

Minutes of Regular Meeting: March 3, 2008

7:30 Meeting called to order by Gary Britten

Pledge of Allegiance

Roll Call: Mr. Britten, Mr. Mack, Mr. LaHote, Mr. Hrosko, Chief Stribrny, Chief Dimick, Deputy Chief Brice, Grant Garn and Robert Warnimont. Kraig Gottfried was absent

Mack made a **motion** (seconded by LaHote) to approve the minutes of the February 19, 2008 Regular Meeting and the taped minutes of that meeting.
Britten - Yes Mack – Yes LaHote – Abstain Motion Approved

Mack made a **motion** (seconded by LaHote) to approve the February 25, 2008 department head meeting and the taped minutes of the meeting.
Britten - Yes Mack – Yes LaHote – Abstain Motion Approved

LaHote made a **motion** (seconded by Mack) to approve the amended agenda.
All Yes Motion Approved

7:35pm – Pam Butler, Commissioner of the Wood County Health Department talked about the Health Department and what they do. She said that most people know the Health Department does things like sewage inspections, water quality control and restaurant inspections. There are 10 essential things they are required to do such as monitoring our health status of the population, inform and educate the public, diagnose and investigate, develop policies and develop community partnership. The Health Department has also become the “No Smoking Police” (she passed out no smoking decals), and also do lead testing on toys. They also have a dental van that is at the Health department on Thursdays to service people who are in need of dental treatment but cannot afford. They can do 16 patients a day. Another thing they are in the process of doing is recruitment for their volunteer medical corp. That is in the event of a disaster they would need people to answer the phones, direct traffic put up shelters, and help move beds and cots. So it is not just medical people they want to have volunteer Ms. Butler passed out hand outs on what Public Health is about and what services they offer (copies in file). Ms. Butler said if any one had any questions about Public Health or what the Health Department does, they should feel free to call.

7:45 Referendum Gary Britten started off by saying the Trustees got the opinion (copy in file) from Linda Holmes’ office and have now had the opportunity to read it. Britten said it was pretty long so, in a nutshell, basically it said: Therefore it is in our opinion, and you are so advised, the Township Trustees should not certify these petitions to the Board of Elections for placement on the November general election ballot. The following deficiencies in the petition, apparent on their face, demonstrate that the signators could not have accurately understood the nature of the referendum being sought by the information presented:

1. Omission of the annexation affidavit filing requirement imposed as a condition of rezoning on all three parcels,
2. Omission of a space for the signators to designate their voting precinct as specifically required by O.R.C.519.12, and

