

AMENDED AGENDA

REGULAR PIQUA CITY COMMISSION MEETING
TUESDAY, MAY 17, 2011
7:30 P.M. – COMMISSION CHAMBER – 2nd FLOOR
201 WEST WATER STREET
PIQUA, OHIO 45356

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

REGULAR CITY COMMISSION MEETING

PROCLAMATIONS

- Proclamation - Honoring Piqua Kiwanis 75th Anniversary – Mrs. Peggy Henthorn
- Proclamation – Emerald Ash Borer Awareness Week – Mr. Bob Graeser
- Proclamation – Police Week in the City of Piqua - Police Chief Bruce Jamison

RESIDENCE PRIDE AWARDS

- | | |
|-----------------------|----------------------------------|
| ➤ 500 N. Wayne Street | Reed Mote Staley Insurance, Inc. |
| ➤ 617 Cherry Street | Dan & Diane Beaver |
| ➤ 821 Boone Street | Jim & Malinda Williams |
| ➤ 614 N. Wayne Street | Jim & Joan Stover |
| ➤ 611 Cherry Street | Bill & Vicky Beckstedt |

A. CONSENT AGENDA

- a. APPROVAL OF MINUTES
Approval of the minutes from the April 15, 2011 Piqua City Commission Special Meeting and the minutes from the Piqua City Commission Meeting of April 19, 2011

B. NEW BUSINESS

- a. ORD. NO 3-11 (1st Reading)
An Ordinance enacting and adopting a supplement to the Code of Ordinances for the City of Piqua
- b. ORD. NO. 4-11 (1st Reading)
An Ordinance amending Section 154.019 Floodplain District of the Code of Ordinances and enacting and adopting Chapter 155: Floodplain Regulations of the Code of Ordinance for the City of Piqua

- c. RES. NO. R-60-11
A Resolution accepting the resignation of Barbara Miller as a member of the Community Diversity Committee
- d. RES. NO. R-61-11
A Resolution appointing a member to the Community Diversity Committee
- e. RES. NO. R-62-11
A Resolution accepting the resignation of William Shinall as a member of the Golf Advisory Board
- f. RES. NO. R-63-11
A Resolution amending the contract with Kleingers & Associates for the engineering design on the County Road 25-A Phase II reconstruction project
- g. RES. NO. R-64-11
A Resolution requesting final authorization for the pavement planing and resurfacing of US Route 36 and State Route 185 within the City of Piqua
- h. RES. NO. R-65-11
A Resolution awarding a contract to Hume Supply, Inc. for the 2011 Sidewalk ADA compliance program
- i. RES. NO. R-66-11
A Resolution appointing a member to the Golf Advisory Board
- j. RES. NO. R-67-11
A Resolution authorizing the City Manager to enter into a lease agreement to permit the usage of a portion of Fountain Park, Hardman Field and Hance Pavilion to the Piqua Fourth of July Association
- k. RES. NO. R-68-11
A Resolution for the employment of Frederick E. Enderle as City Manager

C. OTHER

- a. Economic Development Update – Mr. Bill Murphy, Assistant City Manager/Director of Economic Development
- b. Street Department Update – Mr. Doug Harter, Street Department Superintendent
- c. Month Reports – March 2011

D. ADJOURNMENT

MINUTES
PIQUA CITY COMMISSION SPECIAL MEETING
EXECUTIVE SESSION
APRIL 15, 2011
9:45 A.M.
201 WEST WATER STREET
PIQUA, OHIO 45356

Piqua City Commission met in Special Session at 9:45 A.M. in the Municipal Government Complex Administrative Conference Room, 201 W. Water Street. Mayor Fess called the meeting to order at 9:45 P.M. Also present were Commissioners Wilson, Martin, Vogt and Terry. Absent: None.

Moved by Commissioner Martin, seconded by Commissioner Vogt to convene in Special Session at 9:45 A.M. Voice vote, Aye: Martin, Vogt, Terry, Fess, and Wilson. Nay: None. Motion carried unanimously.

Moved by Commissioner Vogt, seconded by Commissioner Martin to move into Executive Session at 9:56 A.M. Voice vote, Aye: Martin, Vogt, Terry, Fess, and Wilson. Nay: None. Motion carried unanimously

Purpose of the Executive Session is to consider the appointment, employment, dismissal, discipline or compensation of the City Manager.

Moved by Commissioner Martin, seconded by Commissioner Wilson to adjourn from the Executive Session at 4:31 P.M. Voice vote, Aye: Terry, Martin, Wilson, Vogt, and Fess. Nay: None. Motion carried unanimously.

Moved by Commissioner Martin, seconded by Commissioner Vogt, to adjourn from the Special Piqua City Commission Meeting at 4:32 P.M. Voice vote, Aye: Martin, Wilson, Terry, Fess, and Vogt. Nay: None. Motion carried unanimously.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

**MINUTES
PIQUA CITY COMMISSION
Tuesday April 19, 2011
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Vogt, Martin, Terry, and Wilson. Absent: None.

REGULAR CITY COMMISSION MEETING

Mayor Fess stated she would like to present a Proclamation for Motorcycle Awareness Month in the City of Piqua and would like to read and present it to Larry Smith, Miami County Coordinator of ABATE of Ohio Inc. (American Bikers Aimed Toward Education). Mayor Fees read the proclamation and presented it to Mr. Smith. Mr. Smith thanked Mayor Fess and the City of Piqua for the proclamation and announced the State Motorcycle Awareness Rally will be held on Saturday, April 30, in Sunbury, Ohio.

PRESENTATION: University of Dayton River Summit 2011-Corridor Champion
Accepting: Jeff Lange

Mayor Fess read the proclamation and presented the proclamation to Mr. Lange. Mayor Fess thanked Mr. Lange for all of his hard work on helping to clean up the area waterways. Mayor Fess further stated she and Mr. Lange attended the 2011 Dayton River Summit in Dayton recently where Mr. Lange was named Corridor Champion representative from the City of Piqua.

Mr. Lange thanked the City of Piqua, all of his family and friends, the many volunteers, and business supporters for all their hard work and support over the past years. The 8th Annual River Sweep Clean Up is scheduled for July 16th, and Mr. Lange stated he has about 140 volunteers lined up to clean the sixteen miles of riverbanks on both sides of the river. Mayor Fess stated without Mr. Lange's leadership the program would not be as successful, and thanked Mr. Lange for his continued support and leadership.

Consent Agenda

Approval of Minutes

Approval of the minutes from the April 5, 2011 Regular Piqua City Commission Meeting

Moved by Commissioner Martin, seconded by Commissioner Vogt, that the minutes of the April 5, 2011 Regular Piqua City Commission Meeting be approved. Voice vote, Aye: Wilson, Martin, Terry, Fess, and Vogt. Nay: None. Motion carried unanimously.

NEW BUSINESS

RES. NO. R-58-11

A Resolution authorizing a purchase order to Global Government/Education Solutions Inc. for the purchase of hardware and software

City Manager Enderle stated Resolution No. R-58-11 is a request for approval of the purchase of hardware and software from Global Government/Education Solutions Inc. in an amount not to exceed \$44,467. This hardware and software is needed for the Municipal Information Systems project purchased in March of 2011, and ensures the City's equipment and software meets the minimum requirements for the installation and operation of the Springbrook Software suite of applications. The hardware and software upgrades/replacements were included in the Municipal Information System project presented and approved in July of 2010 and are also included in the budget for 2011, said City Manager Enderle.

Public Comment

No one came forward to speak for or against Resolution No. R-58-11 at this time.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No. R-58-11 be adopted. Roll call, Aye: Fess, Wilson, Terry, Vogt, and Martin. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-58-11 adopted.

RES. NO. R-59-11

A Resolution extending a contract for the collection of recyclable materials in the City

City Manager Enderle stated this resolution would extend the current contract with Rumpke of Ohio for curbside recycling service. Piqua is part of the Miami County Solid Waste District, which is under a recycling mandate from the EPA. The District has a goal of 25% residential waste reduction, this goal has been achieved due in part to the curb-side recycling programs in Piqua and Troy and also due to the extensive recycling by local businesses. The City recently learned that the EPA will be modifying what categories of recycling will count towards the 25% residential reduction goal. The district is currently evaluating alternatives to meeting the EPA Mandate. If the City of Piqua, City of Troy and Miami County all work together to resolve this issue, then we could possibly realize some cost savings, stated City Manager Enderle.

The contract with Rumpke will expire at the end of April, and the alternatives are to either extend the contract to provide uninterrupted recycling service or to allow the contract to expire. If the contract expires there would be no curbside recycling service in place to take care of the recycling. Piqua residents would have the option to take their recyclable materials to the Miami County Transfer Station or another recycling center.

By extending the current contract with Rumpke it will allow more time to look at alternatives for the recycling program. Rumpke has agreed to extend the contract for up to one year with a modest increase of 4%. We are currently in discussions with Miami County and the City of Troy to look at alternatives and ways to work together to make recycling more cost effective, said City Manager Enderle.

There was discussion on the need for more residential recycling and commissioners encouraged citizens to recycle as much as possible to help bring the numbers up so we can continue to have curb-side recycling in the City of Piqua.

