

**VILLAGE OF BOSTON HEIGHTS  
COUNCIL MEETING  
MARCH 13, 2013 7:00PM  
AGENDA**

PLEDGE OF ALLEGIANCE

ROLL CALL

**ALSO: Mayor Bill Goncy, Fiscal Officer Betty Klingenberg, Solicitor Marshal Pitchford, Engineer Dave Krock**

Antal X - Baxter X - D.Blakeney (absent) - G.Blakeney X - Fenn X - Polyak X

AGENDA APPROVAL

CORRESPONDENCE

APPROVAL OF MINUTES (none)

OPEN FORUM

**Bill Hinkle (Boston Mills Rd) asked for an explanation of Ord 2013-2-6 and 2013-2-7. F.O. Klingenberg and Solicitor Pitchford explained that this was to correct the effective dates in the original ordinance.**

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ORDINANCES

ORDINANCE 2013-2-4      AN ORDINANCE REGARDING CHANGES FOR FEE AND  
(Second Reading)      DEPOSIT REFERENCES IN ZONING CODE AND RELATED  
ORDINANCES

**HELD FOR 3rd Reading &  
public hearing**

ORDINANCE 2013-2-5      ORDINANCE CHANGING THE NUMBER OF MEMBERS FOR  
(Second Reading)      THE BOARD OF ZONING APPEALS

**HELD FOR 3rd Reading &  
public hearing**

ORDINANCE 2013-2-6  
(First Reading)  
**ADOPTED: ORD 2013-2-6**

AN ORDINANCE REPEALING ORDINANCE 2013-2-3 AND  
DECLARING AN EMERGENCY

ORDINANCE 2013-3-7  
(First Reading)  
**ADOPTED: ORD 2013-3-7**

AN ORDINANCE AUTHORIZING THE VILLAGE OF BOSTON  
HEIGHTS TO PICK UP THE REQUIRED CONTRIBUTION TO THE  
OHIO POLICE & FIRE PENSION FUND FOR THE ELIGIBLE  
EMPLOYEES OF THE POLICE DEPARTMENT AND DECLARING  
AN EMERGENCY

ORDINANCE 2013-3-8  
(Second Reading)

ORDINANCE CREATING SECTION 337.31 OF THE CODIFIED  
ORDINANCES ON THE SUBJECT OF PROHIBITING "TEXTING"  
WHILE DRIVING AND DECLARING AN EMERGENCY

**HELD FOR 2nd Reading &  
Finance Committee  
discussion**

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## RESOLUTIONS

RESOLUTION 2013-3-10  
(First Reading)

RESOLUTION AUTHORIZING THE MAYOR TO SELL THE 2010  
NEW HOLLAND TRACTOR AND DECLARING AN EMERGENCY

**HELD FOR 2nd Reading**

**Mayor Gony will supply Council Finance Committee with expected sales value.**

RESOLUTION 2013-3-11  
(First Reading)

RESOLUTION PROMOTING DANIEL DAVIS AND ROBERT  
VINCIQUERRA AS FULL TIME MEMBERS OF THE VILLAGE  
POLICE DEPARTMENT POLICE AND DECLARING AN  
EMERGENCY

**ADOPTED: RES 2013-3-11**

**The two officers were sworn in by the Mayor and both had a few words.**

RESOLUTION 2013-3-12  
(First Reading)

RESOLUTION APPROVING THE PERMANENT ANNUAL  
APPROPRIATIONS FOR THE VILLAGE OF  
BOSTON HEIGHTS FOR YEAR 2013 AND DECLARING AN  
EMERGENCY

**ADOPTED: RES 2013-3-12**

**AMENDED: To approve by both Fund and Departmental schedules.**

REPORTS

MAYOR

Public Hearing - 04/10/2013 - 6:00 PM Zoning Ordinances: #2013-2-4 and #2013-2-5

FISCAL OFFICER

February Fiscal Reports - Motion to Approve  
Directories - 2013

SAFETY COMMITTEE

F. BAXTER

ROAD COMMITTEE

D. BLAKENEY

LANDS AND BUILDINGS COMMITTEE

G. BLAKENEY

CEMETERY COMMITTEE / TRUSTEES

R. FENN

**Easter Egg Hunt - March 23, 2013 12 Noon sharp**

**Donated candy to be in Fiscal Office by March 15, 2013**

ECONOMIC DEVELOPMENT COMMITTEE

R. ANTAL

PLANNING COMMISSION / BZA  
[ZONING COMMITTEE]

D. POLYAK

ENGINEERING AND ZONING

D. KROCK

OLD BUSINESS

NEW BUSINESS

Oaths of Office: Daniel Davis and Robert Vinciquerra.

