

Issue 3-DiFranco Landscaping \$26,080-\$23,600

Issue raised: Only one quote obtained for infield work



Conclusion-When asked about efforts to obtain other quotes, the commissioners indicated that “all vendors” were asked to quote the work for the ball field. The park district arborist recommended the board hire DiFranco. I conclude the park district did its due diligence, the details of which are set forth in the chart below.

Park District Meeting Date	What the Records Reveal
12/9/11 meeting	Commissioner Bidwell was tasked to contact Bart Alcorn (also preps ball fields) and Eugene DiFranco to obtain assistance on baseball field renovation and get time estimate for the work
3/5/12 meeting	Wayne Williams from the West Geauga Baseball Federation attended meeting to discuss its use application and “commitment to the ongoing field maintenance.” Mr. Williams offered his assistance in evaluating the renovation project. Alcorn “will perform the required pre-maintenance of the field and invoice the Park Board for that initial job.” No dollar amount noted.
4/2/12 meeting	Mr. DiFranco discusses drainage issues. Minutes note that the

	township road superintendent is willing to assist in investigation of the drainage issue and proving trenching services. Mr. DiFranco will submit a proposal.
5/3/12 meeting	Commissioner Weiss reports of possible drainage temporary fix by road department while full renovations plans are being prepared
6/28/12 meeting	Within the 2013 Proposed Budget is an estimated project costs for field renovation of \$25,000
7/12/12 meeting	“Proposals are being requested to determine the scope, timing and cost of the work”
8/9/12 meeting	Minutes reflect that Commissioners Bidwell and Weiss met with DiFranco at the ball field to discuss the “necessary renovations.” ⁶⁴ Resolution was adopted to accept the 7/27/12 proposal from DiFranco in the sum of \$23,600 contingent upon documentation and contract. (Contract was signed 9/5/12.)
9/5/12 “emergency” meeting	Contract with DiFranco signed and commissioners also approved \$1,700 contract with ABV Contractors, Inc. to scope the ball field drainage pipes “if deemed necessary” by Mr. DiFranco
11/29/12 meeting	Check 1688 approved to DiFranco Landscaping \$21,240.00 (10% retained because 90% of the project complete and the balance to be done in the spring)

Issue 4-Electrical Contractor Payments \$52,411 Issue Raised: No specific issue identified other than to note that the payments were “significant”

The “Review” identifies these specific vendors and payment totals:

Peerless Electric	2012-2013	\$36,996
Chesterland Electric	2013	\$9,509
Hi Lite Maintenance	2013	\$3,065
ElectroLite	2013	\$2,841

Conclusion-The electrical system at Parkside has historically been problematic. With input from a consultant and the recent investments in upgraded lighting system, the lighting expense “black hole” should become manageable. I conclude the “significant” payments were necessary to continue to offer the park for evening games and events, and the park district did its due diligence, the details of which are set forth in the chart below.

⁶⁴ See “Sunshine Law” discussion infra., regarding the issues raised in the “Review” about this meeting.

Park District Meeting Date	What the Records Reveal
1/17/12 meeting	Presentation by Laszlo Zala, electrical engineer, for two proposed lighting plans for the volleyball court. Approved resolution to request Zala to given written details of what he would provide to the district to assist in the preparation of scope and specifications packages for contractor bids for his \$1,500 engineering fee
2/2/12 meeting	Approved resolution to accept Zala's engineering proposal and \$1,500 fee
3/5/12 meeting	Zala presents specification package. He will review the bids and make a recommendation once bids are received
4/2/12 meeting	Commissioner Weiss reported he requested volleyball lighting bids from "three local area electrical contractors found in the phonebook." Responses: Chesterland Electric "job is outside of their scope and too large"; Kennington Electric and Peerless Electric "will provide a quote"
5/3/12 meeting	Two quotes received and commissioners found that both are under the competitive bidding threshold. Zala is evaluating the bids.
6/14/12 meeting	Peerless bid is accepted contingent on contract review by county prosecutor. No amount is stated in the minutes.
6/28/12 meeting	Peerless contract approved and signed. Minutes do not reflect the amount of the contract. (From other documents I found the Contract price was \$24,650.)
	Peerless was also contacted to perform an emergency lighting repair performed on June 22, 2012 to the ball field light fixtures to meet needs of scheduled games in the amount of \$1,589. Check 1643 to Peerless \$1589.00 was approved.
	Proposal from Peerless dated 6/27/12 to provide a monthly park electric inspection and report at a cost of \$110 per month for the months of April through December approved.
	The Proposed Capital Budget for 2013 included \$10,000 for "Safety Lighting" near the new pavilion area parking lot and \$5,500 for "Holiday Lighting/Decorations"
7/12/12 meeting	Check 1651 approved to Peerless \$6,162.50 for the 25% down payment for the volleyball lighting project. No requisition form signed, only an email initialed apparently by Commissioner Downs
8/9/12 meeting	It was noted that the Chester Road Department performed the trenching for the volleyball court lighting project without any quantification of the value of these services.
9/5/12 meeting	Check 1663 to Peerless \$10,353.00 approved (42% of the contract price) Job estimated to be complete by the "end of the week"
9/20/12	Check 1674 \$8,134.50 to Peerless for volleyball court lighting issued but not approved in minutes
9/27/12 meeting	Minutes reflect "Peerless Electric will install the light fixtures along the ceiling" of the new pavilion. No mention of cost or approval of a proposal.
10/18/12 meeting	Check 1686 to Peerless \$225.00 approved (for gazebo repairs) Peerless presented a quote to relocate wires in the playground area. Resolution approved a 10/17/12 Playground Lighting Base Bid for

	\$900.
11/29/12 meeting	Check 1697 to Peerless \$925 approved (to pay new pavilion power and lighting contract dated 10/5/12) It appears this is the pavilion lighting project discussed at the 9/27/12 meeting, and there is no resolution approving the contract.
2/27/13 meeting	Check 1713 to Peerless \$1,450 approved (for ½ of the purchase option for the holiday lights) It is presumed that this stems from the resolution passed at the 1/3/13 meeting to “fund the holiday lighting/decoration project up to \$5,500 the 2013 budgeted amount”.
	Check 1716 to Peerless \$720 (for flag pole light repair per 12/27/12 invoice) and there is no resolution approving the contract
	Check 1723 to Peerless \$1,450 (for the second payment toward the holiday lights/purchase)
3/21/13 meeting	Resolution approved to contract with Chesterland Electric for the expanded parking area \$5,315.00. No mention in the minutes of any other quotes received. (Commissioner advised that Peerless submitted a quote.)
4/17/13 meeting	Check 1737 to ElectoLite \$2,841.65 (for installation of hanging baskets and banners) It appears this is the “park banners” mention in the minutes from the 3/21/13 meeting, and there is no resolution approving the contract.
	Check 1740 to Peerless \$605.00 (for rope lighting)
5/16/13 meeting	Check 1749 to Peerless \$900.00 (for third and final payment for holiday lights/decorations purchase)
	Check 1755 to Hi Lite Maintenance \$3,065 (to install flagpole and lighting) The minutes of the 2/27/13 meeting reflect a resolution passed approving the “purchase and installation” of new flag pole and flag from The Flag Store for \$2,500
	Check 1774 to Chesterland Electric \$4,500.00 (for parking lot project) approved 3/21/13
6/19/13 meeting	Resolution approved a quote from Peerless in the sum of \$1,395.00 to replace the 1500 W ball field light
	Check 1787 to Chesterland Electric \$3,750.00 (to pay the balance for the parking lot project plus “extras.”) Total cost \$8,250.00 Approval of extras not reflected in the minutes.
7/31/13 meeting	Check 1807 to Peerless \$767.50 approved (for monthly inspection performed 6/5/13 and repairs) Check 1812 to Chesterland Electric for \$291.18 actually written but minutes show check was to Sal Charillio for \$291.
8/22/13 meeting	Resolution passed and Check 1826 to Peerless \$320.00 approved for temporary electric service panels for Chesterfest
	Check 1829 to Chesterland Electric approved (for \$290.00 for soda machine light) No resolution to approve work.
11/13/13 meeting	Resolution approved to contract with Peerless for temporary installation and the removal of outlets and cabling for holiday lights for \$1,500

	Check 1842 to Peerless approved \$1,395 (for 1500 W ball field light)
12/19/13 meeting	Check 1860 to Peerless approved (for \$2,000 for holiday lights) This was the contract for \$1,500 approved at the 11/13/13 meeting plus \$500 extras. Approval of extras not reflected in the minutes.

