 percent for the 6 apartments and 25 percent -- excuse me. 7 55 percent for the commercial and 25 8 percent for the apartments; is that 9 acceptable? 10 A. Still would be a discussion I 11 would have to have with them. 12 Q. Would you be pro, anti or 13 neutral on either of these? 14 A. Neutral at the time. 15 Q. Until your levies expire in 16 2017, you do not anticipate additional 17 demand from this development that would 18 impact your ability to provide services, 19 correct? 20 A. It's going to impact us. To 21 what degree of impact I will not know 22 until we actually experience that impact. 23 Q. Removing service to 675 provides 24 greater impact than removing services to 25 the Cornerstone development, correct?</p>	<p style="text-align: right;">Page 81</p> <p>1 residents? 2 A. We bill all. 3 Q. You bill all? 4 A. Yes. 5 Q. Do you also bill runs for fire 6 service? 7 A. No. 8 Q. Do those fees offset your cost 9 for materials? 10 A. What are you referring to? 11 Q. Whatever the expendables are 12 that you use. 13 A. I'm not sure what you are 14 asking. 15 Q. The fees -- 16 A. The EMS fees? 17 Q. Yes. 18 A. They never cover everything. 19 We're close. I don't know how Medicaid, 20 Medicare and insurance companies work. 21 They are an avenue to help us recover some 22 of our costs. 23 Q. So I'm trying to figure out what 24 they typically cover for you. 25 I know they don't cover the full</p>

1 run, but do they cover the cost of
2 materials that you typically use on a run?
3 A. Again, that's a big pot of
4 money. It helps contribute to that pot of
5 money to cover all those costs.
6 Q. Have you had discussions with
7 other fire chiefs or fire districts that
8 are contained within a single governmental
9 entity?
10 A. Give me an example.
11 Q. Other than single-jurisdiction
12 fire districts.
13 A. I don't know of any single
14 district. Well, I don't know of any
15 single district.
16 Q. All right.
17 MR. MILLER: Chief, this is all
18 the questions I'm going to ask today.
19 We've informed all the deponents
20 so far that we're taking these
21 depositions pretty early on. I
22 haven't looked at all the documents
23 yet. We're doing this in advance of
24 the hearing next month. We reserve
25 the right to call you for a

1 deposition again later should the
2 need arise after that hearing.
3 With that, I'm going to switch
4 places here with Mr. Bacon on behalf
5 of the city who may have additional
6 questions for you.
7 EXAMINATION
8 BY MR. BACON:
9 Q. Chief, we spoke earlier, but
10 just for purposes of the record, my name
11 is Steve Bacon, and I'm here today on
12 behalf of the City of Centerville.
13 Trying to figure out where my
14 notes from you start. We had so many
15 notes from this morning.
16 All right. Let me talk to you
17 about something conceptual.
18 You talked about trying to think
19 of the township as a whole, correct?
20 A. Correct.
21 Q. And one thing I looked at when
22 you create budgets, when you're figuring
23 out your funding and how you're going to
24 allocate your money, do you do that on an
25 annual basis?

1 A. Yes.
2 Q. One of the things --
3 MR. BACON: Go ahead and mark
4 this.
5 (Plaintiffs' Exhibit F was
6 marked for identification.)
7 BY MR. BACON:
8 Q. I'm handing you something that's
9 been marked Exhibit F. This is, I guess,
10 a township resolution for temporary
11 appropriations.
12 Have you ever seen this before?
13 A. Yes.
14 Q. If I look down here, some
15 general columns, and I see fire district
16 and I see personnel services, and then I
17 see other.
18 Do you see what I'm referring
19 to?
20 A. Yes.
21 Q. What kind of items go into
22 other?
23 A. Operational, capital.
24 Q. Okay.
25 I was also under the impression

1 from your earlier testimony that you have
2 two fire stations currently in Sugarcreek
3 Township?
4 A. Yes.
5 Q. And both stations serve the
6 entire township, correct?
7 A. Yes.
8 Q. A question I have, there's been
9 some talk about a proposal where there
10 would be 55 percent of commercial TIF
11 monies, or you would get 55 percent of the
12 levy monies or amount equal to that from
13 TIF funds, and then a 25 percent on some
14 of the apartments in that.
15 If you were to receive that
16 money, would that allow you to free up
17 some money from your capital allocation
18 and apply it toward your operating costs,
19 such as payroll, personnel, salary?
20 A. As long as it can be used within
21 the confines in capital expenditures, and
22 I have those expenditures to use it for,
23 yes.
24 Q. It's my understanding there were
25 some discussions too, even after the TIF

1 expired, you would be able to retain those
2 funds for future capital expenditures; is
3 that your understanding?

4 A. I have not been formally told
5 that.

6 Q. Has there been some discussion
7 to that effect?

8 A. I either read it or heard it
9 somewhere and I don't know where.

10 Q. It's not new to you, but
11 nobody's formally told you that?

12 A. Right.

13 Q. Okay.

14 So if both of these stations
15 serve the entire township, including the
16 property at issue, the Cornerstone
17 development, is it your understanding that
18 any funds you receive could be used
19 towards capital improvements on those
20 stations or their equipment because they
21 service this property?

22 A. That would be my assumption that
23 it would be, because they do service that,
24 yes.

25 Q. Has anybody put pen to paper to

1 figure out whether the net benefit as far
2 as we're looking at a township that's
3 already paying their fair share, would
4 there be a net benefit to the entire
5 township by increasing the capital fund
6 for these two stations that serve the
7 entire thing, which would exceed, I guess,
8 just the direct costs of providing
9 service?

10 A. There's nothing formal.

11 Q. Has anybody kind of done a
12 back-of-the-napkin calculation on that?

13 A. There's been speculation and
14 conversation between Mr. Horn and I that
15 those kind of things have been a benefit.

16 We haven't been able to get a
17 solid number. The number has moved on
18 this development almost yearly, if not
19 biyearly.

20 Q. Would those levels exist at 55
21 percent for commercial and 25 for the
22 multifamily?

23 A. I haven't determined if that is
24 a fair share yet.

25 Q. But would there be a net

1 benefit? Direct cost versus money
2 available for capital improvements.

3 A. Kind of a tricky question.

4 Q. Fairness can be a tricky
5 question, too, can't it?

6 A. There's a difference -- there's
7 going to be a benefit to new money, but
8 there's a difference in what that new
9 money's fair share is, in my opinion.

10 Q. Now, is there a difference
11 between like a fair share and what
12 somebody is legally required to pay?

13 MS. HAYDEN: I'm going to
14 interpose a continuing objection to
15 the extent that you ask a question
16 that requires him to provide a legal
17 conclusion as the answer.

18 Go ahead and answer the
19 question, if you can.

20 A. Would you ask the question
21 again, please?

22 BY MR. BACON:

23 Q. Sure. Is there a difference in
24 your mind between someone's legal
25 obligations to pay a certain amount and

1 what would be a fair share for them to
2 pay?

3 A. Again, I'm going to go back. I
4 believe the fair share is 100 percent for
5 fire and EMS protection.

6 Q. Now a question I have is: If
7 this 25 percent and 55 percent brings in
8 TIF funds, capital expenditure money which
9 exceeds the marginal cost, the direct cost
10 to provide that service, are the residents
11 better off getting that than just getting
12 the proceeds from an undeveloped land,
13 just the farm land, which wouldn't provide
14 them with a net benefit, which wouldn't
15 increase their capital funds? Are they
16 better off not getting money?

17 MS. HAYDEN: Compound question.

18 Calls for speculation.

19 Go ahead and answer.

20 A. I can't speculate on that.

21 BY MR. BACON:

22 Q. You can't say one way or the
23 other?

24 A. No.

25 Q. All right.

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1 So you can't say whether it's a
 2 benefit, correct?
 3 A. It could be a hindrance.
 4 Q. Could it be either?
 5 A. Could be either/or.
 6 Q. Do you think they can put in a
 7 Costco and Cabela's and Kroger just as
 8 freestanding structures in a farm field
 9 without roads and sewers?
 10 A. No.
 11 Q. So are capital improvements for
 12 things like roads and sewers necessary to
 13 allow for development?
 14 A. Requires water and sewer.
 15 Q. Those have to be paid for
 16 somehow, correct?
 17 A. Correct.
 18 Q. Another question I have, we've
 19 looked at the township TIF district
 20 identified here in Plaintiffs' Exhibit B,
 21 and if I'm looking at this correctly, that
 22 includes areas like the Cracker Barrel or
 23 say Wal-Mart and even some Spears
 24 property, I believe, behind Wal-Mart.
 25 Do you know what I'm referring

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1 to, those areas?
 2 A. I do.
 3 Q. If they have a TIF implemented
 4 on them, and say Cracker Barrel has a
 5 drive-through window or something, they
 6 are not allowed to tax those improvements,
 7 do you think it would be appropriate to
 8 exclude those from the fire district as
 9 well?
 10 MS. HAYDEN: Objection. That is
 11 not reasonably calculated to lead to
 12 discoverable evidence.
 13 Go ahead and answer.
 14 A. I have no opinion on that TIF,
 15 how it works.
 16 BY MR. BACON:
 17 Q. Well, you before talked about
 18 wanting people to pay their fair share in
 19 looking at the township as a whole; is
 20 that correct?
 21 A. Yes.
 22 Q. Do you think that if those
 23 properties have improvements on them, they
 24 are no longer paying their fair share and
 25 shouldn't receive services?

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1 MS. HAYDEN: Same objection. Go
 2 ahead.
 3 A. You're saying that only the
 4 difference of the improvement versus --
 5 BY MR. MILLER:
 6 Q. That's all the TIF prevents
 7 collection of taxes on, on the
 8 improvements.
 9 A. On an existing property?
 10 Q. Yes.
 11 A. So the base will be higher on
 12 those.
 13 Q. Base will be higher on those.
 14 A. Again, comes into a financial
 15 impact of how much that improvement is and
 16 what it's going to do to the call load.
 17 Q. I think you said before those
 18 are largely unquantifiable?
 19 A. At the beginning.
 20 Q. When you're trying to figure out
 21 the call load then for, say, the area of
 22 Cornerstone where Costco is, do you put
 23 some stock in or lend some credence to the
 24 Springdale Fire Department experience with
 25 their Costco?

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1 A. It helped me understand what the
 2 Costco store itself runs.
 3 Q. Now, you're aware that
 4 Centerville doesn't have a fire
 5 department, you're aware of that, right?
 6 A. Yes.
 7 Q. Are you aware of the type of
 8 annexation that occurred with regard to
 9 this Cornerstone development in
 10 Centerville?
 11 A. Type II annexation.
 12 Q. Are you aware as a part of that
 13 Centerville was not obligated to provide
 14 fire services?
 15 A. My understanding in the
 16 annexation agreement. I have not seen the
 17 agreement.
 18 Q. The annexation agreement does
 19 not call for fire services?
 20 A. From the City of Centerville?
 21 Q. Yes.
 22 A. That's my understanding.
 23 Q. Okay.
 24 So if there's a township
 25 resolution which says that you will only

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1 be providing services to the area
 2 encompassed in your fire district as shown
 3 in, I think, Exhibit C in front of you,
 4 and if Centerville has no obligation in
 5 the Type II annexation, is anyone
 6 obligated to respond if a call comes in
 7 from that property or the area of 675 that
 8 is excluded?
 9 MS. HAYDEN: Again, calls for a
 10 legal conclusion.
 11 A. I don't know about the legality
 12 of it. If it's not in my fire district, I
 13 don't cover it.
 14 BY MR. BACON:
 15 Q. I think you already indicated
 16 that residents of Sugarcreek use 675,
 17 correct?
 18 A. Yes.
 19 Q. And they use Feedwire?
 20 A. Yes.
 21 Q. And they use Wilmington?
 22 A. Yes.
 23 Q. If it's no longer your
 24 obligation once that fire district goes
 25 into effect to provide services, is that

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1 making the lives and property of the
 2 residents of Sugarcreek Township safer or
 3 placing them -- making them less safe?
 4 A. It's speculation of no coverage
 5 from that kind of question.
 6 Q. Assuming there is no coverage
 7 then.
 8 A. You didn't tell me there's no
 9 coverage. There's risk.
 10 Q. So if there's no coverage,
 11 they're less safe because there's no
 12 coverage?
 13 A. Those are your words.
 14 Q. Well, how would you phrase it
 15 then?
 16 A. There's a risk.
 17 Q. Based on your experience, 26
 18 years, and your earlier statement that
 19 those are the most likely trafficked and
 20 accident-prone areas, is there a
 21 likelihood people are more in danger -- is
 22 there a higher probability of people being
 23 in danger for lack of services?
 24 MS. HAYDEN: Objection. Calls
 25 for speculation.

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1 Go ahead and answer.
 2 A. It's a high-accident area.
 3 BY MR. BACON:
 4 Q. Okay.
 5 So how does that translate to
 6 people being more or less safe without
 7 services?
 8 A. If there's no service, then
 9 there's a problem.
 10 Q. Because it's not as safe?
 11 A. There's no rescue to be gotten.
 12 Q. Okay.
 13 So are the residents better off
 14 in that situation?
 15 A. No.
 16 Q. Do you have any reason to
 17 believe what accounts for the variance in
 18 call rates between the Wal-Mart and, say,
 19 Target on your particular sheet there that
 20 you have, Captain Collier got together?
 21 A. We believe volume. That's our
 22 assumption of volume of a store.
 23 Q. I know you talked about various
 24 fire companies, Washington Township 44 and
 25 then Kettering 36, Bellbrook 22.

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1 Would any of them be in a
 2 position to respond to that area of 675
 3 that's excluded, Feedwire or Wilmington
 4 when compared to the Clyo station?
 5 A. Can you bring clarity to that
 6 question?
 7 Q. I'm not sure I can, but I'll do
 8 my best.
 9 A. Okay.
 10 Q. Well, granted that any given --
 11 any particular run can have certain
 12 difficulties, maybe there's a flat tire or
 13 a herd of cows in the road or something,
 14 but on average, just based on proximity,
 15 are those other stations going to be able
 16 to respond as quickly as your folks at the
 17 Clyo station?
 18 A. Not as quickly.
 19 Q. Can time of response and ability
 20 to respond quickly be a factor in
 21 controlling an accident scene?
 22 A. Yes.
 23 Q. And are you familiar with any
 24 of, I think, RFPs, or request for services
 25 that went out?

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1 A. I heard about them.

2 Q. I think actually you got cc'd.

3 Apparently there is some level of courtesy

4 within the department, a cc I saw to you

5 of one of the denials.

6 A. Somebody sent me -- somebody

7 e-mailed me one.

8 Q. That's what I mean. That's what

9 I mean by cc, they just copied you on an

10 e-mail.

11 Are you aware the Kettering fire

12 station indicates they don't have the

13 ability to service this area, training,

14 675?

15 A. I heard that.

16 Q. That is one less department that

17 would have the ability to respond there in

18 the most safe fashion?

19 A. They do respond up there with

20 us.

21 Q. But they don't have the training

22 to do it the same way you do?

23 A. I can't speculate on that. I

24 don't know what their training protocols

25 are.

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1 Q. If the chief of their department

2 would say, we don't have the training to

3 respond to there in the best manner, would

4 you defer to them on that?

5 A. Absolutely.

6 Q. Did I hear you correctly, you

7 were not consulted with regard to how this

8 map was drawn or what areas were included

9 or excluded?

10 A. I was not.

11 Q. And then we've talked earlier

12 about how a TIF works and a little bit

13 about how it's really just the

14 improvements which are given tax relief,

15 the base remains taxable, or at least you

16 still receive taxes on the base.

17 Is that your understanding?

18 A. Yes.

19 Q. Is there a certain base to this

20 Cornerstone development that you would

21 continue to receive?

22 A. If it remained in Sugarcreek

23 Township.

24 Q. It is still within Sugarcreek

25 Township, but if it was still within the

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1 fire district?

2 A. To my knowledge, that would go

3 away.

4 Q. Okay.

5 A. If it's excluded from the fire

6 district, it would go away.

7 Q. So you don't believe that you

8 would have to, I guess, repeal the

9 existing levies and then enact new levies

10 which would apply only to fire district

11 property?

12 A. That's above my pay grade.

13 Q. Okay.

14 I noticed that in one -- there

15 was an e-mail exchange between you and

16 Mr. Tiffany which referenced some kind of

17 a spreadsheet you had of a to-do list of

18 things to establish the fire district.

19 I don't want to say it like I'm

20 guessing. Let me see if I can get it. I

21 don't want to misquote anything.

22 (Plaintiffs' Exhibit G was

23 marked for identification.)

24 BY MR. BACON:

25 Q. Just go ahead and read through

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1 your portion of it and let me know when

2 you are done. It's not that long.

3 A. Okay.

4 Q. In that first sentence you talk

5 about attaching some different Excel

6 sheets.

7 A. Uh-huh.

8 Q. Just for purposes of the record,

9 that's a yes, correct?

10 A. Yes.

11 Q. Then that's about items to

12 verify change or concerns.

13 A. Correct.

14 Q. What did those pertain to?

15 A. The attachments certification

16 levy ballot, ballot language, and the

17 items I reviewed to make sure that we can

18 move from a fire department to a fire

19 district in an orderly fashion.

20 Q. What are the levies you're

21 referring to?

22 A. The five fire levies.

23 Q. What changes have to be made to

24 that? What has to go to the board of

25 elections on those?

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1 A. From what I read in the ballot
 2 language, it was to Sugarcreek Township,
 3 not Sugarcreek Township fire department.
 4 Q. Okay.
 5 A. So those stayed with the
 6 township. And if the district is
 7 Sugarcreek Township fire district, all it
 8 is is a name change and it was no change
 9 in the levies.
 10 Q. I can tell you I went through
 11 your stuff and I looked through
 12 Mr. Tiffany's stuff, the stuff that was
 13 produced at least, and I couldn't find
 14 those attachments anywhere.
 15 Would you happen to have those
 16 still?
 17 A. I would have them.
 18 Q. Can we please get copies of
 19 those?
 20 A. Yeah.
 21 Q. You're saying there is going to
 22 be some kind of name change with this?
 23 A. The Sugarcreek Township Fire
 24 District versus Sugarcreek Township Fire
 25 Department.

