

**Minutes of Regular Meeting: November 7, 2012**

**6:00 pm Meeting called to order by Bob Mack**

Pledge of Allegiance

**Roll Call:** Mr. Mack, Mr. LaHote, Mr. Britten, Mrs. Haar, Chief Hetrick, Chief Brice, Kraig Gottfried, Grant Garn and Robert Warnimont  
Mr. Hrosko was absent

**Britten made a motion (seconded by LaHote) to approve the minutes of the October 17, 2012 Regular meeting All Yes Motion Approved**

**Britten made a motion (seconded by LaHote) to approve the minutes of the October 29, 2012 Special meeting Britten – yes LaHote – abstain Mack - yes Motion Approved**

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

**6:30 Fed Ex Zoning change hearing ZC2012-02**

**Maintenance:** Kraig Gottfried asked for a blanket PO (copy in file) in the amount of \$800.00 for Police supplies **LaHote made a motion (seconded by Britten) to approve the PO All Yes Motion Approved**

Gottfried asked for a PO (copy in file) for 10 Mile Creek in the amount of \$250,000.00 for the Glenwood Rd project. The total of the project is \$452,430.60 which leaves the Township's half at \$226,230.30. Gottfried asked for \$250,000.00 to allow for any overages. Gottfried said they are running ahead of schedule and that Gerken's will be coming in next week to start paving. **Britten made a motion (seconded by LaHote) to approve the PO All Yes Motion Approved**

**Police:** Chief Hetrick gave the Detective report for 10/17 to 11/06/12 (copy in file).

Hetrick asked for an executive session for personnel hiring for the Police Department.

**Fire/EMS:** Chief Brice gave the Trustees the run report (copy in file) for October. Brice gave the Trustees the July and August Medicount billing statements (copies in file) and asked them to sign them. Brice said the reason it took so long to get

the reports to the Trustees was that there was a discrepancy in July's. This has been corrected.

Brice mentioned the Feather Party is this Saturday (11/10/12) starting at 7pm  
Brice then thanked the Township residents for passing the Fire/EMS levy.

**Recreation:** Bob Warnimont – no report

**Zoning:** Grant Garn told the Trustees the Zoning Commission meeting date changed from 11/12/2012 to Monday 11/19/2012 @ 6:00pm Garn said that there were no request to the Board of Zoning Appeals so there will not be a November meeting.

Garn told the Trustees there is an Ohio Code Enforcement Officials Association meeting on 11/15/2012 he would like to attend. Garn was told he could attend. Garn said that Julie from Perrysburg Zoning and Kelly from Wood County Planning are also attending.

Garn reported things are still going well and the Township is still ahead on permits this year.

**Office:** Shirley Haar had the Trustees sign the check reports, bank statements report and cash position report.

Haar asked the Trustees to transfer \$150,000.00 from the General fund account 101-9998-53000 to the Road & Bridge fund account 204-0000-43100. **Britten made a motion (seconded by LaHote) to approve the transfer. All Yes Motion Approved**

Haar mentioned the meeting scheduled at 6:00pm on November 21, 2012. She noted this is the night before Thanksgiving and said if there wasn't any pressing business, she would ask that this meeting be cancelled. The Department Heads had no problems with canceling the meeting. **LaHote made a motion (seconded by Britten) to cancel the regular scheduled meeting on November 21, 2012 @ 6:00pm. All Yes Motion Approved**

Haar then asked that the Department Head meeting scheduled on December 26, 2012 be cancelled. Haar explained that the way Christmas falls shortens the week and leaves little time to start getting the year closed out. Haar said she believed the Department Heads could conclude their business by the last regular meeting on the 19<sup>th</sup>. The Departments Heads said they believed they could. **LaHote made a motion (seconded by Britten) to cancel the December 26, 2012 2:00pm meeting with the stipulation that if the need arises for a special meeting, one will be called. All Yes Motion Approved**

Haar mentioned the Winter Conference if January 30,2013 thru February 1, 2013. She asked the Trustees if they would be attending. Britten said he was and had

already booked his room. He said he had not made his conference registration yet. Mack and LaHote said they would have to check their schedules and would get back with Haar. Haar will register herself and Britten for the conference. She will wait to hear from Mack and LaHote to book their rooms and register them.

**Administrator:** John Hrosko– absent – no report

Mack asked for public comments;

**Bridget O'Halloran** mentioned that when the storms went through she had a problem with a big tree. The storm went through on a Sunday and on Tuesday the Maintenance Department came cut the tree up and took it away. She said she appreciated the prompt service. Ms. O'Halloran also said that she notices the Township is very clean and said that Maintenance does a very good job.

**Trustee Mack** said that he received a communication from ODOT on the third lane on the turnpike construction. He said he was forewarning people that this will cause some traffic complications. He said the Township will keep the residents informed. Gottfried said that White Rd and Simmons Rd will be closed during construction. This is due to be bid out in spring 2013 and construction will not be completed until fall of 2014.