Public Comment

Joe Francis, Parkway Drive, came forward and stated there were several private individuals that are going around taking some of the recycling that was set out for Rumpke, and asked if it would be possible to hire these individuals to do the recycling for the City of Piqua.

City Manager Enderle responded and stated the City had to follow certain regulations and guidelines on picking up recycling and was not sure the individuals would be able to handle the large amount of recycling or have the license to do it.

Mayor Fess stated the City would look at all the options before making a decision, and thanked Mr. Francis for coming forth with his information.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-59-11 be adopted. Roll call, Aye: Martin, Terry, Wilson, Fess, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-59-11 adopted.

OTHER

Economic Development Update – Mr. Bill Murphy

Mr. Murphy gave a brief update on several items beginning with the April Economic Development Update which included the 2011 State of Economic Development. Over 145 individuals attended the State of Economic Development Update held at the Piqua Plaza on April 12, 2011. Several area businesses were highlighted at the event that included: Hartzell Hardwoods, Trupointe, French Oil Mill Machinery, and Quint Creative Group. Also Industry Products, Polysource, Denizen Inc., Faith Driven Fitness, and Morris Home Solutions were recognized for expanding their businesses.

Mr. Murphy also gave a brief overview of the 2011 Hannover Messe Industrial Fair he attended recently, stating 6,500 companies participated in the fair from over 60 countries, and over 230,000 individuals attended the show. Piqua in partnership with the Troy Development Council and the Dayton Development Coalition held meetings with twenty-two different companies and received five solid prospects looking to take their business to the next level in our area. It was the best tradeshow in the last ten years stated Mr. Murphy.

Mr. Murphy also spoke on the Retail Recruitment Strategy stating a Retail Void Analysis was conducted to determine which retailers are not here that should be here. This study identified 40-plus retailers and restaurants that may have an interest in locating in the City of Piqua, some of which would be a good fit for the Miami Valley Centre.

PUBLIC COMMENT

Rob O'Leary, representing the Citizens for the Piqua Library came forward and gave a brief overview on the Public Library uses and expenses. Mr. O'Leary further explained the funds the Piqua Library is asking for would be for operating expenses only. The Piqua Library has a twenty-year fixed lease at their current location, with a lot of growth potential, along with being centrally located downtown. Regardless of where the Piqua Library was located there still would have been the need to put an Operating Levy on the ballot at this time due to the recent State cuts. Mr. O'Leary encouraged citizens to get out and vote for the Piqua Library Levy on May 3, 2011.

Deron Yingst, Adams Street, came forward and stated at the last Commission meeting there was some discussion concerning the five houses located on the corner of High and College Streets. Mr. Yingst he is part owner and indicated he was in the process of painting the homes when several other issues inside the homes became apparent, and needed to be taken care of first, then the weather became a problem. Mr. Yingst assured the Commission that he would continue to finish painting the houses as soon as the weather permitted.

Luke Bolin, Ann Street, came forward asked several questions in regards to the seeding on Broadway after the new curbs and sidewalks were put in place. City Engineer Amy Havenar explained the process to Mr. Bolin.

Commissioner Wilson encouraged citizens to contact Mr. Murphy if they have any questions on Economic Development.

Commissioner Wilson asked if it would be possible to get an update on the Shawnee Pump House repairs.

City Engineer Amy Havenar gave a brief update on the status of the Shawnee Pump House stating the necessary repairs and parts are in progress and the work should be completed this spring.

Commissioner Terry stated Arbor Day is April 29, and students from the Learning Center will be planting a tree in Fountain Park at 10:00 A.M. and encouraged citizens to attend.

Commissioner Terry stated since it is Motorcycle Awareness month she wanted to remind all motorcycle riders to wear their helmets when riding their motorcycles.

Commissioner Terry congratulated Jeff Lange on his award.

Commissioner Terry stated the Commissioners held interviews with several candidates for City Manager last week, and after driving around the city they commented on how clean the City of Piqua was. It is that time of year when we all need to get out to pick up and clean up around our properties to keep the city looking good, said Commissioner Terry.

Commissioner Vogt congratulated Jeff Lange on all of his hard work stating, we certainly need you and are very glad you are here to help us.

Commissioner Vogt reminded citizens to get out and vote on May 3, and to continue to recycle.

Commissioner Martin asked citizens to take the time to recycle, it is very important in regards to the amount of trash being taken the transfer station. Commissioner Martin inquired about the storm sewer work in the Shawnee area, and congratulated Jeff Lange on his award.

Mayor Fess stated the Commissioners interviewed two candidates for City Manager this past week and have not yet made a decision. The Commissioners have asked for more information, and will be taking their time on making a decision. We want to get a good fit for our city, someone who works well with the Commission and the Department Heads, said Mayor Fess.

Adjournment

Moved by Commissioner Vogt, seconded by Commissioner Wilson, to adjourn from the Regular Piqua Commission meeting at 8:20 P.M. Voice vote, Aye: Martin, Wilson, Terry, Fess, and Vogt. Nay: None. Motion carried unanimously.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE NO. 3-11

**AN ORDINANCE ENACTING AND ADOPTING A
SUPPLEMENT TO THE CODE OF ORDINANCES
FOR THE CITY OF PIQUA**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2010 supplement to the Code of Ordinances of the City of Piqua, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this City of Piqua; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to the Ohio Code; and

WHEREAS, it is the intent of the Piqua City Commission to accept these updated sections in accordance with the changes of the law of the State of Ohio; and

WHEREAS, it is necessary to provide for the usual daily operation of the City of Piqua and for the immediate preservation of the public peace, health, safety and general welfare of the City of Piqua that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC 1: That the 2010 supplement to the Code of Ordinances of the City of Piqua as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, is hereby adopted by reference as is set out in its entirety.

SEC. 2: Such supplement shall be deemed published as of the day of its adoption and approval by the Piqua City Commission and the Clerk of Commission is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk of Commission.

SEC. 3: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE NO. 04-11

**AN ORDINANCE AMENDING § 154.019 FLOODPLAIN DISTRICT
OF THE CODE OF ORDINANCES AND ENACTING AND ADOPTING
CHAPTER 155: FLOODPLAIN REGULATIONS OF THE CODE OF ORDINANCES FOR THE
CITY OF PIQUA**

WHEREAS, the City of Piqua, Ohio participates in the National Flood Insurance Program (NFIP) to ensure property owners and residents within the community have access to flood insurance; and

WHEREAS, the Federal Emergency Management Agency (FEMA) has completed a map modernization project resulting in the updating of the Flood Insurance Rate Map (FIRM) applicable to the City of Piqua and Miami County, Ohio; and

WHEREAS, Ohio communities participating in the NFIP are required to adopt and maintain floodplain regulations in accordance with the minimum standards set forth by the Ohio Department of Natural Resources (ODNR); and

WHEREAS, the ODNR has provided the City of Piqua with an updated set of model floodplain regulations to be adopted by the August 2, 2011 effective date of the updated FIRM; and

WHEREAS, the City of Piqua Planning Commission advertised the date, time and location of a public hearing to consider a request to amend the existing § 154.019 FLOODPLAIN DISTRICT, as shown in Exhibit A included herewith, and to consider the adoption of CHAPTER 155: FLOODPLAIN REGULATIONS, as shown in Exhibit B included herewith, and

WHEREAS, the City of Piqua Planning Commission conducted a public hearing and recommended the adoption of Exhibit A and Exhibit B included herewith; and

WHEREAS, the Piqua City Commission has studied this item and deemed the proposed amendment and adoption necessary and appropriate to preserve and promote the public health, safety and general welfare of the City of Piqua.

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC 1: That the proposed amendment to § 154.019 FLOODPLAIN DISTRICT of the Code of Ordinances, as shown in Exhibit A included herewith, is hereby adopted, and all remaining sections of Chapter 154 not amended through this ordinance shall remain in effect as is.

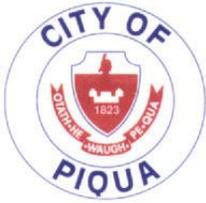
SEC 2: That Chapter 155: FLOODPLAIN REGULATIONS of the Piqua Code of Ordinances, as shown in Exhibit B included herewith, is hereby enacted and adopted.

SEC 3: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of May 17, 2011

TO: Fred Enderle, City Manager
FROM: Chris Schmiesing, City Planner

SUBJECT: Adoption of Floodplain Regulations per requirements of National Flood Insurance Program update of Flood Insurance Rate Map (FIRM)

PURPOSE:

Approve an ordinance to amend Zoning chapter section 154.019 Floodplain District and adopt chapter 155 Floodplain Regulations.

RECOMMENDATION:

Approve the Ordinance to amend the existing Floodplain District code language in the Zoning Code to reference the proposed floodplain regulations, and adopt the proposed Floodplain Regulations as Chapter 155 of the Land Use section of the City of Piqua Code of Ordinances.

BACKGROUND:

FEMA has undertaken a flood map modernization project to create new FIRM (Flood Insurance Rate Maps) using digital mapping technology and modern analysis techniques to more accurately define the limits of *Special Flood Hazard Areas* (100-year floodplain) and identify *Other Flood Prone Areas*. The mapping produced as a result of this effort will replace 1970's and 80's mapping that lacks the detail necessary to relate the designated flood areas to parcel lines or physical features located on the ground.

