

0003
RECORD OF PROCEEDINGS

Minutes of

Etna Township Trustees

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

June 15, 2004

Held _____ 20_____

The Etna Township Board of Trustees met on June 15, 2004 in the Etna Township Hall to hold a regular meeting. The meeting was called to order at 7:00 p.m. by President Burkholder and the pledge of allegiance was recited.

Roll call showed Mr. George, Mr. Burkholder and the clerk present. Mrs. Siddens was absent.

ADOPTION OF THE AGENDA

Mr. George moved to adopt the agenda. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes.

ADOPTION OF THE MINUTES

Mr. George moved to adopt the June 1, 2004 meeting minutes. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes.

PUBLIC COMMENTS

Roger Ailiff, 7297 Palmer Road, registered a complaint about water runoff onto his and his neighbor's property. The problem has become progressively worse with the construction of new homes in the area. Mr. George suggested some possible solutions and will contact the county engineer's office.

Dennis Jackson, 15345 Palmer Road, asked to be notified when the meeting with Reynoldsburg concerning Taylor Road is scheduled.

Neil Ingle expressed serious concern that the 1/5/04 audio and video tapes, which he had requested copies of, can not be found. He will conduct a search with the secretary the following morning.

Tom Dixon, 8467 Hazelton-Etna Road, said he had asked Dallas Maynard to visit his property, which abuts Cameron Chase, when there was high water. The high water is a common occurrence in the spring and not a 100 year floodplain deal. Water was going everywhere. Mr. Dixon said "what they had dug out, the width of it, was probably 40' wide and bypassed when a pipe that comes down through against his property along the west side of the project (Cumberland Chase)." There are three or four manholes. "The water was coming out of the second manhole to the north with everything coming up running down along the side of the property and cutting through behind their piles of dirt. Their piles of dirt really didn't bother anything because it washed through on the north side of it and that part was probably another 10' or better wide and over a foot or so in depth. The part they brought the road on down, they had stopped back early from the ditch so there is a lot more bypass water that has to go around or go somewhere where it is going to come up on my property. The electric boxes and telephone stuff crossed in the floodplain was probably 8 inches or 10 inches deep in the water." If this situation can not be remedied, then the liability will come back to Etna Township or the county. He expects property damage will happen against this project. Photos were presented.

President Burkholder said two of the Licking County Commissioners were present at the meeting when the final plat of Cameron Chase was approved. Concerns regarding the green space, the number of lots and the reconfiguration had been expressed at that meeting. Mr. Dixon had also expressed his concern on the flow of the storm water.

Resolution 04-06-15-01: President Burkholder moved that Mr. Dixon's comments, in detail, be reflected in the minutes and a copy of the minutes be forwarded to the Licking County Commissioners, Licking County Planning Commission and the Licking County Soil and Water expressing the trustee's concerns as well, relative to the management of storm water on that project. George seconded.

Discussion: Mr. Dixon added that it was a flat 3" rain in the area when the pictures were taken and high water occurs several times every year. The new road will be level or higher than his property and the water will flow to his property. This is going to be a serious problem, the

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township has been told about the liability,

President Burkholder said he wanted the above comments in the minutes as well.

President Burkholder moved to amend his motion to include copies of the photographs taken. George seconded.

Roll Call on the amendment: George, yes; Burkholder, yes.

Roll Call: George, yes; Burkholder, yes.

Mr. George said the Cameron Chase retention ponds are not effective and the water runoff from Cameron Chase is effecting Refugee Road.

President Burkholder asked Mr. George to request from the county engineer and Soil and Water copies of the technical review meeting minutes that reflect discussion of storm water when Cameron Chase final plat was approved and to make this information available to the citizens so there is some documentation about the concerns raised at the meetings and the documentation as to the proposed solutions. Also to make the information available to the news media so the news media can follow this recurring problem in Etna Township of development, storm water management and the problems and difficulties that are occurring. President Burkholder felt there was general apathy about some of the issues raised on Cameron Chase at the LCPC meeting. Mr. Baird did vote against the final plat.

CORRESPONDENCE

- Garvin & Hickey - regarding BWC claim
- Time Warner Cable - launch of a new event calendar
- BWC - new administrative assessment rate for next year
- LCPC - regarding Cameron Chase Section II, final plat
- Ohio Township Association - Grassroots Clippings newsletter
- Schottenstein, Zox & Dunn - regarding Taylor Road annexation files

Resolution 04-06-15-02: Mr. George moved to authorize President Burkholder to sign the request for transfer of the Taylor Road annexation files to the control of the board of trustees. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes.