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1 Q. So at least there's a name
 2 change?
 3 A. That's the only thing I see.
 4 Q. I looked under some of the
 5 statutes and it talks about a township
 6 fire district being a separate subdivision
 7 of a township that was a separate taxing
 8 entity.
 9 Is that your understanding,
 10 albeit a layman's understanding?
 11 A. Two or more entities becoming is
 12 my understanding, not just one.
 13 Q. I know there are portions of the
 14 statute that says a board of township
 15 trustee may be elected or appointed to
 16 serve on the governing body of any
 17 district that is organized or created by
 18 the board of township trustees, and that
 19 includes districts formed under 50537.
 20 Now, I'll represent to you, and
 21 we can find it here, if you want, the
 22 resolution says this is formed under
 23 50537.
 24 To your knowledge, has there
 25 been any governing body created by the

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1 board of trustees to administer the
 2 township fire district?
 3 A. No.
 4 Q. And actually -- okay.
 5 Was there anything else then
 6 covered in these spreadsheets or these
 7 PDFs that are listed in this e-mail that
 8 we haven't talked about? Any other issues
 9 they address?
 10 A. What we talked about was the
 11 ballot language, Sugarcreek Township, and
 12 my checkoff list to Mr. Tiffany.
 13 Q. That ballot language, is that
 14 something you are going to change on the
 15 ballot? What is the change --
 16 A. There's no change.
 17 Q. I know you have the one levy
 18 that's expiring.
 19 Are there other levies that are
 20 just ongoing or in perpetuity?
 21 A. Yes.
 22 Q. Do all those refer to Sugarcreek
 23 Township?
 24 A. Yes.
 25 Q. Do any of them refer to

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1 Sugarcreek Township Fire District?
 2 A. No.
 3 Q. This is more of a curiosity than
 4 anything.
 5 We've got these text messages.
 6 This is just something I wanted to know.
 7 Did you hand type all those
 8 or --
 9 A. I forwarded them, and then I
 10 copied and pasted them into one sheet.
 11 Q. You forwarded them from your
 12 phone to your e-mail, and then cut and
 13 pasted them?
 14 A. Yes, because it came in like
 15 gibberish.
 16 Q. I was just curious.
 17 A. They came in obliterated and
 18 didn't make sense, so I copied and pasted
 19 them back to what they said.
 20 (Plaintiffs' Exhibit H was
 21 marked for identification.)
 22 BY MR. BACON:
 23 Q. Chief, I handed you what's been
 24 marked as Exhibit H. This consists of
 25 what, two e-mails between you and

<p style="text-align: right;">Page 106</p> <p>1 Mr. Tiffany?</p> <p>2 A. Looks like it, yes.</p> <p>3 Q. They talk in here -- I believe</p> <p>4 it's Mr. Tiffany's e-mail talks about</p> <p>5 getting calls to Kroger, Kohl's, Wal-Mart,</p> <p>6 et cetera.</p> <p>7 Do you feel like looking at</p> <p>8 those calls is beneficial in creating an</p> <p>9 estimate with regard to what load some</p> <p>10 place like Cornerstone might create?</p> <p>11 A. It helps paint the picture.</p> <p>12 Q. So it can be a piece of the</p> <p>13 puzzle?</p> <p>14 A. Yes.</p> <p>15 (Plaintiffs' Exhibit I was</p> <p>16 marked for identification.)</p> <p>17 BY MR. BACON:</p> <p>18 Q. And then looking at this, which</p> <p>19 we marked as Exhibit I, this, I guess, is</p> <p>20 an e-mail change between you and Mr. Horn?</p> <p>21 A. Correct. E-mail, yes.</p> <p>22 Q. Just -- Mr. Horn is the city</p> <p>23 manager for the City of Centerville,</p> <p>24 right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 108</p> <p>1 down and we go down to a little ways in</p> <p>2 through here, it says number one is a true</p> <p>3 55 percent calculation based on the fire</p> <p>4 collected millage.</p> <p>5 Is that the TIF amount people</p> <p>6 are talking about or roughly that amount?</p> <p>7 A. Based on the number that</p> <p>8 Mr. Horn shared with me, and my projection</p> <p>9 on how possibly this thing could grow,</p> <p>10 that's how that number was determined.</p> <p>11 Q. With that fire district enacted,</p> <p>12 you would be forgoing that, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Also, can we please look at -- I</p> <p>15 think it is Exhibit E.</p> <p>16 A. This one?</p> <p>17 Q. Yeah. If you look at the very</p> <p>18 back page of it.</p> <p>19 You talk about an assumption of</p> <p>20 40 requests for service in this area, and</p> <p>21 then you have a breakdown for cost, don't</p> <p>22 you?</p> <p>23 Very last page. You can flip it</p> <p>24 over. It's on the back of the last page.</p> <p>25 A. I did an assumption, yes.</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. We just haven't talked about</p> <p>2 that before, so if someone reads this,</p> <p>3 they know who we are talking about.</p> <p>4 Were you trying to get some TIF</p> <p>5 funds to help with the grant for about</p> <p>6 \$45,000?</p> <p>7 A. I did not ask for TIF funds, I</p> <p>8 asked for funding.</p> <p>9 Q. Has this opportunity come and</p> <p>10 gone or is this an opportunity that is</p> <p>11 still out there?</p> <p>12 A. It's come and gone.</p> <p>13 Q. Is this the kind of thing that</p> <p>14 TIF dollars could have been used for, a</p> <p>15 new truck?</p> <p>16 A. By definition, yes.</p> <p>17 (Plaintiffs' Exhibit J was</p> <p>18 marked for identification.)</p> <p>19 BY MR. BACON:</p> <p>20 Q. We've marked Exhibit J.</p> <p>21 Is this a copy of an e-mail that</p> <p>22 you sent to Mr. Tiffany and then the</p> <p>23 trustees?</p> <p>24 A. Yes.</p> <p>25 Q. Looking at this, when you go</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Was that assumption based on</p> <p>2 looking at other things like the Kohl's</p> <p>3 numbers, the Wal-Mart numbers, the Kroger</p> <p>4 numbers, things like that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 So that comes out and you got a</p> <p>8 number down there of at least \$48,000?</p> <p>9 A. I'm not sure where you are at.</p> <p>10 Q. Bottom line. One-year total of</p> <p>11 base and call load, \$48,000?</p> <p>12 A. All right, okay.</p> <p>13 Q. So at 30 years, you multiply</p> <p>14 that by straight 30, that comes out to a</p> <p>15 little over \$1.4 million. You can assume</p> <p>16 that my math is correct on that.</p> <p>17 It looks to me like you looked</p> <p>18 at this 55 percent true calculation in</p> <p>19 September and it looks like the money you</p> <p>20 would collect based on a 55 percent is</p> <p>21 about \$2.8 million; is that correct?</p> <p>22 A. Based on that, but what you are</p> <p>23 missing is this calculation at the bottom</p> <p>24 is based on \$110 million tax base that the</p> <p>25 \$2.8 million is calculated on.</p>

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1 So you have to take ten times
 2 that number you got.
 3 Q. What number?
 4 A. Numbers are based on \$10 million
 5 tax base on the back page.
 6 The \$2.8 million is based on
 7 \$117 million based on the growth chart
 8 that's attached to this one.
 9 Q. I thought in this November 21st
 10 letter you based that on the number of
 11 calls you could expect after looking at
 12 things like Wal-Mart and Kohl's?
 13 That to me is an estimate of a
 14 number of runs, not based on a tax base.
 15 A. It's all based on that tax base.
 16 Q. Is this an estimate of the
 17 number of runs you can expect on the back
 18 side? Looking at Exhibit E, that one.
 19 A. I picked an assumption --
 20 Q. Okay.
 21 A. -- and from that assumption I
 22 created these numbers to give it an
 23 example of what that kind of system would
 24 look like.
 25 Q. Okay.

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1 A. I based it off \$10 million tax
 2 base, not a full buildout \$117 million tax
 3 base that the \$2.8 million at 55 percent
 4 is.
 5 Q. This is not talking about a tax
 6 base. We assume 40 requests.
 7 A. It's right here.
 8 Q. I understand you have a tax --
 9 million dollar tax base, but I think you
 10 told me earlier that the amount of calls
 11 is based upon the type of things you have
 12 in there and not on the dollar value of
 13 the tax base?
 14 A. Again, it's a whole. That was
 15 one of the assumptions of what the
 16 occupancy is.
 17 Q. Right.
 18 But Wal-Mart has a lot more
 19 calls than Target?
 20 A. That's correct.
 21 Q. Okay.
 22 It looked to me like you had
 23 looked at this and assumed 40 requests for
 24 service. Is that based on occupancy?
 25 A. All the factors are from

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1 occupancy, from land use to location to
 2 traffic patterns.
 3 Q. So you're saying these aren't
 4 comparing apples to apples?
 5 A. This would have a base plus a
 6 call load. Other one is a percentage of
 7 what the tax base is.
 8 Q. Okay.
 9 A. They are somewhat apples to
 10 apples, but they might be pears and apples
 11 because of how you have to derive that
 12 number.
 13 Q. When I asked you earlier and you
 14 said you can compare the benefit over time
 15 and whether there would be more of a cost
 16 for providing service to this development
 17 versus the amount it would take in given
 18 these 55 and 25 numbers, does this help
 19 you figure that, help you determine
 20 whether there would be a benefit?
 21 A. Again, it comes back to what
 22 they actually build in the development,
 23 the type of occupancies they have.
 24 We're trying to speculate here
 25 what the future is going to bring and it's

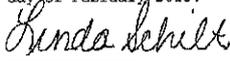
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1 hard to do.
 2 Q. Okay.
 3 MR. TIFFANY: Off the record
 4 real quick.
 5 (Off the record.)
 6 BY MR. BACON:
 7 Q. Are you familiar with whether
 8 there had been a request for
 9 antiannexation or promises not to annex
 10 future portions of Sugar Creek Township in
 11 any of these negotiations?
 12 A. We have always had an
 13 antiannexation stance in the township, and
 14 I also know it's been discussed at
 15 different times throughout different
 16 meetings.
 17 Q. Okay.
 18 MR. BACON: Let me take a break
 19 for a minute and I may be wrapping
 20 up.
 21 (A recess was taken from 3:45 to
 22 3:50.)
 23 MR. BACON: Chief, I looked
 24 through my notes, and obviously we
 25 have done this continuing thing

1 throughout, there are other aspects
 2 of the suit and you may be brought
 3 back to ask questions on that, but
 4 for the time being, I don't have any
 5 further questions.
 6 Mr. Miller does. He can ask a
 7 follow up or so.
 8 MR. MILLER: I think I do have
 9 one.
 10 FURTHER EXAMINATION
 11 BY MR. MILLER:
 12 Q. There's an exhibit in front of
 13 you, I think H, February 9, 2014.
 14 MS. HAYDEN: About a public
 15 records request?
 16 MR. MILLER: Yeah, that's it.
 17 BY MR. MILLER:
 18 Q. The last paragraph there talks
 19 about data showing the commercial corridor
 20 and apartment total of all call load.
 21 Did you assemble that data?
 22 A. I don't remember.
 23 Q. Was that supposed to be the
 24 present information that you had or was
 25 that supposed to be on a complete buildout

1 those?
 2 A. I don't know. I'd have to look.
 3 Q. Did you provide that information
 4 to the trustees or to Mr. Tiffany?
 5 A. That's why, I don't remember if
 6 I did.
 7 MR. MILLER: All right. That's
 8 all I have for today.
 9 MS. HAYDEN: Waive signature.
 10
 11 Signature waived.
 12
 13 - - -
 14 DEPOSITION ADJOURNED AT 4:00 P.M.
 15 - - -
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 of this Cornerstone development?
 2 A. I don't remember where this
 3 lands today.
 4 Q. Sorry, can you say that again?
 5 A. I don't remember where this
 6 landed today.
 7 I don't remember about this
 8 data. I'd have to go see if I have data
 9 from back then.
 10 Q. But that -- it says, all
 11 commercial development along the corridor.
 12 I assume that's the corridor we were
 13 discussing earlier that you share services
 14 on, is that what we're talking about the
 15 corridor, Wilmington Pike?
 16 A. We call the corridor there Brown
 17 Road down to 725.
 18 Q. Yes.
 19 It says, plus apartments. What
 20 are you talking about apartments? Is that
 21 also in the corridor or somewhere else?
 22 A. I'm going to assume that would
 23 be a couple large apartment complexes that
 24 we have in the township today.
 25 Q. What's the demand load for

1 C E R T I F I C A T E
 2
 3 STATE OF OHIO :
 4 : SS
 5 COUNTY OF FRANKLIN:
 6 I, Linda Schilt, the undersigned, a duly
 7 qualified and commissioned notary public within
 8 and for the State of Ohio, do certify that before
 9 the giving of his deposition, RANDY PAVLAK was by
 10 me first duly sworn to depose the truth, the
 11 whole truth and nothing but the truth; that the
 12 foregoing is the deposition given at said time
 13 and place by RANDY PAVLAK, that I am neither a
 14 relative of nor employee of any of the parties or
 15 their counsel, and have no interest whatever in
 16 the result of the action; that I am not, nor is
 17 the court reporting firm with which I am
 18 affiliated, under a contract as defined in Civil
 19 Rule 28(D).
 20 IN WITNESS WHEREOF, I hereunto set my hand
 21 and official seal of office at Columbus, Ohio,
 22 this 25th day of February, 2015.
 23 
 24 Linda Schilt
 25 Notary Public - State of Ohio
 My commission expires July 29, 2019

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Randy Pavlak

From: Ken Collier
Sent: Wednesday, November 19, 2014 6:51 PM
To: Randy Pavlak
Subject: RE: Numbers

Chief,

The numbers are as follows

Target	2
Wal-Mart	31
Kohls	7
Kroger	9
MVA(f)	4
MVA(w)	4

Cpt. Collier

From: Randy Pavlak
Sent: Wednesday, November 19, 2014 3:21 PM
To: Ken Collier
Subject: Numbers

Captain Collier,

I need these numbers by 10:00 AM 11/20/2014.

2013 Stat's

Calls to Target
Calls to Wal-Mart only
Calls to Kohls
Calls to Kroger
MVA –on Feedwire(Between Cyo and Wilmington)
MVA-on Wilmington (Between 675 and Brown)

Thanks,

Chief Pavlak

Randall J. Pavlak,



Fire Chief

Sugarcreek Township Fire Department



November 21, 2014

To: Board of Trustees and Mr. Tiffany

From: Fire Chief Pavlak

Ref: Centerville EMS/Fire Coverage TIF

Board of Trustees and Mr. Tiffany,

Since the Trustee meeting on Monday night, I have reviewed our services for the City of Centerville annexed area and the potential impact the new development will have on our demand for service in terms of call load. I have attached an excel spread sheet to illustrate the amount of tax evaluations, fire taxes, and call load for several business in our corridor area. Please see attachment (A).

I do agree that declining the proposed TIF service agreement was the correct decision to make. Sugarcreek Township should receive 100% of the tax revenue for providing emergency services. If we cannot obtain this amount then we need to negotiate. I also believe we need to openly and honestly negotiate with the City of Centerville to bring a successful conclusion to the TIF agreement. We must be ready to counter their offer with an acceptable level of funding. I have attached a draft agreement (attachment B) that I believe would benefit our department and the citizens of Sugarcreek Township. This agreement would bring about 81% of the estimated taxes. The agreement contains a baseline number along with the percentage of taxes as they grow. Remember that the money from this TIF service payment would be on top of the taxes we collect from the current tax base. This has a great advantage in the matter of not needing to ask the citizens of Sugarcreek for this amount of money on any upcoming fire tax levy. This new money will help us greatly.

If the City of Centerville rejects this offer I recommend that we offer a similar base plus percentage of taxes, with the base being paid until the taxes match or exceed the base number. Once the base number is achieved, we would receive the greater amount. This offer has a percentage of about 69%.



The third offer we could propose would be a base fee with a per call fee schedule. The fee schedule could be made up of three levels of EMS response and three levels of fire response. Each level would be based on the amount of resources we send to appropriately manage the call. The base fee would consider the overhead, fire inspections, and community activities we conduct each year. The base fee would be billed January 1 each year and the request for service calls would be billed quarterly. Please see attachment (C).

These three proposals offer several different ways to approach the funding issue with the City of Centerville. Each proposal places Sugarcreek Township in a better financial position than what was proposed by the City of Centerville.

The first proposal, upon build out of the project, is equivalent to .60 of a mil that we do not have to ask our citizens to vote on to increase fire funding. The first proposal brings stability to the budget for planning and staffing.

I do want to mention we have service areas that pay no taxes for our services. These include park lands, churches, state owned and county owned land.

In addition, I spoke with the Fire Chief that has covered Costco in Springdale, Ohio for the last 10 years. He states that they only run 2-3 calls per year to Costco.

Please review these ideas and let me know how you would like to proceed. Time is of the essence at this stage. Once we determine our plan, I believe that three of us should meet with three Centerville officials to come to a conclusion. It would be important to include myself, Mr. Tiffany, and one of the Trustees in the meeting to discuss with Mr. Horn, Mayor Kingseed and one other staff member from Centerville.

Please do not hesitate to call me or let me know and we can sit down and review.