Over the past 16 months FEMA consultants, in cooperation with ODNR officials, have completed map updates affecting the state of Ohio, and in particular Miami County. Following the Miami County preliminary map update release in March of 2010 FEMA conducted a workshop at the Miami County Safety Building to explain the project purpose and process to local officials and the general public. Following the workshop a 90-day appeal period was advertised and the public was invited to submit formal appeals or general comments concerning the preliminary mapping designating flood plain areas throughout the county. With reference to the mapping of the Piqua area, there were very minor changes to the existing floodplain boundaries. There were no appeals or comments submitted concerning the Piqua area, less the comments offered by this office concerning incorrect city limit boundaries and other minor labeling errors shown on the preliminary mapping.

ALTERNATIVES:

- 1) Approve Ordinance to authorize amending the affected code section and adoption of the new Floodplain Regulations chapter.
- 2) Defeat the Ordinance to reject the proposed code amendment and adoption of Floodplain Regulations, and discontinue Piqua's participation in the National Flood Insurance Program.

DISCUSSION:

On February 2, 2011 FEMA provided the city of Piqua with notification of the *final flood elevations* as determined by the FIRM update project. With this notice, known as the Letter of Final Determination (LFD), comes an obligation on the part of local communities participating in the National Flood Insurance Program (NFIP) – Piqua has participated in the NFIP since its inception in the early 70's – to adopt the most current model floodplain management regulations developed by the State in which the community is located. In Ohio, the ODNR is the agency responsible for the development of the model floodplain management regulations. To ensure the local

communities participating in the program properly adopt the model regulations ODNR held a workshop to explain the adoption process requirements. As outlined by ODNR, the process requires that communities adopt the regulations within 6 months from the date of the LFD to avoid being suspended from the NFIP. Suspension from the program – even if only for brief period – will have an adverse impact on the premium rates paid, and the availability of flood insurance secured, by local property owners participating in the program. Because ODNR and FEMA are also required to review and approve regulations adopted by each community prior to the 6 month deadline date, the actual deadline for returning the executed ordinance and supporting paperwork to ODNR is really only 5 months, which is the end of June 2011.

In accordance with proper procedures for introducing and adopting an amendment to the land use codes, the floodplain regulations were first provided to the Planning Commission at their April 12, 2011 meeting. Recognizing the significance of the proposed code amendments the Planning Commission concurred with staff's recommendation to delay action on the item until the following meeting to allow for a public comment period and provide the Planning Commission members ample time to study the proposed regulations. A press release announcing the proposed code amendments and inviting public review and comment was sent to the local media, and the press release and a link to the proposed code revisions were also made available on the City of Piqua website. At the May 10, 2011 Planning Commission meeting, the Planning Commission held a public hearing to discuss the proposed floodplain regulations and receive public comment. Hearing no comments at the public hearing, and having received no public comments prior to the meeting, the Planning Commission chose to move forward with acting on this item. In doing so the Planning Commission acknowledged the following:

- To remain in compliance with the NFIP requirements, the model floodplain regulations provided by ODNR need to be adopted as is, and that any modification or change to the model language provided by ODNR may cause ODNR and FEMA to reject the adopted standards and jeopardize the community's standing in the NFIP; and,
- Because Piqua's zoning floodplain standards previously restricted new building construction and improvements to existing structures within the floodplain, the new model floodplain regulations present virtually no change in how the standards will impact the affected land owners within our community.

As a result of their findings the Planning Commission unanimously recommended approval of the proposed code amendments and the adoption of the floodplain regulations as presented.

FINANCIAL IMPACT:

By adopting, maintaining, and enforcing responsible floodplain regulations, the community is promoting and protecting the public's health, safety, and welfare, and lessening the likelihood of there being personal property damage or public health issues during high water events that may necessitate a response from public works or safety service operations funded by the City.

COMMUNITY IMPACT:

Approval of the floodplain regulations will preserve floodways and designated floodplain areas and ensure the continuation of flood protection best practices within the community.

CONFORMITY TO CITY PLANS & POLICIES:

The proposed code amendments are consistent and compatible with all adopted City plans and policies, including the Goal, Principles, and Objectives and Strategies outlined in the Land Use and Natural Environment chapters of the Plan It Piqua Comprehensive Plan document.

Ordinance 4-11

Exhibit A

§ 154.019 F FLOODPLAIN DISTRICT.

(A) *Intent.* ~~This To define an overlay district that~~ is comprised of those lands within the city that are subject to ~~inundation by the a 1% annual chance flood or greater chance of flooding in any given year,~~ as designated by the Federal ~~Emergency Management Agency, Flood Insurance Rate Maps for Miami County, Ohio, Administration, U.S. Department of Housing and Urban Development,~~ under the National Flood Insurance Program (NFIP). The official Flood Insurance Rate Map (FIRM) ~~effective August 2, 2011 dated November 9, 1979,~~ and any revisions thereto are adopted by reference and declared to be a part of this chapter.

(B) *Boundaries.* The boundaries of this district shall consist of those areas of special flood hazard ~~areas (SHFAs), designated as zone A on the FIRM map, dated November 9, 1979, other applicable Miami County FIRM maps and special flood hazard areas as indicated on U.S. Department of Agriculture, Soil Conservation Service (SCS) studies,~~ and shall be indicated on the Official Zoning Map of the city. ~~The requirements of the overlay district shall be applicable to all lots or portions of lots within the overlay district boundaries regardless of any underlying zoning designation that may also apply to the lot or portions of lots affected.~~

(C) *Use and Development Standards.* ~~All use or development of lands located within the overlay district shall be subject to all provisions included in Chapter 155 – Floodplain Regulations.~~

~~*Permitted principal uses.* The following uses are permitted in the F Floodplain District.~~

~~— (1) — Agriculture and gardening.~~

~~— (2) — Swimming pools.~~

~~— (3) — Public or private recreation facilities including parks, playgrounds, golf courses, boat docks and driving ranges.~~

~~— (D) — *Prohibited uses.* Structures for human habitation.~~

~~— (E) — *Parking requirements.* Parking within the F Floodplain District shall be regulated in conformance with the provisions of §§ 154.080 through 154.083.~~

~~— (F) — *Sign regulations.* Signs within the F Floodplain District shall be regulated in conformance with the provisions of §§ 154.095 through 154.107.~~

~~— (G) — *Height and area regulations.* The maximum and minimum lot requirements within the F Floodplain District shall be as set forth below.~~

~~— (1) — *General requirements.*~~

Minimum lot area	None
Minimum lot frontage	60 feet
Minimum front yard setback	30 feet
Minimum side yard setback	30 feet

Ordinance 4-11

Exhibit A

Minimum rear yard setback	30 feet
Maximum height	35 feet

~~—— (2) — *Improvement.* Structures existing prior to the effective date of this chapter may not be improved or repaired to 50% or more of the structure's existing market value, unless the structure is brought to compliance with NFIP standards, such as elevation or floodproofing.~~

(Ord. 16-99, passed 7-6-99) [Penalty, see § 154.999](#)

Ordinance 4-11

Exhibit B

CHAPTER 155: FLOODPLAIN REGULATIONS

SECTION 1.0: GENERAL PROVISIONS

1.1 Statutory Authorization

ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of Piqua, State of Ohio, does ordain as follows:

1.2 Findings of Fact

The City of Piqua has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

1.3 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- H. Minimize the impact of development on adjacent properties within and near flood prone areas;
- I. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- J. Minimize the impact of development on the natural, beneficial values of the floodplain;
- K. Prevent floodplain uses that are either hazardous or environmentally incompatible; and

Ordinance 4-11

Exhibit B

- L. Meet community participation requirements of the National Flood Insurance Program.

1.4 Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

1.5 Lands to Which These Regulations Apply

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Piqua as identified in Section 1.6, including any additional areas of special flood hazard annexed by City of Piqua.

1.6 Basis for Establishing the Areas of Special Flood Hazard

For the purposes of these regulations, the following studies and / or maps are adopted:

- A. *Flood Insurance Study Miami County, Ohio and Incorporated Areas and Flood Insurance Rate Map Miami County, Ohio and Incorporated Areas* both effective August 2, 2011.
- B. Other studies and / or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- C. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Piqua as required by Section 4.3 Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and / or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Municipal Government Complex at 201 West Water Street Piqua, Ohio.

1.7 Abrogation and Greater Restrictions

Ordinance 4-11

Exhibit B

These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations.

1.8 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.
Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

1.9 Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Piqua, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

1.10 Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Ordinance 4-11

Exhibit B

SECTION 2.0: DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Appeal

A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

Base (100-Year) Flood Elevation (BFE)

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

Development

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Enclosure Below the Lowest Floor

See "Lowest Floor."

Executive Order 11988 (Floodplain Management)

Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

Federal Emergency Management Agency (FEMA)

The agency with the overall responsibility for administering the National Flood Insurance Program.

Fill

A deposit of earth material placed by artificial means.

