

The Board of Trustees of Sugarcreek Township, Greene County, Ohio, met in Regular Session, May 3, 2010, at 7:30 pm, at 2090 Ferry Road, Bellbrook, Ohio 45305.

1. Chairperson Nadine Daugherty called the meeting to order at 7:28 pm.
2. All rose and recited the Pledge of Allegiance to the Flag.
3. Mr. Hodson called the roll with Board Members Dick King, Nadine Daugherty and Mike Pittman being present. Others present, in addition to Mr. Tiffany, who signed in were Jim Tharpe, Jim Martin, Donna Hellman, Bruce Hain, Jeff Gaylor, Becky Warshau, Stephen Jr. and Melissa Casey, June Sprauer, Wendy Moeller, Scott Bryant, Howard Ackerman, Joan Gallagher, Jeff Sebor and Marvin Moeller.

Mrs. Daugherty moved forward on the agenda to Fire Department New Business.

New Business

Fire Department

Chief Pavlak said the Fire Department was to receive a Homeland Security Assistance for Firefighters Grant and that Ms. June Sprauer has graciously donated the required matching funds for the grant to the Fire Department. Stephen Casey presented a check for \$3,500.00 to Chief Pavlak in Memory of his Grandfather, who died in 1990. The Board personally thanked them all for their generosity.

- C. Appointment of Volunteer Firefighter Jeffery A. Gaylor

Resolution # 2010.05.03.02

WHEREAS, the continuing need exists to maintain proper staffing within the Sugarcreek Township Fire Department; and,

WHEREAS, Jeffrey A. Gaylor has acquired and demonstrated all the necessary qualifications to serve in the capacity of Volunteer Firefighter for the Sugarcreek Township Fire Department; and,

WHEREAS, Fire Chief, Randall J. Pavlak in his April 23, 2010, correspondence to the Township Administrator, has recommended the appointment of this candidate; and,

WHEREAS, funds are available for this purpose within the Fire Department's 2010 Operating Budget,

NOW THEREFORE, BE IT RESOLVED, that Jeffrey A. Gaylor shall be appointed to the position of Volunteer Firefighter within the Sugarcreek Township Fire Department effective May 3, 2010.

Mrs. Daugherty moved to accept the Resolution as presented. Mr. King seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Chief Pavlak said the new Medic was delivered this week and was outside if anyone wished to look at it. Mrs. Daugherty adjourned the meeting at 7:35 so those interested could look at the Medic. The meeting resumed at 7:45 pm.

4. **Reports**

- A. **Administration**

A report prepared by Mr. Tiffany is appended. Mr. Tiffany said a suit has been filed against the Dille family by the Bank of America for a default on a loan from Bear Creek Capital secured by the annexed property.

Mr. Tiffany said it appears a foreclosure will go against all the annexed property. He wished the Dille family the best.

B. Fire

A report prepared by Chief Pavlak is appended. Chief Pavlak talked about the fire on Ferry Road and said the Red Cross is taking care of the family involved.

C. Police

A report prepared by Chief Flick, for the police department, is appended. Chief Flick said Senate Bill 77 will now, among other things, require the Police Department to file a DNA sample for all persons prosecuted for a felony.

D. Roads and Services

A report prepared by Tracey Messer, Director of Roads and Services, is appended. Mr. Pittman asked Mr. Messer about the pothole on Carpenter Road. Mr. Messer said it has been repaired.

E. Zoning

A report prepared by Cara KillKelley, Township Planner/Zoning Official, is appended. Cara said there were three properties on the agenda tonight to be declared a nuisance for vegetation and noxious weeds.

F. Trustees

Mr. King said there will be a meeting May 26th at Bob Taft's home regarding the Little Miami River cleanup. Mr. King said he appreciated the opportunity to chair the Board and thanked the staff and Citizens for their support.

Mr. Pittman complimented Mr. King on his job as Chairperson for the Board.

Mrs. Daugherty said she wanted to remind everyone to vote tomorrow.

5. Public Hearing - Comprehensive Update to the Zoning Resolution

Mrs. Daugherty moved to open the Public Hearing. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman - Yes
Mrs. Daugherty - Yes

Staff Report on the Text Amendments -

Cara KillKelley read a summation of changes to the Resolution. This report is appended.

Those wishing to Speak in Favor -

No one spoke in favor of the proposed changes.