Issue 5-Tree work and arborist charges	Issue Raised: No specific issue identified other than to note that the payments were "significant"
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The "Review" identifies these specific vendors and payment totals:

Inspeyered Tree Service	\$5,760
The Pruning Company	\$4,815
Apex Land Management	"paid \$1,690 for a two year period expenditure of \$12,265"

Conclusion-Engaging an arborist and tree service contractors to maintain a park with many large, mature trees seems to be an obvious and necessary expense. The total expenditure number is “significant” because it appears significantly higher than the budgeted amount. However, tree maintenance is separate and apart from other tree work associated with a project, e.g, removing trees from the volleyball area. I conclude the park district did its due diligence in selecting a Forester, and it was reasonable for the park district to rely on his advice and his recommendation of contractors as detailed in the chart below.

<i>2012 Budget request</i>	<i>Included \$2,500 for arborist tree trimming expenses</i>
Park District Meeting Date	What the Records Reveal
2/8/11 meeting	Three applications for position of Forester were received and resolution passed to select Dave Allen and the arborist consultant. No mention in minutes of contract terms.
3/7/11 meeting	Minutes mention commissioners review a document submitted by Mr. Allen stating his available services and rate, but no specifics given. The document is apparently the 3/2/11 rate letter from The Pruning Company, LLC setting Mr. Allen’s rates of \$45 per hour for consulting services and \$60 per hour for tree care services
1/17/12 meeting	Park arborist Allen recommended pruning for health and safety. “He referred Inspeyered Tree Service of Chesterland to perform the work over the winter months as their rate is more competitive during this time.” Mr. Allen was tasked to obtain 3 quotes for the necessary pruning.
2/2/12 meeting	Mr. Allen presented quote from Morningstar Tree Service and Inspeyered Tree Service. Resolution passed to approve the lower bid of \$2,400 from Inspeyered.
	Check 1621 to The Pruning Company (Dave Allen) approved \$390 for consulting and pruning work
6/28/12 meeting	2103 Proposed Budget included \$5,310 for Arborist-Safety Pruning
8/9/12 meeting	Resolution approved for contract with Inspeyered Tree Service for \$3,360.00 for tree removal by volleyball courts
	Check 1657 approved to Inspeyered Tree Service \$2,400 approved at the 2/2/14 meeting
9/27/12 meeting	Check 1675 approved to the Pruning Company \$675.00 for arborist services & labor
1/3/13 meeting	Resolution passed approving contract to Apex Land Management for planting trees \$1,000
	Check 1702 approved to the Pruning Company \$330.00 for arborist services & labor
1/24/13 meeting	Resolution passed approving contract with Apex for stump removal \$425.00

	Check 1709 approved to Apex Land Management for \$1,265.00 for planting approved on 1/2/13 and extra clean up services
3/21/13 meeting	Check 1728 approved to the Pruning Company \$1,237.50 for arborist services
4/17/13 meeting	Check 1734 approved to Apex Land Management \$425.00 for 1/24/13 stump removal contract (Check was voided but that fact was not reflected in the minutes)
	Check 1743 approved to Apex Land Management \$120.00 for stump grinding
5/16/13 meeting	Check 1769 approved to the Pruning Co. \$1,252.50 for arborist services and labor
	Check 1781 approved to Apex Land Management \$425.00 (reissued to replace Check 1734)
7/31/13 meeting	Check 1819 approved to The Pruning Company \$930.00 for arborist services and labor

“Recent Commissioner Actions Resulting in Increased Spending”

Issue 1-Dragging Ball infield	Issue Raised: Prior to 2013, Bart Alcorn was hired to drag infield and was paid \$650 in 2012; then DiFranco Landscaping was hired to do the work for \$2,480
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Conclusion-I went back to examine what Mr. Alcorn did for the \$625. In 2010, he was paid \$650 to do one pre-season field preparation. In 2011, he charged \$650 for this same pre-season prep work. This is different work than preparing the field before a game. I conclude the “Review” is not making an “apples to apples” comparison as detailed in the chart below.

Park District Meeting Date	What the Records Reveal
11/29/12 meeting	Commissioners noted that a discussion of having DiFranco Landscaping (who was doing the field renovations) do the field maintenance the first year “to ensure proper upkeep” would be had at a future meeting. They also noted that the West Geauga Baseball Federation “will need to be informed...since they have maintained the field in the past.”
1/3/13 meeting	Commissioners again noted that a discussion of having DiFranco Landscaping (who was doing the field renovations) do the field maintenance the first year “to ensure proper upkeep” would be had at a future meeting. Minutes also note that a “memo will be sent to West Geauga Baseball Federation informing them that DiFranco Landscaping will maintain the field for the 2013 season and that use fees will be imposed to defray the maintenance cost.
1/24/13 meeting	Proposal to charge West Geauga Baseball Federation use fee of \$250 per day for five days per published rates. No vote.
5/16/13 meeting	Resolutions passed to contract with DiFranco to prepare and maintain the ball field at a contract price of \$85.00 per prep. Minutes reflect that the West Geauga Baseball Federation offer to donate \$50 toward the expense, but in light of the Federation’s shortage of funds a resolution passed to waive the field prep fee for the 2013 season.
11/13/13 meeting	Check 1846 approved to DiFranco Landscaping \$2,480 for 24 drags of the infield (\$2,040) approved at the 5/16/13 meeting plus extras for materials for the field, e.g. base plugs, bags (\$315.00) and one field aeration due to compaction (\$125.00). Extras were not included in any resolution.

Issue 2-Hiring Dave Allen of The Pruning Company

Issue Raised: None specifically stated as the park’s resident arborist apart from a total three year fees of \$7,315.00

Conclusion-As previously noted, engaging an arborist is essential. The park district advertised its RPF, reviewed three quotes, and accepted the lowest quote.

Park District Meeting Date	What the Records Reveal
11/1/10 meeting	Commissioner Downs was tasked with preparation of an ad for a certified forester “for work consisting of safety pruning, assisting in the selection and placement ...of memorial trees & plaques and two year tree planting phase schedule corresponding with park plans with a specified mandatory meeting attendance.”
1/3/11 meeting	No applications had been received in December in response to RFP in the Chesterland News. The RFP was very detailed and called for a two year contract
2/8/11 meeting	Three applicants: Knowles Municipal Forestry \$50/hr; The Pruning Co. LLP (Dave Allen) \$45/hr; and Douglas Yates \$70/hr.

