

RECORD OF PROCEEDINGS

Minutes of

Etna Township Trustee

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

October 3, 2006

20

The Etna Township Board of Trustees met on October 3, 2006 at the Etna Township Hall to hold a regular meeting. President Burkholder called the meeting to order at 7:00 p.m. and the pledge of allegiance was recited. Roll call showed President Burkholder, Trustee George and Fiscal Officer Digel-Barrett present. Trustee Knapp was absent.

The motion to adopt the agenda was made by Mr. George, seconded by Burkholder. Mr. George moved to amend the agenda to add under new business, item E – Extend probationary period for new employee for 30 days. Burkholder seconded and the vote in favor of the amendment and motion was unanimous.

**ADOPTION OF MINUTES**

Mr. George moved to adopt the September 19, 2006 meeting minutes, Burkholder seconded for discussion. President Burkholder stated the minutes did not accurately reflect the comments made at that meeting. President Burkholder specifically asked questions about whether a road from the bank to Cumberland Trail was discussed at the December 7, 2005 TRC meeting and Mr. George had responded that it was not discussed at that meeting.

Mr. George said that at the September 19th meeting, he had said that he did not remember.

President Burkholder moved to table the adoption of the minutes and there was no second to the motion. President Burkholder requested that the fiscal officer put into the record as to who said what. Mr. George said he did not remember but he did state at the TRC meeting that there would be a lawsuit if the bank pursued a road cut to Trail East.

President Burkholder reviewed the format for public comments.

**CORRESPONDENCE**

- Citizens for Community Values – seminar on zoning, licensing and regulations of sexually orientated businesses
- LCATS – meeting about traffic calming devices on Trail East
- Garvin & Hickey – Industrial Commission appeal
- Kokosing Construction Co. – asphalt rework on Palmer Road
- Ohio Bureau of Motor Vehicles – August statistics report
- Industrial Commission of Ohio – notice of hearing
- BWC – notice of payment
- Time Warner – information on Cable Free Community website and newsletter

**PUBLIC HEARINGS**

**B. Section 1401 Definition of Junk Motor Vehicle**

At 7:15 p.m., Mr. George moved to open the public hearing. Burkholder seconded and the vote in favor was unanimous.

Proposed text amendment:

“For the purpose of this section, “junk motor vehicle” means any motor vehicle, which **meets any or all of the following:**

1. Without current license plates and registration **or**
2. Extensively damages, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission **or**
3. Apparently inoperable, that is left uncovered by not being housed in a garage or other suitable structure, in the open on private property for more than seventy-two (72) hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under the authority of Section 4737.05 to 4737.12 of the Ohio Revised Code; or regulated under other sections of this zoning resolution.”

Burkholder read the Licking County Planning Commission (LCPC) and LCPC staff reports. Conditional approval was given and one condition was the addition of “meets any or all of the following:” which was incorporated into the recommendation given to the trustees. Second condition was to receive a legal opinion in regards to the township’s authority to regulate junk motor vehicles within their zoning resolution.

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John Jones asked if "suitable structure" was up to the interpretation of the zoning inspector and said he did not want any interpretation left to the zoning inspector and was against the amendment.

Joe Wagner, 179 Beechwood Dr, said he was against the amendment and did not feel the interpretation of structure should be left up to the present zoning inspector.

John Cowan, 128 Beechwood Dr, said the word structure has many different meanings and was against the amendment.

At 7:23 p.m., President Burkholder moved to recess the public hearing until October 17<sup>th</sup> at 7:15 p.m. George seconded and the vote in favor was unanimous.

**A. Add Section 1035 Accessory Structures**

President Burkholder said the amendment was deficient and he could not support it the way it was written. Mr. George said he agreed with President Burkholder

Resolution 06-10-03-01: Mr. George moved to deny the recommendation from the zoning commission to add Section 1035 – Accessory Structures to the zoning resolution. Burkholder seconded.