Ordinance 4-11

Exhibit B

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM)

Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

Flood Insurance Rate Map (FIRM)

An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

Flood Insurance Risk Zones

Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zones A1-30 and Zone AE:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

Zone AO:

Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

Zone AH:

Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99:

Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X (shaded):

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

Flood Insurance Study (FIS)

Ordinance 4-11

Exhibit B

The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

Flood Protection Elevation

The Flood Protection Elevation, or FPE, is the base flood elevation plus one [1] foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

Floodway

A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

Freeboard

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Historic structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.

Hydrologic and hydraulic engineering analysis

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

Ordinance 4-11

Exhibit B

Letter of Map Change (LOMC)

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Lowest floor

The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

Manufactured home park

As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the

Ordinance 4-11

Exhibit B

purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

National Flood Insurance Program (NFIP)

The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

New construction

Structures for which the "start of construction" commenced on or after the initial effective date of the City of Piqua Flood Insurance Rate Map, November 9, 1979, and includes any subsequent improvements to such structures.

Person

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

Recreational vehicle

A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Registered Professional Architect

A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Revised Code.

Registered Professional Engineer

A person registered as a professional engineer under Chapter 4733 of the Revised Code.

Registered Professional Surveyor

A person registered as a professional surveyor under Chapter 4733 of the Revised Code.

Special Flood Hazard Area

Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance

Ordinance 4-11

Exhibit B

Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

Start of construction

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

Structure

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

1. Any improvement to a structure that is considered "new construction,"
2. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
3. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

Variance

Ordinance 4-11

Exhibit B

A grant of relief from the standards of these regulations consistent with the variance conditions herein.

Violation

The failure of a structure or other development to be fully compliant with these regulations.

Ordinance 4-11

Exhibit B

SECTION 3.0: ADMINISTRATION

3.1 Designation of the Floodplain Administrator

The City Planner is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

3.2 Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Evaluate applications for permits to develop in special flood hazard areas.
- B. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- C. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
- D. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- E. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
- F. Enforce the provisions of these regulations.
- G. Provide information, testimony, or other evidence as needed during variance hearings.
- H. Coordinate map maintenance activities and FEMA follow-up.
- I. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

3.3 Floodplain Development Permits

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1.6, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

3.4 Application Required

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special

Ordinance 4-11

Exhibit B

flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- A. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Elevation of the existing, natural ground where structures are proposed.
- C. Elevation of the lowest floor, including basement, of all proposed structures.
- D. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- E. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - 1. Floodproofing certification for non-residential floodproofed structure as required in Section 4.5.
 - 2. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 4.4(E) are designed to automatically equalize hydrostatic flood forces.
 - 3. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 4.9(C).
 - 4. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 4.9(B).
 - 5. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 4.9(A).
 - 6. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section 4.3.
- F. A floodplain development permit application fee set by the schedule of fees adopted by the City of Piqua.

3.5 Review and Approval of a Floodplain Development Permit Application

A. Review

Ordinance 4-11

Exhibit B

1. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 3.4 has been received by the Floodplain Administrator.
2. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

B. Approval

Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

3.6 Inspections

The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

3.7 Post-Construction Certifications Required

The following as-built certifications are required after a floodplain development permit has been issued:

- A. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a *Federal Emergency Management Agency Elevation Certificate* completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- B. For all development activities subject to the standards of Section 3.10(A), a Letter of Map Revision.

3.8 Revoking a Floodplain Development Permit

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted

Ordinance 4-11

Exhibit B

thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 5 of these regulations.

3.9 Exemption from Filing a Development Permit

An application for a floodplain development permit shall not be required for:

- A. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- B. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- C. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- D. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- E. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

3.10 Map Maintenance Activities

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Piqua flood maps, studies and other data identified in Section 1.6 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

A. Requirement to Submit New Technical Data

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - d. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 4.3.

Ordinance 4-11

Exhibit B

2. It is the responsibility of the applicant to have technical data, required in accordance with Section 3.10(A), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - a. Proposed floodway encroachments that increase the base flood elevation; and
 - b. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
4. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 3.10(A)(1).

B. Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Manager of the City of Piqua, and may be submitted at any time.

C. Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Piqua have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Piqua Flood Insurance Rate Map accurately represent the City of Piqua boundaries, include within such notification a copy of a map of the City of Piqua suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Piqua has assumed or relinquished floodplain management regulatory authority.

3.11 Data Use and Flood Map Interpretation

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- A. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

Ordinance 4-11

Exhibit B

- B. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- C. When Preliminary Flood Insurance Rate Maps and / or Flood Insurance Study have been provided by FEMA:
 - 1. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 - 2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and /or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and / or appeal to FEMA.
- D. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5.0, Appeals and Variances.
- E. Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, *etc.*) shall prevail.

3.12 Substantial Damage Determinations

Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, *etc.* After such a damage event, the Floodplain Administrator shall:

- A. Determine whether damaged structures are located in special flood hazard areas;
- B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist

Ordinance 4-11

Exhibit B

with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

Ordinance 4-11

Exhibit B

SECTION 4.0: USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1.6 or 3.11(A):

4.1 Use Regulations

A. Permitted Uses

All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Piqua are allowed provided they meet the provisions of these regulations.

B. Prohibited Uses

1. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
2. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.
3. Both residential and nonresidential structures are prohibited within the special flood hazard areas as established in Section 1.6 or 3.11(A).

4.2 Water and Wastewater Systems

The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- C. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

4.3 Subdivisions and Large Developments

- A. All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

Ordinance 4-11

Exhibit B

- E. The applicant shall meet the requirement to submit technical data to FEMA in Section 3.10(A)(1)(d) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 4.3(D).

4.4 Residential Structures

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (4.4(A)) and construction materials resistant to flood damage (4.4(B)) are satisfied.
- B. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- C. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- E. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - 1. Be used only for the parking of vehicles, building access, or storage; and
 - 2. be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - 3. have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- F. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- G. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a

Ordinance 4-11

Exhibit B

historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 4.4.

- H. In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

4.5 Nonresidential Structures

- A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 4.4 (A) – (C) and (E) – (H).
- B. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - 1. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - 3. Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Agency Floodproofing Certificate*, that the design and methods of construction are in accordance with Section 4.5(B)(1) and (2).
- C. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

4.6 Accessory Structures

Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

- A. They shall not be used for human habitation;
- B. They shall be constructed of flood resistant materials;
- C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- D. They shall be firmly anchored to prevent flotation;
- E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- F. They shall meet the opening requirements of Section 4.4(E)(3);

4.7 Recreational Vehicles

Recreational vehicles must meet at least one of the following standards:

Ordinance 4-11

Exhibit B

- A. They shall not be located on sites in special flood hazard areas for more than 180 days, or
- B. They must be fully licensed and ready for highway use, or
- C. They must meet all standards of Section 4.4.

4.8 Above Ground Gas or Liquid Storage Tanks

All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

4.9 Assurance of Flood Carrying Capacity

Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

A. Development in Floodways

1. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
2. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - a. Meet the requirements to submit technical data in Section 3.10(A);
 - b. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - c. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - d. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 - e. Concurrence of the Mayor of City of Piqua and the Chief Executive Officer of any other communities impacted by the proposed actions.

B. Development in Riverine Areas with Base Flood Elevations but No Floodways

1. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

Ordinance 4-11

Exhibit B

2. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - a. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - b. Section 4.9(A)(2), items (a) and (c)-(e).

C. Alterations of a Watercourse

For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the “bankfull stage.” The field determination of “bankfull stage” shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

1. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Piqua specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
4. The applicant shall meet the requirements to submit technical data in Section 3.10(A)(1)(c) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

Ordinance 4-11

Exhibit B

SECTION 5.0: APPEALS AND VARIANCES

5.1 Appeals Board Established

- A. The City of Piqua Board of Zoning Appeals is hereby appointed to serve as the Appeals Board as established by City Code.
- B. Records of the Appeals Board shall be kept and filed in Municipal Government Complex at 201 West Water Street Piqua, Ohio.

5.2 Powers and Duties

- A. The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- B. Authorize variances in accordance with Section 5.4 of these regulations.

5.3 Appeals

Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 20 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

5.4 Variances

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

A. Application for a Variance

- 1. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- 2. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use;

Ordinance 4-11

Exhibit B

location of the floodplain; description of the variance sought; and reason for the variance request.

3. All applications for a variance shall be accompanied by a variance application fee set by the schedule of fees adopted by the City of Piqua .

B. Public Hearing

At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
6. The necessity to the facility of a waterfront location, where applicable.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

C. Variances shall only be issued upon:

1. A showing of good and sufficient cause.
2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
4. A determination that the structure or other development is protected by methods to minimize flood damages.
5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Ordinance 4-11

Exhibit B

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

D. Other Conditions for Variances

1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
2. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 5.4(B)(1) to (11) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5.5 Procedure at Hearings

1. All testimony shall be given under oath.
2. A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
3. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
4. The administrator may present evidence or testimony in opposition to the appeal or variance.
5. All witnesses shall be subject to cross-examination by the adverse party or their counsel.
6. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
7. The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
8. The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

5.6 Appeal to the Court

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Miami County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

Ordinance 4-11

Exhibit B

SECTION 6.0: ENFORCEMENT

6.1 Compliance Required

- A. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 3.9.
- B. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 6.3.
- C. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 6.3.