Issue 3-Land & Site Contractor Services Hired 2013 to mow grass and do janitorial work 1 day/week from 4/1-11/30 (2013 paid \$16,493)

Issued Raised: Road Dept. previous did this

Professional House Cleaning Service hired to clean restrooms

A minimum of two days per week at \$45/day (2013 paid \$2,742.30)

Conclusion-I conclude the park district had no choice but to hire outside contractors because of increased demands on the road department as detailed in the chart below.

Park District Meeting Date	What the Records Reveal
1/3/13 meeting	Chester Township Road Department Groundskeeper Mark Rosieum spoke to the commissioners about issues and concerns about the proper maintenance of the parklands and the reasons why the park district may have to hire an outside crew to perform this work. He cited increase in parklands and new equipment needs in order to meet the increased tasks.
1/24/13 meeting	Arborist was tasked with compiling a list of duties to maintain the park. Minutes reflect "several local landscape contractors have been solicited to provide a quote to the park for these maintenance services. Considering the funds required to maintain the Park in the past, the Commissioners are moving forward to assigning the upkeep of the Park to a single contracted source of services instead of a combination of two Road Department employees performing the maintenance and the law cutting. Due to a lack of resources and time some of the maintenance was overlooked in the past by the Road Department because of other more pressing jobs and therefore the condition of the Park is at a lower standard."
4/17/13 meeting	Arborist conducted a review and bidding process and recommended Land & Site, a local company. Resolution approved to hire the firm at a contract price of \$15,495 for period from April 1 through November 30, 2013. Contract signed 4/17/13. An additional resolution passed to hire Professional Home Cleaning a local company to do addition janitorial work a minimum of two days a week at \$45/day. Contract signed 4/17/13. Neither the minutes nor the letter from Mr. Allen specifically detail any other bidders or RFPs.

Issue 4-Peerless Electric Monthly Inspections

Issue Raised: No specific issue identified other than to note that the payments were "significant"

Conclusion-I found only one monthly inspection and one payment for that inspection. I cannot find where any additional monthly inspections were performed or paid, and I confirmed in my interviews with the park district's fiscal officer that no other inspections were done.

Park District Meeting Date	What the Records Reveal
6/28/12 meeting	Proposal from Peerless dated 6/27/12 to provide a monthly park electric inspection and report at a cost of \$110 per month for the months of April through December approved. No proposal in the records.
7/31/13 meeting	Check 1807 to Peerless \$767.50 approved for monthly inspection performed 6/5/13 and repairs. Written report form is in the park records.

Secretarial Costs 2011 \$2,710 2013 \$4,422	Issue raise: Increase from 2011 by 61% 2014 Funding Request to Chester Township Trustees indicated secretary costs at \$3,600 “same as last year” but last year’s amount was \$4,422
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Conclusion-When I inquired about the increased amount, Ms. Vitale explained that she has been required to put in more time with the increased level of activity and number of park projects. She has also spent many hours doing work at the park for which she has not sought compensation. Commissioner Weiss explained that the “same as last year” notation was simply an error.

Park District Meeting Date	What the Records Reveal
8/6/2007 meeting	Resolution approved to hire Ms. Vitale’s predecessor, Michele Reksten and to change the title for the position from “Secretary” to “Administrative Assistant.” No mention made in minutes of amount to be paid.
12/21/09 meeting	Commissioners inquire whether time logs for secretary were being maintained. Secretary maintains time on “slips of paper” and then transfers them to a log. (Logs are being maintained by Ms. Vitale)
8/30/10 meeting	Resolution approved to appoint Margaret “Peg” Vitale as new Administrative Assistant. No mention of pay rate.
1/3/13 meeting	Resolution approved to increase Park Secretary’s rate to \$15.00

Deviations from 2013 Stated Park Projects

Issue raised: Actual spending was 20% over estimate presented to Chester Township Trustees on 2/7/13⁶⁵



⁶⁵Exhibit R-Chester Township Park District Project Estimates dated 2/7/14

From the “Review”: Project/cost estimate/ 2013 payments (as calculated by the “Review”) and Comments in “Review”	What the Records Reveal
Playground completion Estimated cost \$25,000 2013 payments \$35,296 (\$10,296 over estimate)	2/27/13 meeting (after the date of the estimate)- Met with Mr. Varga to discuss playground completion. “Updated pricing” noted, but no amounts are reflected in the minutes. 3/21/13 meeting-Resolution approving a contract with Play & Park to “complete the final playground expansion discussed at the prior meeting.” But there is no contract price or other details reflected in the minutes. 5/16/13 meeting-Check 1758 approved to pay Play & Park \$35,296.65 for Invoice 30515 for the final phase of equipment
Ball field outfield renovations- Not done Estimated cost \$25,000 2013 payments -0-	6/19/13 meeting-the minutes reflect that the “timing of the ball field outfield work to complete the ball field project will be discussed at future meeting.”
Pavilion repair-horseshoe pit area Estimated cost \$6,000 2013 payments -0- Not done, except gutter work for \$300-\$500	I found nothing in the records regarding this proposed project. In my interviews with the Commissioners and fiscal officer, I learned that they decided to put this off for a year, and the gutter work was for the gazebo.
Maintenance Estimated cost \$18,000 2013 payments \$40,614 (\$22,614 over estimate) \$2,480 for DiFranco dragging \$2,841 for ElectoLite \$5,207 for Peerless \$2,135 for Freshley \$3,065 for Hi Lite \$1,100 for bench painting \$16,493 for Land & Site \$2,742 for restroom cleaning	DiFranco dragging the ball field-this used to be done by the West Geauga Baseball Federation. Electolite –payment to hang baskets & banners Peerless-multiple electrical repairs Freshly-plumbing work to upgrade the bathroom fixtures and repair men’s bathroom. \$250 was donated by the West Geauga Kiwanis after the commissioner solicited donations to do the upgrade and install a drinking fountain (see 7/2/13 meeting). 8/22/13 resolution to approve \$1,850 to complete the replacement of flush valves and sink faucets Hi Lite-new flag pole and lighting installation Bench painting is self-explanatory Land & Site and Professional Home Cleaning- The actual maintenance cost for FY 2012 was \$18,174.30, so the estimated cost for 2013 of \$18,000 was in line if the road department was going to continue to do the work as in the past. However, the road department and the commissioners began to question whether

<p>\$3,750 for the Pruning Company \$801 for Turney's</p>	<p>this arrangement could continue. See the entire discussion above regarding the contract to Land and Site and Professional Home Cleaning regarding the increase for these services triggered by outsourcing and not being able to use the road department See entire discussion above regarding the need for a park arborist</p>
<p>Park signs-not listed in the 2013 plan Estimated cost -0- 2013 payments \$3,963</p> <p>Park signs by All-ways Flasher for \$963</p> <p>\$3,000 to Guthrie Designworks</p>	<p>All-Ways Flasher-park safety signs determined to be needed at 4/17/13 meeting</p> <p>3/21/13 meeting-resolution passed to purchase a new Parkside sign from Guthrie and Check 1732 to Guthrie Designworks \$1,200 approved (for down payment on the initial sign at a cost of \$3,000) 4/17/13 meeting-resolution approved to purchase two more Parkside signs from Guthrie for \$1,200 (But these were never purchased) Check 1745 to Guthrie Designworks \$600 approved (for second payment on the initial sign) 5/16/13 meeting-Check 1766 to Guthrie Designworks \$1,200 approved (for the final payment on the initial sign)</p>
<p>Park benches-not listed in the 2013 plan Estimated cost -0- 2013 payments \$5,311</p>	<p>6/28/12 meeting a park bench donation project is first discussed 7/31/13 meeting \$500 assumed by the park district for this park bench donation project \$8,750 in park bench donations have been received⁶⁶</p>
<p>Drainage trench along walkway-not listed in 2013 plan Estimated cost -0- 2013 payments \$3,548</p>	<p>6/19/13 meeting brick walkway flooding problem raised and resolution passed to contract with Abate Landscaping to perform the drainage work</p>
<p>Perennial garden renovation by H&M-not listed in 2013 plan Estimated cost -0- 2013 payments \$1,585</p>	<p>1/24/13 meeting Ms. Slane from the Perennial Gardeners informed that approximately \$700 is spent per year for planting and maintaining the garden. Resolution approved to provide \$500 in support of their work 3/21/13 meeting Ms. Plank from the perennial gardeners informed district that they will require help to continue to maintain the corner garden 7/31/13 resolution approve to contract perennial garden improvements to H&M \$1,585</p>
<p>Holiday Lighting Estimated cost \$5,500</p>	<p>1/3/13 meeting- resolution adopted to fund the project up to \$5,500 11/13/13 meeting-resolution to approve the same amount paid in</p>