Those wishing to Speak Against -

Mr. Bill Schieman said he was a member of the Ad Hoc Committee and a member of the Board of Zoning Commission. He said he was surprised to see the Little Miami Overlay District removed from the current Zoning Resolution Revision. Mr. Schieman asked about the 120 foot set back mentioned by Cara since he did not see it in the handout. Cara said it was on a footnote and gave Mr. Schieman the proper location. Asked why it was removed, Cara KillKelley responded that it was the Greene County Prosecutor's opinion that it pertained to General Welfare and was out of the legal authority of the Township to regulate. Mr. Schieman then provided a synopsis of legal history regarding this issue in Medina County where the District judge ruled in favor of a Townships legal right to include such regulations. Cara KillKelley said we could not go by that decision because that court decision does not apply to our district. Wendy Moeller, of McBride, Dale Clarion, said she has worked on Zoning Resolutions in

several different counties and has heard both sides of this issue's legal opinions. She thought the way ours was written qualified it as General Welfare Zoning. Mr. Schieman said he wished he had been notified earlier regarding these changes. The Board thanked Mr. Schieman for his comments and acknowledged he had made a very valid point.

Mrs. Joan Gallagher said she had seen a similar case where the matter was settled by the Judge looking at a map. Cara said that is part of the problem. She said Mr. Stephen Anderson, Exec. Director of the Greene County Regional Planning Board Commission told her he could find no evidence where the LMR overlay district went through the process of being added to the Zoning Resolution nor has she found any maps relating to it.

Neutral Parties Wishing to Speak -

Mr. Jim Martin said issues regarding General Welfare must be very specific. Mr. Martin urged the Board to follow the legal advice of their attorney.

Mr. Scott Bryant said he had no opinion, on way or the other, on the Little Miami River Overlay but from looking at the size of the Zoning Resolution Document (176 pages) and its scope, he applauded all those involved in working on it.

Mrs. Daugherty moved to close the Public Hearing. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman – Yes
Mrs. Daugherty - Yes

Deliberation and Decision-

Mr. Pittman said the Board was concerned about legal issues. Mr. Pittman was in favor of moving forward with the Resolution and looking into possible changes in the LMR overlay after further legal consultation. Mr. Pittman said Care KillKelley has been receiving calls regarding zoning issues and we need to push forward to address the issues with the Citizens.

Mrs. Daugherty said she would like to put the LMR Overlay District back in the Zoning Resolution.

Mr. King said he would like to delay voting for two weeks so we could gather more information about the legal aspects of the LMR Overlay District.

After deliberation, the Board decided to further investigate the legal implications and latitudes of the LMR Overlay District with the Greene County Prosecutor's Office and other authoritative parties with a limited delay of two weeks due to the pressing nature of the needs to have the issue resolved.

Mr. King moved to table the Resolution until the May 17, 2010, meeting. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman – Yes
Mrs. Daugherty - Yes

6. New Business

Fiscal Office

A. Payment of Bills

Mr. Pittman moved to accept the Payment of Bills. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes

Mr. Pittman – Yes
Mrs. Daugherty - Yes

B. Transfer of Appropriations – Police and Fire

Debit		Credit		
Fund Name	Account Number	Fund Name	Account Number	Amount
2081-Police	2081-910-901-0000	3102 – Bond Retirement	3102-830-830-0000	\$15,146.25
2112-Fire	2112-910-910-0000	3102 – Bond Retirement	3102-830-830-0000	<u>\$20,916.25</u>
Total Transfer:				\$36,062.50

Reason: to move money to the appropriate bond fund and line item (interest) for the semi-annual payment on the Public Safety Building Bond Issuance.

Fire Department

D. Resignation of Part-time Firefighter, Richard F. Redelberger

Resolution # 2010.05.03.03

WHEREAS, Firefighter Richard F. Redelberger has submitted his letter of resignation from the Sugarcreek Township Fire Department; and,

WHEREAS, Mr. Redelberger has been a member of the Sugarcreek Township Fire Department since June 29, 2009, as part of the FY2008 Safer Grant; and,

WHEREAS, Chief Randall J. Pavlak indicated in his April 21, 2010, correspondence that Firefighter Redelberger has no financial obligations to the Township and recommends we accept with regret his resignation,

NOW THEREFORE, BE IT RESOLVED, that this Board of Sugarcreek Township Trustees officially accepts the resignation of Richard F. Redelberger with an effective date of May 1, 2010.

