

THE GERMAN TOWNSHIP BOARD OF TRUSTEES

DAYTON LEGAL BLANK, INC., FORM NO. 10148

June 13, 2011
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Held _____

The regular meeting was called to order at 7:03 P.M., at the Township Hall, 12102 S.R. 725 West, Germantown, Ohio, by Board President Randy Benson with the Pledge of Allegiance. Trustees Randy R. Benson, Benjamin F. DeGroat, Gregory A. Hanahan, and Fiscal Officer Robert W. Rohrbach Jr. were present. Zoning Inspector Laurie Rohrbach and Police Chief W. L. Wilcox were also present.

This meeting was digital tape recorded and the CD is on file. The Germantown Press, Dayton Daily News, and Middletown Journal were notified of the meeting.

VISITORS – Rob Bartlett of 11536 Oxford Rd.

NUISANCE ABATEMENT HEARING –

I. Mr. Benson introduced the Nuisance Abatement Hearing to consider issues at 11536 Oxford Rd.

At 7:05 PM, Mr. Benson introduced a **MOTION**, seconded by Mr. DeGroat, to open the nuisance abatement public hearing for 11536 Oxford Rd. After discussion, all present voted in favor, Motion passed.

Mrs. Rohrbach noted that all hearing notification requirements had been completed and presented the case. The building at 11536 Oxford Rd. had been struck by a vehicle knocking a large hole in the wall creating a hazard. A letter was sent requesting the building be secured and no corrective action has yet to be taken.

Mr. Bartlett stated that he has sold the building to Mr. Jim Taulbee, who has started documenting the structure in order to tear it down and rebuild it on another lot. The Board discussed the issue of securing the building with plywood and construction fencing until the building could be torn down. Mr. Bartlett stated he would board and fence the building in short order.

Mr. Benson introduced a **MOTION**, seconded by Mr. Hanahan, to close the hearing. After discussion, all present voted in favor, MOTION passed.

Mr. Hanahan introduced **RESOLUTION 2011-23**, seconded by Mr. DeGroat, to declare the property a nuisance and order the nuisance abated within 7 days, by securing the damaged portion of the building. After discussion, the adoption vote was as follows: Mr. Benson – Yes, Mr. DeGroat – Yes, Mr. Hanahan – Yes. RESOLUTION 2011-23 passed.

II. Mr. Benson introduced the Nuisance Abatement Hearing to consider

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issues at 10355 Eby Rd.

Mr. Benson introduced a **MOTION**, seconded by Mr. DeGroat, to open the nuisance abatement public hearing for 10355 Eby Rd. After discussion, all present voted in favor, Motion passed.

Mrs. Rohrbach noted that all hearing notification requirements had been completed and presented the case. She noted that the hearing was advertised and that she was unable to contact the owner of record. The property at 10355 Eby Rd. has high grass. She noted that she had also received a request from the Germantown Fire Chief to have the grass cut to prevent potential fire issues.

No one spoke on behalf of the owners.

Mr. Hanahan introduce a **MOTION**, seconded by Mr. Benson, to close the hearing. After discussion, all present voted in favor, MOTION passed.

Mr. DeGroat introduced **RESOLUTION 2011-24**, seconded by Mr. Benson, to declare the property a nuisance and order the nuisance abated within 7 days. After discussion, the adoption vote was as follows: Mr. Benson – Yes, Mr. DeGroat – Yes, Mr. Hanahan – Yes. RESOLUTION 2011-24 passed.

VISITOR COMMENTS – none

MINUTES – The Board reviewed the minutes of the May 9, 2011. Mr. Benson introduced a **MOTION**, seconded by Mr. DeGroat to approve the minutes as submitted, after discussion, all present voted in favor, MOTION passed.

FISCAL OFFICER REPORT –

I. Correspondence:

IN

- A. OTA – June Grassroots Clippings.
- B. Mont. Co. Auditor – Senior Levy Certification
- C. Ohio BWC – Audit notice
- D. Time Warner Cable – 1st Qtr Franchise Fees
- E. Mont. Co. Engineer – Access Management Regulations
- F. Mont. Co. Bd. Of Elections – Parks levy certification
- G. US Census – Information on how to obtain results
- H. Dayton & Montgomery Co. Health Dept. – Public notice for posting

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OUT

- A. Germantown Press & DDN & Midd Journal - Mtg. reminders 06/13
- B. Village of Germantown – public records request for all information reviewed by the Trustees for future meetings – 5/9
- C. IRS, State, School, OPERS, - Monthly reports and payments

II. Distribute Financial Reports –

Mr. DeGroat introduced a **MOTION**, seconded by Mr. Hanahan to approve the financial reports and authorize the payment of the bills, checks 43555 thru 43648. After discussion, all present voted in favor, MOTION passed.

