

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C 20268-0001

In re:

Post Office at)	
Akron-East Station)	Docket No. A2011-16
1763 Goodyear Blvd., 44305)	
(Paul J. Connor Petitioner))	
(City of Akron, OH Intervenor))	

**CITY OF AKRON, OHIO'S MOTION TO COMPEL ADMINISTRATIVE
RECORD AND EXTEND THE DEADLINE FOR PETITIONER AND
CITY OF AKRON, OHIO TO FILE FORM 61 AND/OR AN INITIAL
BRIEF**

(June 10, 2011)

Now comes City of Akron, Ohio and requests this Commission to issue an Order to compel the United States Postal Service to produce an un-redacted version of the Administrative Record supporting closure of the Akron-East Post Office within fifteen (15) days. Furthermore, City of Akron respectfully requests this Commission to extend the time to file an Initial Brief and/or Form 61 for Petitioner and the City to twenty (20) days past receipt of the Administrative Record.

I. INTRODUCTION - ORDER 733 REQUIRED PRODUCTION

On May 11, 2011 Paul J. Connor, filed his Petition for Review regarding the closure of the Akron-East Post Office located at 1763 Goodyear Boulevard, Akron, Ohio 44305. In response to that filing, this Commission issued Order 733 – Notice and Order Accepting Appeal and Establishing Procedural Schedule.

Pursuant to Order 733, and this Commission's authority in 39 U.S.C. § 3001, *et seq.*, the Commission issued several deadlines. Pursuant to 39 U.S.C. § 3001.113, this Commission required that the Postal Service file the Administrative record "within 15 days after the date on which the petition for review is filed with the Commission." 39 U.S.C. § 3001.113. This requirement is also recognized in 39 U.S.C. § 404(d).¹

Pursuant to that authority, this Commission required the Postal Service to produce the Administrative Record on or by May 31, 2011. The Postal Service has not complied, and is in violation of this Commission's Order, statutory authority, and the long line of PRC appeals wherein the Postal Service ultimately produced the Administrative Record.² In sum, the Postal Service still has not produced the Administrative Record, nor filed a substantive brief as to why its decision should be affirmed.

II. POSTAL SERVICE DOES NOT PRODUCE RECORD

The Postal Service produced a copy of the Final Determination on May 31, 2011. As this Commission is well aware, the six (6) page Final Determination is not the Administrative Record contemplated under 39 U.S.C. § 404 and 39 C.F.R. 241.3. The Final Determination is an insufficient record as it does not allow the Petitioner or the City of Akron to highlight the arbitrary and capricious nature of the Postal Service's decision to close the Akron-East Post Office.

¹ 39 U.S.C. § 404(d)(5) provides in pertinent part, "...The Commission shall review such determination *on the basis of the record* before the Postal Service in the making of such a determination." This clearly establishes that the Commission must base its review on the administrative record.

² See, *Dockets A2011-1* (Albany, New York appeal); *A2011-4* (Eugene, Oregon appeal); and, *A2011-8* (Little Rock, Arkansas appeal).

Without the Record the Petitioner and the City of Akron cannot demonstrate how the decision to close the Akron-East Post Office was an abuse of discretion and unsupported by the substantial evidence on the record.

III. THE ONLY RECORD BEFORE THIS COMMISSION SUPPORTS SETTING ASIDE THE DETERMINATION, OR SENDING THE DETERMINATION BACK TO POSTAL SERVICE

The scant evidence before this Commission, i.e., the production of the six (6) page Final Determination³ and not the entire Administrative Record, strongly supports the Petitioner and the City of Akron's position that the closing was arbitrary, capricious, an abuse of discretion and unsupported by the substantial evidence on the record. The cursory Final Determination fails to address:

- ◆ The \$900,000,000 investment into the Goodyear Tire & Rubber redevelopment project that is currently underway and located within the area serviced by the Akron-East post office.
- ◆ The July 20, 2009 City of Akron Resolution urging the Postal Service to keep the Akron-East post office open. *Attached as Exhibit A.*
- ◆ The September 23, 2010 City of Akron Resolution in support of the Akron-East post office. *Attached as Exhibit B.*
- ◆ The September 27, 2010 Summit County Resolution urging the Postal Service to reconsider its decision to close the Akron-East post office. *Attached as Exhibit C.*
- ◆ The October 2, 2010 rally attended by hundreds of Goodyear Heights' citizens to keep the Akron-East post office open. *Flyer attached as Exhibit D.*

³ The Final Determination has not been attached to this Filing as it was previously filed with this Commission on May 31, 2011, and attached to the Notice of United States Postal Service filed May 31, 2011.

- ◆ The approximate 2,100 citizens that signed a petition to keep the Akron-East post office open. *Exhibit E.*⁴
- ◆ That a citizen who used to pick up mail from 1763 Goodyear Blvd. post office must now face a two hour, two bus transfer to pick up mail from the 1237 S. Arlington Rd post office. *Akron Metro Transportation Time and Mileage Calculation, Attached as Exhibit F.*⁵
- ◆ The lack of a meaningful post office within the 44305 community.

The Final Determination fails to address the fact that after the closing, and the subsequent shift of the customers from the Akron-East Post Office to the Akron-South Arlington Post Office, the number of patrons serviced by the South Arlington Post Office will double.⁶ Nowhere in the Final Determination does it set forth the manner in which the South Arlington road Post Office intends to provide a maximum degree of effective and regular postal service to the 24,000 citizens displaced by the closing of the Akron-East post office. The Final Determination is silent as to how the South Arlington Road Post Office will provide prompt, reliable and efficient services despite a 100% increase in patrons.

IV. THIS COMMISSION NEEDS THE ADMINISTRATIVE RECORD IN ORDER TO MEANINGFULLY REVIEW THE DETERMINATION OF THE POSTAL SERVICE.

This Commission's ability to properly review the Postal Service's decision to close the Akron-East Post Office is predicated on having a complete Administrative Record. Only with a complete Administrative Record can this

⁴ Due to the amount of pages that the 2,100 signatures and petitions comprise, an electronic version is not attached to this Motion. Instead, it will be sent under hard copy to this Commission.

⁵ <http://www.akronmetro.org/metro-trip-planner.aspx>

⁶ This information would be contained within the Administrative Record, and the Postal Service has exclusive possession of this information. Unless and until the Administrative Record is produced, this information will not be known with certainty.

Commission fully evaluate the concerns, disadvantages and advantages addressed in the Postal Service's determination. This was specifically contemplated in the 2006 Postal Accountability and Enhancement Act when the requirements of notice and appeal were addressed. The requirement for this Commission to review the Administrative Record was specifically contemplated under that Act.

As this Commission is aware, it may set aside the Postal Service's determination, affirm the determination, or order that the entire matter be returned for further consideration.⁷ Without an Administrative Record, this Commission will be left with nothing to review, and nothing to support its decision.

Accordingly, it is imperative that this Commission obtain and review the precise documents and records that compelled the Postal Service to close the Akron-East Post Office. Not only is it practically important, but it is legally required under 39 U.S.C. § 404 and 39 C.F.R. § 241.3. The Postal Service's production of a six (6) page document only frustrates this appeals process and marginalizes the detrimental effect the closing this post office will have 24,000 citizens that rely on that post office for their postal needs.

V. CONCLUSION

In conclusion, the City of Akron, Ohio urges this Commission and the Public Representative to require the Postal Service to make the Administrative Record available within fifteen (15) days. Furthermore, the City of Akron, Ohio requests this Commission to extend the deadline to file its Form 61 or Initial Brief

⁷ 39 U.S.C. § 404(d)(5)

to twenty (20) days after the Administrative Record is produced so that it has sufficient time to address the Administrative Record in its Brief.

If the time period to file the Form 61 or Initial Brief is not extended past June 20, 2011 and to twenty (20) days after the Administrative Record is produced, the Petitioner and the City of Akron, Ohio will be severely prejudiced as it will not be able to meaningfully prepare its Brief.