EXECUTIVE SESSION (none)

ADJOURN

NOTICE

The complete text of each such Ordinance or Resolution may be obtained or viewed at the Boston Heights Village Hall, 45 East Boston Mills Road in the Office of the Fiscal Officer during office hours.

VILLAGE OF BOSTON HEIGHTS Codified? First Reading X Waiver 3-Reading Rule

ORDINANCE NO: \_2013-2-4 Yes Second Reading Yes

INTRODUCED BY No Third Reading No

**AN ORDINANCE REGARDING CHANGES FOR FEE AND DEPOSIT REFERENCES IN ZONING CODE AND RELATED ORDINANCES**

WHEREAS; the Village of Boston Heights and its Planning Commission and Council desire to establish a uniform fee and deposit structure for all submissions related to the Zoning Code and other matters related to economic development; and,

WHEREAS; the Village Council and Village Planning Commission recognize that the changes made in this Ordinance do not create a community wide schedule for fees that may be charged by the Village under the Codified Ordinances or as otherwise provided by law; and,

WHEREAS; the Planning Commission approved the changes made to the Zoning Code and Codified Ordinances for the Village of Boston Heights as set forth below; and,

WHEREAS; a duly noticed public hearing has been held with respect to this Ordinance.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio as follows:

Section 1: That Codified Ordinance 1105.05 be amended to state as follows:

**PLANNING AND ZONING FEE SCHEDULE**

(a) The Village shall publish a Planning and Zoning Fee Schedule established by the Planning Commission subject to the approval of a majority vote of Council. A copy of this schedule shall be attached to and made a part of every application form associated with the permits, certificates, hearings, and/or administrative functions regulated by Part Eleven of these Codified Ordinances. This schedule shall also list any bond that is required or established in Part Eleven of these Codified Ordinances.

(b) All applications for permits, certificates, hearings, or administrative functions associated with projects regulated by Part Eleven of these Codified Ordinances, known as the Planning and Zoning Code, shall be accompanied by a non-refundable application fee established pursuant to subpart (a) and be made payable to the Village of Boston Heights. No such application for permit, hearing, or administrative function shall be accepted by the Village of Boston Heights unless accompanied by the payment of such fee. Such fee may be in addition to any other fee or deposit required by the Village, County of Summit or other political subdivision or governmental agency.

(c) The application fee in this section is separate from and in addition to any deposit into or charge against a Professional Fees, Costs, and Review Account established under Section 1101.06 of these Codified Ordinances.

(d) The Village Office Clerk shall be the records keeper and prepare appropriate documents for execution by the Zoning Inspector, Planning Commission, and/or the Board of Zoning Appeals. All applications for permits, certificates, hearings, or other administrative functions associated with projects regulated by Part Eleven of these Codified Ordinances shall be filed with the Village Office Clerk. All applications shall be time-stamped upon submission. Each application and/or other request shall be designated with a docket number. The docket number sequence shall be a four-part designation in the form DD-YYYY-MM-II, comprising:

(1) The particular department (DD), whether it be Zoning Inspector (ZI), Planning Commission (PC), or Board of Zoning Appeals (BZA); and,

(2) The calendar year of submission (YYYY); and,

(3) The month (MM) of that calendar year; and,

(4) An index number (II) with the first application in that particular month receiving

the number 01, and continuing so on.

(e) The Village may consider and permit in its discretion a refund of any such fee paid hereunder where the Village finds that such application was made for a matter not under its or one of its departments' jurisdiction.

Section 2: That Codified Ordinance 1121.04(p) be amended to state as follows:

#### DEPOSIT AND FEE FOR INVESTIGATION AND APPROVAL AT PLATS

At the time of filing the application for the approval of any plat, or at the time plans and specifications for any improvement or improvements are submitted to the Planning Commission and/or Village Engineer for approval, such application, plans, and/or specifications shall be accompanied by the application fee established by Section 1101.05 and the Professional Fees, Costs and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 3: That Codified Ordinance 1121.06(c) be repealed in its entirety.