Respectfully Submitted,

Randall J. Pavlak

Fire Chief

SUGARCREEK TOWNSHIP
RESOLUTION NO. 2014.12.15.01
 IN RE: Year 2015 Temporary Appropriations

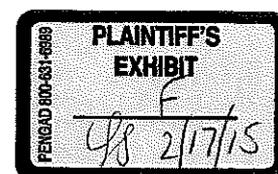
WHEREAS, the need exists to adopt temporary appropriations for the Year 2015; and,

WHEREAS, this temporary appropriation shall be in effect commencing at the close of business December 31, 2014, and extending until the Year 2015 Permanent Appropriations are approved no later than March 31, 2015; and,

WHEREAS, this temporary appropriation will permit the Township Offices to function without interruption as well as allowing ample time to establish exact carry-over figures,

NOW THEREFORE, BE IT RESOLVED, the Year 2015 Temporary Appropriations are as follows:

1000	General Fund	
	Personal Services (Salaries)	\$ 185,042.00
	Employee Benefits	\$ 140,550.00
	Purchased Services	\$ 74,100.00
	Supplies & Materials	\$ 11,000.00
	Other Dues and Fees	\$ 2,000.00
	Health Districts	<u>\$ 31,000.00</u>
	<i>Total General Fund:</i>	<i>\$ 443,692.00</i>
2011	Motor Vehicle Tax	\$ 15,000.00
2021	Gasoline Tax	\$ 100,000.00
2031	Road and Bridge	
	Personal Services	\$ 415,850.00
	Other	<u>\$ 420,344.00</u>
	<i>Total Road and Bridge:</i>	<i>\$ 836,194.00</i>
2081	Police District	
	Personal Services	\$1,905,000.00
	Other	<u>\$ 472,200.00</u>
	<i>Total Police District:</i>	<i>\$2,377,200.00</i>
2112	Fire District	
	Personal Services	\$1,942,065.00
	Other	<u>\$ 580,552.00</u>
	<i>Total Fire District:</i>	<i>\$2,522,617.00</i>
2181	Zoning	\$ 40,000.00



2231	Permissive Motor Vehicle License	\$ 80,000.00
2261	Law Enforcement Trust	\$ 11,000.00
2281	Ambulance and Emergency Medical	
	Personal Services	\$ 109,766.00
	Other	\$ 117,295.00
	<i>Total Ambulance and Emergency Medical:</i>	<i>\$ 227,061.00</i>
2902	Community Outreach	\$ 2,000.00
2903	9-1-1 Enhancement	\$ 30,500.00
2906	Police Trust Fund	\$ 89,000.00
3101	Bond Anticipation Note	\$ 198,900.00
3102	General Bond Retirement	\$ 142,675.00
4402	Ohio Public Works	\$1,544,937.72
4901	Clyo Road Capital Projects	\$ 308,738.00
Total Temporary Appropriations		\$8,969,514.72

FURTHER BE IT RESOLVED, that the above aggregate amounts be appropriated based upon the attached submittals (hereby incorporated) and a copy shall be sent to the Greene County Auditor.

Scott W. Bryant, Chairperson

Nadine S. Daugherty, Vice Chairperson

Michael E. Pittman, Trustee

Theodore L Hodson, Fiscal Officer

Barry Tiffany

From: Randy Pavlak
Sent: Friday, January 09, 2015 1:56 PM
To: Barry Tiffany
Cc: Joann Zimmerman
Subject: Information FD
Attachments: Certification of Levy for Ballot.pdf; Ballot Language Fire Levy 2013.pdf; Fire District Review 2014.xls

Barry,

Attached is a fire district excel sheet on items to verify, change or concerns. Also attached is a copy of the ballot language and certifications to the Board of Elections on the FD levy's. All languages are to Sugarcreek Township for the purpose of fire and ems coverage. This should help us with my concern on the money following us to a district.

Let me know if you need anything else.

Randall J. Pavlak,



Fire Chief

Sugarcreek Township Fire Department

4398 Clyo Road, Dayton, Ohio 45459

Office: (937)-848-7344

Fax: (937)-848-5185

Website: <http://sugarcreektownship.com/fw/main/Fire-Department-10.html>



Randy Pavlak

From: Randy Pavlak
Sent: Monday, February 03, 2014 12:29 PM
To: Barry Tiffany
Subject: RE: Greg Horn

Give me a call when you can.

Thanks

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

From: Barry Tiffany
Sent: Monday, February 03, 2014 11:16 AM
To: Randy Pavlak
Subject: Greg Horn

Chief,

I received a call from Greg Horn on Friday asking us to run numbers for him on calls to certain addresses. I think you had said that he had requested some numbers from you either earlier in the week or the week before. Did you give him anything? I don't want to duplicate our efforts and it feels like we might be.

Specifically, he is asking me for number of calls to Krogers, to Kohls, WalMart plaza on an each location basis. I think he's trying to build a case to justify on a per call basis that what they're offering to settle is more than sufficient. We both know he's wrong, but we need to go through the motions.

Let me know what you've provided to date and put together those breakouts if you would. I would also like the data you talked about the other day showing the commercial corridor and apartments totals of out call load.

Thanks.

BT



Randy Pavlak

From: Randy Pavlak
Sent: Wednesday, September 10, 2014 11:50 AM
To: 'Horn, Greg'
Subject: RE: Ladder Truck

Hi Greg,

We are taking delivery of the Ladder truck September 25th. Did you get the approval to help with the \$45,000.00 ? Sure would be good for all of us to press release the cooperation between Centerville and Sugarcreek!

Let me know where we are with this request.

Thanks,

Randy

From: Horn, Greg [<mailto:GHorn@centervilleohio.gov>]
Sent: Tuesday, August 19, 2014 2:37 PM
To: Randy Pavlak
Subject: RE: Ladder Truck

Thanks Randy. I know our mayor wants to make this happen. I need to get a ruling from our Bond counsel on pledging TIF proceeds now against future collections. Give me a week to follow up.

Gregory B. Horn, City Manager
City of Centerville
100 W. Spring Valley Road
Centerville, OH 45458
Phone: 937-433-7151
Fax: 937-435-8720
ghorn@centervilleohio.gov



From: Randy Pavlak [<mailto:firechief@sugarcreektownship.com>]
Sent: Tuesday, August 19, 2014 9:30 AM
To: Horn, Greg
Subject: Ladder Truck



Good morning Greg,

Can you give me an update on the City contributing \$44,500.00 towards the ladder truck grant matching fund requirement I spoke to you about a couple of weeks ago? I do believe this would be a great way for City of Centerville and Sugarcreek Twp. to begin the cooperation on the Cornerstone development project. This is the perfect TIFF funding expenditure as we discussed. This new ladder truck is a great asset to both the City and Township. The grant saves both entities hundreds of thousands of dollars. The ladder truck is due to arrive by the end of December.

If you like I can make a presentation to you and the council on the new ladder truck and its capabilities.

Randy Pavlak

From: Randy Pavlak
Sent: Friday, September 12, 2014 2:49 PM
To: 'rpav2@aol.com'
Subject: FW: Centerville
Attachments: Centerville TIF Funding 55% 9-14.xls; TIF Reimbursement Agreement Sugarcreek Centerville 2014.rtf

From: Randy Pavlak
Sent: Friday, September 12, 2014 2:34 PM
To: Barry Tiffany; Mike Pittman; Scott Bryant; 'Nadine Daugherty'; Ted Hodson
Cc: Joann Zimmerman
Subject: Centerville

Trustees, Mr. Hodson and Mr. Tiffany,

Attached is a counter proposal to Centerville for the TIF funding created by the Cornerstone TIF project. I believe this far more fair for Sugarcreek than what has been proposed by Centerville. Also attached is a spreadsheet analyzing potential revenue based on what Greg Horn has expressed and also a growth prediction over 30 years. With this proposal we would collect \$45,000.00 a year plus our share of the TIF service payment based on a true 55% of the collected amount. These payments would be derived by the Greene County Auditor calculations and paid by Centerville. I have talked with Dr. St. Pierre several times and he did provide the tentative agreement between Centerville and the schools for our review. I also talked with Mr. Graham about the millage. Mr. Grahman also indicated that Centerville has not filed their TIF with the county yet.

The spreadsheet has 4 different categories on it.

In column H row 60 is number 1

In column H row 65 is number 2

In Column H row 68 is number 3

In Column H row 71 number 4

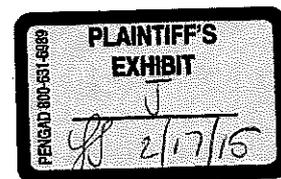
The 100% tax collection would be \$5,137,357.00 over 30 years based on growth projections.

Number 1 is a true 55% calculation based on the fire collected millage. \$2,825,546.00

Number 2 is the counter proposal attached. \$4,175,546.00

Number 3 is a middle ground to move to if needed. \$3,562,230.00

Number 4 is the 5% calculation based on the school agreement. \$2,549,138.00



Mr. Horn indicated the number would be around \$2,250,000.00 over the 30 years.

By using a true 55% number and the additional yearly Capital payment we would benefit our community by \$ 1,925,546.00 over the 30 years. It would also give us the yearly funding to pay for the fire engine replacements we need over the next 30 years without going back to the voters. The percentage method and yearly payments for capital assures us of the maximum recovery of dollars. If the project exceeds their estimates we would benefit by the larger collection

I would like to present this counter offer to Mr. Horn in the next 10 days with your approval.

All they can say is no!

Please let me know how you want to proceed.

Thanks,

Randall J. Pavlak,



Fire Chief

Sugarcreek Township Fire Department

4398 Clyo Road, Dayton, Ohio 45459

Office: (937)-848-7344

Fax: (937)-848-5185

Website: <http://sugarcreektownship.com/fw/main/Fire-Department-10.html>

Total	\$117,000,000.00	\$97,950,000.00	\$78,390,000.00	\$43,290,000.00		
Year	20	15	10	5		
Factor	0.35	0.35	0.35	0.35		
Sub T	\$40,950,000.00	\$34,282,500.00	\$27,436,500.00	\$15,151,500.00		
Milage	6.3534645	6.3534645	6.3534645	6.3534645	AVG.	
Sub T	\$260,174,371.28	\$217,812,646.72	\$174,316,828.75	\$96,264,517.37		
Divided	1000	1000	1000	1000		
Sub T	\$260,174.37	\$217,812.65	\$174,316.83	\$96,264.52		
Total/100%	\$2,601,743.71	\$1,089,063.23	\$871,584.14	\$481,322.59	\$5,043,713.68	
Total 55%					\$2,774,042.52	
Commercial-70%						
Total	\$117,000,000.00	\$97,950,000.00	\$78,390,000.00	\$43,290,000.00		
Factor	0.35	0.35	0.35	0.35		
Sub T	\$40,950,000.00	\$34,282,500.00	\$27,436,500.00	\$15,151,500.00		
70%	\$28,665,000.00	\$23,997,750.00	\$19,205,550.00	\$10,606,050.00		
Milage	6.64795	6.64795	6.64795	6.64795		
Sub T	\$190,563,486.75	\$159,535,842.11	\$127,677,536.12	\$70,508,490.10		
Divided	1000	1000	1000	1000		
Sub T	\$190,563.49	\$159,535.84	\$127,677.54	\$70,508.49		
Total	\$1,905,634.87	\$797,679.21	\$638,387.68	\$352,542.45	\$3,694,244.21	
Residential-30%						
Total	\$117,000,000.00	\$97,950,000.00	\$78,390,000.00	\$43,290,000.00		
Factor	0.35	0.35	0.35	0.35		
Sub T	\$40,950,000.00	\$34,282,500.00	\$27,436,500.00	\$15,151,500.00		
30%	\$12,285,000.00	\$10,284,750.00	\$8,230,950.00	\$4,545,450.00		
Milage	6.059534	6.059534	6.059534	6.059534		
Sub T	\$74,441,375.19	\$62,320,792.31	\$49,875,721.38	\$27,543,308.82		
Divided	1000	1000	1000	1000		
Sub T	\$74,441.38	\$62,320.79	\$49,875.72	\$27,543.31		
Total	\$744,413.75	\$311,603.96	\$249,378.61	\$137,716.54	\$1,443,112.86	
100% 30 years					\$5,137,357.07	
55% 30 years					1 \$2,825,546.39	
45000 x 30 years		\$1,350,000.00			2 \$4,175,546.39	
					81% vs 55%	
What If?	45000	5	\$225,000.00	\$1,305,396.32	\$2,031,834.00	3 \$3,562,230.32
						69% vs 55%
School @5% Diff.						4 \$2,549,137.50
						49.60%

EXHIBIT 8

SUGARCREEK TOWNSHIP
RESOLUTION NO. 2015.10.19.06
IN RE: Creation of Sugarcreek Township Fire District

WHEREAS, the Sugarcreek Township Board of Trustees has determined it expedient and necessary to guard against the occurrence of fires and to protect the property and lives of the citizens against damages resulting from their occurrence; and,

WHEREAS, in order to adequately guard against the occurrence of fires and to protect the property and lives of the citizens against damages resulting from their occurrence, the Sugarcreek Township Board of Trustees have identified the unincorporated area of Sugarcreek Township for inclusion into a Fire District; and,

WHEREAS, Ohio Revised Code § 505.37(C) allows for the creation of a fire district.

NOW THEREFORE BE IT RESOLVED, the Sugarcreek Township Board of Trustees hereby establishes and creates the "Sugarcreek Township Fire District," which Fire District shall consist of all of the unincorporated territory of Sugarcreek Township.

Introduced by Trustee Daugherty and seconded by Trustee BRYANT.

Upon roll call, the following resulted:

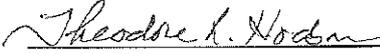
Trustee Michael E. Pittman: YES
Trustee Nadine S. Daugherty: YES
Trustee Scott W. Bryant: YES

Resolution duly adopted this 19th day of October, 2015.

Nadine S. Daugherty
Nadine Daugherty, Chairperson

Michael E. Pittman
Michael Pittman, Vice Chairperson

Scott W. Bryant
Scott Bryant, Trustee



Theodore L. Hodson, Fiscal Officer

EXHIBIT 9

SUGARCREEK TOWNSHIP
RESOLUTION NO. 2015.10.19.07

IN RE: RESOLUTION DECLARING THE NECESSITY FOR LEVYING A TAX
EXCEEDING THE TEN MILL LIMITATION AND AUTHORIZING REQUEST OF
COUNTY AUDITOR TO PROVIDE CERTAIN INFORMATION PURSUANT TO
OHIO REVISED CODE SECTION 5705.03(B)

WHEREAS, the Board of Trustees of Sugarcreek Township, Greene County, Ohio, (the "Board") previously formed and established the Sugarcreek Township Fire District consisting of the unincorporated areas of Sugarcreek Township, Greene County, Ohio; and

WHEREAS, the Board is the taxing authority for the Sugarcreek Fire District; and

WHEREAS, the amount of taxes which may be raised within the 10 mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the Sugarcreek Township Fire District and its Fire Department and that it is necessary to levy a tax in excess of the ten mill limitation for the purposes contained in Ohio Revised Code Section 5705.19(I); and

WHEREAS, prior to making a determination of the necessity for a levy, the Township is required to certify a request to the County Auditor for certain information.

NOW THEREFORE, upon motion of TRUSTEE BRYANT,
seconded by TRUSTEE DAUGHERTY, BE IT RESOLVED BY THE
BOARD OF TRUSTEES OF SUGARCREEK TOWNSHIP, GREENE COUNTY, OHIO,
THAT THE FOLLOWING RESOLUTION BE AND IT HEREBY IS ADOPTED:

1. This Board declares that it is necessary to levy a tax in excess of the ten mill limitation for the benefit of Sugarcreek Fire District, pursuant to Section 5705.19(I) of the Ohio Revised Code, for the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company.

2. The Greene County Auditor is hereby requested to certify to the Sugarcreek Township Board of Trustees the total current tax valuation of Sugarcreek Township (unincorporated areas only) and the dollar amount of revenue that would be generated by the following additional Fire District tax levy:

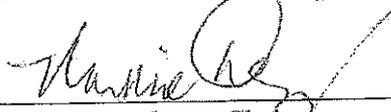
a) 5.3 mill

3. The above referenced proposed levy would be new and additional tax for a five (five) year period and would be placed upon on the primary election ballot to be held on March 16, 2016 for the purposes contained in Ohio Revised Code Section 5705.19(I). The proposed levy would be placed upon the tax list and duplicate of 2016 for collection in 2017, if a majority of the electors voting thereon vote in favor thereof.

4. The Township Fiscal Officer is hereby authorized and directed to certify a copy of this resolution request to the Greene County Auditor and if necessary, the Greene County Board of Elections.

5. It is hereby declared that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of the Board and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

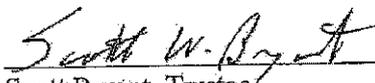
This Resolution shall take effect and be in force from and after the earliest time provided by law.



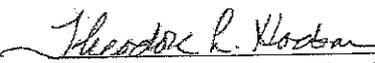
Nadine Daugherty, Chairperson



Michael Pittman, Vice Chairperson



Scott Bryant, Trustee



Theodore L. Hodson, Fiscal Officer

CERTIFICATION

The undersigned Fiscal Officer of the Board of Township Trustees of Sugarcreek Township, Greene County, Ohio, hereby certifies that the foregoing is a true copy of a Resolution duly passed by the Sugarcreek Township Board of Trustees on October 19, 2015.



Theodore Hodson, Fiscal Officer
Sugarcreek Township

EXHIBIT 10

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2015.10.19.08**

**IN RE: A RESOLUTION DECLARING AN INTENTION TO TERMINATE FIVE
SUGARCREEK TOWNSHIP FIRE PROTECTION LEVIES CONTINGENT UPON
VOTER APPROVAL OF A 5.30 MILL SUGARCREEK TOWNSHIP FIRE DISTRICT
LEVY ON THE MARCH 16, 2016 PRIMARY BALLOT**

WHEREAS, the voters of Sugarcreek Township have approved Sugarcreek Fire Protection (Fire Department) continuing levies of .30 mill in 1982, 2.90 mill in 1996, 1.30 mill in 2005, 1.30 mill in 2009 and a five (5) year levy of 2.00 mill in 2013, with all levies totaling 7.80 mill.

WHEREAS, in order to phase out the Township's current Fire Department, the Board of Trustees (the "Board") of Sugarcreek Township, Greene County, Ohio, on October 19, 2015, passed a resolution requesting the Board of Elections to place, on a Township-wide basis for the unincorporated areas, a 5.3 mill levy for the operation of the Sugarcreek Township Fire District on the March 16, 2016 primary ballot; and

WHEREAS, the Board, by placing a 5.30 mill Fire levy on the ballot, is asking the residents of the Township to approve changing the taxing bodies from the "department" to the Township Fire District; and

WHEREAS, the approval of the 5.30 mill Fire levy on the March 16, 2016 primary ballot is intended, in effect, to replace the current Fire Department levies (originally totaling 7.80 mills) and will not increase taxes for those Township residents currently subject to the Fire Department levies; and

WHEREAS, if the residents of Sugarcreek Township approve the 5.30 mill Fire levy on the March 16, 2016 primary ballot, the Board believes it is in the best interest of the Township and its residents to terminate the existing Fire Department levies totaling 7.80 mills.