⁶⁶ Exhibit S-Chester Township Park District Donations 2013 list

<p>2013 payments \$7,400 (\$1,900 over budget)</p>	<p>2012 to Peerless to set up and take down the outlets and cabling. 12/19/13 meeting Check 1860 to Peerless approved for \$2,000 for holiday lights. This was the contract for \$1,500 approved at the 11/13/13 meeting plus \$500 in extras 11/13/13 meeting Check 1845 approved to Rotary for \$3,000. <u>A review of 2013 checks for holiday lighting reveals:</u></p> <table border="0"> <tr> <td>02/07/2013</td> <td>1713</td> <td>Peerless Electric</td> <td>Holiday Lighting</td> <td>1,450.00</td> </tr> <tr> <td>03/13/2013</td> <td>1723</td> <td>Peerless Electric</td> <td>1/18/2013 memo</td> <td>1,450.00</td> </tr> <tr> <td>05/06/2013</td> <td>1749</td> <td>Peerless Electric</td> <td>Holiday electric equipment</td> <td>900.00</td> </tr> <tr> <td>10/01/2013</td> <td>1845</td> <td>Rotary Club of Chesterland</td> <td>Holiday display</td> <td>3,000.00</td> </tr> <tr> <td>12/18/2013</td> <td>1860</td> <td>Peerless Electric</td> <td>Christmas lighting</td> <td>1,500.00</td> </tr> <tr> <td>12/18/2013</td> <td>1860</td> <td>Peerless Electric</td> <td>Extension cords</td> <td>500.00</td> </tr> <tr> <td colspan="5">TOTAL \$8,000</td> </tr> </table>	02/07/2013	1713	Peerless Electric	Holiday Lighting	1,450.00	03/13/2013	1723	Peerless Electric	1/18/2013 memo	1,450.00	05/06/2013	1749	Peerless Electric	Holiday electric equipment	900.00	10/01/2013	1845	Rotary Club of Chesterland	Holiday display	3,000.00	12/18/2013	1860	Peerless Electric	Christmas lighting	1,500.00	12/18/2013	1860	Peerless Electric	Extension cords	500.00	TOTAL \$8,000				
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<p>Parking lot expansion and horseshoe driveway gravel-new pavilion and lighting walkway area and park and electric relocation expense Estimated cost \$21,000 2013 payments \$24,093 (\$3,092 over budget)</p> <p>\$6,299 for gravel \$3,500 for Podogil Excavating \$1,500 to H&M for stone boundary wall replacement \$585 to H&M for added top soil & mulch \$9,509 to Chesterland Electric \$646 to Costco for lamps \$2,054 to Yandell and Costco for lamps and Costco membership 6 out of 10 lamps purchased have been installed)</p>	<p>1/24/13 meeting -discussed expanding the parking lot area. Mr. Parker to perform survey</p> <p>2/27/13 meeting -police chief and road department support the revised parking plan and resolutions approved to spend up to \$2,500 for Podogil Excavating to revamp the driveway and up to \$750.00 for additional gravel for the horseshoe driveway. Mr. Parker's survey and drawings delayed due to the weather.</p> <p>\$2,054 to Yandell and Costco for lamps and Costco membership-requisition signed by Weiss and Yandell on date of purchase 1/29/13 and Check 1711 dated 2/1/13 was cashed on 2/7/13 and was approved at the 2/27/13 meeting</p> <p>3/21/13 meeting -Mr. Parker presented the updated parking area survey. Resolution to approve contract with Chesterland Electric for \$5,315 to perform the electric work.</p> <p>4/17/13 meeting-resolution approved to spend \$1,000 for more gravel and Mr. Parker presented additional plans for split rail fencing and block edging</p> <p>5/16/13 meeting: Check 1759 to Podogil Excavating \$3,500 Check 1763 to All-Ways Flasher Services \$140.84 Check 1765 to Deepwoods Trucking \$5,779.52 (gravel) Check 1773 to All-Ways Flasher Services \$239.62 Check 1774 to Chesterland Electric \$4,500 (parking lot-partial payment) Check 1772 to Al Parker \$300</p> <p>6/19/13 meeting: Check 1783 to Costco \$646.47 Check 1878 to Chesterland Electric \$3,750 (parking lot-balance due)</p>																																			

	<p>7/31/13 meeting resolution passed to accept 1 (H&M) of 3 bids to replace stone boundaries around new driveway and repair stone walls around driveway gardens \$1,500</p> <p>9/12/13 meeting Check 1832 to H&M \$3,665 for stone boundaries and other projects outside of the driveway area Check 1839 to Deepwoods Trucking \$519.79 for more gravel</p>
Patio stones for Fire Department Patio-not listed in 2013 plan Estimated cost -0- 2013 payments \$620	<p>5/16/13 meeting -Check 1751 to American Rail Road Tie \$620.60 6/19/13 minutes reflect "goodwill efforts by commissioners" including fire station patio, painting the road department building "efforts assumed by Park Board to improve the overall appearance of the Township campus adjacent to the Park."</p>
Garden design by Mary Singluff-not listed in 2013 plan Estimated cost -0- 2013 payments \$400	<p>5/16/13 meeting-Check 1778 to Mary Singluff \$400 No resolution</p>
Apex planting trees and stump grinding-not listed on 2013 plan Estimated cost -0- 2013 payments \$1,690	<p>1/3/13 meeting-resolution to contract with Apex to plant the live trees from the holiday lighting up to \$1,000 1/24/13 meeting-Check 1709 to Apex Land Management \$1,265 Resolution passed to contract with Apex for stump removal \$425 4/17/13 meeting-Check 1734 to Apex Land Management \$425</p>
Staining and painting labor and materials- Estimated cost \$17,000 2013 payments \$16,809 (\$191 under budget)	<p>\$12,080 to MAL \$4,729 to Sherwin Williams⁶⁷ 2/27/13 meeting-resolution approved contract with 1 (MAL) of 2 contractors for wash, treat and stain park structures in the sum of \$8,530 4/17/13 meeting under "Staining Park Structures"-minutes refer to a resolution passed at the 1/24/13 meeting approving MAL Enterprises to stain and paint all park structures in the amount of \$7,530. Minutes also reflect discussion of additional work to be added including power washing gazebo bricks and power washing all park fencing and oil staining. Resolution passed to approve an additional \$1,970.</p> <p><u>Review of the MAL Contract dated March 21, 2103</u> 2/5/13 proposal price \$7,560 with a 50% draw upon acceptance \$3,780 2/10/13 amended proposal adding \$970.00-TOTAL NOW \$8,530 3/20/13 additional amendment adding \$1,000-TOTAL NOW \$9,530 <u>Add on after contract-see Invoice dated 4/27/13</u> An addition \$2,550 was added for painting bathrooms, service garage, and power wash brick walkways TOTAL NOW \$12,080</p>

⁶⁷ It should be noted that there has been a problem with assuring that vendor accounts are charged properly so that, for instance, charges at Sherwin Williams are put on the park district account rather than the township account.