Section 4: That Codified Ordinance 1145.05 be repealed in its entirety.

Section 5: That Codified Ordinance 1147.03 be amended to state as follows:

#### REZONING APPLICATION

At the time of filing any application for a zoning permit where such application requires action by Council on the rezoning of any parcel, the applicant shall give a full legal description of the property to be rezoned together with a complete list of all owners of the property adjacent, continuous and across the street from the parcel or parcels to be rezoned or acted upon by Village Council.

Section 6: That Codified Ordinance 1151.06(d) be amended to state as follows:

A performance bond made payable to the Village of Boston Heights in the amount of one hundred percent (100%) of the construction cost shall be required for the issuance of a zoning permit in the Office/Professional, General Business, Retail Business, and Light Manufacturing Districts, and for conditional uses in the Residential District. No zoning permit can be issued without the submission of a bond as required in this section. Such bond shall be issued by a recognized and approved bonding company acceptable to the Zoning Inspector and the Planning Commission. After all conditions of the Zoning Ordinance are met, the bond shall be returned to the applicant.

Section 7: That Codified Ordinance 1151.09(a)(3) be amended to state as follows:

A performance bond made payable to The Village of Boston Heights in the amount of the landscaping estimate calculated in subsection (a)(2) hereof shall be required to ensure faithful performance of all landscaping provided in such construction. No landscaping work can be completed until the required performance bond has been deposited. Further, the bond must be issued by a recognized and approved bonding company acceptable to the Zoning Inspector and shall be a period commensurate with the completion of the landscaping plan. After all conditions of the Zoning Ordinance are met, the bond shall be returned to the applicant.

Section 8: That Codified Ordinance 1177.05(a) be amended to state as follows:

General Permit Applications/Permit Conditions. Application for such permit under this chapter shall be in writing and should be accompanied by the following:

(a) A site plan detailing the topography of the affected areas to the satisfaction of the Zoning Inspector;

(b) A cash or surety bond in the form as approved by the Village in the amount of \$25,000 and a road bond in conformance with Section 339.02 of these Codified Ordinances; and,

(c) The fee established by Section 1101.05 and Professional Fees, Costs, and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 9: That Codified Ordinance 1179.03(g) be amended to state as follows:

Application for the erection or modification of any sign for which a variance, conditional use permit, or approval of the Planning Commission is required shall be made by a "Sign Application Form" approved for that purpose by the Planning Commission with the concurrence of the Board of Zoning Appeals, and shall be accompanied by the application fee established by Section 1101.05 and the Professional Fees, Costs and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 10: That Codified Ordinance 1181.08(d) be amended to state as follows:

At the time of filing the application for a hearing to resolve a dispute under this chapter, such application, plans and specifications shall be accompanied by the application fee established by Section 1101.05, and the Professional Fees, Costs and Review deposit established by Section 1101.06 of these Codified Ordinances.

Section 11: That Codified Ordinance 1183.10 be repealed in its entirety.

Section 12: That Codified Ordinance 1183.11 be amended to state as follows:

If a Storm Water Pollution Prevention Plan is required by this chapter, then a performance and maintenance bond shall be posted with the Village, payable to the Village of Boston Heights in an amount to be determined by the Village Engineer. The Bond must be issued by a recognized and approved bonding company acceptable to the Village Engineer. No project shall be released from such bond if there is a failure to comply with an approved SWP3.

Section 13: That Codified Ordinance 1303.03 be hereby established and state as follows:

(a) The Village shall publish a Building Code Fee Schedule to be established by the Planning Commission subject to the approval of a majority vote of Council. A copy of the Building Code Fee Schedule shall be attached to every Village application form associated with any permits, certificates, hearings and/or administrative functions regulated by Part Thirteen of these Codified Ordinances. The schedule shall also list all bonds that are established by any provision of Part Thirteen of these Codified Ordinances.

(b) All applications for permits, certificates, hearings, or administrative functions associated with projects regulated by Part Thirteen of these Codified Ordinances, known as the Building Code, shall be accompanied by a non-refundable application fee as established pursuant to subpart (a) and be made fee payable to the Village of Boston Heights. No such application for permit, certificate, hearing, or administrative function shall be accepted by the Village of Boston Heights unless accompanied by the payment of such fee. Such fee may be in addition to any other fee or deposit required by the Village, County of Summit or other political subdivision or governmental agency.