III. Mr. Rohrbach noted the receipt of the Senior levy certification from Montgomery County Auditor.

Mr. DeGroat introduced **RESOLUTION 2011-26**, seconded by Mr. Hanahan, declaring it necessary to place a Senior Citizens Levy, a 1 mil levy, for a 5 year period of time, of renewal tax; beginning tax year 2012, with first half collection in 2013; to provide funding “For providing or maintaining senior citizens services or facilities” as authorized in the ORC Section 5705.19 (Y), to be voted on the November 8, 2011 General election ballot.

After discussion, the adoption vote was as follows: Mr. Benson – Yes, Mr. DeGroat – Yes, Mr. Hanahan – Yes; RESOLUTION 2011-26 passed. Mr. Rohrbach was directed to file the appropriate resolution with the Montgomery County Board of Elections.

IV. Mr. Rohrbach opened a discussion regarding the soon to expire pool levy.

Mr. Hanahan introduced **RESOLUTION 2011-27**, seconded by Mr. DeGroat, requesting that the Montgomery County Auditor Office certify to German Township the total current tax valuation of German Township, incorporated and unincorporated areas, and the dollar amount of revenue that would be generated by the (Pool) Recreational Levy, a 1/2 mil levy, for a 5 year period of time, of renewal tax; beginning tax year 2012, with first half collection in 2013; to provide funding “for Parks and Recreational Purposes” as authorized in the ORC Section 5705.19 (H), to be voted on the November 8, 2011 General election ballot.

After discussion, the adoption vote was as follows: Mr. Benson – Yes, Mr. DeGroat – Yes, Mr. Hanahan – Yes; RESOLUTION 2011-27 passed.

PRESIDENT REPORT –

I. Mr. Benson reported that he attended the Fire Oversight meeting.

He reported that the Germantown Rescue Squad, Inc. has purchased a Ford F550 Rescue Truck for \$294,000 and is donating it to the Germantown Fire Dept. It will replace two current outdate trucks.

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- Mr. Rohrbach reported that he had met with City Manager Sizemore regarding expanding the current Fire Oversight Contract to include the Fire/EMS 2010 Levy. She will send a draft for approval by the Trustee's.
- II.** Mr. Benson updated the Board on his investigation of ways to reduce the current cost of LP gas. He discussed the purchasing of LP gas tanks and pre-purchasing LP gas as a potential. He is obtaining price quotes for future discussion.
- III.** Mr. Benson opened a discussion regarding the notice that German Township is part of the US Dept. of Housing & Urban Development Urban County designation of Montgomery County. It was noted that the Township would be included unless action was taken to opt out. The Board took no action.
- IV.** Mr. Benson asked about rescheduling the joint meeting with Germantown – it was preliminarily scheduled for August 15th at the City Council Chambers, pending their approval.
- V.** Mr. Benson opened a discussion regarding the Township Hall HVAC system. Apparently the routine preventive maintenance is not being performed as needed by Hensley Heating & Air. Chief Wilcox was asked to obtain quotes from Perkins and Viking to take over the responsibility.

POLICE REPORT –

- I.** Chief Wilcox reported on the success of using Volunteers in Policing. He is working to formalize the program.
- II.** Chief Wilcox reported on the firearms training. He noted this was not qualification.
- III.** Chief Wilcox updated the Board on potential electric/energy audits in an effort to reduce utilities cost for the Township. He recommended that the Board enter into a contract with Energy Optimizers USA to conduct a thorough energy audit and to assist with obtaining rebates from Dayton power & Light.

Mr. Hanahan introduced **RESOLUTION 2011-28**, seconded by Mr. DeGroat, to contract with Energy Optimizers USA at a cost of \$4,800; and to authorize Chief Wilcox to sign the contract on behalf of the Board. After discussion, the adoption vote was as follows: Mr. Benson – yes, Mr.

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DeGroat – yes, Mr. Hanahan – Yes; RESOLUTION 2011-28 passed.