	<p>N.B. invoice shows and \$325.00 donation discount to the walkway power washing</p> <p>4/17/13 meeting-resolution approved a draw to MAL \$3,500 to complete painting, staining and power washing services</p> <p>4/17/13 meeting: Check 1733 dated 4/9/13 to MAL Enterprises \$3,780 Check 1741 to Sherwin Williams \$1,354.61 Check 1747 to MAL Enterprises \$3,500</p> <p>5/16/13 meeting: Check 1757 to MAL Enterprises \$1,300.00 Check 1782 to MAL Enterprises \$3,500.00</p>
<p>Gutters and downspouts-new pavilion Estimated cost \$300 2013 payments \$835 (\$535 over budget)</p>	<p>2/27/13 meeting-resolution passed to contract with H&K to install gutters on the pavilion up to \$535</p> <p>3/21/13 meeting-received estimate from H&K of \$350 for new gutters on the horseshoe pit pavilion. Additional quote would be sought.</p> <p>5/16/13 meeting: Check 1750 to H&K \$835. No resolution</p>
<p>Horseshoe pit repairs Estimated cost \$1,000 2103 payments \$1,000 No "deviation"</p>	<p>5/16/13 meeting: Check 1761 to Bob Lautenschleger \$335 for construction materials for new backstops. Labor donated by the West Geauga Horseshoe Club.</p> <p>Check 1775 to Claridon Barns \$665 for new shed installed by the road department \$100 discount on the purchase given by Claridon Barns)</p>
<p>Perennial Gardeners Estimated cost \$1,000 2013 payments \$500 donation</p>	<p>1/24/13 meeting-resolution approved for a \$500 donation given to the club by the district to help off-set club's annual expense of approximately \$700</p> <p>7/31/13 resolution approve to contract perennial garden improvements to H&M \$1,585</p>
<p>Hanging flower baskets Estimated cost \$1000 2013 payments \$3,298 Bremec \$2,048 Sal Charillo [sic] \$1,250</p>	<p>2/27/13 meeting resolution approved to purchase and install seven park banners from Design Viewpoints and install flower basket brackets on park poles for \$2,334.(3/21/13 meeting minutes reflect ten)</p> <p>4/17/13 meeting: Check 1735 to Bremec Greenhouse and Nursery \$692 for brackets</p> <p>6/19/13 meeting: Check 1784 to Sal Charillo \$1,000 to remove Chester Township banners and flowers baskets and rehang flower baskets</p> <p>7/2/13 meeting: Check 1800 to Bremec Greenhouse and Nursery \$761.92 for baskets Check 1805 to Sal Charillo balance due on 5/31/13 invoice 497275</p> <p>9/12/13 meeting-resolution passed to approve \$594.13 to Bremec for the flower baskets for Chester Township</p> <p>9/12/13 meeting:</p>

	<p>Check 1831 to Bremec Greenhouse and Nursery \$594.13 7/31/13 meeting: Check 1809 to Sal Charlillo \$150 to remove and rehang 4 Chester Township banners N.B. Check 1812 to Sal Charlillo \$291 (was actually a check to Chesterland Electric)</p> <p><i>Actual total to Bremec for Park District Flowers & banners was \$1,453.92 for the baskets & brackets. The \$594.13 for Chester Township flower baskets was a donation to the township by the park district.</i></p> <p><i>Total to Charlillo \$1,250.00 to remove and rehang banners and baskets for Chester Township was a donation to the township by the park district.</i></p> <p><i>ElectroLite installed the park district hanging flower basket brackets at no charge. (See 3/18/13 invoice for hanging banners below**)</i></p>
<p>Park banners Estimated cost \$2,400 2013 payments \$1,344</p>	<p>2/27/13 meeting resolution approved to purchase and install seven park banners from Design Viewpoints and install flower basket brackets on park poles for \$2,334.(3/21/13 meeting minutes reflect ten) 2/27/13 meeting: Check 1718 to Design Viewpoints \$784 for 7 banners 3/21/13 meeting: Check 1726 to Design Viewpoints \$336 for 3 banners 5/16/13 meeting: Check 1752 to Design Viewpoints \$224 for 2 banners</p> <p><i>Total banner cost was \$1,344, but “Review” does not include the cost to install the banners.</i></p> <p>4/17/13 meeting-Check 1737 to ElectroLite for \$2,841.65 approved for installation of park district banners (**Invoice 48662 dated 3/8/13 to install 6 banners \$2,324.99 and Invoice 48669 dated 4/1/13 to install 2 additional banners \$516.66)</p>
<p>BBQ grills Estimated cost \$1,300 2013 payments -0- Not done</p>	<p>I found no specific mention in minutes. My interviews with the Commissioners and Fiscal Officer revealed this was a concept added to the proposal at the last minute, but it was never discussed at a meeting or pursued further.</p>
<p>Flag pole Estimated cost \$4,000 2013 payments \$2,291 (\$1,709 under budget)</p>	<p>2/27/13 meeting -The minutes reflect a resolution passed approving the “purchase and installation” of new flag pole and flag from The Flag Store for \$2,500 and two residents have donated \$500 each toward the new flag pole.⁶⁸</p>

⁶⁸ Exhibit S-Chester Township Park District Donations 2103, which reflect 3 donors for a total of \$1,500.

	<p>2/27/13 meeting: Check 1722 to The Flag Store \$1,000</p> <p>5/13/16 meeting: Check 1753 to The Flag Store \$1,291.48 Check 1755 to Hi Lite Maintenance \$3,065 to install flagpole and lighting.</p> <p>Actual cost for flag and pole \$2,291.48 Actual cost for installation and lighting \$3,065 Less donations \$1,500 Total actual cost \$3,856.48</p>
<p>Pavement markings not listed in 2013 plan Estimated cost -0- 2013 payments \$250</p>	<p>6/19/13 meeting: Check 1786 to Brite Stripe Pavement Markings for \$250 approved No resolution specifically addressing this item.</p>
<p>Chesterland News ads not listed in 2013 plan Estimated cost -0- 2013 payments \$874</p>	<p>4/17/13 meeting: Check 1736 to Chesterland News \$250 for park bench ad</p> <p>6/19/13 meeting: Check 1788 to Chesterland News for \$400 for Memorial Day ad 8/22/13 meeting minutes reflect a full page thank you ad in the Chesterland News was placed to thank vendors in the 8/21/13 edition</p> <p>8/22/13 meeting: Check 1820 to Chesterland News \$16.00 for legal ad</p> <p>11/13/13 meeting: Check 1841 to Chesterland News \$412.50 for Chesterfest ad</p> <p>12/19/13 meeting: N.B. Check 1857 to Chesterland News \$45.62 Check 1857 to Chesterland News for \$45.62 actually a check to All-Ways Flasher for \$45.62</p> <p>Total was actually \$1,075.50</p>
<p>Custom Logos work? not listed in 2013 plan Estimated cost -0- 2013 payments \$754</p>	<p>6/19/13 meeting: Check 1797 (Actually check 1796) to KT Custom Logos \$538.99 for plaques for benches. (Check 1797 was actually a check to Ms. Vitale for \$682.17)</p> <p>8/22/13 meeting: Check 1823 to KT Custom Logos \$216 for plaques for benches No specifics in a resolution or minutes.</p>
<p>Mulberry Creek Greenhouse? Not listed in 2013 plan Estimated cost -0- 2013 payments \$939</p>	<p>6/19/13 meeting: Check 1798 to Mulberry Creek Greenhouses \$335 for rototill & topsoil</p> <p>7/31/13 meeting: Check 1817 to Mulberry Creek Greenhouses \$3,548.45 for drainage repairs</p> <p>8/22/13 meeting: Check 1825 to Mulberry Creek Greenhouses \$64 for anchor corn hole games & spray</p> <p>9/12/13 meeting:</p>

