

RECORD OF PROCEEDINGS

MINUTES OF THE XENIA TOWNSHIP TRUSTEES: REGULAR MEETING
HELD ON: APRIL 8, 2010 7:00 PM

NOTES: These minutes are a summary of the township business meeting and are not a word for word account of the discussions which took place.

Chair Scott Miller called the meeting to order at 7:05 p.m. with a welcome. Board Members present were John Faulkner Scott Miller, and Jim Reed. Also in attendance were Fiscal Officer Seiter, Zoning Inspector Painter, Fire Chief Meyers, Deputy Chief Fox and Fire Admin. DeVoe. Many residents were in attendance. See the attached sign in sheet. All participated in the Pledge of Allegiance.

GUESTS:

John Thrash of 3084 W. Enon Road spoke first regarding ATV usage on his property and why all the other neighbor guests are in attendance. Mr. Thrash told the story of his original plan for an ATV park and now has a friend who is going to help him re-organize the activities on his property and he was in attendance that evening to explain also.

One unidentified man asked about the website.

Thrash advised there is not supposed to be, his was stopped and but there may be other people from the ATV network who have his information on their face book site and he is trying to get it all removed. Thrash explained how the usage got out of hand, started with family and friends, then friends of friends, then too many unknown by word of mouth. Thrash introduced his friend that is helping him, Ken Krause. Ken Krause, 1905 Gayhart Street, Xenia, spoke reassuring the website is not theirs and it is on someone else's blog. Krause explained how he no longer rides on the property because he also did not like the activities. Krause explained how they have stopped and will remove the race track, no dirt bikes are allowed, sound checks will be done, and no after market exhaust modifications will be allowed so there should be no problem with noise. He noted they understand the neighbors have a rite to be upset and most of the people will no longer be allowed on the property.

An unidentified man asked if there is proof of the sound and offered to do it, but advised he has not yet. Judy McCann, 2911 Sutton Road, asked if people were paying or just friends, reminded of the turned down business last year, problems with crowds, and fencing on another neighbor's property.

A man asked if revisiting opening the business and asked if noise was better Saturday.

Henry Williams, 3300 W. Enon Road, advised he was home part of the day and heard motorcycles. He also commented on business activities, dust.

Trustee Miller asked for a show of hands for the number of people experiencing noise concerns – estimated 10 raised their hands. Then he asked for a show of hands for dust – 2 raised their hands.

Tom McCann, 2911 Sutton Road, talked about noise, decibel levels and quality to neighbors.

Doris Rowland, 2800 Sutton Road, talked about clearing their property to make more valuable, quality of homes and the how the activity could de-value the area.

John Thrash talked about stopping what he was doing and with his friend's help there would be no more than what they (the neighbors) would have on their own land with family. He further asked for a chance and time of three (3) weeks to stop the noise. Thrash talked about other options he has considered for use of his land such as a pay lake, casual usage (ATV?), no tracks or dirt bikes. He also stated he hoped it pans out talking to everyone.

Roger Siervogel, 2570 Sutton Road, talked about the concern of friends making donations to make money the back handed way. He said thanks, but don't think it will solve the problem.

Jim Donahue, 302 Zimmer Drive, Fairborn, who owns property in the area talked about the effort to police on a causal basis.

Ken Krause advised they would not be hiring . . . driveway and gate entry. He stated someone will sit at the gate, no bikes allowed; the race track will be removed so dust will go away, and the gate will be locked otherwise.

Trustee Reed asked about time frames, etc.

Ken Krause stated when people are allowed in it will be by he and the owner. He explained how it will take time to get the word out that it has been changed and no longer (just anyone) allowed and that the track is coming down. They are fixing the problems.

Kathy Steigers, 3949 Shively Road, (not on sign in sheet) asked about licensing of ATVs, talked about being sensitive to wildlife and the agriculture in the area and how different seasons bring out different activities and hopes there will be no hunting.

Roger Siervogel, 2570 Sutton Road, noted the concerns for mud and runoff and questioned if there has been any survey for the creeks and maybe it needs looked at.

Charles Brennan, 68 ½ Main Street, Xenia, advised he was there for another matter, but wanted to give input as a business owner with previous problems with trespassers. He recommended signage on the property for justification and support by the Sheriff.

Ken Krause answered (Ms. Steiger's) the question about licensing. He advised in 1999 there was a law passed that all ATV's must be registered with the BMV to ride on State property.