3. Inaccurate legal/ acreage descriptions for each of the three parcels rezoned by the Township”

Britten went on to say that the one thing that jumped out to him when he first looked at them was that the Wolf Parcel contains 40 plus acres but the petitioners had it as almost 72 acres, the Neiderhouse piece contains about the same 40 plus and they had that at 36.12 and the DeChristopher piece also had a bad error on it. *Britten* also said the Ohio Revised Code says they need to have a place on the petition for the precinct number and not one of the signatures had space on it for the precinct. *Mack* said from what he gathered one of the reasons the precinct is important is you either live in a zoned or un-zoned area in the Township, which makes us unique. This makes it more important to have the precinct on the referendum. *Britten* said that is because according to the law only the votes or signatures of the people living in the zoned area count. *LaHote* said the third significant omission was in the summary there was no mention that part of the condition of the re-zoning was that there would be an affidavit filed that there wouldn't be any mechanism in place to force those property owners to annex or for a third party to do that. That is a pretty significant part of why we put those conditions on it to begin with. That is a pretty significant omission from all three of the petitions. *Mack* asked Linda Holmes if her opinion, while obviously legal in nature, was being deemed a public record. *Holmes* replied that it was up to the Trustees. She said “we take the position that our communications with you are covered by the attorney/client privilege and under the attorney/client privilege it is up to the client to determine whether or not to release information about that communication.” *Mack* replied ok. *Britten* asked what the feeling of the board was about that and added he did not think anything was in the opinion that could not be made public, facts are facts. *Mack* replied that they did not have anything to hide but he felt they should ask the author. *Holmes* said she was sure Mr. Miller (from the Sentinel Tribune) would want a copy. *Mack* agreed and said it would save a lot of note taking for them. *LaHote* said he felt they owed it to the people who signed the petition too, so they understand the reasons. *Britten* asked if there was anymore discussion or do we have a motion either way? *Mack* asked Holmes if she recommended they take action immediately or should they examine the repercussions. *Holmes* replied “You have to make a decision and it maybe slightly overdue, simply because of the irregularities in the petition that had to be looked at in the law. I think you have the duty to decide whether or not you are going to certify it to the Board of Elections or not certify it to the Board of Elections. Typically that takes place within a couple of weeks after they are filed with you. Of course the Board of Election asked that you send it down there so they could verify the signatures that were on the petitions, so they have had it. You didn't have it to do much with over the last, what, it's probably been a month or so. I would suggest you do go ahead and make a decision about certification. If anybody wants to challenge it, they certainly can do that probably in the form of a mandamus action, to tell you there aren't irregularities on the face.” *Holmes* went on to say “obviously they feel there are irregularities on the face.” *Mack* said it would seem obvious to him the irregularities are clearly on the face. *Holmes* then said actually the precinct problem comes straight from the statute and that there is a list of specific things that must be included on the referendum petition and one of them is precinct. *Britten* said “I can read those; the following headings for voter information are specifically required by the statute; signature, street address or RFD, township, precinct, county and date of signing. Not anywhere on any of them do they have a place for precinct.” *Holmes* said she didn't know who did there forms or where they got them. *Holmes* said she did get a call from one of the

residents who inquired if her office was involved and at that time they were not. Holmes said she understood they had contacted an attorney up in Toledo, though she didn't recall who it was. Holmes went on to say the other fatal flaw here is the fact you do have to have an accurate and unambiguous summary when the petitions are circulated so people understand what they are signing their name to and putting to the vote to the general electorate. Where the one glaring omission was, is the fact that people were not going to be forced to annex. This was one of the negotiated items in this re-zoning. Holmes said "Our office had received several calls from people who were very concerned about the provision in deeds in that adjacent subdivision, Emerald Lakes, who were angry that the developer could literally force them to sign their name to an annexation they did not want. So one of the things the Township negotiated away was that developer's prerogative to force annexation into the city. And that was not included in the summary and my senses of it was there were a number of people who were concerned about that feature that the developer had put in the Emerald Lakes deeds and was threatening to put in the deeds for whatever development took place on the Wolf, DeChristopher and Neiderhouse parcels. And then there was the third flaw, which was the fact they did not get the acreage correct on any of the descriptions that were attached or incorporated into the petitions. My experience over the years with election law is that at a minimum there has to be substantial compliance, but with some things it is mandatory and I cannot see how there is even substantial compliance with all three irregularities. So I don't like to be the barer of bad news, I always like to see things go to the ballot so people have a choice but, by the same token these election requirements are designed to prevent voter fraud. In other words so people are not misled, and we are not voting on issues that people did not really understand in the first place. So my recommendations are, now that we have gone full circle, is that you take some action either to agree with our opinion or not to agree with our opinion, but that you act one way or the other on these petitions, and whether or not to certify them to the Board of Elections."