	<p>Check 1835 to Mulberry Creek Greenhouses \$80 for rake wood chips 11/13/13 meeting: Check 1850 to Mulberry Creek Greenhouses \$348 for install of gravel & flower bed around flag pole 12/19/13 meeting: Check 1859 to Mulberry Creek Greenhouses \$111.98 for rakes for volley ball court No specifics in a resolution or minutes.</p>
<p>Western Reserve Graphics? Not listed in 2013 plan Estimated cost -0- 2013 payments \$550</p>	<p>1/24/13 meeting: Check 1707 to Western Reserve Graphics \$515 for stationary and business cards 2/27/13 meeting: Check 1720 to Western Reserve Graphics \$35 for business cards No specifics in a resolution or minutes.</p>

Potential Ohio Revised Code Issues

Issue 1-Compliance with R.C. 1545.22(B)(1) and (2)-“It would appear that the approximately \$180,000 worth of check signed and issued by the park commissioners in 2013 violate this provision of Ohio law.

Conclusion- There is no issue here. As previously explained, R.C. 1545 permits the park district to appoint its own fiscal officer and deposit its funds with a depository. The original board of commissioners elected to do this and complied with the formalities. R.C. 1545.22(B)(1) and (2) apply only, as the statute provides, “[i]f no treasurer is appointed by the board pursuant to section 1545.07 of the Revised Code.”

That being said, the park district by-laws have not been amended to reflect this resolution to appoint its own fiscal officer nor have successive boards complied with the formalities.

Issue 2-R.C. 5705.45 liability for wrongful payments from public funds
Issue 4-R.C. 5705.41(D)(1) certification of available funds
Issue 5-R.C. 5705.38(A) passing an annual appropriation resolution on or after the first of day of each fiscal year

Conclusion- Ohio law does provide for personal liability for wrongful payments *unless* those payments were “subsequently approved” as provided in R.C. 5705.41.⁶⁹ Over the years, the park district did fail to include certification language on its requisition form and did fail to formally adopt an annual appropriation resolution at the beginning of each fiscal year. While ignorance of these requirements is no excuse, my research has found that there are other small township park districts that have similarly failed to comply.⁷⁰ The park district needs to update its practices and procedures, and I have already provided the district with examples of forms used by Russell Township Park District to correct any process deficiencies.

The “Review” though contains incomplete statements of the applicable law and many misapprehensions. What may apply to a township board of trustees or a park district that has its own tax levy is not necessarily the same law applicable to this park district.

Discussion-

R.C. 5705 - The Tax Levy Law

The definitional section of that chapter, found at R.C. 5705.01, provides in pertinent part:

5705.01 Definitions As used in this chapter:

(A) “**Subdivision**” means any county; municipal corporation; township; township police district; joint police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a lake facilities authority created under Chapter 353. of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code....

⁶⁹ R.C. 5705.45

⁷⁰ See e.g., https://ohioauditor.gov/auditsearch/Reports/2013/Auglaize_Township_Park_District_12_11-Allen_Basic_Report.pdf and

https://ohioauditor.gov/auditsearch/Reports/2013/Spencer_Township_Park_District_12_11-Allen_Basic_Report.pdf

(C) **“Taxing authority” or “bond issuing authority”** means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint police district, the joint police district board; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction, and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a lake facilities authority, the board of directors; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. “Taxing authority” also means the educational service center governing board that serves as the taxing authority of a county school financing district as provided in section 3311.50 of the Revised Code, and the board of directors of a regional student education district created under section 3313.83 of the Revised Code...

(H) **“Taxing unit”** means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) **“District authority”** means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health services, detention facility districts, a joint recreation district board of trustees, districts organized under section 2151.65 of the Revised Code, combined districts organized under sections 2152.41 and 2151.65 of the Revised Code, and other such boards.

Following a basic principle of statutory construction, this chapter does not apply to the Chester Township Park District because the term “park district” or any reference to an entity created under Chapter 1545 is not found in the list of entities in the definitional section.⁷¹

The Chester Park District is not a “subdivision.” It is not a “taxing authority.” It is not a “bond issuing authority.” It is not a “district authority,” because it receives funds from only one “subdivision” as the term is defined in this chapter, Chester Township. The funds received via the county’s budget commission are pass-through funds from the state local government and library fund.

The only definitional section that references “park districts” is R.C. 5705.01 (H), which includes a “metropolitan park district” in the definition of a “taxing unit.” The Chester Park District is not a metropolitan park district.

While the district has the authority to levy property taxes, it had not chosen to do so. Thus, may be argued that this section does not apply to Chester because it has no levy, unlike its sister district in Russell Township.

I could find no case law or Ohio Attorney General opinions addressing this issue vis á vis park districts. There is an opinion posing the question of whether a regional council of governments formed under Chapter 167 had to comply with the budgetary requirements of Chapter 5705.⁷²

The Attorney General answered in the negative, and the opinion provides analytical guidance cogent to this analysis. It also emphasizes that while this chapter is inapplicable to a

⁷¹ See R.C. 1.42 (“[w]ords and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly”); *Woman's International Bowling Congress v. Porterfield*, 25 Ohio St. 2d 271, - 267 N.E.2d 781 (1971) (syllabus, paragraph 2) (“[w]here a statute defines terms used therein which are applicable to the subject matter affected by the legislation, such definition controls in the application of the statute”).

⁷² O.A.G. 98-004

regional council of governments because such councils are not delineated in the definitional section, other sections of the Revised Code do offer safeguards.

It should be noted that, even though R.C. Chapter 5705 does not apply to a regional council of governments, the moneys held and expended by a regional council of governments may be expended only for proper purposes and through proper procedures. The fact that a regional council of governments is not itself required to comply with R.C. Chapter 5705 does not mean that no safeguards apply to its funds. Moneys held by a regional council of governments are public moneys that are held in trust for the public and may be recovered by legal action if illegally expended or not properly accounted for. *See* R.C. 117.01(C), (D), (E); R.C. 117.28-.30; R.C. 117.42; 1973 Op. Att'y Gen. No. 73-119, at 2-457 (moneys of a regional council of governments are public moneys that are to be deposited or invested in accordance with the Uniform Depository Act). As a public office, a regional council of governments must file with the Auditor of State an annual financial report setting forth its income and expenditures. R.C. 117.38. *See generally, e.g.*, 1971 Op. Att'y Gen. No. 71-010 (a regional council of governments is a political subdivision for purposes of exemption from the payment of sales tax). As your letter indicates, a regional council of governments is subject to audit by the Auditor of State in accordance with auditing standards established by the Auditor of State. *See* R.C. 117.10; R.C. 117.11; R.C. 117.19; R.C. 117.43. O.A.G. 98-004.