(c) The application fees authorized in this section are separate from and in addition to any deposit into or charge against a Professional Fees, Costs and Review Account established under Section 1101.06 of these Codified Ordinances or any fee, deposit or charge as may be required by the County of Summit, the State of Ohio, or any other authorized agent as provided in and pursuant to Sections 1303.01 and 1303.02 of these Codified Ordinances.

(d) All applications for permits, hearings, or other administrative functions associated with projects regulated by Part Thirteen of these Codified Ordinances that require approval from the Village shall be filed with the Village Office Clerk. All such applications shall be time-stamped upon submission. The Village Office Clerk shall be the records keeper and prepare appropriate documents for execution by the Zoning Inspector, or other appropriate Village department. Each application and/or other request shall be designated a docket number. The docket number sequence shall be a four-part designation in the form DD-YYYY-MM-II, comprising:

(1) The particular department (DD): Zoning Inspector (ZI) or as otherwise may be

applicable; and,

(2) The calendar year of submission (YYYY); and,

(3) The month (MM) of that calendar year; and,

(4) An index number (II) with the first application in that particular month receiving the number 01, and continuing so on.

(e) The Village may consider and permit in its discretion a refund of any such fee paid hereunder where the Village finds that such application was made for a matter not under its or one of its departments' jurisdiction.

Section 14: That Codified Ordinance 1313.03(c) amended to state as follows:

Section 103 entitled Department of Property Maintenance and Inspection shall be retitled:

**"Section 103 Code Official and Fees";**

Delete Sections 103.01, 103.2, and 103.3 from the model code document.

Insert the following new sections:

**"103.1 Code Official:** The Code Official is defined as the person or persons designated by Section 1313.05 of these Codified Ordinances to enforce the property maintenance code."

**"103.2 (deleted)"**

**"103.3 (deleted)"**

In Section 103.5, replace [APPROPRIATE SCHEDULE] with "Fee Schedule as established pursuant to Section 1303.03 of these Codified Ordinances."

Section 15: That Codified Ordinance 1377.03(d)(6) be repealed in its entirety.

Section 16: That Codified Ordinance 1377.05(d)(1)(C) be repealed in its entirety.

Section 17: That Codified Ordinance 1377.05(e)(7) be amended to state as follows:

The Board shall issue subpoenas upon written request for the attendance of witnesses. The costs thereof shall be the responsibility of the requesting party.

Section 18: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance 2013-2-4 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

VILLAGE OF BOSTON HEIGHTS Codified? First Reading X Waiver 3-Reading Rule

RESOLUTION NO: 2013-2-5 Yes Second Reading Yes

INTRODUCED BY No Third Reading No

**ORDINANCE CHANGING THE NUMBER OF MEMBERS  
FOR THE BOARD OF ZONING APPEALS**

WHEREAS; the Council for the Village of Boston Heights deems it necessary and proper to have five (5) members on the Village Board of Zoning Appeals instead of four (4) members; WHEREAS; a duly noticed public hearing has been held with respect to this Ordinance; and,

WHEREAS; the Planning Commission has recommended and approved the amendment to Codified Ordinance 1145.01 as set forth below.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio, as follows:

Section 1: That Codified Ordinance 1145.01 be amended to state as follows:

MEMBERS; TERMS. The Board of Zoning Appeals of the Village of Boston Heights is hereby established. The words "the Board" where used herein shall refer to such Board. The Board shall consist of five members. Four members shall be appointed by the Mayor, with the consent of Council, for terms of four years. In the event of absence from the municipality or incapacity of one of these four Board members first appointed by the Mayor and then approved by the Council, the Mayor may appoint a substitute who may serve as a member of the Board with the same power and authority as a regular member until such member has returned or has become capacitated for service. The fifth member shall be a member of Council who is selected annually by a majority vote of Council. In the event of absence from the municipality or incapacity of the Council member of the Board, the Council President Pro Tempore may appoint a substitute who may serve as a member of the Board with the same power and authority as a regular member until such member has returned or has become capacitated for service. Each member of the Board shall serve until his or her successor has been appointed. All members shall serve without compensation.