Respectfully submitted,

Cheri B. Cunningham
Director of Law



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FAX: (330) 375-2041
Attorneys for The City of Akron, OH

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SYP

Offered by CRAWFORD and GREENE

MAYOR AND COUNCIL AS A WHOLE

RESOLUTION NO. 331 2009 urging the United States Postal Service to keep the Maple Valley Station and East Akron Branch offices open so that they can continue to provide a vital service to the residents of those neighborhoods; and declaring an emergency.

WHEREAS, the United States Postal Service, due to declining volumes of mail, caused primarily by the economic downturn but also affected by online bill paying and an increase in communicating through e-mail, is reviewing the possible closing of up to 3,000 neighborhood post office branches, including four in the greater Akron area; and

WHEREAS, closing the branches at the Maple Valley Station at 1518 Copley Road and the East Akron branch at 1763 Goodyear Boulevard would be a great disservice to the neighborhoods, especially the elderly and disadvantaged residents who rely upon these post offices to conduct many of their important daily affairs; and

WHEREAS, while Council understands that the Postal Service has an obligation to pursue strategies and solutions to mitigate the impact of the economy and electronic diversions, Council asks that it also consider the tremendous financial, social and practical impact that closure of these branches would have on the residents it serves.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Akron:

Section 1. That this Council urges the United States Postal Service to keep the Maple Valley Station at 1518 Copley Road and the East Akron Branch at 1763 Goodyear Boulevard open so that they can continue to provide a vital service to the residents of those neighborhoods.

Section 2. That the Clerk of Council be, and is hereby, directed to forward a copy of this resolution to Akron Postmaster Rose Spraggins.

Section 3. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that a neighborhood post office is vital to these residents, and provided this resolution receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed July 20, 2009

Rust E. Keith
Clerk of Council

Mary Ann Ginnell
President of Council

Approved July 28, 2009

[Signature]
MAYOR
Sect. 2

JUL 20 PM 1:12

RECEIVED
CLERK OF COUNCIL
CITY OF AKRON

EXHIBIT A



5-1

Offered by FUSCO, CRAWFORD AND OTTERMAN

RESOLUTION NO. 316-2010 urging Congressman Tim Ryan, Senators George Voinovich and Sherrod Brown, and Todd Hawkins, District Manager for the Northern Ohio District of the United States Postal Service, to stop the closure of the East Akron Post Office servicing zip code 44305; and declaring an emergency.

WHEREAS, the City of Akron recognizes the logic behind consolidation of post offices and balancing budgets during challenging economic times and recognizes that careful consideration needs to be taken between providing customer service and budgetary obligation; and

WHEREAS, a neighborhood Post Office is a critical component of the economic as well as social fabric of a community; the East Akron and Goodyear Heights areas of Akron have relied on its Post Office known as the East Akron Post Office for several decades; and

WHEREAS, the residence and the business community of 44305, Goodyear Heights and East Akron that rely on this post office equals approximately 24,538 individual taxpayers; approximately, 325 business are located in 44305 with an estimated 9,197 employees and an annual payroll of over \$534,377,000; and

WHEREAS, The Goodyear Tire and Rubber Company is located in the East Akron/Goodyear Heights service area of the East Akron Post Office; and the Goodyear Tire and Rubber Company constructed the original Goodyear Heights community for its employees; and

WHEREAS, this area of Akron (Goodyear Heights) has been recognized for its historical significance by both the State of Ohio as well as the federal government; the State of Ohio recognizes a portion of this area for its architectural significance; the federal government has recognized the work of Warren H. Manning, who developed the street map and final plan for the Goodyear Heights development, as historically significant; and

WHEREAS, the City of Akron strongly urges the United States Postal Service to comply with Executive Order 13006, Locating Federal Facilities on Historic Properties in our Nation's Central Cities, which calls on the federal government "to give first consideration to historic districts" when locating federal agencies; this would provide for a positive statement from the United States Postal Service at a time when the public is concerned about urban sprawl; and