NOW THEREFORE, upon motion of Trustee Pittman, seconded by Trustee Daugherty, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF SUGARCREEK TOWNSHIP, GREENE COUNTY, OHIO, THAT THE FOLLOWING RESOLUTION BE AND IT HEREBY IS ADOPTED:

Section 1. Contingent upon the approval by the voters of Sugarcreek Township of a 5.30 mill Township-wide Fire District levy on the March 16, 2016 primary ballot, the Board of Trustees will terminate the five existing Fire District levies, of .30 mill approved in 1982, 2.90 mill approved in 1996, 1.30 mill approved in 2005, 1.30 mill approved in 2009 and a five (5) year levy of 2.00 mill approved in 2013.

Section 2. It is hereby declared that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an

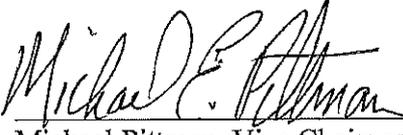
open meeting of this Board, and that all deliberations of the Board and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

This Resolution shall take effect and be in force from and after the 19th day of October, 2015.

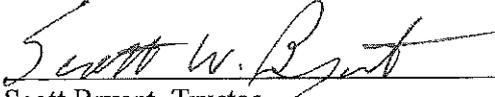
ADOPTED: October 19, 2015



Nadine Daugherty, Chairperson



Michael Pittman, Vice Chairperson



Scott Bryant, Trustee



Theodore L. Hodson, Fiscal Officer

EXHIBIT 11

Page 1

SUGARCREEK TOWNSHIP BOARD OF TRUSTEES
REGULAR SESSION
MONDAY, OCTOBER 19, 2015

Nadine S. Daugherty, Chairperson
Michael E. Pittman, Vice Chairperson
Scott W. Bryant, Trustee
Theodore L. Hodson, Fiscal Officer

Page 2

1 (Thereupon, the following was
2 transcribed via audio recording.)
3 MS. DAUGHERTY: Okay. Call this
4 meeting to order and everyone -- we'll do roll
5 call first. Sorry.
6 THE CLERK: Okay. Mr. Pittman.
7 MR. PITTMAN: Here.
8 THE CLERK: Mr. Bryant.
9 MR. BRYANT: Here.
10 THE CLERK: Ms. Daugherty.
11 MS. DAUGHERTY: Here.
12 Everyone raise for the Pledge of
13 Allegiance, please.
14 (Pledge of Allegiance recited.)
15 MS. DAUGHERTY: I want to thank
16 everyone for coming. It's nice to see a big
17 crowd. We're going to go ahead and do our
18 promotion of the full-time police sergeant,
19 Gabriel Plummer. We'll do that first. So I'll go
20 ahead and read the resolution and then we can have
21 the celebration.
22 Whereas, the continuing need exists
23 to maintain proper staffing within the SugarCreek
24 Township Police Department;
25 Whereas, a vacancy exists within the

Mike Mobley Reporting
800-894-4327

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1 classification of full-time police sergeant;
2 Whereas, a vacancy was posted
3 internally for applicants in accordance with
4 township policy and the current labor contract;
5 Whereas, an assessment center was
6 conducted with these applicants which included
7 testing in basic exercises and the review board;
8 And whereas, all applicants tested
9 interviewed and scored well during the process and
10 Chief Michael Brown in his October 8, 2015
11 correspondence to the township administrator has
12 recommended the appointment of this candidate;
13 Whereas, Officer Gabriel Plummer was
14 appointed a full-time police officer with
15 SugarCreek Township on December 18, 2006;
16 Whereas, Officer Gabriel Plummer has
17 shown himself to be a dedicated employee;
18 Whereas, Officer Plummer meets all
19 the requirements for this promotion and accepts
20 full responsibility for this position.
21 Now therefore, be it resolved, that
22 Full-Time Police Officer Plummer shall be promoted
23 to full-time police sergeant for the police
24 department effective October 19th, 2015 at a rate
25 of \$30.05 per hour payable on a biweekly basis and

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Page 4

1 subject to a one-year probationary period ending
2 October 20th, 2016.
3 MR. PITTMAN: Second.
4 MS. DAUGHERTY: Does anyone have any
5 comments?
6 MR. PITTMAN: Yeah, real quick, I
7 just want to mention that I've known Gabe for a
8 long time. In fact, when I first took office,
9 Gabe was our zoning officer and I remember sitting
10 in a meeting and I -- Gabe had prepared something
11 and I'm not sure what it was and I disagreed with
12 him and I said, Gabe, I don't think you're correct
13 on this and he basically looked at me and said,
14 yes, I am. And --
15 MS. DAUGHERTY: And he was.
16 MR. PITTMAN: And he was. But, you
17 know, and honestly -- I honestly respected that
18 from Gabe, that he was willing and able to stand
19 up for what he had done and Gabe has been a good
20 police officer for us for many years and I'm very
21 proud and happy, Gabe, that you're moving up the
22 ranks.
23 MR. PLUMMER: Thank you.
24 (Applause.)
25 MR. BRYANT: As a township we don't

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1 have -- you know, our budgets are tight, sometimes
2 promotions come slower than we would like; but
3 fortunately, you know, we're able to promote you
4 tonight and it's well deserved. You're a great
5 police officer, great asset to the township, just
6 very excited for you and the opportunities this is
7 going to present to you. Congratulations.

8 MR. FLUMMER: Thank you.

9 MS. DAUGHERTY: I say the same thing.
10 I've known you since I've been a trustee in the
11 beginning. Remember when you were our zoning
12 officer and I remember you were so detailed and
13 just really a great writer and just really serious
14 and just the kind of person that made a good
15 zoning officer and will also make a good sergeant.
16 You've always been a great asset to our department
17 and I'm just real happy for you.

18 MR. FLUMMER: Thank you.

19 MR. BRYANT: So before we vote,
20 Chief, do you have anything to add?

21 CHIEF BROWN: You know, it is an
22 exciting time for us. I know Gabe is excited
23 about this. It's a great opportunity. We expect
24 big things from him and I'm quite sure he'll
25 follow through with everything we've asked. So

1 we're really pleased.

2 MS. DAUGHERTY: Want to take the
3 roll, please.

4 THE CLERK: Yes. Mr. Pittman.

5 MR. PITTMAN: Yes.

6 THE CLERK: Mr. Bryant.

7 MR. BRYANT: Absolutely.

8 THE CLERK: Ms. Daugherty.

9 MS. DAUGHERTY: Absolutely.

10 Okay. Do we have anything we need to
11 pin on him?

12 CHIEF BROWN: Yep.

13 MR. BRYANT: You guys can feel free
14 to come closer too if it's easier for you. Don't
15 be shy at this point.

16 MS. DAUGHERTY: Yeah, get a group
17 picture.

18 (Indiscernible conversations.)

19 MR. BRYANT: That's what happens. If
20 she doesn't draw blood it doesn't count.
21 Congratulations.

22 (Applause.)

23 UNIDENTIFIED SPEAKER:
24 Congratulations. Congratulations, Sergeant.

25 (Indiscernible conversations.)

1 MR. BRYANT: Somebody has got to get
2 her down in front. We can't see --
3 (Indiscernible conversations.)

4 MR. TIFFANY: We close at 10. If
5 only that was true.

6 MS. DAUGHERTY: That's not true. We
7 can be here until midnight.

8 (Pictures being taken.)

9 (Applause.)

10 MR. TIFFANY: You folks are welcome
11 to take off if you like. We don't expect you to
12 sit around and suffer.

13 MS. DAUGHERTY: Go out to dinner.
14 These are the good parts of the meeting.

15 UNIDENTIFIED SPEAKER: Thank you.
16 You did a very good job. Thank you so much.

17 MS. DAUGHERTY: Okay. We can move on
18 down to community activities. Does anyone have
19 anything to bring up --

20 MR. BRYANT: We've got Halloween,
21 right, coming up?

22 MS. DAUGHERTY: I was going to say
23 Trick Or Treat, Saturday, October 31st, and that's
24 for Bellbrook and Sugarcreek so that's good it's
25 the same night.

1 And the farmers market, when does
2 that end, Cara?

3 MS. TILFORD: End of November.

4 MS. DAUGHERTY: End of November.

5 MR. TIFFANY: Yeah, it goes through
6 the second week of November and then it's once a
7 month after that.

8 MS. DAUGHERTY: Okay. And yeah, they
9 had the Halloween in the Park this weekend.

10 (Indiscernible conversation.)

11 MR. PITTMAN: Now, half of you want
12 to shift over here?

13 MS. DAUGHERTY: Yes. The room is
14 tilted now.

15 UNIDENTIFIED SPEAKER: I'll speak
16 about Halloween in the Park on Saturday.

17 MS. DAUGHERTY: Okay. Yeah, that
18 was --

19 UNIDENTIFIED SPEAKER: Big crowd.

20 MS. DAUGHERTY: Big crowd, good.

21 UNIDENTIFIED SPEAKER: Yeah, much --
22 well, nicer weather too. It was cold but last
23 year it was raining. There was a lot of -- a lot
24 of people, a lot of kids.

25 MS. DAUGHERTY: That's good. And I

1 would like to thank our three candidates who are
2 here in the audience for doing the contest
3 judging.

4 UNIDENTIFIED SPEAKER: It was fun.

5 MS. DAUGHERTY: It was really good to
6 see you guys all working together and I bet it was
7 fun.

8 UNIDENTIFIED SPEAKER: It was fun.
9 (Indiscernible.)

10 MS. DAUGHERTY: Okay. Is there
11 anything else on the community activities?

12 Let's move on down to our reports
13 then. Do you have anything, Barry, that you want
14 to change or add?

15 MR. TIFFANY: No. No. Just very
16 busy. We just started interviewing chief -- the
17 fire chief candidates today. Working on
18 legislative issues at the state also. It's --
19 it's very busy.

20 MS. DAUGHERTY: It's always busy.
21 Does anybody have any questions for Barry?

22 UNIDENTIFIED SPEAKER: No.

23 MS. DAUGHERTY: Okay. Fiscal
24 officer. Do we have anything from you, Ted, that
25 you want to (indiscernible) --

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1 MR. HODSON: No, I don't. Well,
2 yeah, I got one thing here on -- which is in
3 the --

4 MR. TIFFANY: Agenda.

5 MR. HODSON: Yeah, the agenda down
6 here, on the consent agenda items. Thank you,
7 Barry.

8 MR. TIFFANY: You're welcome.

9 MR. HODSON: Accepting the amounts
10 and rates is usual. It's a resolution we need to
11 send back to the county about the rates on our
12 levies and the good news is this year we've got
13 due to the CAUB recoupment, we are getting about
14 an additional \$87,000 on our total taxes.

15 MS. DAUGHERTY: Okay. That would be
16 for the general fund?

17 MR. HODSON: Huh?

18 MS. DAUGHERTY: That's on the general
19 fund?

20 MR. HODSON: No. That's spread
21 across all the funds.

22 MR. TIFFANY: That's all departments.

23 MS. DAUGHERTY: All departments.

24 Okay.

25 MR. HODSON: The bulk of it goes to

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1 police and fire.

2 MS. DAUGHERTY: That's good. That's
3 what I thought. Okay.

4 MR. BRYANT: And didn't we get a
5 letter about the audit?

6 MR. HODSON: Yes, we did.

7 MR. TIFFANY: We did okay again.

8 MR. HODSON: Yes. It was a good
9 audit. There is nothing -- they foregoed meeting.
10 There was nothing substantial to talk about.

11 There was no findings of any sort other than they
12 had some suggestions is what it amounted to,
13 suggestions what they thought we should do. I
14 don't necessarily agree with all of their
15 suggestions; but as long as I can run them my way,
16 that's good.

17 MS. DAUGHERTY: (Indiscernible) they
18 were interfering.

19 MR. BRYANT: What's our township
20 budget?

21 MR. HODSON: I haven't figured for
22 '16. I haven't done the revenue yet to certify
23 that, add in all the changes we've had. This year
24 I think it was somewhere around -- you have to
25 look at it two ways, Scott.

Mike Mobley Reporting
800-894-4327

1 MR. BRYANT: I just want to know --

2 MR. HODSON: Well, there is budget
3 and budget. We appropriate money that we operate
4 on and spend. Most people consider that the
5 budget. The actual is all the money altogether
6 that we figure ahead of time we will have for next
7 year and that would be somewhere around \$10
8 million.

9 MR. BRYANT: Right. That's where I
10 was going.

11 MR. HODSON: Yeah.

12 MR. BRYANT: So I think this audit
13 sounds like it's no big deal, it's a piece of
14 cake.

15 MS. DAUGHERTY: It is though.

16 MR. HODSON: It's a lot. It's a
17 grueling thing. They spend a lot of time here.
18 They try to nickel and dime you to death. They
19 turn over every stone they can find. So --

20 MS. DAUGHERTY: It's a big deal.

21 MR. BRYANT: It was a -- it was a
22 great accomplishment to have a \$10 million annual
23 budget for a township like this and to come out
24 with no findings.

25 MS. DAUGHERTY: It certainly is.

Mike Mobley Reporting
800-894-4327

1 MR. BRYANT: That's a tremendous --
 2 MR. HODSON: Thank you.
 3 MS. DAUGHERTY: And that's because --
 4 it's because you're so qualified. You know what
 5 you're doing,
 6 MR. PITTMAN: Well, what's
 7 interesting about that too, Ted, it shows what
 8 you've done. There's been times when the
 9 township --
 10 MS. DAUGHERTY: Yeah, it had bad
 11 audits --
 12 MR. PITTMAN: -- that we were in dire
 13 straights with the state over our finances.
 14 MS. DAUGHERTY: Oh, yeah. I
 15 remember.
 16 MR. PITTMAN: The way certain things
 17 were being handled. So --
 18 MR. BRYANT: It wasn't that long ago
 19 our general fund was -- was looking pretty dire
 20 and that's turned around.
 21 MS. DAUGHERTY: Well, it's great to
 22 have a qualified --
 23 MR. HODSON: Well, we -- well, we
 24 have a good staff here. Barry and Cara assist a
 25 bunch. And they're always looking too. They've

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1 always got their eye open for anywhere we can pick
 2 up additional moneys. And we've been fortunate,
 3 we have come through better than a lot of general
 4 funds in the townships in the state of Ohio. A
 5 lot of them are looking now at putting on
 6 operating levies just to stay afloat. So --
 7 MR. PITTMAN: You're saying in the
 8 next year we'll be around the 10 million mark more
 9 than likely?
 10 MR. HODSON: No. We won't have all
 11 of that Clio money the Ohio Public Works have put
 12 on there. We've been spending that like crazy
 13 this year. So --
 14 MS. DAUGHERTY: On the roads.
 15 MR. HODSON: -- I think we may be
 16 more in the --
 17 MR. TIFFANY: Probably eight.
 18 MR. HODSON: -- eight million
 19 category. Eight and a half.
 20 MR. PITTMAN: Okay.
 21 MR. BRYANT: That's still -- that's a
 22 significant budget and --
 23 MR. TIFFANY: That's a lot of
 24 transactions.
 25 MR. BRYANT: A lot of transactions

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1 across four different departments. That's a --
 2 that's a good accomplishment, Ted.
 3 Congratulations.
 4 MS. DAUGHERTY: Congratulations.
 5 MR. HODSON: Thank you.
 6 MS. DAUGHERTY: Move on to fire. Do
 7 we have anything from Chief Zimmerman from the
 8 fire? Do you have anything you want to add or
 9 contribute? Anybody have any questions on the
 10 report?
 11 MR. PITTMAN: No, I don't have
 12 anything.
 13 MS. DAUGHERTY: I don't either so
 14 move on down to police. Anything for Chief Brown?
 15 Do you have anything you want to add?
 16 MR. BRYANT: I don't have anything.
 17 MR. PITTMAN: I have nothing to add.
 18 MS. DAUGHERTY: Roads and services.
 19 MR. TIFFANY: We're still trying to
 20 work through the salt issue that's out there.
 21 Most of the paving is done. We do have one road
 22 yet to pave and I anticipate that may be sometime
 23 this week and next week at the latest. Ferry Road
 24 south will get paved and that should take care of
 25 the paving cycle this year.

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1 MS. DAUGHERTY: And you said about
 2 the salt getting -- did we get rid of that bad
 3 salt?
 4 MR. TIFFANY: Not yet. Not yet. We
 5 sent a sample down to their headquarters,
 6 Louisiana for them to analyze it. They came back
 7 with an analysis on it that it was okay. I -- I
 8 said that's not the case. I've asked for a copy
 9 of the analysis and I've not received it. I do
 10 have an interested buyer in that and he and I
 11 played phone tag today.
 12 MS. DAUGHERTY: Okay.
 13 MR. TIFFANY: So either way I think
 14 we'll be able to offload what's out there and get
 15 the proper product in. But it doesn't sound like
 16 the folks at Louisiana are going to be willing to
 17 do much for us. Which stinks.
 18 MS. DAUGHERTY: Yeah, it does.
 19 MR. TIFFANY: It really stinks.
 20 MR. BRYANT: I would be surprised.
 21 MR. TIFFANY: Yeah.
 22 MR. BRYANT: I would have been
 23 surprised if they would have.
 24 MR. TIFFANY: Yeah.
 25 MR. BRYANT: So if we sell that off,

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1 are we able to -- do we have enough to get into
2 the season?
3 MR. TIFFANY: Yes.
4 MR. BRYANT: And have what, two new
5 buys?
6 MR. TIFFANY: We've got a contract
7 with another salt provider also. We went with two
8 sources this year just in case there was a
9 shortage and it's about the same price. So it's
10 actually a couple bucks cheaper. So we'll just
11 order -- order that to start also, which starts I
12 think November 1st.
13 MR. BRYANT: Okay.
14 MR. TIFFANY: But, you know, if we
15 had to use it right now, we'll use it.
16 MS. DAUGHERTY: We're going to
17 continue with beet juice?
18 MR. TIFFANY: Yeah. Oh, yeah.
19 MS. DAUGHERTY: All right. Anybody
20 else? Zoning. Oh, I'm sorry.
21 MR. PITTMAN: I -- did you want to
22 bring up or do you want to do a trustees' report
23 regarding Ferry Road.
24 MS. DAUGHERTY: Yeah, he mentioned
25 that's going to be paved and you said two or three

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1 weeks and that's the end of our cycle.
2 MR. TIFFANY: It's probably later
3 this week or sometime next week it should be done.
4 MS. DAUGHERTY: At the end of our
5 cycle.
6 MR. TIFFANY: And I anticipate them
7 to do that as -- what's that they call -- what
8 they say is one pull (phonetic) for the most part.
9 So in other words, they set the width of the
10 paving machine at the width of the road --
11 MS. DAUGHERTY: Right.
12 MR. TIFFANY: -- and they pave all
13 the way from one end to the other with that,
14 instead of doing one lane and then the other. So
15 there is no seam in the middle, which is better
16 for us. It's a little bit of an inconvenience to
17 the property owners --
18 MR. BRYANT: Because you have to
19 close the whole road.
20 MS. DAUGHERTY: But how long is it --
21 MR. BRYANT: Just a little bit --
22 MR. TIFFANY: Yeah, they can drive on
23 it right away behind them.
24 MS. DAUGHERTY: Yeah, but they'll --
25 they'll be happy with that. They'll be fine.