Roll Call: Burkholder, yes; George, yes

**PUBLIC COMMENTS**

**A. Proposed roadway onto Trail East from The Pataskala Banking Company site; motion to approve additional funds for Chester, Wilcox and Saxbe.**

Gary Godwin, 63 Trail East, said that at the last meeting, Mr. George said the roadway to Trail East was not mentioned at the LCPC meeting. Mr. Godwin said he listened to the 12/07/05 tape of the LCPC meeting and there was a 30 minute discussion on the bank property and the majority of the discussion was about the roadway. Lying is grounds for resignation or removal from office.

Kathy Johnston, 254 Trail East, said the 3/27/06 LCPC minutes were referenced at their meeting last week. Jerry Brems commented that the staff is proposing that the Pataskala Banking Company work with Columbia Trial Golf Course Ltd. to swap enough land for the driveway and to widen the strip by the appropriate square feet so they can have a trade off to keep the exact square footage of open space. When Mr. Brems asked the Board if they would like for staff to proceed with this option, there were no comments made by the Board. Mr. Brems also stated, that in formal discussion, two of the Etna Township trustees agreed that the LCPC staff should move forward to continue to look at this as an option. When asked by Ms. Johnston, President Burkholder and Mr. George both denied giving LCPC permission to pursue the road cut for the bank.

Ms. Johnston said the trustees need to immediately pass a resolution calling for Jerry Brems resignation because he lied to LCPC. And in the absence of his resignation, the county commissioners and LCPC should terminate his services.

Resolution 06-10-03-02: President Burkholder moved that the Board of Trustees immediately send a letter to the Licking County Commissioners and the Licking County Planning Commission demanding the immediate resignation of Jerry Brems, director of LCPC, and that if he refuses to resign, that he be terminated as soon as possible. George seconded.

Discussion: Mr. George said the recommendation by LCPC is not binding on the township. President Burkholder said that Brem's signature is on a construction plan that shows an access road to Trail East as of 9/5/06 and asked who gave the authorization. President Burkholder will write the letter and Mr. George will also sign it.

Roll Call: Burkholder, yes; George, yes

Carl Anston, 11 Milkweed Place, said he listened to a tape of the meeting and that Mr. George did not specifically say that he would not support the access road and that George has a fiduciary responsibility to represent the residents of Cumberland Trails and if he can not do so then he should resign.

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Dave Pollock, 259 Trail East, said he did not come to the meeting to listen to the trustees arguing, the trustees need to tell him what they are going to do to stop the access road.

Gil Guttentag, 70 Trail East, said his interpretation of the 12/7/05 tape was that when Mr. George said that there would be a lawsuit, that the lawsuit would be brought by another trustee and he (George) passively agreed to the road access.

Kim Pennington, 113 Brandon Park Drive, said she heard on the tape that Mr. Brems said that they only need two of the trustees to agree.

Resolution 06-10-03-03: President Burkholder moved to approve an additional \$20,000 in legal fees for Chester, Wilcox and Saxbe to preserve the green space and reserve space of Cumberland Trails and every PUD within the entire township. George seconded

Discussion: Mr. George said the county was going to consult the prosecutor and questioned if there had been a response. President Burkholder said the county will drag their feet until the bank files legal action. George asked who the township would file suit against and Burkholder said if the bank does not honor the stop work order, then the injunction will be against the bank.

Roll Call: Burkholder, yes; George, yes

David Pollock asked what Paul George was going to do for the residents of Cumberland Trails. George responded anything it would take including a lawsuit against the county.

Chris Cirotto, 24 Dellenbaugh Loop, said Cumberland Trails is the crown jewel of the area and needs to be protected. He has started a petition to boycott the Pataskala Bank. For the record the petition reads: "We the undersigned residents of Pataskala, Ohio do hereby promise to boycott The Pataskala Banking Company, (including all of their locations). This boycott is effective immediately upon signature of this petition. This boycott will stay in effect until The Pataskala Banking Company changes any and all current and future plans that relate to installing an access road running through the Cumberland Trails reserved green space to dump commercial traffic into our residential neighborhood(s) via Trail East." Seventy two signatures have been collected so far.

President Burkholder said this was no accident and was a purposeful attempt to circumvent the process of coming back to the zoning commission and the trustees. On the 12/7/05 tape, Mr. Brems said if the access road to Trail East is not obtained, then the bank will have a right-in and right-out access only. Mr. Brems has pushed this access road from the beginning and the bank has been a willing participant.