The Audits of Chester Township and the Chester Township Park District

As previously noted, the first people to be interviewed for this review was the new Fiscal Officer for Chester Township, Craig Richter. Mr. Richter advised that upon taking office he requested an audit of the Chester Township's 2013 finances. In the course of his discussion with the state auditor the auditor asked about the park district. The initial question for the auditor was whether the park district was a "component unit." This question is not simply answered,⁷³ and may be one reason why the park district has never been separately audited. Another reason may be that the park district does not have its own tax levy.

The Chester Township audit for the 2013 fiscal year has been completed, and the state auditor expects to complete his audit of the park district within thirty days of receipt of requested

⁷³ See generally, Statement No. 39 of the Governmental Accounting Standards Board Determining Whether Certain Organizations Are Component Units an amendment of GASB Statement No. 14, May 2002

records. The audit will cover only the years 2012 and 2013, and thus will also address the compliance issues raised in the “Review.”

When looking for guidance as to what practices and procedures are to be followed by a park district that does not levy taxes, the Auditor of State follows the *Implementation Guide for Legal Compliance Auditing in Ohio*.⁷⁴ And it should be noted that the Auditor of State does look to certain sections of Chapter 5705 in reference to park districts’ budget process and record-keeping. The Guide provides

[w]hen they [park districts] do not levy taxes, Ohio Rev. Code §5705.28 (B)(2) requires a comparable, but somewhat streamlined budget process. Ohio Rev. Code §5705.28(B)(2) requires entities to follow §5705.36, .38, .40, .41, .43, .44,⁷⁵ and .45. However, documents prepared in accordance with these sections need not be filed with the county auditor or county budget commission. Also, while Ohio Rev. Code §5705.39 does not apply, §5705.28(B)(2)(c) prohibits appropriations from exceeding estimated revenue (i.e. receipts + beginning unencumbered cash).⁷⁶

Applying These Metrics to the Chester Township Park District

The park district does submit an annual budget to the Geauga County Budget Commission and to the township trustees.⁷⁷ It also complies with R.C. 5705.36(A)(1) which states, in pertinent part, that on or about the first day of each fiscal year the fiscal officer shall prepare a certificate of the total amount from each fund set up in the tax budget which is available for expenditure in the tax budget along with any encumbered balances that existed at the end of the preceding year with a few certain exceptions.⁷⁸ These are prepared and they have

⁷⁴ The 2014 Ohio Compliance Supplement was employed in this review.

⁷⁵ R.C. 5705.36 (Certification of Available Revenue; Additional Revenue; Amended Official Certificate); R.C. 5705.38 (Annual Appropriation Measures); R.C. 5705.40 (Amending or Supplementing Appropriation Ordinance); R.C. 5705.41 (Restrictions on the Appropriation and Expenditure of Money; Certification by Fiscal Officer); R.C. 5705.43 (Improvements paid by Special Assessments); R.C. 5705.44 (Contracts Running Beyond Fiscal Year); and R.C. 5705.45 (Liability for Wrongful Payments from Public Funds)

⁷⁶ Id. at 120.

⁷⁷ Exhibit T-2014 Annual Park District Budget

⁷⁸ Exhibit U-FY2014 Beginning Balance/FY2013 Chester Township Park District Annual

been filed each year with the Geauga County Auditor, but that fact is not always documented in the minutes of the first January meeting each year.

For instance, minutes of 1/3/11 meeting note "Reviewed year to date Financial Statements and Bank Account Reconciliations, but no such reference in the minutes for the 1/12/12 meeting or the 1/3/13 meeting.

Confirmations of beginning balances are not in the minutes regularly. For example, in the 1/17/12 meeting minutes there is no mention of formally confirming beginning balances, but a sheet with balances is appended to the signed minutes.

The purpose of the certification is to assure there has been prior approval by the commissioners for any expenditure. The prior approval of each expenditure, with two exceptions⁷⁹, is to be done at a public meeting by resolution, which is noted in the minutes of the meeting.

Generally, this has been followed by the park district, but Mr. Richter expressed concern that the park district did not go back and recertify funds after the park received another \$50,000 after its budget was submitted.

As for expenditures, the district does utilize a requisition form for each expenditure.⁸⁰ This form is signed by two commissioners authorizing each payment. The payment is also listed by check number and payee in the minutes of the meeting at which the disbursement has been approved.⁸¹

The district's requisition form does not fully meet the requirements of R.C. 5705.41(D), which states that no subdivision shall make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the fiscal officer of the

⁷⁹ Resolution for up to \$500 for emergency electric repairs and resolution for one commissioner to expend up to \$1,000

⁸⁰ Exhibit V-Chester Park District Requisition

⁸¹ Exhibit W-Minutes of Chester Township Park District, 9/27/12

subdivision. The fiscal officer must certify that the amount required to meet such a commitment has been lawfully appropriated and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrance. The requisition form does not have the certificate.

Pertaining to uncertified expenditures and lack of appropriate resolutions, R.C. 5705.41(D)(1) and (3) provide safe harbors for expenditures made without the certificate or resolution. This is how each safe harbor is described by the Auditor of State:

“Then and Now” Certificate – If the fiscal officer can certify that both at the time that the contract or order was made (“then”), and at the time that the fiscal officer is completing the certification (“now”), that sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance, the subdivision can authorize the drawing of a warrant for the payment of the amount due. The subdivision has thirty days from the receipt of the “then and now” certificate to approve payment by ordinance or resolution. Amounts of less than \$3,000 may be paid by the fiscal officer without a resolution or ordinance upon completion of the “then and now” certificate, provided that the expenditure is otherwise lawful. This does not eliminate any otherwise applicable requirement for approval of expenditures by the subdivision.

Blanket Certificate – Fiscal officers may prepare “blanket” certificates not exceeding an amount established by resolution or ordinance adopted by the legislative authority against any specific line item account over a period not running beyond the end of the year. The blanket certificates may, but need not, be limited to a specific vendor. Only one blanket certificate may be outstanding at one particular time for any one particular line item appropriation.

Super Blanket Certificate – The subdivision may also make expenditures and contracts for any amount from a specific line-item appropriation account in a specified fund upon certification of the fiscal officer for most professional services, fuel, oil, food items, and any other specific recurring and reasonably predictable operating expense. This certification is not to extend beyond the current year. More than one super blanket certificate may be outstanding at a particular time for any one line item appropriation.

In other township park district audits I have reviewed I note that the use of these safe harbors is the prescribed solution to a finding of non-compliance. In fact, in my meeting with the secretary of the Russell Township Park District, I learned that the park district employs the blanket certificate. I have already shared the examples of the Russell Township Park District’s

accounting forms with the Chester Township Park District and recommended it convert its process to that used by Russell. I also understand that the state auditor has recommended a software program the park district may purchase from the Auditor of State's office.

The reader should not infer from these observations and recommendations or from those that follow that the current administrative assistant, now treasurer and fiscal officer, has not been maintaining books, records, and accounts for the park district. The "Quick Books" format used by the park district for some time makes it more difficult to follow than a fund-based accounting system.

Neither she nor any commissioner received any transitional assistance, training, or guidance from those who preceded them in the position. Only recently did one current commissioner find a very outdated and incomplete procedure manual⁸². It appears the new commissioners and assistants simply continued the same practices as their predecessors, relying on an assumption that their predecessors were following all requirements.