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1 MR. TIFFANY: But it's -- it will
2 be -- it should be great.
3 MS. DAUGHERTY: How long will it take
4 though?
5 MR. TIFFANY: One day.
6 MS. DAUGHERTY: One day and then --
7 MR. TIFFANY: Yeah, hopefully one
8 day.
9 MR. PITTMAN: We've -- we've started
10 practicing certain locations in chip sealing in
11 some of our roads versus paving.
12 MS. DAUGHERTY: Yeah, it's not
13 acceptable.
14 MR. PITTMAN: Because of the dollar
15 savings for us and it just extends the life of
16 the --
17 MR. TIFFANY: Yeah, I mean for that
18 road, it was -- it was in such disrepair and by so
19 much cracking that you've got to fill those cracks
20 in with something and the chip seal provides that
21 good base. It forces its way down into those
22 cracks, packs in tight and then when you pave over
23 the top of it, it extends the life of the road
24 substantially.
25 MR. PITTMAN: Okay. We had some

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1 complaints on some of our roads.
2 MS. DAUGHERTY: Right.
3 MR. TIFFANY: Uh-hum.
4 MR. PITTMAN: I think this evening we
5 decided that we're not going to -- that we will no
6 longer be chip sealing.
7 MR. TIFFANY: Not just chip sealing.
8 MS. DAUGHERTY: Not just that.
9 It's -- it's unacceptable. I mean, I'll tell you
10 I spent --
11 UNIDENTIFIED SPEAKER:
12 (Indiscernible.)
13 MS. DAUGHERTY: I spent two or three
14 hours riding around with Tony Lamb, our road
15 supervisor, the other day and I learned more about
16 roads than I thought I could ever learn. I mean,
17 we went almost every road in the township and it
18 was a great experience for me. He taught me a lot
19 about it and I think we're doing the right thing
20 for Ferry Road.
21 Okay. Move on to zoning. Do you
22 have anything, Cara?
23 MS. TILFORD: I have nothing to add.
24 MS. DAUGHERTY: Nothing to add.
25 Anything -- anybody have anything for Cara?

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1 We can move on down to information
2 technology for Chris. Do you have anything,
3 Chris?
4 MR. ZAPPANTI: I have nothing to add.
5 I don't think my report is in there though.
6 MS. DAUGHERTY: Yeah, I don't see it.
7 MR. ZAPPANTI: I sent it down but I
8 don't see it.
9 MS. DAUGHERTY: Yeah. No.
10 MR. ZAPPANTI: So I have nothing to
11 add to nothing.
12 MS. DAUGHERTY: Sorry about that.
13 MR. PITTMAN: Nothing plus nothing is
14 nothing.
15 MR. TIFFANY: Chris is -- Chris is
16 going to start tomorrow moving everything -- a
17 final move on the new server stuff. We'll start
18 tomorrow and hopefully we'll be done this week.
19 It's going to be a little bit of an
20 inconvenience for us. We'll have a little bit of
21 downtime but we should be able to get e-mails and
22 things like that. So it's just getting to certain
23 things on our internal server. It will be a
24 difficult thing for us. But e-mails should
25 continue to function as normal.

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1 MS. DAUGHERTY: Okay. That's good to
2 know. We move on down to trustees. Is -- Mike or
3 Scott, do you have anything you want to report?
4 MR. PITTMAN: I would just like to
5 thank the fire department and police department
6 for showing up at our block party and it's always
7 nice to see that you're well represented and we
8 appreciate you being there and -- and also I
9 attended the Greene County Township Association
10 meeting last week. It was a good meeting. It was
11 hosted by the Greene County Parks and Trails. And
12 they have a levy on the ballot and I personally
13 support them and would suggest that citizens of
14 the township support the park board. They do a
15 lot of good things.
16 MS. DAUGHERTY: Is that Issue 18?
17 MR. PITTMAN: Issue 18. One of the
18 (indiscernible) trail systems in the state of
19 Ohio, in fact, the country. And it needs -- some
20 of it's under disrepair so they need some funding
21 to keep that going. So anyway, it was a good
22 meeting and just, again, I think we should support
23 their levy.
24 MS. DAUGHERTY: I agree. We need
25 parks. Scott, did you have anything you wanted to

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1 bring up?
2 Okay. We can move on to -- do we
3 have any public comments, limited to two minutes
4 per person, that's related to the agenda items?
5 You want to come forward with anything related to
6 the agenda items?
7 We will have public discussion at the
8 end, but right now it's agenda items.
9 Move on down to old business. We
10 still have a schedule meeting with the city of
11 Bellbrook, hopefully we can do that soon when we
12 get through everything else we're doing.
13 MR. TIFFANY: Okay. It's probably
14 going to be after the election, I would guess.
15 MS. DAUGHERTY: Then move down to the
16 consent agenda items. I can read those off. We
17 have approval of meeting minutes, the payment of
18 bills, accepting the amounts and rates, the budget
19 commission, which Ted explained to us, resignation
20 of volunteer EMT-B Ben Southerland and also
21 resignation of volunteer EMT-P Aaron Woodall.
22 MR. BRYANT: Second.
23 MS. DAUGHERTY: Take the roll,
24 please.
25 THE CLERK: Mr. Pittman.

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1 MR. PITTMAN: Yes.
2 THE CLERK: Mr. Bryant.
3 MR. BRYANT: Yes.
4 THE CLERK: Ms. Daugherty.
5 MS. DAUGHERTY: Yes. Aaron's been
6 with us for quite a while, hasn't he?
7 MR. TIFFANY: He was. He's just been
8 inactive and he's been busy with other things. We
9 would welcome him back if he was to come back.
10 MS. DAUGHERTY: What did you say?
11 UNIDENTIFIED SPEAKER: He's in his
12 third year of medics.
13 MS. DAUGHERTY: Oh, is that what he's
14 doing. I remember -- didn't he work at dispatch
15 for a while?
16 MR. TIFFANY: Yes, that's correct.
17 MS. DAUGHERTY: Okay. We're done,
18 took the roll?
19 MR. TIFFANY: He did.
20 THE CLERK: Yes, we did.
21 MS. DAUGHERTY: Okay. Discussion
22 agenda items. Okay. Now, we have some things on
23 here, first of all, enter into an agreement with
24 Choice One Engineering, this is for the
25 Centerpointe Drive extension design. If I can get

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1 that. Do you have that, Scott? Thank you.

2 MR. BRYANT: Resolution Number

3 2015.10.19.05 which enters into an agreement with

4 Choice One Engineering. Whereas, the Sugarcreek

5 Township Board of Trustees have solicited through

6 the Greene County Engineer's Office for

7 submissions of qualifications for the engineering

8 and design of the Centerpointe Drive extension;

9 Whereas, several proposals were

10 provided pursuant to the solicitation, each of

11 which have been independently evaluated by the

12 Greene County Engineer's Office and the township

13 administrator for completeness;

14 Whereas, Choice One Engineering

15 achieved the highest score of the proposal

16 submitted.

17 Therefore, be it resolved this Board

18 of Trustees for Sugarcreek Township does hereby

19 authorize the township administrator to act as a

20 signatory and enter into an agreement with Choice

21 One Engineering for provision of engineering and

22 design of the Centerpointe Drive extension road

23 project. A copy of the agreement is attached

24 hereto.

25 MR. FITTMAN: Second.

1 MS. DAUGHERTY: Is there any

2 discussion?

3 MR. BRYANT: So I think for our

4 audience members, it might be useful to discuss

5 this project, Barry.

6 MR. TIFFANY: So Centerpointe Drive

7 is the roadway that is between Lowe's and Staples.

8 Currently it terminates just behind Staples and

9 Lowe's. With this project, it will -- it will be

10 done in two phases. The developer who is building

11 Redwood Development will complete the first

12 several hundred feet and then the township will

13 pick it up from there and complete it down to Clio

14 Road.

15 It will intersect with Clio Road just

16 east of the public safety building. The alignment

17 there allows for a road construction to the north

18 also; and in the future at some point if it -- if

19 it happens, if more development happens through

20 that area. This will open up about 60 acres,

21 approximately, for development that's kind of been

22 landlocked.

23 We have the apartments that are

24 coming in with that first phase of the -- that,

25 but we anticipate the rest of that property

1 will -- will sell pretty quick following the

2 construction of the road.

3 UNIDENTIFIED SPEAKER: Doctor's

4 office and --

5 MR. TIFFANY: The doctor's office

6 that's coming in is on Clio itself. We did

7 receive a grant from the Issue 2 funding on this

8 of a little over \$1 million. \$1.1 million and an

9 interest-free loan for another portion of that.

10 So it's really a good thing for the

11 township. This is going to relieve some of the

12 congestion, some of the problems that we have on

13 Centerpointe, especially for the folks in White

14 Fence Farms and some of the other small

15 communities right around the neighborhoods that

16 use that as a cut-through to get out to Wilmington

17 Pike.

18 It can get very congested, especially

19 at holiday time or in the afternoons and the

20 mornings. It gets very congested out there. So

21 as Chief Zimmerman knows, we have some accidents

22 out in that area from time to time, people cutting

23 through, and this should help alleviate that,

24 especially with the other development coming in.

25 So we see this as a great -- I mean,

1 this has been a long-term vision for the community

2 to have this road go through there.

3 MR. BRYANT: This is just for the

4 design and engineering and not for the build.

5 MR. TIFFANY: Correct. Yeah.

6 MS. DAUGHERTY: Right.

7 MR. FITTMAN: The type of development

8 that is proposed in this area is not residential,

9 but we want to get some commercial buildings --

10 MR. TIFFANY: That's correct. Yeah,

11 the balance of this, once we get past the

12 apartments heading north on Centerpointe, because

13 it's going to kind of like go out into the field

14 and then hook around to the north. The balance of

15 that should all be -- have some commercial

16 component to it.

17 MS. DAUGHERTY: That's great.

18 Because that's what we designed that area for.

19 MR. TIFFANY: Correct.

20 MR. BRYANT: Yeah.

21 MR. TIFFANY: That -- that helps

22 offset the tax burden to the -- to the residents.

23 MS. DAUGHERTY: Okay.

24 MR. BRYANT: This is a good thing and

25 it's been on a long-term plan -- planned for a

1 long time, but we literally haven't had the
2 commercial interest in that area to sustain this
3 road so it's -- it's a good move forward for the
4 township. We're starting to see some economic
5 growth and this is just a visible sign so --

6 MR. TIFFANY: Uh-hum. Somebody asked
7 recently and I'll pass this along because it's
8 been asked a couple of times. What kind of tax
9 base comes from the apartments. And for those
10 apartments it will be a little over a half a
11 million dollars a year in taxes that will come in.

12 Now, that's not all to the township.
13 That's the township and the school district and
14 others. But, you know --

15 MS. DAUGHERTY: It helps --

16 MR. TIFFANY: -- for the school
17 district on a half a million dollars, you're
18 talking about close to \$300,000 in taxes for the
19 school district.

20 MS. DAUGHERTY: For the school
21 district.

22 MR. TIFFANY: Yeah.

23 MS. DAUGHERTY: Yeah, it helps.

24 Okay. You want to take the roll, please.

25 THE CLERK: Sure. Mr. Pittman.

1 MR. PITTMAN: Yes.

2 THE CLERK: Mr. Bryant.

3 MR. BRYANT: Yes.

4 THE CLERK: Ms. Daugherty.

5 MS. DAUGHERTY: Yes.

6 Okay. The next three agenda items
7 are regarding a creation of Sugarcreek Township
8 fire district. And before we read these and go
9 over them. I'm going to let Mr. Tiffany just give
10 a little briefing on -- and a summary about --

11 MR. TIFFANY: Sure.

12 MS. DAUGHERTY: -- what these
13 resolutions are for.

14 MR. TIFFANY: The township, I don't
15 think it's any news to anybody has had some
16 struggles with annexation in recent years and in
17 particular in the last year trying to come to an
18 agreement with the city of Centerville in the
19 provision of fire services for that area in the
20 city of Centerville that's also in Sugarcreek
21 Township.

22 The trustees have worked diligently
23 over the last year and in good faith to try to get
24 something worked out. Unfortunately, it appears
25 that the only agreement that the Centerville City

1 Council and mayor are -- are amenable to would
2 involve the Sugarcreek Township residents
3 subsidizing the development over there for the
4 provision of those services. We just could not
5 get there.

6 In addition, they had asked that the
7 township give up a little over -- well, over a
8 million dollars in -- in road funds in the future
9 so that their project could move forward and they
10 could divert all the taxes for the next 30 years.

11 This Board of Trustees has heard very
12 loud, very clear from its residents don't do it,
13 don't subsidize it, don't lay down, don't take it
14 from these guys, fight with all you got and don't
15 give in. That would have been any deal that --
16 that we were -- it's just nothing came to where we
17 could -- where the trustees could say yes.

18 So the best solution now is to form a
19 fire district. The fire district operates
20 basically just like the fire department. It will
21 be a township fire district. It's just the
22 township.

23 It allows -- by doing this, creating
24 a fire district, it allows the township trustees
25 to determine what the boundaries will be of the

1 fire service area. Under the law it permits -- it
2 only permits the fire district to incorporate on
3 its inception only to -- to consist of -- I
4 shouldn't have said incorporate, to consist of the
5 unincorporated territory of the township.

6 In other words, the city of
7 Centerville will be left out. They will be
8 responsible for providing services. They annexed
9 it. They wanted it. The burden will be upon them
10 to provide those services. This will take effect
11 sometime in the first quarter of 2017.

12 There are some other steps that have
13 to happen between now and then that will give us
14 that determining date on when the fire funds from
15 the fire department are expended completely and
16 the fire -- once that happens, then the fire
17 district becomes active. Technically it's active
18 today. It's just not funded. As of the time that
19 they pass this, we've got a fire district. It's
20 just not funded.

21 So then the question becomes how do
22 we fund it. And this gets a little bit tricky
23 but -- to understand but I think -- I hope I can
24 put it in terms that you'll understand.

25 The taxes are always collected a year

1 in arrears. So the taxes that we're receiving
2 this year are from 2014 assessments. So in 2016,
3 we will be putting in the second resolution a levy
4 on the ballot for March of 2016 that will be for
5 the fire district that will have a -- I want to
6 make sure I get this right, I don't want to mess
7 up the language -- it's for collection in 2016 for
8 payment in 2017.

9 It will -- if this passes on the
10 ballot in the spring, immediately following that
11 is the next trustee meeting, the third resolution
12 says that the trustees will terminate the current
13 fire department levies. So we're not adding
14 levies. We're replacing one for five.

15 There are currently five fire
16 department levies out there. Those five fire
17 levies total 7.8 mills of fire levy. Four out of
18 the five are continuing levies. They voted them
19 on in perpetuity. So you don't get a choice ever
20 again on those fire levies, whether or not you're
21 happy with the service and you want to vote for
22 those levies again.

23 It's my recommendation to the board
24 that this be passed as a five-year levy so the
25 public always has input whether or not they're

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1 happy with the service. I think it's good for us
2 as a -- as an organization to have that checks and
3 balance to make sure we're on our toes and we're
4 offering good service. I think it's good for the
5 public to have the option to say yes or no.

6 So it would be one fire levy that
7 would replace the five. It would be a five-year
8 levy and it will be for 5.3 mills. So it's a 2.5
9 mill reduction on the levies. That's substantial.

10 The reason that we can do that is
11 because of those continuing levies. The effective
12 millage rate on all those 7.8 is closer to the
13 5.3. It doesn't actually collect 7.8. It's weird
14 how the system works and over time levies lose
15 value because the burden is spread farther.

16 The long and short of it is, it's
17 going from 7.8 to 5.3 going to the fire district.
18 We'll be able to reduce the budget an additional
19 \$100,000. There is \$100,000 in tax savings, to
20 the taxpayer. You know, as a household you're
21 going to see a small difference, because \$100,000
22 over three house -- 3,000 households, doesn't --
23 you know, you're not going to see a big bump down
24 in your taxes but it is a savings and we think
25 that's important.

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1 Another advantage to having a fire
2 district that I think is very, very key to this
3 decision for the future on top of all the other
4 things that make sense is that in the future, once
5 we design this -- once we -- now that we have a
6 fire district, if there is an annexation, a
7 territory that they annex automatically comes out
8 of the fire district. It no longer has fire
9 coverage. So they will have to negotiate for fire
10 services again.

11 Now, that's a heck of a disincentive
12 to a property owner to know that if I annex, I got
13 a battle coming because I don't have fire service.
14 Now, this is in particular with the city of
15 Centerville and the city of Beavercreek, neither
16 one of them have fire companies or fire
17 departments.