Trustee Miller summarized the history of the owner's business venture as relates to the Township. He explained how it was not an action item before the Trustees, but was before the BZA (Board of Zoning Appeals). The BZA had rules to abide by with one year review period. Miller advised the Township will enforce the no business to be operated decision of the BZA.

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Painter advised she has spoke with the Prosecutor and Mr. Thrash. The business activity is to cease and desist, but if continued it is a zoning violation of a minor misdemeanor with a court fine, but no action would happen to stop the activity. She talked about the need for balance of rights of the property owner vs. the neighbors and how it may need to play out in court. Painter advised they (Thrashes) can apply for use again. She stated the activity sounds like a violation, it is an issue before the BZA not the Trustees. She advised they can't go on hearsay and need concrete evidence.

Trustee Miller talked about the Trustee's point of view; Painter's investigation; no noise law on the township's books and how if so, it would apply to all noise not just ATV's and that impact would need considered.

Jan Smolinski, 3418 W. Enon Road, talked about business being exempt, the rite to enjoy his land, but don't impede on the neighbor's rite to enjoy their land. He advised how the ATV's have been driven on the public roads and other properties.

John Thrash noted Cemex has problems with trespassers on their property.

Jan Smolinski talked about sound levels in the County.

Roger Siervogel asked who to report to At that time there were discussions between five (5) different people and no one's comments were understood.

Painter advised complaints could be made directly to her, for the township's tracking, because she does not get reports from the Sheriff's department.

Thrash asked if they don't hear, is it ok?

Many neighbors said yes.

Trustee Faulkner advised if it is being treated like a business it is still wrong.

Thrash admitted he had trouble saying no to friends and others..... And will fix the gate.

Judy McCann said they (McCann's property) sit behind them (Thrashes) and will give it a test run and will call him (Thrash) or the Sheriff if not (fixed.)

Trustee Miller advised the neighbors to let them or Painter know, call or send a letter or e-mail.

Charles Brennan talked about vandals, trespassing, camera installation, and sign experiences. He took one to be prosecuted and that fixed the problem. He advised it is better to go through trespassing laws than township zoning limits.

Break 8:10 pm

Charles Brennan of Network Experts provided a presentation and request to install an antenna for broad band internet on the tower at fire station 52 on US 68 South. The antenna would benefit residents in the area surrounding the antenna. The antenna is 10 foot and uses 10 watts of power continually. There would be no concern for interference. Mr. Brennan advised once an antenna is placed in the north area, he can connect our two fire station facilities. He advised in trade for the antenna being on the tower, the township would get internet in return. The agreement could be from 3-5 years with renewal. Greene Wireless would carry liability insurance. If they were to go out of business, the township would take possession of the equipment. All the equipment is external and he would not need access to the building. The main tower is on Birch Road. Faulkner asked the fire staff if they had any concerns. They advised no. DeVoe asked about connection between township buildings. Brennan advised not yet due to the admin. office being in a low area and there being no tower yet in the north area. He advised it is faster than Time Warner – double. Trustees requested that Mr. Brennan provide a draft agreement for review and consideration at the next meeting. Brennan advised he has worked with Mike Wolf to make sure there is no affects to the 911 system, there are none.

8:45 pm

MINUTES:

Faulkner moved to approve and dispense with the public reading of the minutes of the regular meeting on March 11th. Reed seconded the motion. All voted aye. Motion Carried

Seiter advised the minutes of the regular meeting of March 25th were not completed yet and will be ready for approval at the next meeting.

FINANCE: Fiscal Officer Seiter provided the following:

A request for approval of bills and payroll in the amount of \$52,364.90 a copy of the payment registers are attached to these minutes and made a part hereof. Faulkner moved to approve said payments. Motion seconded by Reed. Resolution No. 2010-66

Roll Call Ayes: Faulkner, Reed and Miller Motion Carried

Report that the current fund status reports are in the correspondence file for Trustee's review.

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ROAD DEPARTMENT: Public Works Superintendent Shuey provided the following written requests:

A purchase order request to Detroit Tire for two tires for the John Deere tractor for \$1,000. Miller moved to approve the request. Faulkner seconded. Resolution No. 2010-79

Roll Call Ayes: Faulkner, Reed and Miller Motion Carried

Approval of the annual Collective Bidding Program Agreement with the Greene County Engineer for 448 Overlay and Center Line/Edge Line Striping. Miller moved to approve said request. Motion seconded by Reed. Resolution No. 2010-80

Roll Call Ayes: Faulkner, Reed and Miller Motion Carried

COMMITTEE REPORTS:

Miami Valley Reg. Plan. Com.: Faulkner advised they met on April 1 and the minutes and notes are in the file. Fairborn, Route 444 and WPAFB were discussed. The annual spring dinner is May 12. Faulkner to attend and maybe Miller.