LaHote said of the three things, I would say the acreage and the precinct are kind of a technical nature but I would see the summary as a key part of our re-zoning those parcels or our agreeing to re-zone it was that the annexation covenants would go away. That is what we have been going around with the developer on and had to do some legal investigations on to see if we put those types of conditions on to begin with. It was a very important part of that whole aspect and for that to be left off the description I think could have led a lot of people to not understand fully what they were signing. I think of the three things to me that's the most important issue that we have before us. *Mack* said he agreed with *LaHote* and said some of the people who then called here, to the office, said "hey I signed this and now I found out that by having it go to referendum it increases the chance of annexation. How do I get my name off?" *Mack* asked *Hrosko* if he remembered some of those calls. *Mack* then said that kind of supports *LaHote's* position which he agreed with. Perhaps the circulators were somewhat remiss in not including that. That is a pretty substantive portion of our decision. *Britten* said we ran the possibility of losing a big chunk of the Township. I mean all of route 20, down quite a ways to the East and a lot of property to the South of this. If they held 150 signatures, they would take 149 pieces of property kicking, screaming and it would still be voluntary annexation. So as *LaHote* said that is very important in our decision, this annexation thing and why we negotiated to get to where we gave the zonings. *LaHote* replied that as *Holmes* said we want to make sure people have the right to exercise this petition process but based on that issue alone and the opinion we have from the Prosecutor's office I move that we not certify these to the Board of

Elections. *Mack* said he was wondering if we should do them all three at once because of our situation with the DeChristopher? *LaHote* said that there are three separate petitions so we could do them separately. *Britten* said he agreed that would be a good idea. *Mack* said the issue I am raising is that when we did re-zone the DeChristopher parcel Trustee *LaHote* refrained from voting or discussing that because his residence is contiguous or very close to this piece. *Mack* asked to be allowed to make a new motion.

Mack said I would move that we do this in two separate votes combining Neiderhouse and the Wolf parcels. **I would move that we not certify the Wolf and Neiderhouse referendum petitions to the Board of Elections as advised by the Prosecutor's office.** *LaHote* seconded the motion.

Britten - yes *Mack* – yes *LaHote* – yes All Yes Motion Approved

***Mack* then moved that we not certify the referendum petition pertaining to the DeChristopher parcel to the Board of Elections.** *Britten* seconded the motion. *Britten* – yes *Mack* – yes *LaHote* – abstain Motion Approved

Britten said he would like to thank the Prosecutor's office for the help in this very delicate situation. You never have people happy on either side when it has to get to this. *Mack* asked *Holmes* if she had anything to add. *Holmes* said no but she would be glad to answer any questions. *Britten* asked if anyone had any questions. *Bob Warnimont* asked what happens now. Does it stay as the Trustees put it? *Britten* replied it all stays the same but they could ask the court to make a decision to reverse our decision and put it on the ballot. *Holmes* said there area couple of courses this could take. It might be the residents who seek to ask the court to force you to certify saying these were not deficiencies that should prevent this from going to the ballot. They will have to get their own attorney to do that. It might be possible, I suppose for the Board of Elections to think you are wrong, and to do the same thing, seek some redress from the court and force you to certify. I don't necessarily see that as happening. Most of the time these entities leave it to the parties who have a real interest in the outcome, i.e. the citizens to force it to the ballot. Perhaps now that they understand what they were being asked to sign, through the news reports or through the word that has gotten through the neighborhoods, they might not necessarily want this to go to the ballot and nothing will happen. I don't know, I don't have a good sense about this. I think I got one call before our office got involved in this, where they were asking what our office was involved in. We did receive a call from the Board of Elections about who got to vote on this but that is pretty clear in 519.12 that only the people who live in the area of the Township that is zoned. There were a few more minor questions but we hadn't answered that question yet and there wasn't a real big push, we had some other things we had to get out the door, because of course it isn't going to go on the ballot until November. So we had a little bit of time to let the Board of Elections question sit. And this may moot the Board of Elections' question. *Britten* asked if there is anything we have to do with the Board of Elections now? *Holmes* said what you want to do is perhaps have Shirley Haar write up a resolution or a motion because you need to communicate to them you did not certify, and perhaps you could attach my opinion. Obviously if they don't get it they will know you did not certify but curtsey would require you let them formally know. *Hrosko* asked if Shirley would send a copy of our minutes with the opinion would that be ok. *Holmes* said that would do it too. Haar told *Holmes* she would send a copy of the minutes with the opinion to the Board of Elections. Dan Restle asked if there was a time limit as to how long they could take and if they could take around another