18 We have faced pressure from
19 Centerville as we all know. Centerville continues
20 to go up and down Wilmington Pike trying to entice
21 property owners to come in to the -- into the
22 city. They've offered 40 percent rebates on -- on
23 income tax and this is we think the strongest tool
24 we've had yet to disincentivize annexation.

25 So for those reasons, the Board of

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1 Trustees feel that this is a good idea to -- to
2 move forward to form a fire district and get this
3 done.

4 As far as the delivery of services
5 for the residents of Sugarcreek Township, nothing
6 changes and I think that's imperative to know.
7 Nothing changes. It operates seamlessly. One day
8 in -- probably in February of 2017, you're going
9 to have a fire department showing up at your door;
10 the next day you're going to have a fire district
11 showing up at your door. Same thing. Same
12 services. Nothing changes.

13 MS. DAUGHERTY: All right. Thank
14 you. You very -- that was very, very well put.

15 MR. TIFFANY: Thank you.

16 MS. DAUGHERTY: It really was. And,
17 you know, we can answer any questions regarding
18 it. But, I mean, we -- we thought about this for
19 a long time and Barry explained why it would be a
20 good thing for the township.

21 MR. BRYANT: We did create this a
22 year plus ago.

23 MS. DAUGHERTY: Right.

24 MR. BRYANT: We thought it was a good
25 idea then. We still think it's a good idea.

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1 MS. DAUGHERTY: Uh-hum.

2 MR. BRYANT: But because of all the

3 lawsuits that were -- that we're going under and

4 mediation, you know, it just seemed like the right

5 thing to do was to pull that fire district at the

6 time and try to enter into discussions with

7 Centerville, which is what we did.

8 We had, I don't know, four or five

9 discussions between their elected officials and

10 us. We actually did make some progress when it

11 comes to, you know, agreement on providing the

12 fire services out there. But the real sticky --

13 sticking point was -- and I don't want to get too

14 complicated, but essentially, you know, we -- we

15 still have \$1.6 million invested in Clio Road.

16 You know, it's closed right now. It's undergoing

17 a lot of improvement and that's money that the

18 township has spent and it's money that we can now

19 recoup because of the building that's going on and

20 the increase in land value.

21 Unfortunately, for TIFs, you can only

22 have one TIF on a property at a time and ours is

23 being -- and so Centerville in order to fund the

24 fire services for us, you know, required us to

25 eliminate our TIF which we would have lost -- we

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1 would have lost, you know, a million plus dollars

2 that is, you know, rightfully us, it has nothing

3 to do with fire and EMS. It's all road projects.

4 It's going towards Clio Road.

5 I mean, you can see that money in

6 work right now today. But we just could not in

7 any good conscience let that go for nothing, which

8 is what Centerville essentially was offering us.

9 And that's what really brought it to a -- to a

10 halt.

11 There's a lot of benefits to the fire

12 district. Barry has mentioned that. You know, we

13 can save some money on our taxes. There is the

14 threat of annexation decreases significantly,

15 although, through our zoning commission, we have

16 already -- we have taken steps to mitigate that

17 threat already; but this is just one more action

18 that helps secure our borders, especially as a --

19 when it comes to the surrounding cities.

20 You know, you mentioned Centerville

21 and Beavercreek, both of those have been threats

22 to us over these last several years and so this

23 is -- this is something that will help protect our

24 borders as well.

25 It's not something that we enjoy

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1 doing. It's not something we want to do, but it

2 really is in the best interest of the township and

3 I really don't think we have much of a choice.

4 And I certainly hope that the residents support

5 the ballot in May to move the fire levies over

6 from a department to a district. It's in the best

7 interest of our township.

8 MS. DAUGHERTY: And I would just add

9 to that and you don't (indiscernible) but just add

10 to that that I like the idea that the residents

11 get to vote on this and they have a ballot. It's

12 just not the three of us saying this is what's

13 going to happen. It's going to be on the ballot

14 and that's the best way to do it, to put it to the

15 residents. And like Scott said, one of the best

16 things is it helps it deter annexation and is a

17 cost savings.

18 MR. PITTMAN: One thing about this

19 fire district, there is precedence for this in the

20 state of Ohio. Other townships have done this and

21 done it successfully. We have done our research

22 on this. We -- the county prosecutor's office has

23 reviewed this and it is -- it is a legitimate

24 thing. We feel that it's -- it's going to be

25 foolproof. If we're sued for this, you never

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1 know, but we have had this reviewed by the county

2 prosecutor's office and they agree with this. So

3 there is precedence.

4 And Scott had mentioned our -- our

5 meetings with Centerville. We -- both communities

6 tried very hard to come up to an agreement that we

7 felt was equitable for all of us and we got -- we

8 got fairly close but there were some sticking

9 points that neither party could come to an

10 agreement with and that it was the TIF.

11 But it boils down to this, not only

12 the annexation portion of it is good for us, but

13 ultimately our citizens are going to subsidize the

14 fire department for that piece of property. And

15 we didn't feel it was fair for our citizens to

16 pay for fire services for the Cornerstone

17 development.

18 And I will say this, I feel that

19 we -- if we can sit down with them and continue

20 negotiations and come up with something equitable,

21 I'm very much in favor of doing that. Just

22 because we're doing this, doesn't mean that we

23 can't come to some negotiable equitable solution

24 to this and I think we should continue working on

25 that.

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1 MS. DAUGHERTY: We have always tried
2 to get a fair contract and deal with them but it
3 was just always on the back of the taxpayers and
4 we just couldn't put it on the back of the
5 taxpayers. So I'm the same way with you, we came
6 out with something good. This is something that
7 we're not going to close the door on.

8 MR. BRYANT: I think it is important
9 to mention that we did retain counsel from -- what
10 is the law -- I can never say --

11 MR. TIFFANY: Brosius. Don Brosius.

12 MS. DAUGHERTY: Brosius. In
13 Columbus.

14 MR. BRYANT: Brosius. They are
15 experts in this field. We've had -- we've
16 retained them as counsel and they have helped us
17 draft the resolutions that we're going to read
18 here tonight so they may be a little different
19 than our normal resolutions; but these are court
20 tested and they will stand, according to
21 Mr. Brosius, they will stand if the court
22 (indiscernible), if any, comes. So we feel very
23 confident we're doing this the correct way. We
24 feel very confident it's all legal and above board
25 and we just -- we'll see where it goes.

1 MR. PITTMAN: One last comment. We
2 have received commitment from the county
3 prosecutor's office that they will represent us in
4 this. We -- we will not have legal fees like we
5 have on past annexation cases. So that's --

6 MS. DAUGHERTY: Right.

7 MR. PITTMAN: -- a great benefit to
8 us. And Stephanie Hayden, the prosecutor's
9 office, has spent many, many hours on this
10 already. And so it is -- it is nice to know that
11 the county's made a -- the prosecutor's office has
12 made a commitment to -- to go through this for the
13 full term and -- and so that's a benefit for --
14 for us.

15 MS. DAUGHERTY: Certainly is. Well,
16 I'll go ahead and read the first resolution.
17 There's three of them involved here.

18 This is the Creation of Sugar Creek
19 Township Fire District. Whereas, the Sugar Creek
20 Township Board of Trustees has determined it
21 expedient and necessary to guard against the
22 occurrences of fires and to protect the property
23 and lives of the citizens against damages
24 resulting from their occurrence;

25 Whereas, in order to adequately guard

1 against occurrence of fires and to protect the
2 property and lives of the citizens against damages
3 resulting from their occurrence, the Sugar Creek
4 Township Board of Trustees has identified the
5 unincorporated area of Sugar Creek Township for
6 inclusion into a fire district;

7 Whereas, Ohio Revised Code 505.37(C)
8 allows for the creation of a fire district.

9 Now, therefore, it be resolved the
10 Sugar Creek Township Board of Trustees hereby
11 establishes and creates a Sugar Creek Township fire
12 district which fire district shall consist of all
13 the unincorporated territory of Sugar Creek
14 Township.

15 MR. BRYANT: Second.

16 MS. DAUGHERTY: Take the roll,
17 please.

18 THE CLERK: Mr. Pittman.

19 MR. PITTMAN: Yes.

20 THE CLERK: Mr. Bryant.

21 MR. BRYANT: Yes.

22 THE CLERK: Ms. Daugherty.

23 MS. DAUGHERTY: Yes.

24 Scott, you want to take the next
25 portion?

1 MR. BRYANT: This is Resolution
2 Number 2015.10.19.07, declaring the necessity for
3 levying a tax exceeding the ten mill limit and
4 authorizing request of the county auditor to
5 provide certain information.

6 So whereas, the Board of Trustees of
7 Sugar Creek Township, Greene County, Ohio, The
8 Board, previously formed and established the
9 Sugar Creek Township fire district, consisting of
10 the unincorporated areas of Sugar Creek Township,
11 Greene County, Ohio;

12 Whereas, the board is the taxing
13 authority for the Sugar Creek fire district;

14 Whereas, the amount of taxes which
15 may be raised within the ten mill limitation will
16 be insufficient to provide an adequate amount for
17 the necessary requirements of the Sugar Creek
18 Township fire district and its fire department and
19 that it is necessary to levy a tax in excess of
20 the ten mill limitation for the purposes contained
21 in the Ohio Revised Code Section 5705.19(I);

22 Whereas, prior to making a
23 determination of the necessity for a levy, the
24 township is required to certify a request to the
25 county auditor for certain information.

1 Now, therefore, be it resolved by the
2 Board of Trustees of Sugarcreek Township, Greene
3 County, Ohio, that the following resolution be and
4 it hereby is adopted.

5 One, this board declares that it is
6 necessary to levy a tax in excess of the ten mill
7 limitation for the benefit of the Sugarcreek fire
8 district, pursuant to Section 57 -- 5705.19(I) of
9 the Ohio Revised Code for the purpose of providing
10 and maintaining fire apparatus, appliances,
11 buildings, or sites therefor, or sources of water
12 supply and materials therefor, or the
13 establishment and maintenance of lines of fire
14 alarm, telegraph or the payment of fire fighting
15 companies or permanent, part-time or volunteer
16 fire fighting, emergency medical service,
17 administrative or communications personnel to
18 operate the same, including the payment of any
19 employer contributions required for such personnel
20 under Section 145.48 or 742.34 of the Revised Code
21 or the purchase of ambulance equipment or the
22 provision of ambulance, paramedic or other
23 emergency medical services operated by a fire
24 department or fire fighting company.

25 2. The Greene County auditor is

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1 hereby requested to certify to the Sugarcreek
2 Township Board of Trustees the total current tax
3 valuation of Sugarcreek Township unincorporated
4 areas only, and the dollar amount of revenue that
5 would be generated by the following additional
6 fire district tax levy: A, 4. -- sorry, 5.3 mill.

7 The above referenced proposed levy
8 would be new and additional tax for a five-year
9 period and would be placed upon -- and would be
10 placed on the primary election ballot to be held
11 on March 16, 2016 for the purposes contained in
12 Ohio Revised Code Section 5705.19(I). The
13 proposed levy would be placed upon the tax list
14 and duplicate of 2016 for collection in 2017, if a
15 majority of the electors voting thereon vote in
16 favor thereof.

17 The township fiscal officer is hereby
18 authorized and directed to certify a copy of this
19 resolution request to the Greene County Auditor
20 and if necessary the Greene County Board of
21 Elections.

22 It is hereby declared that all formal
23 actions of this board, concerning and relating to
24 the adoption of this resolution were adopted in an
25 open meeting of this board and that all

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1 deliberations of the board and any of its
2 committees that resulted in such formal action
3 were in meetings open to the public, in compliance
4 about all legal requirements including Section
5 121.22 of the Ohio Revised Code.

6 This resolution shall take effect and
7 be in force from and after the earliest time
8 provided by law.

9 MS. DAUGHERTY: I'll second it. Take
10 the roll, please.

11 THE CLERK: Mr. Pittman.

12 MR. PITTMAN: Yes.

13 THE CLERK: Mr. Bryant.

14 MR. BRYANT: Yes.

15 THE CLERK: Ms. Daugherty.

16 MS. DAUGHERTY: Yes.

17 The next one is for the intent to
18 terminate the fire levies and will you read that
19 one, Mike, please.

20 MR. PITTMAN: Yeah, this is
21 Resolution Number 2015.10.19.08. It's a
22 resolution declaring an intention to terminate
23 five Sugarcreek Township fire protection levies
24 contingent upon voter approval of a 5.3 mill
25 Sugarcreek Township fire district levy on the

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1 March 16, 2016 primary ballot.

2 Whereas, the voters of Sugarcreek
3 Township have approved Sugarcreek fire protection
4 continuing levies of .3 mill in 1982; 2.9 mill in
5 1996; 1.3 mill in 2005; 1.3 mill in 2009 and a
6 five-year levy of 2.0 mill in 2013, with all
7 levies totaling 7.8 mill.

8 Whereas, in order to phase out the
9 township's current fire department, the Board of
10 Trustees of Sugarcreek Township, Greene County,
11 Ohio, on October 15, 2015 (sic), passed a
12 resolution requesting the Board of Elections to
13 place on a township-wide basis for the
14 unincorporated areas a 5.3 mill levy for the
15 operation of the Sugarcreek Township fire district
16 on the March 16, 2016 primary ballot.

17 Whereas, the board, by placing a 5.3
18 mill fire levy on the ballot is asking the
19 residents of the township to approve changing the
20 taxing bodies from the department to the township
21 fire district.

22 Whereas, the approval of the 5.3 mill
23 fire levy on March 16, 2016 primary ballot is
24 intended in effect to replace the current fire
25 levies originally totaling 7.8 mills and will not

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1 increase taxes for the township residents
2 currently subject to the fire department levies.

3 Whereas, if the residents of
4 Sugarcreek Township approve the 5.3 mill fire levy
5 on March 16, 2016 primary ballot, the board
6 believes it is in the best interest of the
7 township and its residents to terminate the
8 existing fire department levies totaling 7.8
9 mills;

10 Now therefore, be it resolved by the
11 Board of Trustees of Sugarcreek Township, Greene
12 County, Ohio, that the following resolution be and
13 it hereby is adopted.

14 Section 1. Contingent upon the
15 approval by the voters of Sugarcreek Township of a
16 5.3 mill township-wide fire district levy on the
17 March 16, 2016 primary ballot, the Board of
18 Trustees will terminate the five existing fire
19 district levies of .3 mill approved in 1982; 2.9
20 mill approved in 1996; 1.3 mill approved in 2005;
21 1.3 mill approved in 2009 and a five-year levy of
22 2.0 mill approved in 2013.

23 Section 2, it is hereby declared that
24 all formal actions of this board concerning and
25 relating to the adoption of this resolution were

1 adopted in an open meeting of this board and that
2 all deliberations of the board and any of its
3 committees that resulted in such formal action
4 were in meetings open to the public, in compliance
5 with all legal requirements including Section
6 121.22 of the Ohio Revised Code.

7 This resolution shall take effect and
8 be in force from and after the 19th day of
9 October, 2015.

10 MR. BRYANT: Second.

11 MR. TIFFANY: Real quick, there is a
12 correction in the second paragraph. It says
13 October 15. It should say 19th. I have noted
14 that.

15 MS. DAUGHERTY: What, do we make an
16 amendment?

17 MR. TIFFANY: Yeah, Mike, if you'll
18 just amend that, amend your motion.

19 MR. PITTMAN: I amend the motion to
20 (indiscernible) the date --

21 MR. BRYANT: The corrected date.

22 MR. PITTMAN: -- the corrected
23 date -- correction of the date.

24 MR. TIFFANY: Thank you.

25 MR. BRYANT: Second.

1 MS. DAUGHERTY: Okay. Take the roll,
2 please.

3 THE CLERK: Okay. Do we need a vote
4 for each of those?

5 MR. TIFFANY: Yeah, you need one for
6 the amendment.

7 THE CLERK: Okay. Mr. Pittman.

8 MR. PITTMAN: Yes.

9 THE CLERK: Mr. Bryant.

10 MR. BRYANT: Yes.

11 THE CLERK: Ms. Daugherty.

12 MS. DAUGHERTY: Yes.

13 THE CLERK: Mr. Pittman.

14 MR. PITTMAN: Yes.

15 THE CLERK: Mr. Bryant.

16 MR. BRYANT: Yes.

17 THE CLERK: Ms. Daugherty.

18 MS. DAUGHERTY: Yes.

19 Okay. Thank you.

20 MR. PITTMAN: If I might add, the
21 reason we went through this procedure, this is the
22 proper -- our attorneys have -- have advised us
23 that this is the proper procedure and we had to do
24 this exactly the right way so that we're
25 protected.

1 MS. DAUGHERTY: All right.

2 Okay. We can move on down to public
3 comments. Limit it to five minutes per person.
4 Township related business. Just come to the
5 podium and state your name and address.

6 MS. BURSON: Barbara Burson, 1250

7 Sugarhill Lane. I'm trying to follow your
8 resolutions in here and half of it is not in the
9 minutes. I would appreciate it if you would get
10 the second pages to these resolutions.