Section 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2013-2-5** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this \_\_\_\_\_ day of June, 2013.



VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2013-3-6  
INTRODUCED BY F.Baxter

**ORDINANCE REPEALING ORDINANCE 2013-2-3 AND DECLARING AN  
EMERGENCY**

WHEREAS; the Council for the Village of Boston Heights had previously passed an Ordinance authorizing the Village to "pick up" the mandatory contributions required to be paid under Section 74231 of the Ohio Revised Code from participating employees of the Village Police Department who are members of the Ohio Police & Fire Pension Fund; and,

WHEREAS; there are certain changes that are required to that Ordinance for purposes of effective dates and it is in the best interests of the Village to establish a new ordinance on that subject.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio, as follows:

Section 1: That Ordinance 2013-2-3 be hereby and is immediately repealed and rescinded.

Section 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

BETTY KLINGENBERG, FISCAL OFFICER

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance 2013-2-6 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of March, 2013 .

ORDINANCE NO: .2013-3-7

INTRODUCED BY D. POLYAK

**AN ORDINANCE AUTHORIZING THE VILLAGE OF BOSTON HEIGHTS TO PICK UP THE RECEIVED CONTRIBUTION TO THE OHIO POLICE & FIRE PENSION FUND FOR THE ELIGIBLE EMPLOYEES OF THE POLICE DEPARTMENT AND DECLARING AN EMERGENCY**

WHEREAS, the Council of the Village of Boston Heights desires to "pick-up" all of the mandatory contributions required to be paid under Section 742.31 of the Ohio Revised Code for participating employees of the Village Police Department who are members of the Ohio Police & Fire Pension Fund; and,

WHEREAS, the eligible employees of the Village's Police Department participate in the Ohio Police & Fire Pension Fund; and,

WHEREAS, employers may pay all or a part of the mandatory employee contributions for employees participating in the Ohio Police & Fire Pension Fund.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County , Ohio as follows:

SECTION 1: That effective as of April 1, 2013, the Council of the Village of Boston Heights desires to "pick-up" and pay all of the mandatory contributions, as designated herein, by the Police Department employees who are members of the Ohio Police & Fire Pension Fund by paying the contributions through at payroll reduction. The mandatory contributions to be picked up hereunder are as follows:

- (a) from the effective date of this Ordinance until July 7,2013 - ten percent (10%);
- (b) from July 8,2013 until July 6,2014 - ten and 75/100 percent (10.75%);
- (c) from July 7,2014 until July 5,2015 - eleven and 50/100 percent (11.50%); and;
- (d) from July 6, 2015 and thereafter or until changed pursuant to law - twelve and 25/100 percent (12.25%)

SECTION 2: That said "picked up" contributions paid through a payroll reduction by the employer even though designated as employee contributions for state law purposes, are being paid by the Village in lieu of said contributions by the employee.

SECTION 3: That said "picked up" contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from the Ohio Police & Fire Pension Fund.

SECTION 4: That said "picked up" contributions will be included in the gross income of the employees, for employment tax purposes, as the contributions are made to the Ohio Police & Fire Pension Fund.

SECTION 5: That said employees shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the Village to the Ohio Police & Fire Pension Fund.

SECTION 6: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the; public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 7: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and Shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

BETTY KLINGENBERG, FISCAL OFFICER

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance 2013-3-7 was duly passed by the Council of the Village of Boston Heights, Couilty of Summit, State of Ohio at a meeting of Council on this 13th day of March, 2013.

ORDINANCE NO: .2013-3-8

**ORDINANCE CREATING SECTION 337.31 OF THE CODIFIED ORDINANCES ON THE SUBJECT OF PROHIBITING “TEXTING” WHILE DRIVING AND DECLARING AN EMERGENCY**

WHEREAS; The Council for the Village of Boston Heights desire to protect its residents and those who operate on roadways open to the public; and,

WHEREAS; "texting" while driving a motor Vehicle is highly dangerous and places the driver and the motoring public-at-large at risk; and,

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio, as follows:

Section 1: That Codified Ordinance 337.31 be hereby created and established this date: • Driving while texting prohibited.