Mrs. Daugherty moved to accept the Resolution as presented. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman – Yes
Mrs. Daugherty - Yes

E. Declaration of Excess Property

Resolution # 2010.05.03.04

WHEREAS, the Sugarcreek Township Fire Department has identified equipment which is no longer needed for operations, and;

WHEREAS, the Savin copier (equipment ID L0583) used as a photocopier, scanner and fax machine has an individual value of \$2,000.00 or less,

NOW THEREFORE BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby declares this property to be excess and directs the appropriate disposition of this property.

Mr. Pittman moved to accept the Resolution as presented. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman – Yes
Mrs. Daugherty - Yes

Administration

F. Declaring a Nuisance at 4301 Willow Creek Circle

Resolution # 2010.05.03.05

WHEREAS, the Ohio Revised Code 505.87 provides for the abatement, control, or removal of vegetation, garbage, refuse, and other debris from land in the township; and,

WHEREAS, the Township Planner/Zoning Official has inspected the property at 4301 Willow Creek Circle and has observed vegetation and noxious weeds exceeding 12” in height; and,

WHEREAS, at least seven days before providing for the abatement, control, or removal of any vegetation, the Board of Township Trustees shall notify the owner of the land and any holders of liens of record upon the land that the owner is ordered to abate, control, or remove the vegetation, garbage, refuse, or other debris, the owner’s maintenance of which has been determined by the Board to be a nuisance; and,

WHEREAS, if such vegetation, garbage, refuse, or debris is not abated, controlled, or removed, or if provision for its abatement, control or removal is not made within seven (7) days, the Board shall provide for the abatement, control, or removal, and any expenses incurred by the township in performing that task shall be entered upon the tax duplicate and become a lien upon the land from the date of entry; and

NOW THEREFORE, BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby determines that the maintenance of the vegetation at 4301 Willow Creek Circle does constitute a nuisance and orders the Township Planner/Zoning Official to proceed with the abatement, control, or removal of such vegetation in accordance with the provisions of ORC 505.87.

G. Declaring a Nuisance at 1320 Carpenter Road

Resolution # 2010.05.03.06

WHEREAS, the Ohio Revised Code 505.87 provides for the abatement, control, or removal of vegetation, garbage, refuse, and other debris from land in the township; and,

WHEREAS, the Township Planner/Zoning Official has inspected the property at 1320 Carpenter Road and has observed vegetation and noxious weeds exceeding 12” in height; and,

WHEREAS, at least seven days before providing for the abatement, control, or removal of any vegetation, the Board of Township Trustees shall notify the owner of the land and any holders of liens of record upon the land that the owner is ordered to abate, control, or remove the vegetation, garbage, refuse, or other debris, the owner’s maintenance of which has been determined by the Board to be a nuisance; and,

WHEREAS, if such vegetation, garbage, refuse, or debris is not abated, controlled, or removed, or if provision for its abatement, control or removal is not made within seven (7) days, the Board shall provide for the abatement, control, or removal, and any expenses incurred by the township in performing that task shall be entered upon the tax duplicate and become a lien upon the land from the date of entry; and

NOW THEREFORE, BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby determines that the maintenance of the vegetation at 1320 Carpenter Road does constitute a nuisance and orders the Township Planner/Zoning Official to proceed with the abatement, control, or removal of such vegetation in accordance with the provisions of ORC 505.87.

H. Declaring a Nuisance at 1370 Carpenter Road

Resolution # 2010.05.03.07

WHEREAS, the Ohio Revised Code 505.87 provides for the abatement, control, or removal of vegetation, garbage, refuse, and other debris from land in the township; and,

WHEREAS, the Township Planner/Zoning Official has inspected the property at 1370 Carpenter Road and has observed vegetation and noxious weeds exceeding 12" in height; and,

WHEREAS, at least seven days before providing for the abatement, control, or removal of any vegetation, the Board of Township Trustees shall notify the owner of the land and any holders of liens of record upon the land that the owner is ordered to abate, control, or remove the vegetation, garbage, refuse, or other debris, the owner's maintenance of which has been determined by the Board to be a nuisance; and,

WHEREAS, if such vegetation, garbage, refuse, or debris is not abated, controlled, or removed, or if provision for its abatement, control or removal is not made within seven (7) days, the Board shall provide for the abatement, control, or removal, and any expenses incurred by the township in performing that task shall be entered upon the tax duplicate and become a lien upon the land from the date of entry; and

NOW THEREFORE, BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby determines that the maintenance of the vegetation at 1370 Carpenter Road does constitute a nuisance and orders the Township Planner/Zoning Official to proceed with the abatement, control, or removal of such vegetation in accordance with the provisions of ORC 505.87.