Neil Ingle said when the rezoning to PRO was before LCPC, it was stated that there was adequate access to the roadway. But the Friday before, Brems sent an email to Scott Hayes, attorney for the bank, raising concerns over the rezoning. Brems wrote that one option would be to gain access from Trail East over the reserve area.

President Burkholder said when the Etna Township Zoning Commission approved the rezoning to PRO, the access point to Trail East was not included. When the rezoning came before the trustees, he voted against the rezoning because the township did not have the assurance that there would be no roadway to Trail East. This is a conspiracy against the township from the previous zoning inspector to the county commissioners.

Gil Guttenberg said the bank parking lot will be lit 24/7 because of the ATM and it is time for a light ordinance.

John Jones said there were two separate bids, one for the bank and another for the roadway, so they knew from the beginning that there would be an access road.

Chris Ciotto said the trustees need to send out notices to the residents to attend the meetings.

Brandie Brown, 30 Runkle Drive, asked if the roadway would run to Buckeye Mulch and if there was specific zoning concerning the distance from adjoining properties.

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John Cowan said he would not withdraw his money from the Pataskala Bank if he had money there, thinks Mr. George is a respectable man and said the Cumberland Trails residents should realize that SR 310 will get even more traffic and suggested a wall between the businesses and residential properties.

John Echlar, 372 Trail East, wanted clarification that an attorney would be hired.

David Goll, 8995 York Road, said he did not get a copy of the disc from the LCPC meeting but it seems like the discs were passed around to Cumberland Trails residents with the intention of beating up on Mr. George. Etna Township is made up of more than just Cumberland Trails and Mr. George has done an excellent job in defending all of Etna Township residents not just Cumberland Trails.

President Burkholder said Mrs. Brown could provide Mr. Goll with a copy of the CD.

David Wilder, 52 Dellenbaugh Loop, asked if the reserve is classified as open space and said as open space it can not be sold as it was for \$15,000.

Dave Pollock asked if the township had a lighting ordinance and if not, then one should be done.

John Jones said his landfill operation was approved by the county and the EPA and he brought the documentation to the township. The zoning inspector visited his site, took pictures and called the EPA. Mr. Jones asked that the zoning inspector be terminated.

Joe Wagner said he submitted a written complaint about an employee and nothing has been done. Feels the zoning inspector is being protected and should be fired for dereliction of duty.

At 8:43 p.m. a recess was called.

**B. Discussion of SR 310 Tax Increment Financing (TIF) and the joint meeting in October with Pataskala City Council**

Resolution 06-10-03-04: Mr. George moved to support a TIF, Burkholder seconded. Discussion: President Burkholder said he has not received any documentation from the SWL School Board and does not know how Mr. Knapp stands on this issue. Burkholder would like to see Pataskala earmark 40 to 50% of their TIF money for the I-70 and 310 interchange and adopt a responsible growth and development plan for the SR 310 corridor. Big box stores on SR 310 is not in the best interest of either community.

Mr. George moved to amend his motion to proceed forward with the TIF for SR310 and to contact SWL schools for their views on the TIF if Mr. Knapp has not already done so. Burkholder seconded. Roll Call on amendment: Burkholder, yes; George, yes  
Roll Call: Burkholder, yes; George, yes

**C. Public records training for Etna Township**  
President Burkholder announced that there will be a public records training at the township hall on October 5<sup>th</sup> at 7:00 p.m. by the Ohio Attorney General's Office

**REPORTS**

**Fiscal Officer**

For the month of September

|                     | Receipts         | Expenditures     |
|---------------------|------------------|------------------|
| General Fund        | 10,800.01        | 44,556.67        |
| MV License Tax      | 1,468.47         | 771.17           |
| Gasoline Tax        | 8,909.65         | 28,738.74        |
| Road & Bridge       | 559.58           | 11,568.91        |
| Special Assessments | 0.00             | 252.14           |
| Misc Debt Service   | 0.00             | 1,689.33         |
| Public Works        | <u>83,235.88</u> | <u>83,235.88</u> |
| Total               | 104,973.59       | 170,812.84       |

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Funds Total September 30, 2006 - \$1,402,175.06

Roads – written report submitted

Resolution 06-10-03-05: President Burkholder moved to approve a \$10,000 purchase order to Cargill for road salt. George seconded.