- Rachael Siddens - following letter

Gary Burkholder
Paul George, Etna Township Trustees
Barbara Digel-Barrett, Etna Township Clerk
9363 Hazelton-Etna Road
Etna, Ohio 43018

Re: Meeting Schedule

Dear Mr. Burkholder and Mr. George,

I respectfully request this letter (in its entirety and written form) be submitted into the record of tonight's regular meeting. I ask for the clerk to read this letter during communications received.

Due to the educational requirements of my children, I am unavailable on Tuesday evenings. The board has chosen to hold the regularly scheduled meetings of the board on those nights which has hindered my ability to attend in addition to my ability to participate equally and fairly in my duties.

Ohio Common Law upholds that any member of a board, committee or commission will have right to attend and participate equally.

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As I have said, I am available any evening except Tuesdays.

I request, Mr. Burkholder, as Chairman of the Board and in light of my absence, that you entertain a motion to hold the regularly scheduled meeting of the Etna Township Trustees on Thursdays, 7PM -- First and Third or Second and Fourth (so that they do not conflict with the Fire Board Meetings).

Thank you for your time and consideration into this matter.

Respectfully,
Rachael D. Siddens

President Burkholder said he would entertain a motion to change the regularly scheduled meetings to Thursday at 7 p.m. the first and third or the second and fourth Thursday of the month. Burkholder said there has not been any data or evidence supporting trustee Siddens' claim that she can not attend meetings on Tuesday nights. No motion was made.

Mr. George said he does not think Mrs. Siddens home schools her children through the summer and could attend the meetings.

- Robert L. Becker, Licking County Prosecutor (Burkholder requested the letter be read)

FROM THE OFFICE OF
ROBERT L. BECKER
PROSECUTING ATTORNEY
OF
LICKING COUNTY

20 SOUTH SECOND STREET
NEWARK, OHIO 43055

FELONY AND CIVIL
DIVISIONS
(740) 349-6195

JUVENILE COURT
DIVISION
(740) 349-6189

June 7, 2004

TAX FORECLOSURES
(740) 349-6051

FAX
(740) 349-6179

Paul George
Etna Township Trustee
6877 Palmer Rd.
Millersport, OH 43046

Dear Mr. George:

I am responding in writing to the questions you posed to me over the telephone on June 3, 2004. I am also sending a copy of this letter to the other Etna Trustees and to the Clerk. It is my intent that this letter be made a part of the public record of Etna Township.

The Ohio Attorney General has written two opinions stating that the failure of a member of a board of township trustees to regularly attend meetings and to properly discharge the trustee's duties does not result in a vacancy of such office, but may be ground for removal of such township officer under R.C. 3.07 through R.C. 3.10. I see no reason to question these opinions.

I am including R.C. 3.07 through R.C. 3.10 with this letter. As you can see, the process for removal is initiated by a complaint signed by a specified number of qualified electors. The township board, in its official capacity, has no authority to start the proceedings.

You also expressed to me your dissatisfaction that my office has not "solved" the South Street right-of-way problem. In reviewing the file, I see that we notified you that the Board of County Commissioners would not use its eminent domain powers to extend South Street. In addition, we asked you if you wanted my office to try to negotiate with the current property owners. In fact, an offer was made to the effect that a representative of my office would meet with you to discuss this matter. To date, we have not heard from you as to what you want done. In fact, we have even "heard" that a majority of the Etna trustees is no longer interested in building on the lot off South Street at all.

Quite frankly, I have no idea which way to proceed. Once the board has decided then let me know.

Sincerely,

Robert L. Becker

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President Burkholder said the access issue on South Street is still relevant because the township has a building on that property. Mr. Shenk was going to attend a meeting to present the various options on resolving this issue and the township has communicated that they wanted the prosecutor's office to be actively involved.

REPORTS

A. Clerk's financial report

Receipts for the month are \$65,252.72, expenditures are \$21,801.90 and the total fund balance is \$992,568.36. \$16,010 was received on 6/3/04 for the Kodiak truck. Received notification from the Licking County Treasurer that Etna Township will receive \$23,534.59 in estate tax from Olivia M. Zellers. Draft copy of 2005 Tax Budget was distributed and the clerk requested some feedback before Friday 6/19 when the draft copy will be posted for public viewing. Received a liquor permit for Columbia Road LTD, LLC, DBA Cumberland Trail Golf Course.

Resolution 04-06-15-03: President Burkholder moved to request a hearing for the liquor permit for Columbia Road LTD, LLC, DBA Cumberland Trail Golf Course. George seconded.