petition. Holmes said the natural cut-off would be 45 days before the next election. I would say they cannot linger too long. A mandamus action takes precedent on court calendars and they move them right along. Obviously election things cannot linger on a courts docket. Britten said he thought Restle was asking if they could circulate another referendum petition. Holmes replied no they can not, re-zoning took place after 30 days and they had to file a referendum petition before that 30 days was up. As it was they filed it with the Township on the very last day to do so. You cannot sit on your legal rights too long without losing them and that is the case in an election challenge. *LaHote* said it does create uncertainty with the developers. *Restle* asked if the developer started turning dirt tomorrow could it still be changed on him. *Holmes* replied she thought if a developer started turning dirt tomorrow it would put a premium on the property owners acting and unless they could convince a court to issue an injunction to stop the dirt from being turned, then the dirt will be turned.

Mack said that Haar raised a good point to him concerning the legal document. **Mack then made a motion that our proprietary legal opinion be deemed a public record and be included with our decision to the Board of Elections and also be made available to the media this evening if they request it. Britten then added; to be also included in the minutes. LaHote seconded the motion.**
All Yes Motion Approved

Maintenance: Kraig Gottfried – absent

Bob Mack read the Township Agreement with Wood County – **Resolution #2008-03** (copy in file) and asked for a motion to approve it. **LaHote made a motion (seconded by Mack) to approve Resolution #2008-03** Britten – Abstain
Mack – Yes LaHote – Yes Motion Approved

John Hrosko then said Gottfried had received two quotes for labor for the spring roadside pick up and they were; Renhill Staffing at \$11.71 per hour and Labor Works @ 10.45 per hour. Hrosko said Gottfried was asking the Trustees to approve hiring Labor Works for 10 workers for 5 days. **Mack made a motion (seconded by LaHote) to approve this request.** All Yes Motion Approved
Hrosko had the Trustees sign a PO to Labor Works for \$5,000.00

Police: Chief Stribny told the Trustees that he has two more people ready to retire. The first one would be the Head Dispatcher; Marilyn Smith on April 31st and the second one would be Sergeant Detective Rob Gates with a tentative date of May 31st. Stribny asked the Trustees to approve him moving forward to looking for a replacement dispatcher and a replacement officer. The Trustees said it was ok for him to proceed.

Stribny then said along the same line, Annie Herman who retired recently would like to come back and work part time as a relief dispatcher after April 9th. The Trustees thought this was a good idea as she is already trained as a dispatcher. **LaHote made a motion (seconded by Mack) to approve letting her come back as a relief dispatcher.** All Yes Motion Approved

Stribny then went over the January 2008 calls for service (copy in file).

The last item Stribny brought up was The Northwest Ohio Regional Law Enforcement Mutual Aid Agreement. This is being put together by the City of Toledo Police department. This is basically an agreement between townships, cities and villages to work together in the need of an emergence involving and type of multi jurisdictional drug, gang or any other type of criminal task forces, or if

there was some type of emergency that would arise. This would be under Stribrny's call and allow us to request an extra hand or provide an extra hand. The entities that are involved in this agreement are; the Cities of; Maumee, Oregon, Sylvania, Bowling Green, Northwood, Rossford, Perrysburg and Toledo, the Townships of; Sylvania, Waterville, Washington, Lake and Perrysburg, the Villages of; Holland, Ottawa Hills, Whitehouse and Walbridge, also the University of Toledo, Toledo Area Metropolitan Park Rangers, the two Lucas County Port Authorities, Bowling Green State University, Wood County Park District and Lucas County. Some of these have already signed the agreement and once this is completed it will then be passed on to the City of Toledo. Stribrny then asked for a motion from the Board to have the Chairman Gary Britten sign the agreement for Perrysburg Township. After it is signed it will be passed on to the next entity to sign. Britten asked if he did not hear either Sheriff's departments (Lucas and Wood) included. Stribrny replied fall under a different mutual aid agreement but are mentioned in the document. **Mack made a motion (seconded by LaHote) to participate in the agreement and have the Chairman sign it.** All Yes
Motion Approved

Fire: Chief Dimick told the Trustees that the pick-up truck went on GovDeals at noon today with an opening bid of \$200.00 required and so far there have been 29 bids on it.