Roll Call: Burkholder, yes; George, yes

Resolution 06-10-03-06: President Burkholder moved to approve a \$10,000 purchase order to Redskin Transport for gravel. George seconded.

Roll Call: Burkholder, yes; George, yes

Resolution 06-10-03-07: President Burkholder moved to approve road right-of-way permit #10-03-06-01 for Clayton Excavation doing work for the SWLCWSD at 596 Laurel. George seconded.

Roll Call: Burkholder, yes; George, yes

Nick Young with Kokosing Construction said there was a problem with paving some of driveway aprons on Palmer Road which has now been corrected. Mark Smith did tell Kokosing’s pavers that he had concerns with the way the driveways were pulled. Mr. Young apologized for the underestimation of the berming and stripping materials but the estimation on stripping by the engineer’s office was incorrect. Burkholder recommended a mandatory pre-inspection of the roads by bidders next year.

President Burkholder moved to pay the Kokosing Construction invoice for \$234,080.19. George seconded.

Roll Call: Burkholder, yes; George, yes

Water and Sewer report

David Goll said the district has started a massive water flushing of the system.

Zoning report – written report submitted

President Burkholder said there still has been no correspondence from the prosecutor’s office on the Arrowwood Court zoning violation and the ZonePro software is not being utilized. Burkholder takes the comments and charges seriously concerning the zoning inspector and requested that any and all comments, verbally or written be immediately copied to all three trustees.

Parks report

Mr. George said that Waibel Electric has completed the lighting for the flags and gazebo.

Cemetery report

Mr. George said the fence for the Route 40 cemetery has been ordered and the fence should be installed by the end of the month.

Economic Development report

Mr. Goll reported on the work being done for Municipal Publications

President Burkholder moved to approve the draft letter, seeking advertng from business owners or organizational representatives for the publication. George seconded and the vote in favor was unanimous.

JEDZ report

Mr Neil Ingle said there still is a problem with collecting the income tax

President Burkholder moved that Mr. George and Mr. Ingle communicate to the full JEDZ Board our strong desire to have representative Matt Hill attend a trustee meeting. George seconded and the vote in favor was unanimous

**OLD BUSINESS**

A. SR 310 Corridor update – no meeting

B. Sidewalk Resolution 06-03-07-13 for SR 310

Resolution 06-10-03-08: President Burkholder moved approve the resolution from the Ohio Department of Transportation to agree to maintain, remove snow and ice, repair and replace such sidewalks as installed by them and others on SR 310 as part of the SR 310 and US Route 40 intersection improvement. George seconded

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Roll Call: Burkholder, yes; George, yes

C. Municipal Publications letter for business owner or organizational representative  
Done under Economic Development report

D. Authorizing legislation and chief financial officer forms for Issue I

06-10-03-09: President Burkholder moved to authorize Gary Burkholder, Trustee, to prepare and submit an application to participate in the Ohio Public Works Commission State Capital Improvement and / or Local Transportation Improvement Program(s) and to execute contracts as required. George seconded.

Roll Call: Burkholder, yes; George, yes

06-10-03-10: President Burkholder moved to approve the certification by the fiscal officer that there will be the amount of \$87,419.54 in the Road & Bridge Fund, account 2031-330-360-0000, available on or before the earliest date listed in the Project Schedule section and that this amount will be used to pay the local share for the Palmer Road resurfacing and minor widening project when it is required. George seconded.

Roll Call: Burkholder, yes; George, yes

#### NEW BUSINESS

A. Motion to retain MSI consultants to assist in zoning and planning services

President Burkholder said at the joint meeting with the zoning commission, there was a 5-0 straw vote taken and that MSI was preferred and he would like to start the process. Mr. George said it was his understanding that the zoning commission did not have full support for this firm.

06-10-03-11: President Burkholder moved to retain MSI Consultants to assist in forming a strategic plan to redo the zoning resolution as well as additional planning services not to exceed 20 hours at the rate stated in the brochure. George seconded

Roll Call: Burkholder, yes; George, yes

B. Meeting with LCATS on October 17, 2006 concerning traffic calming options.

President Burkholder said this relates to Trail East and WalMart.