Mr. King moved to accept Resolutions 2010.05.03.05, 06, and 07 at addresses 4301 Willow Creek Circle, 1320 Carpenter and 1370 Carpenter Road as being Declared a Nuisance. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman - Yes
Mrs. Daugherty - Yes

I. Reclassification of Part-time Dispatcher to Full -time Dispatcher, Tiffany E. Harnly

Resolution # 2010.05.03.08

WHEREAS, the continuing need exists to maintain proper staffing within the Sugarcreek Township Communications Department; and,

WHEREAS, a vacancy exists within the classification of full-time Dispatcher; and,

WHEREAS, Tiffany E. Harnly has held the position of part-time Dispatcher for Sugarcreek Township since November 30, 2009; and,

WHEREAS, Dispatcher Harnly meets all the requirements and agrees to accept all responsibilities for the position; and,

WHEREAS, Police Chief Gilbert A. Flick recommends this reclassification and has indicated that adequate funds are available in the 2010 budget for this position,

NOW THEREFORE, BE IT RESOLVED, that this Board of Trustees hereby reclassifies Tiffany E. Harnly from part-time Dispatcher to full-time Dispatcher for the Communications Department effective May 3, 2010, at a pay rate of \$14.93 per hour, payable on a bi-weekly basis, and subject to a one (1) year probationary period ending May 3, 2011.

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Mr. Pittman move to accept the Resolution as presented. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman – Yes
Mrs. Daugherty - Yes

Trustee/Staff

Mr. Tiffany thanked Mr. Jim Tharpe for a copy of the Xenia Daily Gazette that contained a Letter to the Editor from Judith Segar regarding the Dille annexation. Ms. Segar stated that it appears the only course of action left for the Dille family is to sue the City of Centerville for their losses.

Public Comments

Mr. Jim Martin said he has received many political calls in the last few days and wanted Citizens to be aware of comments made to him. He was told by the calling party that his comments were being recorded and any comments that could possibly be construed as a potential threat would be recorded.

Mr. Bruce Hain spoke regarding a civil dispute over boundaries with a neighbor. Mr. Hain said he received a citation from the Police and he thought his neighbor should receive the same. Mr. Hain told the Board he would appreciate any assistance they could provide.

Mrs. Daugherty move to adjourn to Executive Session regarding personnel and legal issues. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman – Yes
Mrs. Daugherty - Yes

The meeting adjourned to Executive Session at 9:22 pm.

The meeting reconvened at 11:30 p.m. with the following action taken:

- J. Reclassification of Fire Department Personnel Under the Terms of FY2008 Safer Grant – Dylan P. Dullea and Chad M. Stall.

Resolution # 2010.05.03.09

WHEREAS, on May 15, 2009, the Sugarcreek Township Board of Trustees approved Resolution 2009.06.15.07, accepting the FY2008 Safer Grant; and,

WHEREAS, Chief Randall J. Pavlak is requesting under the terms of the FY2008 Safer Grant the appointment of Dylan P. Dullea and Chad M. Stall as part-time Firefighter's in support of the goals and objectives of the Sugarcreek Township Fire Department; and,

WHEREAS, the funds for these employee appointments are allocated out of the FY2008 Safer Grant,

NOW THEREFORE, BE IT RESOLVED, that Dylan P. Dullea and Chad M. Stall shall be appointed to the position of part-time Firefighter's at the pay rate of \$8.85 per hour,

FURTHER BE IT RESOLVED, these appointments shall have an effective date of May 3, 2010, with a one (1) year probationary period ending on May 3, 2011.

BE IT FURTHER RESOLVED, that part-time township employees are hired with the expectation that the

employee(s) will work not more than one thousand five hundred hours total in any year, calculated annually from the date of part-time appointment.

Mrs. Daugherty moved to accept the Resolution as presented. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman - Yes
Mrs. Daugherty - Yes

Mr. King wished the above mentioned employees to be notified that consideration of continuing the Safer Grant was still under discussion.

Mrs. Daugherty moved to adjourn at 11:33 pm. Mr. King seconded. Roll was called with the vote being as follows:

Mr. King - Yes
Mr. Pittman - Yes
Mrs. Daugherty - Yes

Theodore L. Hodson, Fiscal Officer