6.2 Notice of Violation

Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- A. Be put in writing on an appropriate form;
- B. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- C. Specify a reasonable time for performance;
- D. Advise the owner, operator, or occupant of the right to appeal;
- E. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

6.3 Violations and Penalties

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Piqua. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Piqua from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Piqua shall prosecute any violation of these regulations in accordance with the penalties stated herein.

RESOLUTION NO. R-60-11

**A RESOLUTION ACCEPTING THE RESIGNATION
OF BARBARA MILLER AS A MEMBER OF THE
COMMUNITY DIVERSITY COMMITTEE**

WHEREAS, Barbara Miller was appointed to the Community Diversity Committee on March 15, 2011 by Resolution No.R-37-11; and

WHEREAS, Barbara Miller submitted a letter of resignation to the Community Diversity Committee on April 22, 2011.

NOW, THEREFORE BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: This Commission hereby accepts the resignation of Barbara Miller as a member of the Community Diversity Committee.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-61-11

**A RESOLUTION APPOINTING A MEMBER TO THE
COMMUNITY DIVERSITY COMMITTEE**

BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Roger Hartley is hereby appointed to fill the unexpired term of Barbara Miller as a member of the Community Diversity Committee for a term to expire on March 1, 2012 or until his successor is confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-62-11

**A RESOLUTION ACCEPTING THE RESIGNATION
OF WILLIAM SHINALL AS A MEMBER OF THE
GOLF ADVISORY BOARD**

WHEREAS, William Shinall was appointed to the Golf Advisory Board on July 6, 2009 by Resolution No. R-56-09; and

WHEREAS, William Shinall submitted a letter of resignation to the Golf Advisory Board on April 27, 2011.

NOW, THEREFORE BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: This Commission hereby accepts the resignation of William Shinall as a member of the Golf Advisory Board.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-63-11

A RESOLUTION AMENDING THE CONTRACT WITH KLEINGERS & ASSOCIATES FOR THE ENGINEERING DESIGN ON THE COUNTY ROAD 25-A PHASE II RECONSTRUCTION PROJECT

WHEREAS, on March 15, 2011 this Commission passed Resolution No. R-31-11 authorizing the City Manager to enter into an agreement with Kleingers & Associates for a not to exceed amount of \$103,000 for the Engineering Design of the County Road 25-A Phase II Reconstruction Project; and

WHEREAS, it is necessary to amend the Scope of Work for this project; and

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: A contract amendment for said Engineering Design Services is hereby awarded to Kleingers & Associates, as the best, responsible bidder and that the City Manager is hereby authorized to execute a contract amendment with said bidder pursuant to contract specifications.

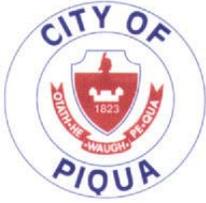
SEC. 2: The Finance Director is hereby authorized to draw her warrants from time to time on the appropriate account of the city treasury in payment according to contract terms, not exceeding an additional \$28,210 for a total contract price of \$131,210.00

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of May 17, 2011

TO: Fred Enderle, City Manager

FROM: Amy Havenar, City Engineer

SUBJECT: Contract amendment for the Engineering Design of the County Road 25-A Phase II Reconstruction Project

PURPOSE:

Request for City Commission authorization to amend the contract with Kleingers & Associates for the engineering design of the County Road 25-A Phase II Reconstruction Project.

RECOMMENDATION:

Approval of the Resolution to allow for the continuation of the engineering design on the County Road 25-A Phase II Reconstruction Project.

BACKGROUND:

On March 15, 2011, City Commission passed Resolution R-31-11 authorizing the City Manger to enter into an agreement with Kleingers & Associates for the Engineering Design of the County Road 25-A Phase II Reconstruction Project.

The County Road 25-A Reconstruction Project will consist of the reconstruction of County Road 25-A from Country Club Road to Looney Road and will include new granular base, asphalt pavement, concrete curb & gutter, sidewalks and the installation of new storm sewer. The County Road 25-A Phase II Reconstruction Project is scheduled for construction in 2013.

ALTERNATIVES:

- 1) Approve the Resolution to amend the agreement with Kleingers & Associates for the engineering design of the County Road 25-A Phase II Reconstruction Project.*
- 2) Do not approve the Resolution and do not complete the County Road 25-A Reconstruction Project.*

DISCUSSION:

County Road 25-A from the Main Street bridge to Looney Road was originally programmed as one project. However, due to the escalating construction costs, the project was broken down into two phases. At the time the project limits were scaled back, drawings were complete for the original project limits between the Main Street Bridge and Looney Road.

During the request for proposal process for the Engineering Design for the County Road 25-A Phase II Reconstruction Project (Country Club Road to Looney Road), it was stated that the selected

design consultant would have available to them the electronic drawings that were completed as a part of the original County Road 25-A Phase I Reconstruction Project (up to ODOT Stage 3 Review). By providing the electronic drawings to the selected consultant, this would save the City and Miami County both time and money since ODOT had agreed to allow the City to begin the CR 25-A Phase II Reconstruction Project design by submitting drawings at Stage 2, rather than having to begin the entire review process all over again.

However, in trying to secure the electronic drawings from the design consultant on the original project, Choice One Engineering, the City has been unsuccessful in our attempts. This issue is currently being reviewed by the City of Piqua Law Director, however, time is of the essence and in order to keep on schedule with ODOT and not jeopardize any funding timeframes, the City must proceed with the design.

Since the City cannot provide the selected consultant, Kleingers & Associates, with the electronic drawings as was indicated in the RFP for design services, the City will need to have the drawings recreated. Kleingers & Associates has provided an amendment to their Scope of Services to complete the work of recreating the construction documents as they existed up to the Stage 3 Submission to ODOT on April 1, 2004.

FINANCIAL IMPACT:

The amendment to the current contract will add an additional \$28,210 to the original contract of \$103,000 bringing the total contract to \$131,210. The total contract price includes a 15% contingency for items which may be required as the plan preparation evolves. A total of \$80,000 was budgeted in the 103 Budget for 2011; however, the entire contract cost will not be recognized in 2011, as the design will extend into 2012.

The breakdown of the right-of-way on the project is 50% of the project is within the City of Piqua corporation limits and 50% of the project falls outside of the City of Piqua corporation limits. Therefore, all costs associated with the engineering design of the project will be split 50/50 between the City of Piqua and Miami County.

COMMUNITY IMPACT:

The community has stressed the importance of improving the condition of the streets throughout the City. The reconstruction of County Road 25-A will greatly enhance the aesthetics and the drivability of this roadway. County Road 25-A is one of the major entrances to the City. This portion of County Road 25-A has an average daily traffic of approximately 15,300 vehicles/day.

The improvements planned for this section of County Road 25-A will build upon the improvements already made to the portion of County Road 25-A from Country Club Road to the Main Street bridge.

CONFORMITY TO CITY PLANS & POLICIES:

As stated in the Comprehensive Plan Update, one of the main goals is to improve the entrances to the City. The reconstruction of County Road 25-A will achieve just that. This project is part of the Ten Year Plan for major capital improvement projects.

Additional Scope of Services

Project: MIA-CR25A-18.31 (County Road 25-A Phase II Reconstruction Project)
PID# 86659

Client: City of Piqua, Ohio

Consultant: Kleingers & Associates, Inc.

Date: May 6, 2011

RE: Redesign and Re-creation of Digital Information

History

The original scope of services for this project was based on the understanding - described in the Request of Proposal document for this project - that digital (*AutoCAD*) files would be provided to selected consultant for the proposed improvements. In order to control costs and capitalize on the fact that progress design work and plan preparation had already been completed for this portion of County Road 25-A, Kleingers & Associates (K&A) was to utilize the drawing sheets, alignments, profiles, sections, linework, details, and other pertinent design features from the original digital files as the basis for design and plan preparation for the improvements. After the original contract was authorized, the City of Piqua and K&A learned that the digital files would not be provided. Also, as discussed during the field review meeting with ODOT and in subsequent correspondence, modifications to the proposed cross section design (versus the original design) in the horizontal curve near the beginning of the project limits are anticipated to notably reduce construction costs. Modifications to line, grade, and typical section elements were not included in the original scope of services.

Summary of Additional Services

This additional scope of services covers activities to supplement the project's original scope of services based on new information obtained after execution of the original contract including re-creation of drawing sheets, alignments, profiles, sections, linework, details, and other pertinent design features in *AutoCAD* based on the paper plan set provided to K&A by the City of Piqua. Also, this additional scope of services covers extra design work, plan preparation, coordination, and project administration related to modifying the proposed design to provide a reverse crown section (instead of a normal crown section) including, as needed, modifications to the proposed profile, inclusion of tabular *superelevation* data, extra typical section(s), modified storm drainage layouts, related engineering design, and associated plan detailing.

The scope, described in more detail below, and associated fee estimate are in addition to the scope and fee included in the original contract.