WHEREAS, should this post office close, along with the Chapel Hill post office, a huge void would be created in the Northeast section of Akron; and the residence and business community that relies on the East Akron Post Office will likely transfer their postal needs to private services, thereby creating further financial losses for the United States Postal Service.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Akron, Ohio,

RECEIVED
CLERK OF COUNCIL
CITY OF AKRON

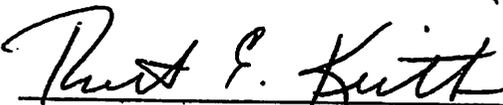
SEP 27 AM 9:07

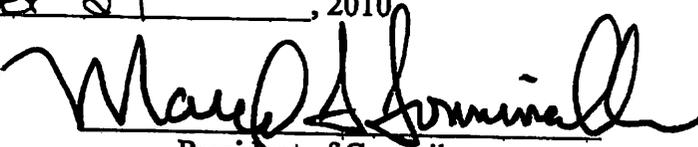
Section 1. That Council urges Congressman Tim Ryan, Senators George Voinovich and Sherrod Brown, Todd Hawkins, District Manager for the Northern Ohio District of the United States Postal Service to stop the closure of the East Akron Post Office servicing zip code 44305.

Section 2. That Council hereby directs the Clerk of Council to forward a copy of this resolution to congressman Tim Ryan, Senators George Voinovich and Sherrod Brown, and Todd Hawkins, District Manager for the Northern Ohio District of the United States Postal Service.

Section 3. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that it is immediately necessary to express public concern and dismay about the potential closure of the East Akron Post Office, and provided this resolution receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed September 27, 2010


Clerk of Council


President of Council

Approved October 4, 2010


MAYOR

Tim Ryan
Sen. Voinovich
Sen. Brown
Todd Hawkins

1 RESOLUTION NO. 2010-428

Late Filing

First Reading Passage Requested

J. Feeman

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3
4 SPONSOR Mr. Feeman, Mr. Schmidt & Mr. Pry

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6 DATE September 27, 2010

COMMITTEE Personnel

7
8 **A Resolution urging Congressman Tim Ryan, Senators George Voinovich and Sherrod**
9 **Brown and Todd Hawkins, District Manager for the Northern Ohio District of the United**
10 **States Postal Service (USPS), to stop the closure of the East Akron Post Office servicing zip**
11 **code 44305, for the County of Summit Council and the County Executive, and declaring an**
12 **emergency.**

13
14 WHEREAS, the County of Summit and the City of Akron recognizes the logic behind
15 consolidation of post offices and balancing budgets during challenging economic times and also
16 recognizes that careful consideration needs to be taken between providing customer service and
17 budgetary obligation; and

18
19 WHEREAS, a neighborhood Post Office is a critical component of the economic as well
20 as social fabric of a community and the East Akron and Goodyear Heights areas of Akron has
21 relied on its Post Office known as the East Akron Post Office for several decades; and

22
23 WHEREAS, the residents and the business community of zip code 44305, which
24 includes Goodyear Heights and East Akron, that rely on this post office total approximately
25 24,538 individual taxpayers. Approximately, 325 business are located in zip code 44305 with an
26 estimated 9,197 employees with an annual payroll of over \$534,377,000; and

27
28 WHEREAS, the Goodyear Tire and Rubber Company is located in the East Akron and
29 Goodyear Heights service area of the East Akron Post Office; and the Goodyear Tire and Rubber
30 Company constructed the original Goodyear Heights community for its employees; and

31
32 WHEREAS, this area of Akron (Goodyear Heights) has been recognized for its historical
33 significance by both the State of Ohio as well as the Federal Government. The State of Ohio
34 recognizes a portion of this area for its architectural significance. The Federal Government has
35 recognized the work of Warren H. Manning, an influential American landscape designer, who
36 developed the street map and final plan for the Goodyear Heights development, as historically
37 significant; and

38
39 WHEREAS, the County of Summit strongly urges the USPS to comply with Executive
40 Order 13006, Locating Federal Facilities on Historic Properties in our Nation's Central Cities,
41 which calls on the federal government "to give first consideration to historic districts when
42 locating federal facilities". This would provide for a positive statement from USPS at a time
43 when the public is concerned about urban sprawl; and

44
45 WHEREAS, should this post office close along with the Chapel Hill post office a huge
46 void would be located in the Northeast section of Akron; and the residents and business
47 community that relies on the East Akron Post Office will likely transfer their postal needs to
48 private services, thereby creating further financial losses for the USPS.