Issue 3-Actual expenditures exceeded appropriation authority for 2013 in violation of R.C 5705.41(B)

Conclusion- I agree that 2013 actual expenditures were \$178,699.59 and the amended certificate of estimated resources for fiscal year 2013 dated 2/19/13 reflected the sum of \$127,305.72. It is important to note that the actual total receipts and balance for 2013 was \$187,056.39, resulting in a balance brought forward into 2014 of \$10,800.30. In regard to the appropriateness of the term "legal spending authority" of the park district, please refer to the previous discussion. A change to a fund-based accounting system with appropriate forms and process will resolve this issue.

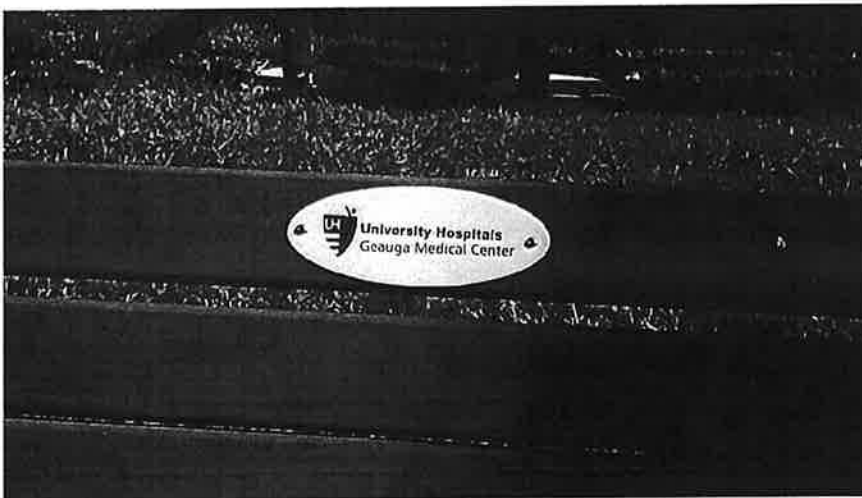
Discussion- As noted above, the auditor applies R.C. 5705.38(A) to park districts. That section requires the district to pass an appropriation measure at the beginning of the year. During the year it may pass any supplemental appropriation measures as it finds necessary, based on the

⁸² *Chester Township Park District Procedure Manual*, with various updating notations from 1994 and 1994

revised tax budget or the official certificate of estimated resources or amendments of the certificate. It may postpone the passage of the annual appropriation measure until an amended certificate is received based on the actual balances, and instead pass a temporary appropriation measure until April 1. Most importantly, the R.C. 5705.40 stipulates that any appropriation measure may be amended or supplemented by complying with the same process used in making the original appropriation.

The purpose of this process of approving estimated receipts and appropriations is to protect against the possibility of deficit spending.

Issue 6-The Record of Proceedings or minutes do not reflect acceptance of approximately \$10,000 in donations nor did the minutes document the authorization of many of the expenditures that exceeded the \$1,000 limit for expenditures by individual commissioners.



Conclusion- I agree that some donations and some expenditures were not noted in meeting minutes, as observed in the preceding discussion. Since the park district is now submitting donations for approval by Judge Grendell, going forward the minutes should reflect both the donation and the approval. Please also see the discussion that follows regarding receipts of donations.

In regard to the \$1,000 expenditure by a single commissioner, any such expenditures should be noted in the minutes, and I recommend the park district review this practice during the state audit in order to establish a procedure for certifying these expenditures during the year via a blanket certificate.

Discussion- Once again the issue with proper documentation of donations is not unique to this park district. On at least one occasion I did find that the park district sought probate court approval of a donation, but that was the only one I found in the probate court file for the district⁸³. Inquires were made to other districts and none follow the practice of probate court approval for donations. It is my understanding that Judge Henry had dispensed with the donation approval process, in whole or in part, but Judge Grendell has rescinded that order.

A listing of donations during 2013 may be found in the appendix.⁸⁴

Issue 7- Does R.C. 9.38, Deposit of Public Moneys apply to the park district? Was the \$250 donation from the West Geauga Kiwanis noted in the 7/31/13 meeting minutes actually received and deposited? Were the other donations deposited according to Ohio law?

Conclusion- R.C. 9.38 applies to a “public office” and to a “public official.” The park district is a “public office” as provided in R.C. 117.01(D) and “public official” is any officer, employee, or duly authorized representative or agent of a public office. R.C. 117.01(E).

⁸³ See Exhibit X-3/19/14 request from Ms. Vitale for approval of a park bench donation

⁸⁴ See Exhibit S-Chester Township Park District Donations 2013

The section requires the deposit of all public moneys received by a public official with the treasurer of the public office or properly designated depository, which in the park district's case would be Charter One Bank, its depository, on the next business day after receipt, if the total amount of such moneys received exceeds one thousand dollars.

If the total amount does not exceed one thousand dollars, the deposit is to be made on the business day next following the day of receipt, unless the park district had adopted a policy permitting a different time period, not to exceed three business days next following the day of receipt, for making such deposits, and the person is able to safeguard the moneys until such time as the moneys are deposited. The policy shall include provisions and procedures to safeguard the public moneys until they are deposited.

As for financial documentation and documentation in the minutes, as the state auditor has noted in other district's audits, the "failure to maintain supporting documentation increased the risk that errors and/or irregularities could occur and not be detected in a timely manner. Public knowledge of such errors and/or irregularities may impact the amount of donations received by the Park District."

When this deficiency is found in an audit, the auditor has recommended corrective action, most of which is already being done in the Chester Township Park District, such as maintaining a copy of the check from each donation and issuing a duplicate and pre-numbered receipt to the donor. If the donation is paid in cash, the donor should sign a duplicate receipt issued to the donor. Finally, as noted earlier all donations should be reported to the park board of commissioners and documented in the minutes.

The difficulty with strict compliance with R.C. 9.38 (one apparently not contemplated by the General Assembly) is that a park district must obtain probate court approval *before* the donation is accepted (i.e., deposited). This situation rarely arises with other public bodies

because most do not receive donations; however, I would note that the township trustees have recently discussed how donations are to be handled when offered.

I recommend that the policy should be that the time requirements set forth in R.C. 9.38 must be followed upon receipt of Judge Grendell's approval of acceptance of a donation.

In regard to the questions as to the Kiwanis donation of \$250, that donation was received.⁸⁵

Issue 8-R.C. 117.38 report to the Auditor of State with newspaper notice when filed

Conclusion- There has not been compliance with this provision. After questioning the commissioners and administrative assistant, I find that this lack of compliance was an act of omission, not commission. As with other requirements discussed throughout the report, the current and past commissioners I interviewed were totally unaware of the requirement.

Discussion- Simply, R.C. 117.38 requires in part, that cash-basis entities must file an annual report with the Auditor of State within 60 days of the fiscal year end. Also, the public office must publish notice in a local newspaper stating the financial report is available for public inspection at the office of the chief fiscal officer.

Issue 9-Does RC. 5705.30 requiring public notice and public hearings prior to adopting the annual budget apply to the park district.

Conclusion- Per the state auditor compliance manual this section of Chapter 5705.30 does not apply to a park district that does not have its own levy.

Discussion- It should be noted that over the years, the park district has given prior public notice of its budget meetings if the meeting is a special meeting for that purpose.⁸⁶

⁸⁵ See Exhibit Y- Letter from Messrs. Dave Puruczky and Rich A. Levin to the Park Commissioners and Charter One deposit slip and statement

⁸⁶ See, e.g., Exhibit Z- Notice of special meeting-budget hearing set for July 12, 2012.