(A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(B) Division (A) of this section does not apply to any of the following:

(1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;

(5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(6) A person receiving wireless messages via radio waves;

(7) A person using a device for navigation purposes;

(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, number's, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data regarding commercial activity, including but not limited to delivery of parcels to residents and/or businesses;

(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device, feature or function.

(C) As used in this section:

(1) "Electronic wireless communications device" includes any of the following:

(a) A wireless telephone;

(b) A text-messaging device;

(c) A personal digital assistant;

(d) A computer, including a laptop computer and a computer tablet;

(e) Any other substantially similar wireless device that is designed or used to communicate text.

(2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.

(3) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

Section 2: That this Ordinance is in the best interests and public safety of the Village of Boston Heights and its residents.

Section 3: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance 2013-3-8 was duly passed by the Council of the Village of Boston Heights, State of Ohio at a meeting of Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2013 .

RESOLUTION NO: 2013-3-10

**RESOLUTION AUTHORIZING THE MAYOR TO SELL THE 2010 NEW HOLLAND TRACTOR AND DECLARING AN EMERGENCY**

WHEREAS; The Village owns a 2010 New Holland, two-wheel drive T-6020 tractor that it desires to sell; and,

WHEREAS; It is in the best interests of the Village to sell the 2010 New Holland, two-wheel drive T-6020 tractor as it is presently being under-utilized.

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio as follows:

Section 1: That it is in the best interests of the Village of Boston Heights and its operations to sell its 2010 New Holland, two-wheel drive T-6020 tractor.

Section 2: That the Mayor and Fiscal Officer are hereby authorized and directed to sell the 2010 New Holland, two-wheel drive T-6020 tractor in a reasonably commercial fashion. The tractor shall not be sold for an amount less than \$\_\_\_\_\_.

Section 3: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution 2013-3-10 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this \_\_\_\_ day of \_\_\_\_\_, 2013.

RESOLUTION NO: 2013-3-11

**RESOLUTION APPOINTING DANIEL DAVIS AND ROBERT VINCIQUERRA AS FULL-TIME MEMBERS OF THE VILLAGE POLICE DEPARTMENT AND DECLARING AN EMERGENCY**

WHEREAS; The Chief of Police and the Mayor have recommended that Daniel Davis be elevated from part-time to full-time status with the Village of Boston Heights Police Department; and,

WHEREAS; The Chief of Police and the Mayor have recommended that Robert Vinciquerra be elevated from part-time to full-time status with the Village of Boston Heights Police Department.

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio as follows;

Section 1: That Daniel Davis is hereby elevated to full-time status with the Village of Boston Heights Police Department effective March 18, 2013. The probationary period as set forth in Codified Ordinance 137.03 is waived because this officer has met the necessary legal requirements and is already a member of the department.

Section 2: That Robert Vinciquerra is hereby elevated to full-time status with the Village of Boston Heights Police Department effective March 18, 2013. The probationary period as set forth in Codified Ordinance 137.03 is waived, because this officer has met the necessary legal requirements and is already a member of the department .

Section 3: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code,

Section 4: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of the Village residents and to allow for the continued operations of the Village Police Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED

BILL GONCY, Mayor

BETTY KLINGENBERG, FISCAL OFFICER

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution 2013-3-11 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of March, 2013.

RESOLUTION NO: 2013-3-12

**A RESOLUTION APPROVING THE PERMANENT ANNUAL APPROPRIATIONS  
FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2013 AND  
DECLARING AN EMERGENCY**

BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County,  
Ohio:

Section 1: The Permanent Annual Appropriations for the Village of Boston Heights for the year 2013 as attached hereto are hereby approved at the department and fund level and adopted by the Council of the Village of Boston Heights,

Section 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirement including Section 121.22 of the Ohio Revised Code.

Section 3: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and the daily operations of the municipal departments and shall take effect and be in force from and after its passage.

PASSED:

BILL GONCY, MAYOR

BETTY KLINGENBERG, FISCAL OFFICER

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution 2013-3-12 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of March 2013 .