As the time was only 6:23 a seven minute recess was called.

**\*\*6:30 Fed Ex Zoning change hearing ZC2012-02**

Solicitor Walt Celley joined the meeting

Solicitor Celley started the hearing by stating that for the record Mack and Britten have a conflict of interest on the hearing.

**MEMORANDUM OF LEGAL OPINION**

The question is: What happens when two township trustees abstain or withdraw from taking action on a recommendation of a township zoning commission?

The answer is: The recommendation of the zoning commission becomes adopted without action by the trustees, twenty days after the public hearing of the board of trustees. If only one trustee abstains/withdraws, the votes of the remaining two are required to act and if their votes are the same, would constitute a "unanimous" vote for purposes of modification or denial of the zoning

commission recommendation. A board of trustees is unable to act without the votes of two trustees, under any circumstances.

The Board of Trustees would proceed as follows:

1. Open the public hearing.
2. Abstain or withdraw. In the case of a conflict of interest, the term 'withdraw' is more appropriate because the trustee would be removing themselves from all participation in the case. When a trustee withdraws, they should leave the dais and in most cases, leave the room. This should be done as soon after the opening of the hearing as the conflict is known. To `abstain' is more properly defined as refraining from voting, although the trustee may have participated in the proceedings and is choosing not to vote for or against for some reason.
3. If only one trustee abstains/withdraws, the remaining two constitute a quorum capable of taking action on the recommendation and the hearing proceeds as a normal case. In such case, the vote of both would need to be the same to constitute an action of the board.
4. If two trustees abstain/withdraw, then the board would hear testimony for and against the measure and close the public hearing without taking action. The remaining trustee would chair the presentation of testimony.
5. The Board has 20 days after the public hearing to issue a decision.
6. If no decision within 20 days, the recommendation of the Zoning Commission becomes the zoning decision.
7. The decision becomes effective 30 days after the decision date. In a case where the trustees do not act, the effective date is 50 days after the public hearing date.

Solicitor Celley then turned the meeting over to Trustee LaHote. LaHote called on Grant Garn to start the hearing. Garn read his letter addressed to the Trustees dated October 10, 2012 (copy in file)

Zoning Change Application No. ZC 2012-02: John (Jack) W. Hilbert II Esq., representing FedEx Ground Package System, Inc. brought in an application from them and the Delph Brothers Properties, Ltd., to have this property rezoned. This property (P57-300-340401025000) is land locked. It is located in Section 34 of Perrysburg Township; which is situated East of the FedEx (Ohio Turnpike)

staging area, South of Mandell Road, West of Lime City Road and North of Avenue (SR 795) Road. It is approximately nine & one half (9.5) acres in size. The property is presently zoned A-1 (Agricultural District). They would like to have it rezoned 1-2 (General Industrial).

On October 2, 2012 the Wood County Planning Commission reviewed the proposal and recommended, by a 6-0-1 vote, that this proposed change be approved. A copy of this their letter is attached.

On October 9, 2012 The Perrysburg Township Zoning Commission held a Public Hearing concerning this application. They reviewed this change proposal and aforementioned recommendation. The Zoning Commission took into consideration comments made by the applicant and local citizens. The Zoning Commission moved to recommend approval of the change. The recommendation was approved. The vote was 4-0-1.

This matter is hereby forwarded to you for a Public Hearing (within 30 days) and final determination.

Jack Hilbert showed a couple of aerial pictures of the site. He said he was requesting on behalf of FedEx Ground Package Systems and the Delph Brothers properties, Ltd to have the zoning changed from A-1 (agricultural district) to I-2 (general industrial). This parcel of land consists of 9.5 acres and is landlocked. FedEx Ground Package Systems would like to use it to expand their staging area. Mr. Hilbert asked if there were any questions. LaHote replied he didn't have any. Mr. Hilbert said that they would again work with the residents on any concerns they might have. LaHote asked if there were any public comments. Hearing none LaHote said the hearing could be closed.

Solicitor Celley said the Trustees have 20 days to issue a decision. If no decision is made, which with only one Trustee, none will be made, the recommendations of the Zoning Commission becomes the zoning decision. That zoning decision then becomes effective 30 days after the decision date. In the case where the Trustees do not act, the effective date is 50 days after the public hearing date.

**LaHote made a motion (seconded by Britten) to adjourn into executive session for discussion of personnel hiring for Police. No further business will be conducted.**

**Britten made a motion (seconded by LaHote) to adjourn executive session and to adjourn. All Yes Motion Approved**

\*\* On the audio there is a pause for the seven minute recess. When the meeting resumed the recorder failed to start and Solicitor Celley's opening statement is not on audio. The error was noticed while Grant Garn read his letter to the Trustees dated October 10, 2013 and corrected.

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Shirley A Haar –Fiscal Officer

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Robert Mack – Chairman