---Technical Advisory Committee: Miller advised the next meeting is at the end of the month.

Greene Co. Reg. Plan. Coordin. Com.: No Report

District Advisory Council of Health District: No Report

Water & Wastewater Advisory Committee: (quarterly) No report

Source water: Next meeting June 8 at 7 pm

Xenia Economic Growth Corp.: No Report

County Managers and Officials: No Report

Safety Council: Reed reported on the April meeting with a presentation by OSHA. OSHA is coming down on local government. There is a bill being worked on in the house. Shuey to attend in May

OLD/UNFINISHED BUSINESS:

Trustees discussed partitions for the men's restroom at Station 51 to make it ADA compliant as an existing structure. Shuey had provided additional quotes including Reed's original verbal quote. Tabled.

Seiter asked about payment of the current Matthews invoice for Station 51 remodeling. Attendees discussed in great detail the additions to the invoice. The additions/changes were over \$10,000, but not purchase order or change order is in place to cover. Attendees discussed what could have been in the original project. Meyers will talk with Mr. Matthews about the unfinished corrections. The additional changes/costs will be review further. Miller moved to pay the amount of the original two purchase orders for the original project minus \$300 for pending corrections by the vendor. Faulkner seconded the motion. Resolution No. 2010-81

Roll Call Ayes: Faulkner, Reed and Miller Motion Carried

US 68 South and Union Road property: Miller moved to go into executive session to discuss purchase or sale of public property per ORC 121.22 (g)(2). Reed seconded the motion.

Executive Session: 10:10 pm

Seiter, all three department heads and Deputy Chief Fox were included.

Faulkner moved to return to regular session. Miller seconded.

Return to Regular Session: 10:48 pm

Faulkner moved to go into executive session to discuss personnel, pay negotiations per ORC 121.22 (g)(4). Miller seconded the motion.

Executive Session: 10:50 pm

Seiter was included.

Faulkner moved to return to regular session. Reed seconded.

Return to Regular Session: 11:10 pm

Faulkner reported on a conversation he had with City Manger Jim Percival regarding a JEDD for the Tecumseh school area during the new building construction in order to generate revenue off the construction labor. Discussed other details further.

UPCOMING MEETINGS:

- April 8, 9:30 Review visit from Ohio Plan (Swartzel Insurance) Greg Hanneke
- April 15, 8:00 am Monthly Work Session – with Jay Stewart of Klingers re: land planning, etc.
- April 16, 8:20 am Annual road ride review with Public Works Superintendent Shuey
- April 22, 7:00 pm Board of Trustees' Regular Meeting

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CORRESPONDENCE IN FILE:

- From Painter, April 2, notes re: W Enon Road meeting with Thrashes and correspondence with Prosecutor Ellis, events from March 23 to April 1.
- From Charles Brennan, April 2, email request to be on April 8 agenda re: antenna on twp. bldg.
- From Kenya Carrington of Wilberforce University, March 16 re: annual Health Awareness Day. Miller reported he talked to Mark McDonnell of the Health District. The Health District will work with the University on support topics. Miller will take care of the project.
- From Willie Washington, March 27, re: annual Health Awareness Day at Wilberforce University.
- From Seiter to Xenia Gazette, April 6, news item notice of annual road ride review on April 16.
- From Sheakley, March 25, re: workers compensation temp. authorization to review acct.
- From Seiter, March bank reconciliation, balanced, \$1,914,269.59
- From Seiter to Greene Co. Prosecutors, April 5, notice of final pay off confirmation from Jamie Turner for funds owed to the township for non-fulfilled EMS class agreement commitment.
- From Auditor of State, March 25, letter of arrangement for 2008/2009 audit.
- From resident, April 3, notice of stopped up drain in area of Helen and Woodcrest, orig. to Road Dept.
- From Ohio Twp. Assoc, April 2010 *Grassroots Clippings* monthly newsletter.
- From MVRPC, April 1 agenda and March 4 minutes.

ADJOURN: 11:28 pm

There being no further business, Miller moved to adjourn. Reed seconded the motion.

SCOTT W. MILLER, CHAIR

ATTEST:

JOHN D. FAULKNER

SHEILA J. SEITER, FISCAL OFFICER

JIM REED