Re-Creation of Digital Information

- Generate digital design and construction document information in *AutoCAD* related to plan set sheets, alignments, profiles, sections, linework, details, and other pertinent design features based on the paper plan set provided to K&A by the City of Piqua. This work will be incorporated into the activities associated

with the appropriate stage submittals (as described in the original scope of services), starting with the Stage 2 submittal.

Cross Section Design Modifications

- Evaluate the cross slope (superelevation) requirements for the horizontal curve at the beginning of the project along with associated implications to profile grades and potential impacts to side-road tie-ins (eg: ramp tie-ins), grading limits, configuration of storm drainage layout(s), utilities, and other related constructability issues. Modifications to the proposed vertical design for CR25-A are expected to be limited to, at most, the project length between Country Club Road and the railroad right-of-way.
- Coordinate with City, County, and ODOT staff to determine the most appropriate design approach for this area. If required, this scope item also includes preparation of a Design Exception request. It is assumed that this design modification will not require the resubmittal of Stage 1 documents or addition of any extra formal submittals to the City, County, or ODOT as part of the staged review process outlined in the original scope of services for this project.
- Perform additional detailed engineering calculations and create construction plan elements related to the preferred design approach determined as part of the scope items listed above This work will be incorporated into the activities associated with the appropriate stage submittals (as described in the original scope of services), starting with the Stage 2 submittal.

Budget Hours and Fee Estimate

The proposed estimate of personnel work-hours and associated fee budget for the scope of services described above is summarized in the following table.

	<i>PM</i>	<i>PE</i>	<i>Tech</i>	<i>PS</i>	<i>Sr PS</i>	<i>Crew</i>	TOTAL	FEE
<i>RATE:</i>	118	100	75	85	100	150		
Re-Creation of Digital Information								
Design elements and sheets		80	108				188	\$ 21,486
Right-of-way elements and sheets				42	4		46	
Additional Project Administration	12						12	
SUB-TOTAL	12	80	108	42	4	0	246	
Cross Section Design Modifications								
Evaluation & Preliminary Calculations	4	12					16	\$ 6,724
Coordination & Correspondence	8	8					16	
Modify Design & Plan Information		8	24				32	
Additional Project Administration	6						6	
SUB-TOTAL	18	28	24	0	0	0	70	
LABOR TOTAL	30	108	132	42	4	0	316	\$ 28,210

RESOLUTION NO. R-64-11

**A RESOLUTION REQUESTING FINAL
AUTHORIZATION FOR THE PAVEMENT PLANING
AND RESURFACING OF US ROUTE 36 AND STATE
ROUTE 185 WITHIN THE CITY OF PIQUA**

WHEREAS, on the 7th day of September, 2010, the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

The work proposed by this project consists of pavement planing and resurfacing of U.S. Route 36 and State Route 185, lying within the City of Piqua; and:

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement, less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.

Also, the City agrees to assume and bear the entire cost and expense of the installation and/or repair of curb ramps which are necessary to ensure compliance with the Americans with Disabilities Act.

The share of the cost of the LPA is now estimated in the amount of Ninety Two Thousand Eight Hundred Forty and - - - 00/100 Dollars, (\$92,840.00), but said estimated amount is to be adjusted in order that the LPA's ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and

WHEREAS, The LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW, THEREFORE, be it resolved:

- I. That the estimated sum, or Ninety Two Thousand Eight Hundred Forty and - - - 00/100 Dollars (\$92,840.00) is hereby appropriated for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from Federal funds.

- II. That the LPA hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.
- III. That the LPA enter into a contract with the State, and that the City Manager be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.
- IV. That the LPA transmit to the Director of Transportation a fully executed copy of this Resolution.

The City Manager of the City of Piqua is hereby empowered on behalf of the City of Piqua to enter into agreements with the Director of Transportation necessary to complete the above-described project.

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

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of May 17, 2011

TO: Fred Enderle, City Manager

FROM: Amy Havenar, City Engineer

SUBJECT: Final Legislation with the Ohio Department of Transportation (ODOT) for the pavement planing and resurfacing of US Route 36 and State Route 185 in the City of Piqua.

PURPOSE:

Approve the resolution authorizing the City Manager to enter into a contract with the Ohio Department of Transportation (ODOT) for the pavement planing and resurfacing of US Route 36 from Downing Street to Spring Street and on State Route 185 from Washington Avenue to Spring Street.

RECOMMENDATION:

Approval of the Resolution to allow for ODOT to begin the bidding process for the above-referenced project.

BACKGROUND:

On September 7, 2010, City Commission passed Resolution 104-10 authorizing the City Manager to enter into Preliminary Legislation with ODOT so that they could begin programming the US Route 36/SR 185 Paving Project within the City of Piqua. ODOT has the plans and specifications complete and they are now ready to go out to bid for this project.

ALTERNATIVES:

- 1) Approve Resolution to allow the City Manager to enter into a contract with ODOT.*
- 2) Do not approve the Resolution which will prevent ODOT from bidding and completing the resurfacing project.*

DISCUSSION:

The Street Department patched a portion of US Route 36 two years ago, however, the entire roadway needs to be resurfaced. If this resolution is passed, the Street Department will begin performing pavement repairs to US Route 36 prior to the

paving contractor paving the roadway. The street resurfacing project is scheduled for fall of 2011. ADA compliant handicap ramps will be installed as a separate contract prior to the resurfacing project.

FINANCIAL IMPACT:

The City of Piqua will be required to contribute 20% of the total construction cost. The construction cost has recently been estimated by ODOT to be \$464,200 with the City paying \$92,840 (20%) and ODOT paying the remaining \$371,360 (80%). ODOT's original estimate for this project was \$600,000, therefore, the 2011 budget includes a total of \$120,000 for this project.

COMMUNITY IMPACT:

The resurfacing of these sections of roadway will greatly enhance the aesthetics and the drivability of this area. These streets have a large volume of vehicular traffic daily and to be able to resurface them at only 20% of the total cost is a great opportunity for the City. We have received many calls/concerns from the residents regarding the condition of State Route 185 & US Route 36. ODOT's Urban Paving Program will allow us to be able to have these roadways resurfaced and still have resurfacing money available to put towards additional streets in the 2011 Street Resurfacing Program.

CONFORMITY TO CITY PLANS & POLICIES:

This project will be completed in conjunction with the proposed streetscaping project in the 100 block of W. Water Street between Main Street and Wayne Street. The City has secured a Community Development Block Grant (CDBG) for the streetscape improvements to take place in 2011 and the resurfacing of US Route 36 (Water St.) will complete the improvements in this area.

The common theme in the Plan It Piqua 2007 Comprehensive Plan Update was to improve the roadways within the City. The condition/upkeep of the City streets is an area that was identified in multiple locations throughout the Comprehensive Plan Update. The condition of the streets also plays a major role in Economic Development due to the aesthetics factor that businesses look at when deciding on a community in which to locate their business. The resurfacing of two of the major streets in the City of Piqua will go a long way towards improving the roadways within the City.

CONTRACT
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of **Piqua**, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

WHEREAS, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: **RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: **PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: LEGAL REFERENCES

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

The work proposed by this project consists of pavement planing and resurfacing of U.S. Route 36 and State Route 185, lying within the City of Piqua.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **Ninety Two Thousand Eight Hundred Forty and - - - - 00/100 Dollars, (\$92,840.00)**
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement, less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.**

Also, the City agrees to assume and bear the entire cost and expense of the installation and/or repair of curb ramps which are necessary to ensure compliance with the Americans with Disabilities Act.

6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;
 - B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,

- C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
- D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;
- E. To place and maintain all traffic control devices conforming to the Ohio Manual on Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows

City of Piqua
201 West Water Street
Piqua, Ohio
45356

Ohio Department of Transportation
Office of Estimating
1980 West Broad Street, 1st Floor
Columbus, Ohio 43223

SECTION X: FEDERAL REQUIREMENTS

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, disability, or age. Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, or age. If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

SECTION XI: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.
6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

SECTION XI: SIGNATURES

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL
(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

**LOCAL PUBLIC AGENCY
City of Piqua**

Director of Transportation

City Manager

Date

Date

Approved:
Mike DeWine
Attorney General of Ohio

By: _____
Stephen H. Johnson
Chief, Transportation Section

Date: _____

RESOLUTION NO. R-65-11

**A RESOLUTION AWARDING A CONTRACT TO
HUME SUPPLY, INC. FOR THE 2011 SIDEWALK ADA
COMPLIANCE PROGRAM**

WHEREAS, on January 4, 2011, this Commission passed Resolution No. R-2-11 authorizing the City Purchasing Analyst to advertise for bids, according to law, for the 2011 Sidewalk ADA Compliance Program; and

WHEREAS, after proper advertisement, bids were opened resulting in the tabulation of bids as listed in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: A contract is hereby approved with Hume Supply, Inc. as the lowest, responsible bidder for the 2011 Sidewalk ADA Compliance Program and the City Manager is hereby authorized to execute a contract with said bidder pursuant to contract specifications.

SEC. 2: The Finance Director is hereby authorized to draw her warrants from time to time on the appropriate account of the city treasury in payment according to contract terms, not exceeding a total of \$68,000.

