

## Andover Lawsuit Settlement

1. Lawsuit was settled with a consent judgment entry
  - a. Each side agreed to the terms, which are fair to both sides and not confidential
  - b. Judge Thomas Harris was instrumental in bringing the school board and council together to settle the case
2. School board will sign the water and sewer services agreement
  - a. Join the ranks of the other township customers who signed the agreement
  - b. Board will not be required to cooperate with annexation efforts until after 1/1/27
3. Ordinance No. 2021-14-O
  - a. Approved the consent judgment entry
  - b. Will allow the water and sewer lines to the new bus garage to be connected, even though that property has not been annexed to the village, and cannot be annexed until after 1/1/27
4. In exchange for these concessions, the board will pay the village \$50,000
5. Mayor and council believe this arrangement will encourage a new spirit of cooperation between the village and the school district, for the common good of the Andover community

**Ordinance No. 2021-14-O**

**An ordinance** approving a consent judgment entry to settle the lawsuit brought by the Board of Education of the Pymatuning Valley Local School District against Andover Village and council, waiving the requirements imposed by Ordinance No. 2013-2-O pertaining to the connection of water and sewer lines at the new bus garage location, so that those lines can be connected without annexation, and declaring an emergency.

**Whereas**, the Board of Education of the Pymatuning Valley Local School District bought suit against the village and council on 21 December 2020, being Ashtabula County Common Pleas Case No. 2020CV527 ("the lawsuit"); and

**Whereas**, the parties and their counsel agreed upon a consent judgment entry ("the entry") that settles the lawsuit, a copy of which is attached as Exhibit A; and

**Whereas**, Ordinance No. 2013-2-O at §2 provides that, "The services and facilities of the Andover Municipal Water and Sewer Systems shall not be extended beyond their current limits unless the premises sought to be served are annexed to the village."; and

**Whereas**, the entry requires the village to pass an ordinance to allow connection of the water and sewer lines at the new bus garage location, even though those premises have not been annexed to the village; and

**Whereas**, the mayor and council believe that this settlement of the lawsuit on the terms contained in the entry is in the best interests of the village.

**Now, therefore**, be it ordained by the council of the Village of Andover, County of Ashtabula, and State of Ohio, that:

**Section 1:** The entry, which settles the lawsuit, is approved.

**Section 2:** The applicability of Ordinance No. 2013-2-O to the new bus garage location is waived. Annexation of those premises will not be required as a condition to connecting the water and sewer lines that have already been constructed. The village administrator is instructed to allow those lines to be connected to the village's water and sewer systems upon payment of the applicable water and sewer tap fees imposed by Ordinance No. 2019-5-O.

**Section 3:** The fiscal officer is authorized and directed to provide a certified copy of this ordinance to the Ashtabula County Common Pleas Court to show the village's compliance with the entry.

**Section 4:** This ordinance is declared to be an emergency measure necessary for the orderly conduct of village affairs, to resolve the lawsuit in a timely fashion.

**Wherefore,** this ordinance will take effect and be in full force from and immediately after its passage.

Passed:

7-13-21

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Approved:

*Luigi DiBella*

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Mayor

Attest:

*Cathy Williams*

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Village Fiscal Officer

# Exhibit A

IN THE COURT OF COMMON PLEAS  
ASHTABULA COUNTY, OHIO

FILED

2021 JUL 12 PM 4:30

APRIL T. MARIOTTI  
CLERK OF COURTS  
COMMON PLEAS COURT  
ASHTABULA CO OH

BOARD OF EDUCATION OF THE )  
PYMATUNING VALLEY LOCAL )  
SCHOOL DISTRICT, )

Plaintiff, )

vs. )

VILLAGE OF ANDOVER, OHIO, et al., )

Defendants. )

CASE NO. 2020 CV 527

JUDGE: THOMAS E. HARRIS

**CONSENT JUDGMENT ENTRY**

Plaintiff and Defendants agree as follows:

1. The parties will sign a Water And Sewer Services Agreement in the form attached hereto marked as Exhibit "A" and incorporated herein by reference that includes language consistent with the following paragraphs which shall take effect and be in full force on January 1, 2027:
  - a. The Village may give Notice to the Consumer, herein after known as Plaintiff, to file a contested petition for annexation pursuant to O.R.C. §709.02 of the Consumer's property to the Village if and when the property becomes contiguous to the Village. The petition shall be filed by the Consumer within 90 days of receiving the Notice, at the Consumer's expense.
  - b. If another person or entity petitions for annexation of property to the Village and the petition includes the Consumer's property, the Consumer shall raise no objections to the annexation and shall cooperate with the process in all respects.
  - c. Initiation and cooperation with the annexation process shall be conditions to receiving or continuing to receive Water and Services.
  - d. If the Plaintiff does not initiate the annexation process by the deadline, or does not complete the process, the Water and Sewer Services to the

Consumer's property shall be terminated. Notice of termination will be given and will comply with the time limits provided in the Water and Sewer Ordinances as if the User Charges imposed were not paid when due.

2. The terms and provisions of this Consent Judgment Entry and of the Water And Sewer Services Agreement supersede any and all conflicting and/or inconsistent provisions that may be contained in the Water and Sewer Ordinances.
3. The Village will pass an Ordinance to allow connection of the water and sewer lines at the new Bus Garage location.
4. Plaintiff will pay the sum of \$50,000 to Defendant, Village of Andover, within 30 days of the effective date of the aforementioned Ordinance.
5. The Court retains jurisdiction of this case, limited to enforcing that agreement.
6. Each party shall pay their own attorney fees.
7. Defendants shall pay any court costs in excess of the deposit placed by Plaintiff.

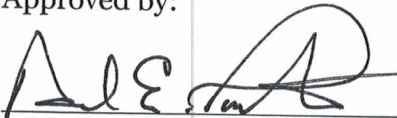
**IT IS SO ORDERED.**


Pursuant to Civil Rule 58(B), the Clerk of this Court is directed to serve notice of this judgment and its date of entry upon the journal upon the following: **David E. Pontius, Esq.;** **Robert J. McBride, Esq.;** **Kyle A. Wheeler, Esq.;** **Richard B. Kotila, Esq.;** **Alfred E. Schrader, Esq.;** and **David A. Randolph, Esq.**

  
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THOMAS E. HARRIS, JUDGE


TEH/jac

Approved by:

  
\_\_\_\_\_  
David E. Pontius, Attorney for Plaintiff

  
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Robert J. McBride, Attorney for Plaintiff  
Kyle A. Wheeler, Attorney for Plaintiff

  
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Richard B. Kotila, Attorney for Defendant

  
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Alfred E. Schrader, Attorney for Defendant  
David A. Randolph, Attorney for Defendant

**Certified Copy**  
**Andover Village Ordinance**

I certify that:

1. I am the fiscal officer of Andover Village, Ashtabula County, Ohio.
2. I have custody of the records of the Andover Village Council.
3. Ordinance No. 2021-14-O was adopted by council on 13 July 2021 and filed with council's records.
4. A true and accurate copy of the ordinance is attached.
5. All meetings at which the ordinance was considered complied in all respects with Ohio's open meetings law.
6. Publication of the ordinance was completed according to law.
7. No referendum petition pertaining to the ordinance has been filed.

Dated 7-13-21

Cathy Williams  
Village Fiscal Officer