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5 NOW, THEREFORE, BE IT RESOLVED, by the Council of the County of Summit,
6 State of Ohio, that:

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8 SECTION 1

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10 The County of Summit along with the City of Akron urges Congressman Tim Ryan,
11 Senators George Voinovich and Sherrod Brown and Todd Hawkins, District Manager for the
12 Northern Ohio District of the USPS, to stop the closure of the East Akron Post Office servicing
13 zip code 44305.

14
15 SECTION 2

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17 The Council hereby directs the Clerk of Council to forward a copy of this Resolution to
18 Congressman Tim Ryan, Senators George Voinovich and Sherrod Brown and Todd Hawkins,
19 District Manager for the Northern Ohio District of the USPS.

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21 SECTION 3

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23 This Resolution is hereby declared an emergency in the interest of the health, safety and
24 welfare of the citizens of the County of Summit and for the further purpose of immediately
25 expressing public concern and dismay about the potential closing of East Akron Post Office
26 servicing the residents and the business community of zip code 44305.

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28 SECTION 4

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30 Provided this Resolution receives the affirmative vote of eight members, it shall take
31 effect immediately upon its adoption and approval by the Executive; otherwise, it shall take
32 effect and be in force at the earliest possible time provided by law.

33
34 SECTION 5

35
36 It is found and determined that all formal actions of this Council concerning and relating
37 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
38 deliberations of this Council and of any of its committees that resulted in such formal action,
39 were in meetings open to the public, in compliance with all legal requirements, including Section
40 121.22 of the Ohio Revised Code.

1 RESOLUTION NO. 2010-428

2 PAGE THREE

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5 INTRODUCED September 27, 2010

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7 ADOPTED September 27, 2010

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9
10 Sharilyn P. Greer
11 CLERK OF COUNCIL

Don Poda
PRESIDENT OF COUNCIL

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13

14
15 APPROVED September 27, 2010

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17
18 [Signature]
19 EXECUTIVE

September 27, 2010
ENACTED EFFECTIVE

Voice Vote: 10-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras
Poda, Rodgers, Schmidt, Shapiro, Smith ABSENT: Prentice

Please **HELP** us **RALLY** to **SAVE OUR POST OFFICE**



**SATURDAY
OCTOBER 2
11:00 a.m.**

at the

**LINDA THEATER
1745 Goodyear Blvd.**

**NOW IS THE TIME TO SPEAK UP. PLEASE STOP BY TO SIGN A PETITION
and HELP US BY COLLECTING SIGNATURES IN YOUR NEIGHBORHOOD**

Any questions please call - 330-212-1480

**EXHIBIT E – PETITION “SAVE OUR
EAST AKRON POST OFFICE”**

FILED SEPARATELY.

EXHIBIT F

<http://www.akronmetro.org/metro-trip-planner.aspx>



At 12:39 PM, walk from starting location at 1763 goodyear blvd , Akron, OH to stop NEWTON & GOODYEAR.



Depart from stop NEWTON & GOODYEAR on route 30 GOODYEAR/DARROW(INBOUND) at 1:11 PM arriving at stop TRANSIT CENTER.



Depart from stop TRANSIT CENTER on route 2 ARLINGTON(OUTBOUND) at 2:03 PM arriving at stop 1946 S ARLINGTON RD.



Walk from stop 1946 S ARLINGTON RD to destination at 1237 south arlington rd, Akron, OH arriving at 3:16 PM.

Estimated time is 2 hours, 37 minutes.