C. Motion to go into executive session per O.R.C. 121.22 G(1) for investigation of charges or complaints against a public employee

President Burkholder moved to go into executive session per O.R.C. 121.22 G(1) for the investigation of charges or complaints against a public employee. There was no second to the motion.

D. Motion to advertise for Board of Zoning Appeals and Zoning Commission terms that expire on December 31, 2006.

President Burkholder moved to advertise in the Pataskala Standard for applications to the vacancies on the Zoning Commission and Board of Zoning Appeals. Resumes must be received by the Fiscal Officer by 5 p.m., Friday, November 3, 2006. George seconded and the vote in favor was unanimous.

E. Extending probationary period of an employee for 30 days

06-10-03-12: Mr. George moved to extend the probationary period for the zoning inspector for 30 days. Burkholder seconded.

Discussion: Mr. George said some investigation needs to be done, would like for Mr. Knapp to be present and suggested a special meeting. President Burkholder said he has serious concerns about the zoning situation in the township. Burkholder was opposed to the overtime and stated that a lot of politics have been played with the zoning office. If the zoning inspector was not concentrating on sign violations, then the road cut for Cumberland Trails would have been detected earlier and his priorities are wrong.

President Burkholder moved to amend the motion to extend the probationary period for another 90 days. George seconded

Roll Callon amendment: Burkholder, yes; George, yes

Roll Call: Burkholder, yes; George, yes

Mr. George moved to pay the following bills, Burkholder seconded and the vote in favor was unanimous.

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|      |                    |          |        |                       |         |
|------|--------------------|----------|--------|-----------------------|---------|
| 3131 | Embarq             | 273.18   | 3147   | Stanley Robinson      | 221.29  |
| 3132 | Gary Burkholder    | 752.95   | 3148   | ODJFS                 | 131.59  |
| 3133 | James Wyrick       | 436.31   | 3149   | Fraley Cooper & Assoc | 450.00  |
| 3134 | Mark Smith         | 954.54   | 3150   | Treasurer of State    | 143.96  |
| 3135 | Phillip Waller     | 1535.10  | 3151   | Staples               | 40.85   |
| 3136 | Paul George        | 689.83   | 3152   | Midland Co-Op         | 1311.74 |
| 3137 | Columbia Gas       | 15.86    | 3153   | Medical Mutual        | 4070.34 |
| 3138 | SWLCWSD            | 106.84   | 3154   | OPERS                 | 4488.06 |
| 3139 | Nextel             | 102.18   | 3155   | Park National         | 1403.06 |
| 3140 | Gordon Flesch      | 41.54    | 3156   | Treasurer of State    | 472.44  |
| 3141 | Treasurer of State | 795.00   | 3157   | OH School Tax         | 97.79   |
| 3142 | Paul George        | 153.25   | 3158   | Park National         | 1689.33 |
| 3143 | Richard Knapp      | 240.00   | E00162 | Barbara Digel-Barrett | 998.86  |
| 3144 | Gary Burkholder    | 226.28   | E00163 | Laura Brown           | 809.63  |
| 3145 | Laura Brown        | 13.62    | E00164 | Richard Knapp         | 791.78  |
| 3146 | Postmaster         | 50.00    | E00165 | Stanley Robinson      | 1149.55 |
|      | Total              | 24656.75 |        |                       |         |

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

*Barbara Digel-Barrett*  
Fiscal Officer

PUBLIC COMMENTS

Tom Dixon, 8467 Hazelton-Etna Road, reported on flooding at the bus garage and surrounding area.

Gil Guttentag said there needs to be some cooperation between businesses and government like a Chamber of Commerce so that everyone could work together.

Joe Wagner spoke about his complaint against the zoning inspector and feels that Mr. Robinson is selectively enforcing the zoning code.

At 10:27 p.m., President Burkholder moved to adjourn the meeting, George seconded and the vote in favor was unanimous.

*Barbara Digel-Barrett*  
Fiscal Officer

*Gary Burkholder*  
President