Roll Call: George, yes; Burkholder, yes.

B. Road report

Written report submitted.

Mr. George said he had concerns about pine trees at the northeast corner of Palmer and Tollgate and steel posts next to the road on Tollgate. President Burkholder said he has had difficulty contacting and getting a response from Mr. Waller. A proposal for increasing the cellular phone capabilities has not been received from Mrs. Siddens and Mr. Waller. Mr. Waller answers to all trustees not just his immediate supervisor.

Resolution 04-06-15-04: President Burkholder moved that the board authorizes the president to order a pager for Mr. Waller. George seconded.

Mr. George said the third phone was to be used for contacting the road supervisor.

Roll Call: George, yes; Burkholder, yes.

C. Water and Sewer District

Written report was submitted.

Mr. Lord will present his report at the first meeting of the month starting in July.

D. Zoning report

For May 2004, fifty permits were issued. Regarding Royal Acres Section II, there are 9 acres of wetlands and 1.5 acres for retention basins according to the pre-construction plans. A zoning violation was issued to Rockford Homes and to Mr. Kuhn for the dump truck sales lot.

E. Communications & PR and F. Safety & FEMA

President Burkholder said the county commissioners indicated that the roads in Cumberland Trails Section IV will be dedicated to the township. There will be no independent testing of the roads nor will the county test the cracks. The road sign at Arrow Wood Court which was broken has fallen.

G. Parks and Recreation - no report

H. Cemeteries

Mr. George said he received three quotes for fencing. Fence factory for \$3787 for materials only and an extra \$1000 for installation; Ace fence for \$3035.92 for materials only without the golden finials and Lattice Fence Systems for \$6255 which includes installation.

I. Land Use Committee - no report

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OLD BUSINESS

A. Cameron Chase Final Plat and ROW issue

No new information

B. Condominiums at corner of Refugee and Columbia Road

No new information

C. Refugee Road improvement update

Not discussed

D. Cumberland Crossing

The road ROW permit was denied and the developer has not come back before the board.

E. Cumberland Trail

President Burkholder reported that the developers re-graded along Yenkin ditch and re-seeded the entire area. The detention pond on Runkle is still a problem.

F. Taylor Road update

President Burkholder said he is waiting for an answer from Mayor McPherson.

G. Purchase new phone and headset for township hall

President Burkholder said he would ask the secretary to obtain some information on this item.

H. Cemetery fencing

Already discussed

I. Willowcreek Condominiums

No action taken

J. Hiring an assistant zoning inspector

The ad was placed in the newspaper. Mr. George said the secretary was willing to spend some extra time to help Mr. Maynard organize his office. This will be discussed at the next meeting.

K. Motion to retain outside legal counsel

President Burkholder said Don Brosius would be willing to represent the township. The rate is about \$300 an hour.

Mr. George said counsel is needed because the township is not getting help from Licking County.

Resolution 04-06-15-05: Mr. George moved to retain Loveland & Brosius as outside legal counsel on an as needed basis. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes.

L. Motion to authorize Hickey & Garvin to represent Etna Township on all worker's compensation claims.

Resolution 04-06-15-06: Mr. George moved to authorize Hickey & Garvin to represent Etna Township on all worker's compensation claims. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes

At 9:00 p.m., President Burkholder moved for a ten minute recess. George seconded.

Roll Call: George, yes; Burkholder, yes

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NEW BUSINESS**A. 2005 Budget**

2005 Budget Hearing is scheduled for June 29, 2004.

B. Discussion on presentation by Delaware County Planning Commission, set date
President Burkholder said the director of the Delaware County Planning Commission suggested that Burkholder and a zoning commission member attend a meeting in Delaware to discuss updating the township's zoning resolution and land use plan. Burkholder said he would like to contract with someone outside of the county.

C. Cable franchise tax

The secretary will inquire on the contract renewal date.

D. Salt bid contract

Resolution 04-06-15-07: Mr. George moved to approve the highway rock salt contract with SWOP4G for the 2004-2005 season. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes

E. Equipment order for 2005 International

Mr. George moved to table this item. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes

F. Trailers stored on township property at garage

President Burkholder said the road supervisor is storing his personal trailer at the township garage.

Resolution 04-06-15-08: President Burkholder moved to direct the township road supervisor to remove his trailer from township property and any other personal items. George seconded.

Roll Call: George, yes; Burkholder, yes

G. Letter from Robert Becker

Read previously

H. Zoning commission's PUD recommendation

President Burkholder asked Mr. Van Dyne to give an update.