**[appropriation reports appended]**



Village of Boston Heights						
2013 APPROPRIATIONS VS CERTIFICATE						
02/13/2013						
<b>FUND</b>	<b>BALANCE</b>	<b>ENCUMBRANCES</b>	<b>01/01/13</b>	<b>(01/01/13)</b>	<b>2013</b>	<b>before final approval)</b>
<b>GENERAL</b>	\$ 838,875.18		\$ 838,878.18	\$ 1,595,389.16	\$ 2,434,267.34	\$ 1,800,000.00
<b>BO1: STREET CONSTRUCTION</b>	\$ 87,097.79		\$ 87,097.79	\$ 60,000.00	\$ 147,097.08	\$ 117,678.00
<b>BO2: STATE HIGHWAY</b>	\$ 47,084.25		\$ 47,084.25	\$ 12,000.00	\$ 59,084.25	\$ 47,268.00
<b>BO4: PARK FUND</b>	\$ 3,005.36		\$ 3,005.36	\$ 26,000.00	\$ 29,005.36	\$ 23,204.00
<b>BO6: ROAD LEVY - ROAD &amp; BRIDGE</b>	\$ 221,394.01	(\$ 14,372.26)	\$ 207,021.75	\$ 181,106.00	\$ 388,127.75	\$ 310,542.00
<b>BO12:09RE FIRE/EMS CAPITAL</b>	\$ 9,362.55		\$ 9,362.55	\$ 49,412.00	\$ 58,782.55	\$ 47,026.00
<b>BO10: COMPUTER FUND</b>	\$ 23,236.96	(\$ 690.00)	\$ 22,546.96	\$ 14,000.00	\$ 38,546.96	\$ 30,838.00
<b>BO13: FIRE/EMS 09N OPERATING FUND</b>	\$ 50,591.59		\$ 50,591.59	\$ 48,421.00	\$ 99,012.59	\$ 79,210.00
<b>GO8: LAW ENFORCEMENT TRUST</b>	\$ 1,151.14		\$ 1,151.14	\$ 1,000.00	\$ 2,151.14	\$ 2,151.14
<b>BO9: FIRE LEVY (CLOSED)</b>	\$ 2,072.43		\$ 2,072.43		\$ 2,072.48	\$ 2,072.48
<b>DO1: CONSTRUCTION BRIDGE</b>						\$ 83,753.20
<b>DO3: CAPITAL PROJECTS</b>	\$ 20,492.82		\$ 20,492.82	\$ 19,767.00	\$ 40,259.82	\$ 32,208.00
<b>GO4: UNCLAIMED FUNDS</b>	\$ 9,540.36		\$ 9,540.36		\$ 9,540.36	\$ 9,540.36
<b>GO5: CEMETERYTRUST</b>	\$ 67,492.25		\$ 67,492.25	\$ 1,000.00	\$ 68,492.25	\$ 62,000.00
<b>GO6: REFUNDABLE PERF. BONDS</b>	\$ 3,000.00		\$ 3,000.00		3,000.00	\$ 3,000.00
					\$ 3,379,439.93	\$ 2,650,491.18
<b>SWIF GRANT - NEW (Send out 04/01/13)</b>						\$ 76,000.00
<b>TOTAL FUNDS</b>	\$ 1,384,399.69	(\$ 15,062.26)	\$ 1,369,337.43	\$ 2,008,095.16	\$ 3,379,439.93	\$ 2,726,491.18
<b>NOTE: CHANGE IN FEDERAL - BRIDGE</b>						
						<b>NOTE: HINES HILL PROJECT TO BE ADDED IF ACCEPTED AND BIDDED OUT IN 2013</b>

VILLAGE OF BOSTON HEIGHTS				
2013 DEPARTMENTAL BUDGET				
02/28/2013				
<b>GENERAL FUND</b>	<b>DEPARTMENT</b>	<b>LINE ITEM</b>		<b>TOTALS</b>
	<b>POLICE DEPARTMENT</b>			
		WAGES: PART TIME	\$ 175,000.00	
		WAGES: FULLTIME	\$ 350,000.00	
		WAGES: OVI	\$ 20,000.00	
		BENEFITS	\$ 75,000.00	
		UNIFORM ALLOWANCE	\$ 3,900.00	
		FSA-PD	\$ 9,600.00	
		UNEMPLOYMENT COMPENSATION	\$ 1,000.00	
		CONTRACTUAL SERVICES	\$ 15,000.00	
		SUPPLIES & MATERIALS	\$ 65,000.00	
		CAPITAL OUTLAY	\$ 25,000.00	
	<b>TOTAL ESTIMATED 2013 BUDGET</b>		<b>\$ 739,500.00</b>	<b>\$ 739,500.00</b>
	<b>VILLAGE LIGHTING</b>			
		STREET LIGHTING	\$ 15,000.00	
		TRAFFIC LIGHTS	\$ 10,000.00	
			<b>\$ 25,000.00</b>	\$ 25,000.00
	<b>PUBLIC HEALTH/</b>			
		PUBLIC HEALTH & WELFARE	<b>\$ 24,361.72</b>	\$ 24,361.72
	<b>ZONING</b>			
		CONTRACTU RAL SERVICES	\$ 3,600.00	
		PROFESSIONAL SERVICES	\$ 25,000.00	
			<b>\$ 28,600.00</b>	\$ 28,600.00