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of May 17, 2011

TO: Fred Enderle, City Manager

FROM: Amy Havenar, City Engineer

SUBJECT: Award of contract for the 2011 Sidewalk ADA Compliance Program

PURPOSE:

Request for City Commission authorization to award a contract to Hume Supply, Inc. for the 2011 Sidewalk ADA Compliance Program. Total cost not to exceed \$68,000.

RECOMMENDATION:

Approval of the Resolution to allow for the completion of the 2011 Sidewalk ADA Compliance Program.

BACKGROUND:

On May 5, 2011, six bids were received for the 2011 Sidewalk ADA Compliance Program and they are as follows:

Contractor	Base Bid Total
Hume Supply, Inc.	\$61,109.00
L.J. DeWeese Company, Inc.	\$68,462.00
Brad Evans Excavating	\$73,860.00
America's Decorative Concrete, LLC	\$82,350.50
Arcon Builders, LTD	\$82,460.00
Durst Bros. Excavating	\$89,590.00

ALTERNATIVES:

- 1) *Approve the Resolution to award a contract to Hume Supply, Inc.*
- 2) *Do not approve the Resolution and do not complete the 2011 Sidewalk ADA Compliance Program.*

DISCUSSION:

This project will consist of the replacement/installation of new ADA compliant handicap ramps at the intersections which will be resurfaced as a part of ODOT's Urban Paving Program. The limits of the handicap ramp installation are on W. Water Street from Spring Street to Downing Street and SR 185 from Spring Street to Washington Avenue. This work needs to be completed prior to ODOT paving in this area, which is scheduled for late summer.

The request for authorization includes approximately 10% contingency for items of work which may be required which are not included in the original plans and specifications. The engineer's estimate was \$75,000.

FINANCIAL IMPACT:

A total of \$70,000 was budgeted for this project in the 2011 budget.

COMMUNITY IMPACT:

The community has stressed the importance of improving the condition of the streets throughout the City. The new ramp installation and subsequent resurfacing of these roadways will greatly enhance the aesthetics and the drivability of these streets.

CONFORMITY TO CITY PLANS & POLICIES:

The common theme in the Plan It Piqua 2007 Comprehensive Plan Update was to improve the roadways within the City. This was also a Commission directive in 2009. The Sidewalk ADA Compliance Program and subsequent street resurfacing program is a way to help achieve those goals.

EXHIBIT "A"

CITY OF PIQUA
 BID SUMMARY
 2011 SIDEWALK ADA COMPLIANCE PROGRAM

ODOT SPECIFICATION REF.		QUANTITIES		VENDOR INFORMATION														
Spec. No.	DESCRIPTION	NUMBER	UNITS	UNIT MATERIALS	UNIT LABOR	UNIT COST	TOTAL COST	UNIT MATERIALS	UNIT LABOR	UNIT COST	TOTAL COST	UNIT MATERIALS	UNIT LABOR	UNIT COST	TOTAL COST			
202	WALK / DRIVEWAY REMOVED	5,380.0	S.F.	\$0.00	\$1.00	\$1.00	\$5,380.00	\$0.10	\$0.40	\$0.50	\$2,680.00	\$0.25	\$0.75	\$1.00	\$5,380.00			
202	CURB REMOVED	1,020.0	L.F.	\$0.00	\$3.52	\$3.52	\$3,590.40	\$1.00	\$2.60	\$3.60	\$3,672.00	\$1.00	\$4.00	\$5.00	\$5,100.00			
604	CATCH BASIN, ODOT TYPE 6	1.0	EA	\$900.00	\$813.00	\$1,713.00	\$1,713.00	\$900.00	\$500.00	\$1,000.00	\$1,000.00	\$350.00	\$650.00	\$1,000.00	\$1,000.00			
604	CATCH BASIN, ODOT TYPE 3A, MODIFY	1.0	EA	\$1,100.00	\$777.60	\$1,877.60	\$1,877.60	\$900.00	\$500.00	\$1,000.00	\$1,000.00	\$350.00	\$650.00	\$1,000.00	\$1,000.00			
608	CONCRETE WALK, 6" AS PER PLAN	5,280.0	S.F.	\$1.60	\$1.90	\$3.50	\$18,480.00	\$1.50	\$1.50	\$3.00	\$15,840.00	\$2.50	\$3.50	\$6.00	\$31,680.00			
608	CONCRETE WALK, 10" AS PER PLAN	100.0	S.F.	\$2.60	\$3.11	\$5.71	\$571.00	\$2.00	\$2.00	\$4.00	\$400.00	\$3.00	\$5.00	\$8.00	\$800.00			
608	CAST IRON CURB RAMP W/ TRUNCATED DOMES	68.0	EACH	\$215.00	\$33.00	\$248.00	\$16,864.00	\$260.00	\$160.00	\$420.00	\$28,560.00	\$175.00	\$25.00	\$200.00	\$13,600.00			
609	MODIFIED COMB. CURB & GUTTER, TYPE 2	90.0	L.F.	\$4.90	\$9.40	\$14.30	\$1,287.00	\$7.50	\$7.50	\$15.00	\$1,350.00	\$5.00	\$10.00	\$15.00	\$1,350.00			
609	CURB, TYPE 6	930.0	L.F.	\$2.60	\$9.60	\$12.20	\$11,346.00	\$7.50	\$7.50	\$15.00	\$13,950.00	\$5.00	\$10.00	\$15.00	\$13,950.00			
				BASE BID TOTAL				\$61,109.00	BASE BID TOTAL				\$68,462.00	BASE BID TOTAL				\$73,860.00

EXHIBIT "A"

CITY OF PIQUA
 BID SUMMARY
 2011 SIDEWALK ADA COMPLIANCE PROGRAM

ODOT SPECIFICATION REF.		QUANTITIES		AMERICA S DECORATIVE CONCRETE, LLC 1857 ST. RT. 571 W. GREENVILLE, OH 45331				ARCON BUILDERS, LTD 7824 ALT. ST RT. 49 ARCANUM, OH 45304				DURST BROS EXCAVATING 6620 STUDEBAKER RD TIPP CITY, OH 45371						
Spec. No.	DESCRIPTION	NUMBER	UNITS	UNIT MATERIALS	UNIT LABOR	UNIT COST	TOTAL COST	UNIT MATERIALS	UNIT LABOR	UNIT COST	TOTAL COST	UNIT MATERIALS	UNIT LABOR	UNIT COST	TOTAL COST			
202	WALK / DRIVEWAY REMOVED	5,380.0	S.F.	\$0.00	\$1.50	\$1.50	\$8,070.00	\$0.50	\$2.00	\$2.50	\$13,460.00	\$0.00	\$1.50	\$1.50	\$8,070.00			
202	CURB REMOVED	1,020.0	L.F.	\$0.00	\$5.00	\$5.00	\$5,100.00	\$0.50	\$2.50	\$3.00	\$3,060.00	\$0.00	\$5.00	\$5.00	\$5,100.00			
604	CATCH BASIN, ODOT TYPE 6	1.0	EA	\$975.00	\$1,103.00	\$2,078.00	\$2,078.00	\$700.00	\$700.00	\$1,400.00	\$1,400.00	\$750.00	\$750.00	\$1,500.00	\$1,500.00			
604	CATCH BASIN, ODOT TYPE 3A, MODIFY	1.0	EA	\$675.00	\$450.00	\$1,125.00	\$1,125.00	\$195.00	\$195.00	\$390.00	\$390.00	\$1,000.00	\$800.00	\$1,800.00	\$1,800.00			
608	CONCRETE WALK, 6" AS PER PLAN	5,280.0	S.F.	\$1.25	\$2.75	\$4.00	\$21,120.00	\$3.00	\$3.00	\$6.00	\$31,680.00	\$2.00	\$3.50	\$5.50	\$29,040.00			
608	CONCRETE WALK, 10" AS PER PLAN	100.0	S.F.	\$2.25	\$2.75	\$5.00	\$500.00	\$5.00	\$5.00	\$10.00	\$1,000.00	\$5.00	\$4.00	\$9.00	\$900.00			
608	CAST IRON CURB RAMP W/ TRUNCATED DOMES	68.0	EACH	\$191.00	\$159.00	\$350.00	\$23,800.00	\$120.00	\$50.00	\$170.00	\$11,560.00	\$180.00	\$80.00	\$260.00	\$17,680.00			
609	MODIFIED COMB. CURB & GUTTER, TYPE 2	90.0	L.F.	\$4.50	\$17.25	\$21.75	\$1,957.50	\$12.50	\$12.50	\$25.00	\$2,250.00	\$10.00	\$15.00	\$25.00	\$2,250.00			
609	CURB, TYPE 6	930.0	L.F.	\$4.50	\$15.50	\$20.00	\$18,600.00	\$9.50	\$9.50	\$19.00	\$17,670.00	\$10.00	\$15.00	\$25.00	\$23,250.00			
				BASE BID TOTAL				\$82,350.50	BASE BID TOTAL				\$82,460.00	BASE BID TOTAL				\$89,590.00

RESOLUTION NO. R-66-11

**A RESOLUTION APPOINTING A MEMBER TO THE
GOLF ADVISORY BOARD**

BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: James D. Denson is hereby appointed to fill the unexpired term of William Shinall as a member of the Golf Advisory Board for a term to expire on March 1, 2013 or until his successor is confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-67-11

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO A LEASE AGREEMENT TO PERMIT
THE USAGE OF A PORTION OF FOUNTAIN PARK,
HARDMAN FIELD AND HANCE PAVILION TO THE
PIQUA FOURTH OF JULY ASSOCIATION**

BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Manager is hereby authorized to permit the Piqua Fourth of July Association on July 4, 2011 to use Hance Pavilion, Hardman Field, the Fountain Park volleyball courts and that part of Fountain Park between (and including) the hardball diamond and the dining hall, upon the condition that the Piqua Fourth of July Association obtains liability insurance satisfactory to the City Manager at a minimum coverage of \$1,000,000. The rental fee for this lease shall be \$1.00 and other valuable consideration.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this _____ day of _____ 2011, by and between the City of Piqua and the Piqua Fourth Of July Association as follows:

Section 1: For one dollar and other valuable consideration, the City leases to the Association the below-listed public park facilities for the day of July 4, 2011:

Hance Pavilion

Hardman Field

That portion of Fountain Park between (and including) the baseball diamond and the dining hall

Section 2: The Association shall occupy and use the leased premises solely for the purposes of the annual Independence Day celebration and related activities.