11 MS. DAUGHERTY: Okay. I know we have
12 a new --

13 MR. TIFFANY: Is it on the back side,
14 Barb? Some of them were two sided.

15 MS. BURSON: There was nothing on the
16 back.

17 UNIDENTIFIED SPEAKER: No, it's not.
18 You missed it.

19 MR. TIFFANY: Okay.

20 MR. PITTMAN: We apologize for that.
21 We have a new administrative assistant and --

22 MS. BURSON: It was hard to follow
23 your resolution when it's not there.

24 MR. TIFFANY: Thank you.

25 MS. DAUGHERTY: Thank you. And we're

1 sorry for that. We should have had it better
 2 checked.
 3 UNIDENTIFIED SPEAKER: Can we get a
 4 copy of that (indiscernible)?
 5 MR. TIFFANY: Sure.
 6 UNIDENTIFIED SPEAKER: The back page
 7 of the resolution.
 8 UNIDENTIFIED SPEAKER: I'll do it
 9 now.
 10 MS. DAUGHERTY: Are you sure? Yeah,
 11 we can get you some copies, Barb.
 12 MR. MARTIN: Jim Martin, 2465 Stewart
 13 Road.
 14 MR. TIFFANY: You got them all, Cara?
 15 MR. MARTIN: First, I'm going to say
 16 that as far as the city goes, cities by nature are
 17 aggressively greedy and the only way they can
 18 stand their base is to take in somebody else's
 19 land.
 20 The township made a big mistake,
 21 tragic mistake when we started this and we've
 22 dealt with it today. I've always felt that when a
 23 city takes over land by annexation, they should
 24 also take over all the financial necessary to run
 25 that piece of land too. Township should not have

1 to put any money in, period.
 2 Now, what I'm asking, this district,
 3 who runs this district?
 4 MR. TIFFANY: Township trustees.
 5 MR. MARTIN: Trustees. There is no
 6 commission, nothing like that?
 7 MR. TIFFANY: Nope.
 8 MR. MARTIN: (Indiscernible) now is
 9 this --
 10 MR. TIFFANY: It's not a joined
 11 district. It's just the township.
 12 MR. MARTIN: It's not -- not a
 13 precursor to a joined district?
 14 MR. TIFFANY: No.
 15 MR. MARTIN: Now, also I notice you
 16 have talked with the city of Bellbrook. What are
 17 they about?
 18 MR. TIFFANY: Just sharing of
 19 services, sharing -- we continue to try and
 20 find -- like, for example, Jim, we use their
 21 bucket truck on a regular basis. They use our
 22 Bobcat on a regular basis.
 23 MR. MARTIN: I have no problem with
 24 that.
 25 MR. TIFFANY: We try not to duplicate

1 services.
 2 MS. DAUGHERTY: It's all we talk
 3 about (indiscernible).
 4 MR. MARTIN: (Indiscernible.)
 5 MR. TIFFANY: Right. It'll be the
 6 same thing (indiscernible) the talk now is talking
 7 about doing the same thing with some of the fire
 8 apparatus.
 9 MR. MARTIN: Yeah.
 10 MR. TIFFANY: We have a brand-new
 11 fire ladder track.
 12 MR. BRYANT: Theirs is aging.
 13 MR. TIFFANY: Theirs is aging and in
 14 disrepair.
 15 MS. DAUGHERTY: It's like saving
 16 money.
 17 MR. TIFFANY: They probably won't
 18 replace theirs. They'll have ours as an automatic
 19 response.
 20 MR. MARTIN: That -- we won't be
 21 buying the same thing that they're buying.
 22 MR. TIFFANY: Exactly.
 23 MS. DAUGHERTY: No. That --
 24 duplication, no, that's what -- we want to avoid
 25 that.

1 MR. MARTIN: (Indiscernible.)
 2 MR. TIFFANY: Correct.
 3 THE WITNESS: Okay.
 4 MR. TIFFANY: Saves us both money.
 5 (Indiscernible conversation.)
 6 MR. PITTMAN: The one thing I would
 7 like to add is we have a tremendous cordial
 8 relationship with the city (indiscernible) and at
 9 one time we were going to meet quarterly and talk
 10 about things that are affecting us, things that
 11 maybe they're doing that we can adopt and vice
 12 versa. Now, we've gotten away from that. It's
 13 been probably a year since we've (indiscernible).
 14 MS. DAUGHERTY: Yeah.
 15 (Indiscernible.)
 16 MR. PITTMAN: I mean it's mainly just
 17 to keep a relationship going on with them and --
 18 MS. DAUGHERTY: It's a community
 19 relationship.
 20 MR. MARTIN: I understand all of that
 21 and I've been for it. We're giving -- we have an
 22 agreement, unofficial, that our fire station in
 23 the village, it's the first responder, for years
 24 and years and years. Bellbrook pays nothing for
 25 it and I'm not against that at all. We should go

1 back and forth. I'm also agreeing on services,
2 service department, road department, things of
3 that nature. That's fine.

4 MS. DAUGHERTY: That's right.

5 MR. MARTIN: This fire district, as
6 you constitute it here tonight, I would go with
7 it.

8 MR. TIFFANY: Thank you.

9 MS. DAUGHERTY: Thank you. We
10 appreciate that.

11 MR. PITTMAN: Thank you, Mr. Martin.

12 MR. TIFFANY: You look good in that
13 jacket tonight too.

14 MS. DAUGHERTY: (Indiscernible.)

15 MR. MARTIN: You know, I come in
16 looking like a bum sometimes. I (indiscernible).

17 MS. DAUGHERTY: You look nice. You
18 look nice. Okay. We --

19 MR. BRYANT: Before we go -- is there
20 anybody else that has comments about the fire
21 district? Before we change subjects
22 (indiscernible).

23 MS. DAUGHERTY: Okay.

24 UNIDENTIFIED SPEAKER: Thank you.

25 MR. BRYANT: You have something?

1 UNIDENTIFIED SPEAKER: Yeah, I did.

2 MS. DAUGHERTY: We're going to go --
3 (indiscernible) fire district, then we'll get to
4 you, we promise. (Indiscernible.)

5 MS. HELLMANN: Donna Hellmann, 3981
6 Windy Bluff Court. The most intriguing thing I
7 found that you mentioned was that the next time
8 somebody -- city decides to try to annex land that
9 they -- it will become -- it won't be part of an
10 unincorporated so they'll have to provide their
11 services. So does this address a lot of the
12 issues -- and this has been tried and passed in
13 other areas --

14 MR. TIFFANY: Correct.

15 MS. HELLMANN: -- of Ohio?

16 MR. TIFFANY: Yes.

17 MS. HELLMANN: So does that then
18 address the issues of -- shoot -- what you're
19 trying to do up at the -- up at -- in Columbus --

20 MR. TIFFANY: At the state house?

21 MS. HELLMANN: Yeah, the state house
22 dealing with the problems of annexation as they
23 are (indiscernible).

24 MR. TIFFANY: It does not. It
25 doesn't address that at all. This is -- this is a

1 tool that we have found to be used just that way,
2 as a tool to help -- help stay annexation, to make
3 sure -- because of the flaws in the type two
4 annexation law that says the cities after the fact
5 get to determine what services they're going to
6 provide.

7 MS. HELLMANN: Correct. They've got
8 20 days to do that.

9 MR. TIFFANY: Yeah, they can just say
10 we're going to do this, we're going to do that.
11 We're not going to do this, we're not going to do
12 that.

13 MS. HELLMANN: Yeah.

14 MR. TIFFANY: And actually, the city
15 of Centerville could have said all those years
16 ago, we're going to take zoning, because we want
17 to control that and we're going to do
18 administration and you guys can clean the roads --
19 clean the roads for us, maintain the roads for us,
20 we'll police it and provide fire. And we would
21 have had to -- to do that.

22 Now, we can -- in those situations we
23 can form a police district also in the very same
24 way.

25 MS. HELLMANN: Right.

1 MR. TIFFANY: And exclude that
2 territory.

3 MS. HELLMANN: Can you do that with
4 roads as well?

5 MR. TIFFANY: Don't know. I don't
6 know that -- I'm not sure.

7 MS. HELLMANN: But it seems to me
8 that this truly does put a big deterrent --

9 MR. TIFFANY: It does.

10 MS. DAUGHERTY: It does.

11 MS. HELLMANN: Especially in a case
12 where a city doesn't have a fire department.

13 MR. TIFFANY: Correct.

14 MS. HELLMANN: Okay.

15 MR. TIFFANY: That's when it becomes
16 the issue.

17 MS. HELLMANN: Yeah. And that's when
18 it becomes --

19 MR. TIFFANY: And we're not --
20 (indiscernible) the city of Dublin has -- has
21 fought this battle with Jerome Township and
22 Washington Township up on the outside, they sit on
23 top of both of those townships.

24 MS. HELLMANN: Yeah.

25 MR. TIFFANY: And both of those

1 townships have now formed fire districts.
 2 MS. HELLMANN: Okay.
 3 MR. TIFFANY: And have -- the city of
 4 Dublin has had to negotiate and pay them money.
 5 MS. HELLMANN: Okay. So it
 6 definitely has slowed down Dublin's --
 7 MR. TIFFANY: Oh, yeah, absolutely.
 8 I mean, my understanding is the city of Dublin, I
 9 can't say verbatim what the quote was but
 10 something to the effect of, well, there won't be
 11 any more type two annexations, everything will
 12 have to go the old-fashioned way, type one.
 13 The challenge to a type one
 14 annexation is the city -- the test in the court is
 15 the city has to be able to prove -- if the
 16 township contests, the city has to be able to
 17 prove that they can offer some service that the
 18 township is unable to provide.
 19 Now, with major cities it would be
 20 water. Major cities have their own water
 21 treatment, things like that. The city of Dublin
 22 relies upon the counties there; just as the city
 23 of Centerville relies on Montgomery County for
 24 their water. So it's not a water issue. Sewer is
 25 another one. Well, they don't provide those

1 either. Those are provided by the county. So
 2 that's not an issue. So now we come down to
 3 roads, both provide it. Police, both provide it.
 4 And fire department and they don't have one. So
 5 under a type one annexation, they would fail that
 6 test and although it's a prolonged process, would
 7 eventually lose that case.
 8 But it will eliminate a type two
 9 annexation in that jurisdiction.
 10 MS. HELLMANN: So it truly does
 11 reduce the threat in our township.
 12 MR. TIFFANY: Oh, very much so.
 13 MS. DAUGHERTY: It does.
 14 MR. TIFFANY: Very much so.
 15 MS. HELLMANN: I definitely see this
 16 as --
 17 MR. TIFFANY: We're pretty excited
 18 about that.
 19 MS. HELLMANN: Yeah, I see
 20 (indiscernible).
 21 MR. BRYANT: Well, it only reduces it
 22 from the point that the city has to provide
 23 services --
 24 MS. HELLMANN: Correct.
 25 MR. BRYANT: -- or they have to -- or

1 they have to contract --
 2 MS. HELLMANN: Right.
 3 MR. BRYANT: -- contract for those
 4 services.
 5 MS. HELLMANN: Correct.
 6 MR. BRYANT: So it just adds another
 7 layer onto the requirements (indiscernible).
 8 MS. HELLMANN: They -- well --
 9 MS. DAUGHERTY: Makes it harder --
 10 MS. HELLMANN: -- what I mean it --
 11 it forces the city to truly think about if I bring
 12 in this piece of land --
 13 MS. DAUGHERTY: Right. I got to get
 14 my own fire --
 15 MS. HELLMANN: -- what's my out-go
 16 cost to --
 17 MR. BRYANT: Right. Right.
 18 MR. TIFFANY: And even more so for
 19 the property owner because they're the ones that
 20 have to agree to it.
 21 MS. DAUGHERTY: Yeah.
 22 MR. TIFFANY: And if you're a
 23 property owner looking to develop something, you
 24 want to make sure that there is fire department
 25 service to that area.

1 MS. HELLMANN: Yeah. Correct.
 2 MR. BRYANT: So this doesn't prevent
 3 annexation.
 4 MS. HELLMANN: No. It just --
 5 MR. BRYANT: It just makes it a
 6 little more difficult.
 7 MS. DAUGHERTY: Makes it harder.
 8 MS. HELLMANN: It just --
 9 MR. TIFFANY: It makes it a lot more
 10 (indiscernible).
 11 MR. BRYANT: And to your -- and to
 12 your original point, the township still remains
 13 vulnerable to park lands, to school property, to
 14 township lands, none of that changes so --
 15 MS. HELLMANN: Right.
 16 MR. BRYANT: -- so if the city wanted
 17 to annex, they could jump right over a park or a
 18 school or township or school land to get to the
 19 required contiguous area so that doesn't change.
 20 MS. HELLMANN: Right.
 21 MR. BRYANT: That's still in force
 22 and we have to address that still in our
 23 (indiscernible).
 24 MR. TIFFANY: Yeah. And we're still
 25 at threat from the city of Kettering. We're still

1 at threat from the city of Xenia to our east.
 2 MS. HELLMANN: Oh, yeah. Sure.
 3 MR. TIFFANY: Beaver Creek is less of
 4 a threat as a result of this. Centerville is less
 5 of a threat as a result of this.
 6 MS. HELLMANN: And any -- any city
 7 that doesn't have a fire department --
 8 MR. TIFFANY: Correct.
 9 MS. HELLMANN: -- is less of a
 10 threat.
 11 MR. TIFFANY: Yep.
 12 MS. DAUGHERTY: And I would like to
 13 add, we certainly hope that when this information
 14 gets out, that the correct information gets out.
 15 Anyone that supports this, I want to make sure
 16 that we don't have some misleading information
 17 especially at the time of election and it comes
 18 out. So we've just got to support it and get the
 19 true facts and the correct information.
 20 MS. HELLMANN: It would have really
 21 have been helpful to have the Dayton Daily News
 22 here.
 23 MS. DAUGHERTY: I know. It would
 24 have been.
 25 MR. TIFFANY: I'll be in contact with

1 them.
 2 MS. DAUGHERTY: Because I thought he
 3 did an excellent job of explaining it.
 4 MS. HELLMANN: He did an excellent
 5 job but it would be -- (indiscernible).
 6 MS. DAUGHERTY: I agree.
 7 MS. HELLMANN: They're here to hear
 8 it, it's helpful but they seem to always avoid
 9 these meetings.
 10 MS. DAUGHERTY: Right. And that's
 11 what I'm worried about. There can be a lot of
 12 misinformation that you might see coming out on
 13 this.
 14 UNIDENTIFIED SPEAKER: And you will.
 15 MR. TIFFANY: And I don't know if I
 16 mentioned it or not. If I did, I apologize for
 17 repeating myself, but we anticipate to hold a
 18 couple of public information meetings in January,
 19 February, leading up to the election in March.
 20 MS. DAUGHERTY: But you do need to
 21 get ahold of the press --
 22 MR. TIFFANY: Yes.
 23 MS. DAUGHERTY: -- tomorrow. Okay.
 24 Okay. Anyone else on fire district? Well, then
 25 come on up, sir.

1 MR. PARSONS: Rick Parsons, 1086 Hook
 2 Road in Xenia. I do have some information.
 3 MS. DAUGHERTY: Okay.
 4 MR. PARSONS: I know I spoke at the
 5 last meeting and some questions were brought up
 6 that I didn't have answers for readily on paper so
 7 I felt that I would bring those answers tonight.
 8 And I'm not picking at Chief Brown or
 9 Sandy's Towing. That's not my intent. I just
 10 want to make that clear is that all I'm after is a
 11 fair rotation. And not to have one company,
 12 whether it be mine or anybody else, to take all
 13 the business out of the township.
 14 Pricing was an issue that was brought
 15 up.
 16 MS. DAUGHERTY: Uh-hum.
 17 MR. PARSONS: If you look at examples
 18 one through five, that is pricing sheets from
 19 myself, Sandy's Towing, Moorman's Towing and
 20 Johnson's Towing.
 21 MS. DAUGHERTY: Okay.
 22 MR. PARSONS: You can look through
 23 those and see that Sandy's Towing is about .5
 24 percent higher than any of the Greene County
 25 companies that are on the towing rotation. I

1 believe Chief Brown stated that Sandy's -- that we
 2 were all (indiscernible) that's not the case.
 3 Sandy is the higher company.
 4 The Greene County companies all
 5 follow pricing set forth by the Greene County
 6 Sheriff as to what you can charge in Greene
 7 County. Sandy's does not abide by that in Greene
 8 County.
 9 Next thing, where vehicles go was
 10 brought up. Chief Brown stated that Sandy's
 11 vehicle go to a lot in Fairborn --
 12 MS. DAUGHERTY: Uh-huh.
 13 MR. PARSONS: -- where it's fully
 14 staffed. That is not the case. Pages six and
 15 seven show a Google map of Sandy's Fairborn lot.
 16 It's just a fenced area behind Jeff Schmitt
 17 Mitsubishi there in Fairborn. There is no
 18 building. There's no facility. There's no staff.
 19 Just a sign on an adjacent building telling you to
 20 call this number if you would like to get your car
 21 or belongings.
 22 There is no one there. That I tow
 23 cars out of there all the time. It usually takes
 24 them about an hour to an hour and a half to come
 25 out and meet you at that lot.

1 MS. DAUGHERTY: But that's where they
 2 bring the vehicles?
 3 MR. PARSONS: No. They don't even
 4 take them to that lot.
 5 MS. DAUGHERTY: They don't take them
 6 to that lot. Okay.
 7 MR. PARSONS: That's the next
 8 paragraph.
 9 MS. DAUGHERTY: Okay.
 10 MR. PARSONS: The cars don't even go
 11 to Fairborn as Chief Brown stated. Attached pages
 12 eight through ten, you'll see actual copies of
 13 Sandy's Towing's invoices. Every one of the cars
 14 towed on them examples and all the other examples,
 15 they do go to Springboro west, which is in
 16 Moraine, so the township residents are being
 17 asked -- if you got to go to court in Greene
 18 County, which is in Xenia, whether you have an OVI
 19 or crash or whatever, before you can access your
 20 vehicle. So the residents will have to go to
 21 Greene County in Xenia to go to court and then
 22 they'll have to drive all the way to Moraine where
 23 some of the cars do go to Broadway Street on the
 24 west side of Dayton to access their stuff. It's a
 25 big inconvenience on residents.