Mr. Van Dyne apologized for the zoning commission recommendation because the recommendation was not what was presented at the meeting. The recommendation was to be approved by all members of the board before it was presented to the trustees. The motion as stated was illegal. Mr. Bravard would not allow a special meeting, that was requested by other members, to be held for a correct motion to be passed.

President Burkholder said for the record, he contacted Mr. Bravard and told him that he (Bravard) could not make the recommendation as stated. Burkholder said Bravard replied that it was always the practice in the past that when a motion failed, then just the opposite is the recommendation. Burkholder expressed grave concerns about Bravard's actions. Previously there were problems with the removal of R-3 and PUD's regarding recommendations not being signed.

Mr. George said he was not opposed to having a public hearing for Mr. Bravard; either Bravard resigns or he does his job. George feels the chairman of the zoning commission and BZA are acting unprofessionally and doing things that are not within their power.

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President Burkholder said there were many irregularities previously and this was not an accident. He feels that there has been a deliberate attempt by a few zoning commission members to derail the removal of the PUD and R-3 zoning. This effort may also extend to the county because it took over six months for LCPC to release legal opinions from the county prosecutor regarding the PUD. Apparently the county and a few zoning commission members are not listening to what the citizens of this community want to see. Burkholder suggested to wait and see how the zoning commission handled the situation. Burkholder would not be opposed if the board decided to send Mr. Bravard a letter of concern, a letter of reprimand or brief him in on a public hearing. President Burkholder said he has not had a reply to the letter sent to Mr. Cox regarding the way the recent BZA hearing was conducted.

PAYMENT OF BILLS

Mr. George moved to pay the following bills. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes.

1740	VW	06/15/2004	COLUMBIA GAS CO.		\$6.50
1741	VW	06/15/2004	AMERICAN ELECTRIC POWER		470.28
1742	VW	06/15/2004	DAYTON LEGAL BLANK		126.04
1743	VW	06/15/2004	NEWSPAPER NETWORK OF CENTRAL OHIO		91.24
1744	VW	06/15/2004	GARVIN & HICKEY, LLC		40.00
1745	VW	06/15/2004	SALLY MELLON		225.00
1746	VW	06/15/2004	DALLAS W. MAYNARD		34.50
1747	VW	06/15/2004	MIDLAND CO-OP, INC.		480.14
1748	VW	06/15/2004	SUNOCO, INC.		54.72
1749	VW	06/15/2004	WHEELSPORTS INC.		65.95
1750	VW	06/15/2004	KUHN TURF EQUIPMENT		81.60
1751	VW	06/15/2004	RHOMAR INDUSTRIES, INC.		232.61
1752	VW	06/15/2004	SWOP4G		50.00
1753	PY	06/15/2004	JAMES W. WYRICK	- JWW	184.06
1754	PY	06/15/2004	LAURA J. BROWN	- LJB	433.93
1755	PY	06/15/2004	MARK J. SMITH	- MJS	811.37
1756	PY	06/15/2004	PHILLIP M. WALLER	- PMW	1,489.16

EFT Dallas Maynard for \$854.76 Total is \$5731.86

I do hereby certify that the funds for payment of the above obligations were lawfully appropriated and are on hand or are in the process of collection.


Clerk

PUBLIC COMMENTS

Jim Van Dyne, 7173 Refugee Road, suggested that a letter be sent to the county about Cameron Chase not using silk screen around their excavation site. Silk screen is mandatory and enforceable through the Ohio EPA.

Neil Ingle, 71 Trail East, said the current zoning commission makeup is different than three years ago. Previously the developers ran this township and the zoning board acquiesced. The best interest of the township was not considered. Now the majority of the board members are trying to do what is best for the township and they are being deliberately impeded. The trustees should do whatever it takes to stop this obstruction.

Claudette Van Dyne, 7173 Refugee Road, said there have been a multitude of errors committed by the zoning commission. At the last meeting, a motion was made to deny the recommendation from the trustees to remove the PUD but there was not a motion made for the approval of the recommendation. Mr. Bravard, with all of his experience, should have opened the floor and helped the new zoning commission members with a recommendation to the

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trustees. Instead, when his motion died, he thought that the automatic reversal applied. There was no motion made to that effect. Also it has taken over a year to send a recommendation to remove R-3 to the trustees. In Section 503 of the zoning resolution, a special meeting can be called by the chairman and at such other times as the Commission may determine.

At 9:45 p.m., Mr. George moved to adjourn the meeting. Burkholder seconded.

Roll Call: George, yes; Burkholder, yes.


Clerk


President