Section 3: The Association shall obtain liability insurance satisfactory to the City Manager at a minimum coverage of \$1,000,000.

Section 4: The Association shall indemnify, hold harmless and defend the City of Piqua, Ohio, its officers, employees, agents and volunteers against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the City of Piqua, Ohio, its officers, employees, agents and volunteers may hereafter sustain, incur or be required to pay, arising out of or by any act or omission of the Association, the City of Piqua, Ohio, their officers, employees, agents and volunteers, in the execution, performance or failure to adequately perform Association's or City of Piqua's obligations pursuant to this contract.

Section 5: The association will include the following as additional insureds: The City of Piqua, Ohio, its elected and appointed officials, all employees, agents, volunteers, all boards, commissions and/or authorities and board members including employees, agents and volunteers thereof. Coverage shall be primary to the Additional Insureds and not contributing with any other insurance or similar protection available to the Additional Insureds whether other available coverage be primary, contributing, or excess.

Section 6: The City of Piqua shall be issued a certificate of insurance in the amount not less than stated above. The certificate of insurance shall specify that the City of Piqua, its officials, employees and volunteers are added by endorsement as additional insureds as written in Section 5 above.

Executed as of the above-referenced date by:

Frederick E. Enderle, City Manager
City of Piqua

President, Piqua Fourth of July Assn.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/12/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mc-Colloch-Baker Insurance Service 219 Looney Road Piqua OH 45356		CONTACT NAME: James Henestofel PHONE (A.C. No., Ext.): (937) 773-5626 FAX (A.C. No.): (937) 773-5558 E-MAIL ADDRESS: jhenestofel@mccolloch-baker.com PRODUCER CUSTOMER ID #: 00008110	
INSURED Piqua Fourth of July Assoc PO Box 38 Piqua OH 45356		INSURER(S) AFFORDING COVERAGE INSURER A: Cincinnati Specialty INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC #

COVERAGES **CERTIFICATE NUMBER:** CL115904123 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		CSU0018690	5/26/2010	5/26/2011	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO.JECT <input type="checkbox"/> LOC					
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DEDUCTIBLE RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N N/A				WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER City of Piqua 201 W Water St Piqua, OH 45356	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE James Henestofel/JIM
---	--

McColloch-Baker Insurance Service
219 Looney Rd/Piqua, Ohio 45356
(937) 773-5626/800-452-5600/Fax (937) 773-5558
www.rueseinsurancegroup.com

TELECOPY COVER SHEET

DATE: May 12, 2011

FROM: James Henestofel

TO: Debbie Stein

FAX NUMBER: 778 2048

RE: Piqua Fourth of July Association , CSU0018690

MESSAGE: Debbie: The certificate of insurance which is following this cover sheet is for the current year. We are in process of ordering the renewal and should have by the renewal date. If necessary I will send a certificate when I receive the renewal. Thanks much.

Total number of pages sent, including this cover sheet: 2
For assistance, please call (937) 773-5626.

RESOLUTION NO. R-68-11

**A RESOLUTION FOR THE EMPLOYMENT OF
FREDERICK E. ENDERLE AS CITY MANAGER**

WHEREAS, City Manager Frederick E. Enderle announced his intent to retire as the City Manager in early fall 2010; and

WHEREAS, the City Commission has been involved in a search for a new city manager since October 2010; and

WHEREAS, the City Commission has not found a successful candidate to be the next city manager; and

WHEREAS, City Manager Enderle is set to retire May 31, 2011; and

WHEREAS, having no City Manager ready to hire and the City being in need of a City Manager, the City Commission desires to retain the services of City Manager Enderle on a temporary basis.

NOW THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: City Manager Frederick E. Enderle shall be employed as the City Manager, commencing June 1, 2011, and in accordance with the agreement attached as Exhibit A.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

AGREEMENT R-68 -11

This Agreement is hereby entered into this ____ day of May, 2011 between the City of Piqua, a municipal corporation in the State of Ohio ("City") and Frederick E. Enderle ("Enderle") for the services as agreed to herein.

WHEREAS, the City and Enderle entered into an employment agreement commencing on November 1, 2005 for Enderle to serve as the City Manager of the City of Piqua; and

WHEREAS, said agreement provided for the terms and conditions of Enderle's employment including wages and benefits; and

WHEREAS, said agreement was amended on May 5, 2008 to update and clarify provisions of Enderle's employment; and

WHEREAS, Enderle is eligible to retire from public employment with a combined 35 years of public employment as of January 1, 2011; and

WHEREAS, the City of Piqua desires to retain the knowledge and experience of Enderle as the City Manager through the search for his replacement; and

WHEREAS, Enderle is willing to assist the City by continuing to serve the City of Piqua and perform the duties of the City Manager as outlined in Section II below for a period mutually agreed by the parties, but at a minimum of two months from Enderle's official retirement date as confirmed by the Ohio Public Employees Retirement System.

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements set forth, the City of Piqua and Frederick E. Enderle ("Enderle"), each binding itself, its successors and assigns, do mutually agree as follows:

I. PARTIES

1. City of Piqua: The City of Piqua is a municipal corporation in Miami County, State of Ohio. The City of Piqua shall be referred throughout the Agreement as "City."
2. Frederick E. Enderle: Enderle is to provide services as agreed to in shall be referred to throughout as "Enderle".

II. SCOPE OF SERVICES

1. Enderle shall retire from the City of Piqua, effective May 31, 2011.
2. City shall re-employ Enderle as the City Manager, in which Enderle shall continue to perform the services as agreed to in his original Employment Agreement dated November 1, 2005 and amended on May 5, 2008. Said re-employment shall be effective June 1, 2011.

III. COMPENSATION

1. Enderle shall be compensated at his rate of pay he was earning as of May 31, 2011 and issued a paycheck on a weekly basis or in accordance with the standard procedure in place for City employees.
2. The City shall payout all vacation time accrued by Enderle on the date of his retirement. Thereafter, during his employment, Enderle will accrue vacation on the same basis as all other department heads as defined in the City Municipal Code and/or the administrative policies, but will be ineligible for payout for any unused vacation time at the termination of this agreement.
3. Enderle shall receive a 1,067 hours of sick time credit on June 1, 2011. Thereafter, Enderle will accrue sick time on the same basis as all other department heads as defined in the City Municipal Code and/or the administrative policies. However, Enderle will be ineligible to cash in any of the accrued balance of sick time at the termination of this agreement.
4. During his employment, Enderle shall receive all other benefits City employees receive, as defined in his November 1, 2005 Employment Agreement as amended May 5, 2008.

IV. LAW AND TERMS OF AGREEMENT

1. Subcontracting and Assignment:

None of the work or services covered by this Agreement shall be subcontracted or assigned.

2. Amendment:

This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

3. Entirety:

This Agreement contains the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

4. Waiver:

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

5. Term and Termination:

The term of this Agreement shall be for a period of two (2) months beginning June 13, 2011. This Agreement may be terminated by the City Commission at any time as Enderle is an at-will employee. If the City Commission terminates this agreement prior to August 1, 2011, it shall pay Enderle the sum equal to the balance of wage Enderle would otherwise be entitled to between the termination date and August 1, 2011. If Enderle desires to terminate this Agreement, he shall provide thirty (30) days written notice to the City Commission.

Upon termination, Enderle shall not be entitled to any benefits a City employee would receive upon resignation as defined by the Piqua Municipal Code and/or administrative policies.

6. City Employee:

Enderle is a City employee and not an independent contractor.

7. OPERS:

The City shall not be responsible for any OPERS retirement benefits Enderle may lose or forfeit as a result of this Agreement and his re-employment with the City of Piqua.

V. **SIGNATURE**

The parties enter into this Agreement this ____ day of May, 2011, as executed and witnessed in accordance with the below signatures.

CITY OF PIQUA

BY:

By:

Mayor

Frederick E. Enderle

Witness:

Witness:

Approved as to form:

Stacy M. Wall, Law Director