VILLAGE OF BOSTON HEIGHTS				
2013 DEPARTMENTAL BUDGET				
02/28/2013				
<b>GENERAL FUND</b>	<b>DEPARTMENT</b>	<b>LINE ITEM</b>		<b>TOTALS</b>
	<b>STREET DEPARTMENT</b>			
		SALARY WAGES	\$ 90,000.00	
		BENEFITS	\$ 21,000.00	
		UNIFORM ALLOWANCE	\$ 700.00	
		FSA ROAD DEPARTMENT	\$ 4,200.00	
		SUPPLIES & MATERIALS	\$ 15,000.00	
		CONTRACTURAL SERVICES	\$ 10,000.00	
		CAPITAL OUTLAY	\$ 10,000.00	
			<b>\$ 150,900.00</b>	\$ 150,000.00
	<b>MAYOR'S DEPT.</b>			
		SALARY	<b>\$ 16,613.70</b>	
		BENEFITS	<b>\$ 2,800.00</b>	
		CONTRACTURAL SERVICES	<b>\$ 4,000.00</b>	
		SUPPLIES & MATERIALS	<b>\$ 500.00</b>	
			<b>\$ 23,913.70</b>	\$ 23,913.70
	<b>COUNCIL</b>			
		SALARY	\$ 18,000.00	
		BENEFITS	\$ 5,000.00	
			<b>\$ 23,000.00</b>	\$ 23,000.00
	<b>GLERK OF COURTS</b>			
		SALARY	\$ 40,000.00	
		BENEFITS	\$ 5,000.00	
		FSA-CLERK OF COURTS	\$ 1,100.00	
		CONTRACTURAL SERVICES	\$ 900.00	
		SUPPLIES & MATERIALS	\$ 900.00	
			<b>\$ 47,900.00</b>	\$ 47,900.00

VILLAGE OF BOSTON HEIGHTS				
2013 DEPARTMENTAL BUDGET				
02/28/2013				
<b>GENERAL FUND</b>	<b>DEPARTMENT FISCAL OFFICER</b>	<b>LINE ITEM</b>		<b>TOTALS</b>
		SALARY	\$ 41,000.00	
		BENEFITS	\$ 5,000.00	
		CONTRACTUAL SERVICES	\$ 2,000.00	
		SUPPLIES & MATERIALS	\$ 2,000.00	
			<b>\$ 50,000.00</b>	\$ 50,000.00
	<b>LANDS &amp; BUILDINGS</b>			
		CONTRACTUAL SERVICES	<b>\$ 20,000.00</b>	\$ 20,000.00
	<b>EMS/DISPATCH</b>			
		EMS CONTRACTU RALSERVICES	\$ 90,000.00	
		DISPATCH SERVICES	\$ 60,000.00	
			<b>\$ 150,000.00</b>	\$ 150,000.00
	<b>BWC</b>			
		BWC-2012 PREMIUM	<b>\$ 37,442.75</b>	\$ 37,442.75
	<b>PAYCHEX</b>			
		PAYROLL FEES/FSA	<b>\$ 12,000.00</b>	\$ 12,000.00
	<b>SOLICITOR FEES</b>			
		SOLICITOR FEES/WAGES	\$ 120,000.00	\$ 120,000.00
	<b>CONTINGENCY</b>			
		CONTINGENCY	<b>\$ 205,900.00</b>	\$ 205,900.00
	<b>SWIF GRANT (Reimbursable)</b>	SWIF GRANT	\$ 76,000.00	\$ 76,000.00
	<b>*to be submitted 04/01/2013 for approval by budget commission)</b>			