1 And that just brings up a question as
 2 to why are cars being taken out of the county?
 3 And I'll say it again. I don't mind them being on
 4 rotation, but I don't think they should get the
 5 majority or all of the business.
 6 Another issue brought up was response
 7 time. Chief Brown claims Sandy's gets good
 8 response time. I know for a fact our response
 9 time is 15 to 18 minutes anywhere in the township.
 10 Unless you've got horribly bad roads, then, of
 11 course, you can extend it ten minutes or whatever.
 12 But if you'll look at Sandy's
 13 invoices there, (indiscernible) the first one is
 14 24 minutes, the 36 minutes, the 48 minutes; and
 15 these are their invoices. It's nothing that I
 16 dreamed up or anything. It is their invoices.
 17 MS. DAUGHERTY: Right.
 18 MR. PARSONS: The next one is 40
 19 minutes. So I don't see where their response time
 20 is even considerable for what we're doing. We're
 21 trying to get the road opened back up in a decent
 22 amount of time.
 23 An issue of crash scene cleanup was
 24 brought up by one of the residents here at the
 25 last meeting. In December, I mean, I think it was

1 of last year, Chief Brown did send a letter to all
 2 of the two companies, it's on page number 13,
 3 stating that somebody had complained about a crash
 4 scene cleanup and he just -- he didn't pick
 5 anybody out or anything. I don't even know who
 6 cleaned the crash up that was in discussion, but
 7 he sent a letter to all of us and this was on
 8 December 2nd, mid December he sent this letter out
 9 just asking us to do a good cleanup.
 10 On January the 8th of this year, I
 11 sort of witnessed a -- just a bad call, in my
 12 opinion, the crash was dispatched on Shepherd
 13 Road. I was already in the area and knew I was
 14 next on rotation because I follow Sandy's on
 15 rotation. When the lady officer asked for the
 16 next available tow truck, of course I expected the
 17 phone call, I was right there anyways set up to
 18 respond.
 19 One of the sergeants come on the -- I
 20 heard him on the scanner. He said disregard that
 21 last comment. Get Sandy's equipment out here. So
 22 he avoided rotation altogether. Sandy's equipment
 23 was sent out to do the crash cleanup. I went on
 24 about my business.
 25 Later that day I was back in the area

1 and drove by the crash scene and this was right
 2 after we all got the letter. Pages 14 through 16
 3 show that crash scene, you can see a grille laying
 4 there from the car that hit the tree, all kinds of
 5 plastic and debris scattered everywhere.
 6 The most important thing I saw was
 7 the front license plate off of the vehicle. It
 8 was originally embedded in the tree and of course
 9 I flipped it out. I did take that license plate
 10 and photos up to Chief Brown. His comment and
 11 directly to me was I don't mean to sound rude, but
 12 I really don't care who gets called to clean up a
 13 crash. If my sergeants want to call Sandy's, then
 14 so be it, it's not an issue I (indiscernible) to
 15 deal with and that's where it was left.
 16 Just in closing I guess I have just a
 17 couple of questions for the administration and
 18 Chief Brown. Why are crashes being towed out of
 19 Sugarcreek Township? Out of Greene County?
 20 Sugarcreek Township doesn't have an impound yard.
 21 I don't think it would ever get zoned for one.
 22 In order for my business to get on a
 23 rotation, I first have to prove that my business
 24 is based in that area and that place is my primary
 25 place of business. I cannot go to Centerville,

1 Kettering, Waynesville, et cetera, to be on
2 rotation because my primary business is not in
3 that city or county. It's not close enough to the
4 area and that would put a burden on the citizens
5 to the -- in the area trying to retrieve their
6 vehicle or belongings.

7 It is for this reason that towing
8 here is taken from us local companies, we can't
9 just go somewhere else to acquire work. We have
10 to be within a 20 minute response time where our
11 company is based. And for some reason this big
12 company is -- that's ignored in a lot of
13 situations. They're a huge company and they tow
14 everywhere. But it seems we're being sort of
15 pushed out everywhere we go.

16 Why is this particular company --
17 company permitted to have horrible response times
18 and not clean up crash scenes but still get the
19 majority of the calls in the township?

20 How could Johnson's Towing be kicked
21 off rotation with no warning for overcharging one
22 person when Sandy's is permitted to overcharge
23 every person according to the rates that Greene
24 County Sheriff set forth for Greene County towing?
25 Why are they permitted to do so? And even pages

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1 11 and 12, you've got the rate sheet there in
2 front of you. On page 11, their flatbed tow
3 hookup is 165. On page 11 they charge a customer
4 185 for a flatbed tow. And on page 12 they did
5 the same thing, charged another customer 185 for a
6 flatbed tow requested by the police department.
7 Why was nothing said about this but Johnson's
8 Towing was kicked off for overcharging one
9 citizen?

10 Why are we still having problems with
11 rotation after two years? I approached this board
12 two years ago when Chief Brown first came along
13 and the trustees asked him to keep a fair rotation
14 intact. It's been everything but fair with
15 Sandy's getting the majority of the work. Crashes
16 not being cleaned up. Why are we still here? I'm
17 not here because I want to be here tonight. I
18 know you folks don't want to see me here. It's --
19 it's never been an issue in the past. Some of the
20 companies have been towing for Sugar Creek Township
21 for over 20 years. Sandy's is probably one of
22 them. I'm not certain when they started.

23 One of the biggest problems with what
24 is going on here is tax revenue from these tows
25 and tax revenue from the repair process. I did

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1 some research on sales tax, where it goes. What I
2 found sales tax, one of the largest resources of
3 revenue for the county is deposited into the
4 general fund along with property taxes and other
5 income sources. And this was taken -- pages 17
6 through 23 were taken right off of the county
7 auditor's website. Taxes collected in Greene
8 County make up 67 percent of the general fund.
9 The general fund is then used to pay the wages,
10 retirement and insurance of Greene County
11 employees. 73 percent of the general fund goes to
12 pay wages.

13 Are you guys' wages coming through
14 the general fund through Greene County?

15 MR. PITTMAN: Nothing.

16 MR. PARSONS: Nothing?

17 MR. TIFFANY: We get nothing from the
18 sales tax.

19 MR. PITTMAN: (Indiscernible.)

20 MS. DAUGHERTY: (Indiscernible)
21 township.

22 MR. PARSONS: Right, which comes out
23 of the general fund through property taxes.

24 MR. BRYANT: No.

25 MR. PITTMAN: No.

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800-894-4327

1 MR. TIFFANY: That's our general
2 fund, not the county's.

3 MR. PARSONS: Not the county's
4 general fund.

5 MR. TIFFANY: Has nothing to do with
6 county. We get nothing from the county.

7 MR. PARSONS: Then I'm wrong on that.
8 It was explained to me wrong and what I read was
9 wrong.

10 But it was my understanding that all
11 property tax in Greene County goes into the
12 general fund and then it's distributed back to
13 that area is what it says on the auditor's --
14 which it's in here on the auditor's page.

15 MR. PITTMAN: Well, it wouldn't
16 (indiscernible) to do that.

17 MS. DAUGHERTY: That would be better.
18 Easier.

19 THE WITNESS: My last question, what
20 incentive could there be that would make the
21 police department want to put extra burdens on its
22 residents to have this tow company do the majority
23 if not all of its towing.

24 All we're looking for, as I said, is
25 just a fair, balanced rotation. We're not out to

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1 take business from anybody. We -- that is our
2 business. That's all we're asking for. Is
3 when -- Sandy's has a way of coming into areas and
4 pushing smaller companies just out of business.
5 And eventually they will buy them up. Sandy's
6 started out as Sandy's. They're now doing
7 business as Coffey's Towing. They're doing
8 business as Sid's Towing. They're doing business
9 as Summit Towing; doing business as Bellbrook
10 Towing. There's probably ten different companies
11 that they just push out of the way because they're
12 big and have more money and ways of doing that.
13 And push all -- all the little guys aside.

14 And this has always been one of the
15 areas that we could tow in and not worry about it.
16 That's all I have. I just wanted to speak my mind
17 there and clear up a couple things that were
18 brought up at the last meeting.

19 MS. DAUGHERTY: Okay. Well, I want
20 to thank you because you really did take a lot of
21 time to put this together and I know it's your
22 business and you feel very passionate about it.

23 MR. PARSONS: Yes.

24 MS. DAUGHERTY: But I will look it
25 over and I appreciate you coming tonight.

1 MR. PARSONS: Thank you.

2 MS. DAUGHERTY: Is there anyone else
3 that wants to discuss this issue or --

4 MR. PITTMAN: Yeah, maybe I would
5 just like to make a comment.

6 MS. DAUGHERTY: Go ahead.

7 MR. PITTMAN: You guys know what my
8 business is and I'm a local resident and the
9 county -- the county could probably save a lot of
10 money if they went through me and I've tried to
11 convince them to use my company, but they just
12 won't do it for some reason.

13 I mean, sometimes, you know, frankly,
14 from a board of trustees, there's things that we
15 really get involved with and there's things we let
16 our department heads get involved with and the
17 towing is something they usually handle.

18 I don't know, I appreciate your
19 presentation and I will review this too. But I'm
20 sure there is some justification to why we're
21 using Sandy's Towing for the majority of our
22 towing.

23 MR. PARSONS: I would like to know
24 what that is. Honestly. I think it's all that
25 we're after --

1 MR. BRYANT: So why didn't you
2 include your invoices in here?

3 MR. PARSONS: Chief Brown has my
4 invoices.

5 MR. BRYANT: I mean in your packet
6 here.

7 MR. PARSONS: Oh, I could.

8 MR. BRYANT: Okay. I was just
9 curious as to why you didn't include your actual
10 invoices as a comparison.

11 You know -- I don't know what -- I
12 don't know what you want us to do, to be honest
13 with you. We sent the whole dispatch to Greene
14 County. We gave them -- we gave them instructions
15 on how to -- on how to rotate through that. You
16 know, we can't get into individuals in a
17 particular, you know, accident scene. We don't
18 know. You know, there could be someone that says
19 I want to be towed by Sandy's.

20 MR. PARSONS: Right.

21 MR. BRYANT: I don't know.

22 MR. PARSONS: Not a problem.

23 MR. BRYANT: I don't know. I mean,
24 we're not there. So I don't know, you know,
25 you're almost asking for an unenforceable position

1 from us because we can't enforce an equal
2 (indiscernible) -- I mean, all we can do is ask
3 the dispatch county -- ask the dispatchers at the
4 county who run this for us to -- to do the -- to
5 make the rotation that we -- that we've given them
6 to do.

7 Unfortunately, you know, one
8 company -- I don't want to get into it, you know,
9 but we just -- we just didn't feel that they were
10 right for our township. And, you know, we didn't
11 say you can't do business in here, it's just
12 you're not going to be on our dispatch call. You
13 can certainly tow all you want in the township.

14 I just -- I don't know what you want.
15 I don't know -- I don't know how we can even
16 enforce what you want. You know, short of -- does
17 anybody know what the city of Dayton charges their
18 tow companies to even have the privilege of towing
19 in there? Do you know? You're in the business.
20 Do you know?

21 MR. PARSONS: No, I have no idea.

22 MR. BRYANT: But they do charge,
23 though, right? They have exclusive agreements,
24 right?

25 MR. PARSONS: The city of Dayton is

1 not set up on a rotation.
 2 MR. BRYANT: Right. They have
 3 exclusive contract agreements with towing
 4 companies to do the business, right?
 5 MR. PARSONS: With Sandy's Towing.
 6 MR. BRYANT: But they have it.
 7 Right?
 8 MR. PARSONS: Right. With Sandy's
 9 Towing.
 10 MR. BRYANT: We don't have that. We
 11 don't have that. We -- we went to our dispatch
 12 and we said these are the companies that we like
 13 to do business with in the township, please rotate
 14 the calls amongst them.
 15 MR. PARSONS: And that's what I'm
 16 getting at --
 17 MR. BRYANT: And that's what we have
 18 done. That's what we continue to do. We're not
 19 changing any of those instructions out there. If
 20 one company gets called more or less than another
 21 company, go to the dispatch center and have a
 22 conversation with them. I don't know what you
 23 want us to do.
 24 MR. PARSONS: That's what I'm getting
 25 at. It's not with the dispatch center. It's with

1 the police (indiscernible).
 2 MR. BRYANT: I don't know that. I
 3 don't know that.
 4 MS. DAUGHERTY: Well, I thought --
 5 MR. BRYANT: I don't know that.
 6 We're not sitting -- we're not at the site when
 7 those calls are being made. We do not know if a
 8 resident is saying, hey, we prefer to have Sandy's
 9 or Parsons or Johnson's or anybody. I am sure
 10 that you as a resident are getting calls directly
 11 from -- from our dispatch center. I'm sure that
 12 there is a resident out there that says I really
 13 like the Parsons Towing Company.
 14 MR. PARSONS: Yes (indiscernible).
 15 MR. BRYANT: Please -- please send
 16 them to my scene. I'm sure you're getting that.
 17 MR. PARSONS: Right. But those
 18 calls --
 19 MR. BRYANT: We can't do anything
 20 about that. So --
 21 MR. PARSONS: Those calls are fine.
 22 MR. BRYANT: Yeah, because they're in
 23 your favor.
 24 MR. PARSONS: No, but --
 25 MR. BRYANT: This is unenforceable.

1 What you're asking us to do is unenforceable. All
 2 we can do is put the instructions out with the
 3 dispatch company and then let them work it.
 4 Everybody gets -- everybody gets
 5 treated fairly, whether it's unfairly or not. But
 6 everybody gets treated -- you get opportunities,
 7 residents get opportunities to say I want this
 8 person to come service my car. You get them.
 9 Sandy's gets them. Right now Sandy's is getting
 10 the majority of the business. When they start
 11 screwing up and -- and messing with people, they
 12 won't get called anymore and you'll get called.
 13 It's a cyclical nature of business. I don't know
 14 how to enforce what you're asking us to do.
 15 MR. PARSONS: And that's what you're
 16 not listening to is --
 17 MR. BRYANT: I am listening. I am
 18 listening very -- I'm a very smart person. And I
 19 don't know how to enforce this.
 20 MR. PARSONS: It's the sergeants that
 21 are requesting Sandy's and the police officers and
 22 sergeants do not care who comes and does that.
 23 MS. DAUGHERTY: Right. But they're
 24 asking for Sandy's.
 25 MR. PARSONS: Yes. The sergeants are

1 requesting Sandy's not -- not the person
 2 (indiscernible).
 3 MS. DAUGHERTY: But there must be a
 4 reason for that.
 5 MR. PARSONS: That is where my
 6 complaint lies.
 7 MS. DAUGHERTY: I don't know
 8 (indiscernible).
 9 MR. PARSONS: It should follow
 10 rotation (indiscernible).
 11 MR. BRYANT: We can get rid of the
 12 rotation. I mean, we can get rid of the rotation,
 13 right?
 14 MR. PARSONS: You could, yes.
 15 MR. BRYANT: So we can make our lives
 16 a lot easier by just saying one tow truck company,
 17 hell or high water, we don't care, just call them.
 18 I mean, we could do that. We don't because we
 19 don't want to do that. We want to share the
 20 workload across there, but you're making
 21 accusations that we up here, you know, have no
 22 way, absolutely no means of determining whether
 23 that's true or not.
 24 MR. PARSONS: I tried to back the
 25 accusations because I didn't want to speak to

1 accusations last week. That's the reason I took
2 the time for the pamphlet and put all of that
3 together.

4 MS. DAUGHERTY: I think it's just not
5 a good issue to debate. I think we need to -- I
6 would like us to look at this and at least talk
7 about it and I believe in fair share but I just
8 don't want to go to a debate. I think maybe the
9 three of us can talk about it in the work session
10 but right now I don't want to make any decisions
11 on it.

12 I mean, if you want to say anything,
13 you can. It's up to you. I don't think it should
14 be a debate tonight. We just got this
15 information. I appreciate the time you put into
16 it. So having said that, does anyone else have
17 any other comments? Okay. Do we need an
18 executive session?

19 UNIDENTIFIED SPEAKER: No, ma'am.

20 MS. DAUGHERTY: No. No executive
21 session. Okay. I'll make a motion to adjourn.

22 MR. BRYANT: Second.

23 MS. DAUGHERTY: Thank you. Take
24 roll, please.

25 THE CLERK: Mr. Pittman.

1 MR. PITTMAN: Yes.
2 THE CLERK: Mr. Bryant.
3 MR. BRYANT: Yes.
4 THE CLERK: Ms. Daugherty.
5 MS. DAUGHERTY: Yes.
6 All righty. Good job.
7 (Thereupon, the proceeding
8 concluded.)
9 (End of audio.)

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1 STATE OF OHIO)
2 COUNTY OF MONTGOMERY) SS: CERTIFICATE
3 I, Monica M. Silverwood, a Notary Public
4 within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the above-named
7 taped proceeding was reduced to writing by me
8 stenographically and thereafter reduced to
9 typewriting to the best of my ability.

10 I FURTHER CERTIFY that I am not a relative
11 or Attorney of either party nor in any manner
12 interested in the event of this action.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and seal of office at Dayton, Ohio, on this
15 29th day of December, 2015.

16
17 
18 *Monica M. Silverwood*
19 MONICA M. SILVERWOOD, RPR, CET
20 NOTARY PUBLIC, STATE OF OHIO
21 My commission expires 9-2-2019
22
23
24
25

EXHIBIT 12

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2016.01.08.01**

**IN RE: RESOLUTION TO PROCEED FOR BALLOT
FOR FIRE DISTRICT LEVY 2016**

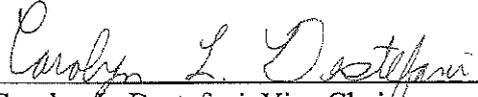
WHEREAS, the Board of Trustees of Sugarcreek Township, Greene County, Ohio, previously formed and established the Sugarcreek Township Fire District consisting of the unincorporated areas of Sugarcreek Township, Greene County, Ohio; and

WHEREAS, having passed a Resolution of Necessity for Levying a Tax, 2015.10.19.07, and receiving certification from Greene County Auditor, David Graham, the Sugarcreek Board of Trustees moves for a Resolution to Proceed and desires to proceed and place this Fire District Levy on the March 15, 2016 Ballot.

NOW THEREFORE BE IT RESOLVED, that this Resolution to Proceed for Ballot is hereby adopted and that this Resolution shall take effect and be in force from and after the earliest time provided by law.



Michael E. Pittman, Chairperson



Carolyn L. Destefani, Vice Chairperson



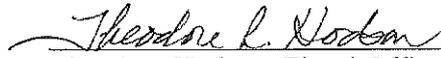
Nadine S. Daugherty, Trustee



Theodore L. Hodson, Fiscal Officer

CERTIFICATION

The undersigned Fiscal Officer of the Board of Township Trustees of Sugarcreek Township, Greene County, Ohio, hereby certifies that the foregoing is a true copy of a Resolution duly passed by the Sugarcreek Township Board of Trustees on January 8, 2016.



Theodore Hodson, Fiscal Officer
Sugarcreek Township

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Evidence was served upon the following by electronic mail this 14th day of January, 2016:

Elizabeth A. Ellis (0074332)
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Sugarcreek Township***

Michael T. Cappel (0079193)

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