- IV. Chief Wilcox reported that the head count for the Police Reunion held on May 21st was approx. 60 people.
- V. Chief Wilcox reported that 1,300 vehicles were checked during the OVI check point held on the Friday before Memorial Day

ROAD/SERVICE DEPARTMENT REPORT –

- I. Mr. Holbrook in his written report, noted that the ditch/driveway culvert issue at 7900 Stivers Rd. has been resolved with no Township intervention.
- II. Mr. Holbrook in his written report, noted that one additional culvert has been installed on Friend Rd.
- III. Mr. Holbrook noted that deep patch pot hole repair continues.
- IV. Mr. Holbrook updated the Board on contacting the Army Corps of Engineers regarding Mudlick Road washing out at the curve at Twin Creek. They will allow Mr. Holbrook to work on the issue under “Nation Wide Permit #13”.
- V. Mr. Holbrook provided information in his written report regarding possible replacement of a road mowing tractor. The Board will review the issue.

ZONING & TRASH COLLECTION REPORT -

- I. Mrs. Rohrbach updated the Board regarding the previous nuisance abatement on Harris Rd., the nuisance was abated and the property is for sale. She noted that the grass is beginning to get high.
- II. Mrs. Rohrbach noted that potential nuisance abatements my come forward for high grass at 11967 SR. 725; 10330 Eby Rd.; and 9858 Arch St.
- III. Mrs. Rohrbach opened a discussion regarding a junk vehicle resolution similar to the nuisance abatement process. The Board had reviewed the draft provided by the Prosecutors Office.

RESOLUTION 2011-25

A RESOLUTION ADOPTING REMOVAL PROCEDURES FOR JUNK MOTOR VEHICLES AS PROVIDED IN SECTION 505.871 OF THE OHIO REVISED CODE; was introduced by Mr. Hanahan, seconded by Mr. DeGroat during the regular meeting of the German Township Board of Trustees, held on May 9, 2010 at the Township Hall.

WHEREAS, the State of Ohio has enacted legislation to permit townships to provide for the removal of junk motor vehicles located on both public and private property within the unincorporated territory of the township, and

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WHEREAS, the German Township Zoning Resolution, first established in 1957, prohibits the outdoor storage of junk and junk motor vehicles within the unincorporated territory of the township, with limited exceptions; and

WHEREAS, the German Township Board of Trustees believe that it is in the best interest of German Township to adopt procedures in accordance with O.R.C. Section 505.871 to remove junk motor vehicles located within the unincorporated territory of the German Township;

NOW, THEREFORE, BE IT RESOLVED by the German Township Board of Trustees to enact the following junk motor vehicle removal policy and procedure as follows, effective immediately.

JUNK MOTOR VEHICLE REMOVAL RESOLUTION

1. Policy Statement – It is the policy of German Township to encourage property owners to voluntarily maintain their property in a nuisance free condition. The Board has thus determined that the presence of junk motor vehicles within the Township causes damage, annoyance, inconvenience, blight, and detrimentally affects the health, safety and welfare of adjacent residents and properties.

2. For purposes set forth above, the German Township Board of Trustees may provide for the removal of any motor vehicle in the unincorporated territory of the township that the Board determines is a junk motor vehicle, as defined in section 505.173 [505.17.3] of the Ohio Revised Code.

A. Definitions:

Junk Motor Vehicle: Pursuant to R.C. § 505.173 [505.17.3], a junk motor vehicle is a motor vehicle, whether licensed or unlicensed, that meets all of the following criteria:

- (1) Three model years old, or older;
- (2) Apparently inoperable; and
- (3) Extensively Damaged, including, but not limited to, any of the following: missing wheels, tires, engine or transmission.

B. Procedures:

1. Upon the Board’s determination that a junk motor vehicle exists on public property within the unincorporated territory of the Township, the Board of Trustees will take immediate steps to remove the vehicle(s).

2. Upon information that a junk motor vehicle exists on private property within the unincorporated territory of the township, the Board of Trustees will make cause to inspect the property. If the Board of Trustees finds that the motor vehicle(s) in question fits the description of “junk motor vehicle”, notice to the owner(s) of such property and all lien holders of record shall be made to attend a public hearing, where the Board of Trustees will determine if the motor vehicle(s) located on said property is a "junk motor vehicle". Notification of said public hearing will be made in the following manner:

- a. By certified mail, return receipt requested, and by regular mail with certification of mailing, to any holders of liens of record on the land and to the owner of the land, if the owner resides in the unincorporated territory of the township or if the owner resides

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outside the unincorporated territory of the township and the owner's address is known or ascertainable through an exercise of reasonable diligence.