EMS: Deputy Chief Brice went over the run report (copy in file).

Recreation: Bob Warnimont – No Report

Bob Mack read a letter of thanks concerning Bob Warnimont and the recycling program.

Zoning: Grant Garn told the Trustees the Zoning Commission will be meeting on March 10th @ 6pm to do site plan reviews for the following; 1. Perrysburg Township Fire and EMS new building 2. American Roadhouse's (on Oakmead) outdoor patio and 3. Perrysburg Tennis Center on Progress Dr.

Office: Shirley Haar asked the Trustees to sign the PO report, Bank report, Cash position report and the check report. The trustees signed the reports.

Haar then asked the Trustees to approve the Contract To Furnish Emergency Management Between Wood County Ohio and the Township of Perrysburg (copy in file) at a cost of \$5,581.33. Mack made a **motion** (seconded by LaHote) to approve the contract. All Yes Motion Approved

Haar asked the Trustees to approve the following transfers which were are ½ the amount appropriated for transfer in the 2008 budget; from the general fund to EMS \$312,500.00 and from the general fund to Road and Bridge \$353,500.00. Mack made a **motion** (seconded by LaHote) to approve the transfers. All Yes

Motion Approved

Next Haar asked the Trustees to approve was the **VSP Resolution #2008-04** (copy in file). This resolution establishes a video service fee to be paid by the video service provider offering video service in the Township. It is paid to the Township at 3% of the gross revenues. Mack said this was discussed before at a meeting so

Mack made a motion (seconded by LaHote) to approve the Resolution #2008-04. All Yes Motion Approved

Haar then mentioned that Robert Schultz from Shultz & Associates would be here in the morning to start working on the record retention policies and he would like

to meet with all the departments briefly. Haar asked if everyone could make a small time available to meet with him and was told they could.

Administrator: John Hrosko asked the Trustees to approve the Dispatchers new contract with the new pay matrix, which will run from 2008 to 2010. **LaHote made a motion (seconded by Mack) to approve the contract.** All Yes
Motion Approved

Hrosko then asked the Trustees to approve putting out to bid (bid specs in file) the new 120 foot radio and siren tower. This has to be completed before any of the construction on the new building can take place. Hrosko said it needs to be advertised two times over 15 days. If approved tonight we could post it tomorrow and have the bid opening at the first regular meeting in April (April 7th). **Mack made a motion (seconded by LaHote) to approve putting the tower out to bid and opening the bids on April 7th @ 7:35pm.** All Yes Motion Approved
Hrosko said the Health Committee meeting scheduled for tomorrow is cancelled.

Gary Britten mentioned that Haar had given them all a copy of a Perrysburg Township Burial agreement (copy in file) to look over for indigent burials. Britten went on to say he had another cemetery board meeting in the morning and they are trying to work something out to have the same agreement between Perrysburg Township and Perrysburg City. Hopefully they can have something in place by their meeting in May. Britten said he though the agreement he was given was pretty good. Haar said Linda Holmes wrote it up for Lake Township and then sent a copy to us. Haar then changed it to Perrysburg Township. Haar explained that currently the Township has an indigent person at Hospice so we had to come up with a policy to cover the situation. LaHote thought it was very good also but suggested that at the end there be some kind of clause stating what the penalty is for willful misrepresentation.

Britten asked for Public Comments; hearing no comments;

8:46pm Mack made a **motion** (seconded by LaHote) to adjourn out of regular session into executive session for land acquisition and personnel employment. No further business will be conducted. All Yes Motion passed

10:24pm LaHote made a **motion** (seconded by Mack) to adjourn out of executive session into regular session. All Yes Motion passed

Mack made a **motion** (seconded by Britten) to adjourn. All Yes Motion passed

Shirley A Haar –Fiscal Officer

Gary Britten –Chairman