- b. If a notice sent by certified mail is refused or unclaimed, or if the owner(s) address is unknown and cannot reasonably be obtained, the board shall publish the notice once in a newspaper of general circulation in the township before said public hearing. If the land contains any structures, the Board shall also post the notice on the principal structure on the land.

A notice sent by certified mail shall be deemed to be served on the date it was received as indicated by the date on the signed return receipt. A notice given by publication shall be deemed to be served on the date of the newspaper publication.

- 3. The notice of public hearing shall contain:

- a. The date, time and location of the public hearing;
- b. The location of the property containing the alleged junk motor vehicles;
- c. A description of the motor vehicle(s);
- d. A statement that the purpose of the public hearing is for the board to determine whether the subject motor vehicle(s) is a "junk motor vehicle" as same is defined in this Resolution as well as in Ohio Revised Code § 505.173;
- e. That the property owner(s) may appear at said hearing and present evidence and/or witnesses on his/her behalf;
- f. That the property owner(s) may be represented by an attorney at said hearing; and
- g. That if the Board of Trustees determines that the property owner(s)' motor vehicle(s) are junk motor vehicle(s), the Board will cause said junk motor vehicles to be removed as provided below.

- C. If the Board of Trustees determines at the public hearing, based upon the evidence presented therein, that the subject vehicle meets the criteria for determining that same is a "junk motor vehicle(s)", the Board of Trustees shall notify the property owner(s) and any holders of liens of record upon the land, that:

- 1. The Board of Trustees has determined, after public hearing, that a junk motor vehicle(s) exists on the property;
- 2. The property owner(s) is ordered to remove all junk motor vehicles or to store (at all times) any and all junk motor vehicles within a completely enclosed structure; and
- 3. If such junk motor vehicle(s) is not removed or stored within a completely enclosed structure within fourteen (14) days of notification, the Board of Trustees will provide for the removal of the vehicle(s), and any expenses incurred by the Board of Trustees in performing that task will be entered upon the tax duplicate and will be a lien upon the land from the date of entry.

- D. Said notice, containing the removal order as described in Section D above, shall be sent to the property owner(s) and all lien holders by certified mail and regular mail with certificate of mailing. If the address of the property

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owner(s) is unknown and cannot be reasonably obtained, the Board of Trustees will publish the notice once in a newspaper of general circulation in the Township. The Board of Trustees shall also cause a posting of said order to be placed at the property.

- E. If, within fourteen (14) days after notice is given, the property owner(s) fails to remove the vehicle(s) or to store it in a completely enclosed structure, the Board of Trustees shall make available funds and take all necessary actions to abate the nuisance by removing the junk motor vehicle(s). All expenses incurred in abating the nuisance shall be approved by the Board of Trustees and paid from the general fund.
- F. Upon having the junk motor vehicles removed, the Board of Trustees shall prepare, and the Fiscal Officer shall submit, a written report to the Montgomery County Auditor. The report shall include a statement of the Board of Trustees' actions under this Resolution and Ohio Revised Code Section 505.871, as well as a statement of all expenses incurred in providing for the removal of the junk motor vehicle(s), including the Board's charges for its services, notification, the amount paid for labor, materials and equipment along with a proper description of the property.
- G. Pursuant to Ohio Revised Code Section 505.871, the Board reserves the right to borrow moneys from a financial institution to pay the expenses incurred in providing for the removal of junk motor vehicles, including the Board's charges for its services, notification, the amount paid for labor, materials and equipment, in the event that said removal of junk motor vehicle(s) exceeds five hundred dollars.

After discussion, the adoption vote was as follows: Mr. Benson – Yes, Mr. DeGroat – Yes, Mr. Hanahan – Yes, RESOLUTION 2011-25 passed.

OLD BUSINESS:

- I. Mr. Hanahan reported on House Bill 156 the budget bill being beneficial to Townships. Impacts Local Government to Township; ability to spread levy election costs to the fund being levied; and the ability to spread the Fiscal Officer salary across all funds.
- II. Mr. Hanahan updated the Board on the Valley View Water & Sewer District. Potential project areas include Eby Rd./Sunsbury/Middletown Germantown Rd. and Farmersville Pike/Stivers Rd./ Manning Rd areas; as well as potential areas in Jackson Twp.

NEW BUSINESS: none

PURCHASE ORDERS AND BANK RECONCILIATIONS were signed.

Meeting Adjourned at 9:35 P. M.

Signed: Randy R. Benson Attest: 