

Scioto Township Board of Trustees
January 9, 2008

Vice Chairman, Sandra Stults called the January 9, 2008 meeting of the Scioto Township Board of Trustees to order at 7:00 p.m.

All in attendance joined in the Pledge of Allegiance.

Roll call was answered by: Sandra Stults, Theodore Luke, and Rodger C. Finks.

Others in attendance: Bill Cox, Calvin Finks, Maize Finks, Barb Luke, Brenda Jervis, Matt Stayner, Jason Hutchisson, Mike Knapp, Ed Roberts, Kim Cellar and Bruce Stayner.

Sandra Stults open the organizational meeting. Theodore Luke nominated Sandra Stults for Chairman. Sandra Stults accepted the nomination. Rodger Finks nominated Theodore Luke as chairman. Sandra Stults seconded Theodore Luke's motion. Vote: Sandra Stults, yes, Theodore Luke, yes and Rodger C. Finks, no.

Sandra Stults nominated Theodore Luke as Vice Chairman. Rodger C. Finks seconded the motion. Vote: Unanimous.

Theodore Luke made the motion that the Board of Scioto Township will meet the second Wednesday evening of each month at 7:00 p.m. in the Community Center, 3737 Ostrander Road, Ostrander, Ohio. Rodger C. Finks seconded the motion. Vote: unanimous.

Sandra Stults closed the Organizational meeting and open the Regular meeting beginning with the Public Hearing. I will turn the floor over to the Zoning Commission Chairman Ed Roberts.

Thank you. I am here tonight to present the recommendations of the Zoning Commission that started last year. There are packets on the back table if you want one. The Public Notice appeared in the Gazette on December 27, 2007. Starting in September the tenth to be specific, the Zoning Commission certified the Board of Trustees a recommendation to approve the amendments that will be discussed tonight. Due to a series of situations with the Gazette the Public Notices were never printed. We went through a process of recertifying and the notice did get in the paper this time. So as of the 12th of December the Zoning Commission had certified the Board of Trustees again the recommendations to adopt the amendments that are in your package and also in your package is a document from Regional Planning for where they did the review of all the amendments that are enclosed or attached and the other thing you do not have are the Legal reviews that we received for the County Prosecutor concerning all the amendments attached. Legal review signed off on the package you are looking at tonight. One reason it took us frankly a year to put this package together was the Planned Residential Conservation District. There were several comments from the Legal review and the Regional Planning

Commission. We dealt with those over a period of time and you are looking at the finished product.

Now, with all that said I am here to answer your questions. I do not intend to read through each and every one of these amendments, however, the first series of the eight (8) amendments are administrative in nature. What they deal with are issues such as 10 copies based on number of Trustees, Zoning Commission members, Zoning Inspector, Legal review, copies at the Library, and copies at this office. Everyone should have a copy to cover our needs of seventeen (17) copies. Our thought process was we do not want the Township to pick up the cost if a developer wants to make a recommendation to change Zoning for him to receive a copy.

The next amendment is in FR-1 to change some old language that dealt with the Delaware County Airport Zoning. There is no such animal. This dealt with private landing fields in FR-1. Turns out the verbiage should have been FAA Regulations since there is no such thing as a Delaware County Airport Zoning Resolution does not exist, that language comes to us from the old Delaware Zoning.

The next amendment is the same issue different article – article 19. The next amendment deals with Mrs. Beckley being legal by changing the Township Clerk to Township Fiscal Officer in the text of our resolution. At this time I am not sure how you want to vote on these amendments.

Mr. Luke stated to vote on a package deal.

Mr. Roberts stated the floor was now open for questions or comments.

Theodore Luke made the motion to accept the eight (8) Proposed Amendments to the Resolution. Rodger C. Finks seconded the motion. Vote: unanimous.

We will now move on to the Planned Residential Conservation District (PRCD).

I do not intend to read through it in its entirety. Going with the history-starting back 2006 we had a request from Mrs. Stults, Mr. Moxley and later had a request from the Sherwood people who were wanting a development at 36 and 257 for the Zoning Commission to take a look at what it would take to bring in a Conservation Subdivision into our resolution. This is how the process got started. What we used for models instead of inventing the wheel was the Concord Township Zoning Resolution or the documents that they were looking at and Regional Planning's input and also Trenton Township had a model they were using for Conservation Subdivision.

What we currently have under FR-1, if you are looking to build a structure on a lot, the requirements are virtually 1.95 acres, changed in the resolution a number of years ago and went through a referendum process which the residents confirmed. So that is FR-1. Under Planned Residential it says infact; you are dealing with .5 units (.5) – a housing unit, for each gross 2 acres. The unit itself must set on one (1) acre plot minimum. So if

you had 100 acres that you wanted to develop you would be looking at 50 units. With each lot in effect you would be looking at 50% open space requirement tied to it. The Conservation Subdivision gives to the developer or land owner an opportunity to increase density. When you read through the document it says if I had the 100 acres that I wanted to develop, I could build 75 units on that 100 acres. But out of the 100 acres I must have 50% open spaces. So what it does is takes the 100 acres with 50 units up to 75 units. That is one of the benefits. The other benefit is to developers or land owner the infrastructure crossed roads, utilities, sewer, and water to predict the foot prints you are going to put the 75 units on. (I am using the 100 acres as an example.) What I am really doing is putting the 75 units in a 50 acre plot. My infrastructure of I E, asphalt, concrete is far less than trying to run roads throughout that whole area. I E leaves the 50% to open space as an area I don't have to run my inter structure, could but I do not have to. Same would apply to utilities, water and sewer. So there is a benefit.

The models that we looked at and what was recommended to us by Regional Planning all used an overlay which in effect said if we amend our Zoning Resolution, we could do it in such a fashion that if adopted there was a one time shot for a referendum. That one time shot could have been when the Township adopted the Resolution. From that point forward all the lands identified are available for Conservation Subdivision, that have already been rezoned, if you will, all the applicant would need to do is bring approval forward and go through all the requirements that are spelled out in the article, but it would not be subject to referendum. The Zoning Commission based on input we had from Comprehensive Planning process we went through from talking to individuals of the township we decided that it was within the townships best interest, literally to have the ability to have a referendum tied to this particular article in the resolution. If you read through this and we adopt this and I want to develop my property and brought this forward, all the requirements in the plan and it gets approval each and every step of the way the trustees signed off on it, it would still be subject to referendum. That is what we are presenting in this document tonight, not in the overlay where it would not be subject to referendum.

I think I have hit the majority of the high lights that are contained the this document. It is fairly complexed as I indicated originally. I has been through Legal review process, the Prosecutor's Office has signed off. Initially they have a number of changes they wanted to see made and we complied with all the changes included in the document. It has gone through Regional Planning, Legal and now Regional Planning had two (2) comments related to this proposal. One dealt with the overlay – original document referred to 519.021A. 519.021A has right of referendum. The other was cell towers. We point cell towers out as a not permitted use in this particular district. Regional Planning says, hey, you really can not do that. Well, let me tell you how it is. Where that come from goes back to 1999, a document we received from Duncan Whitney, Prosecutor at that time, basically what it says – it was a model and came from Butler County and as long as you spell it out as a not permitted use and go through all the steps that are spelled out in 519.211A the notification requirements. If all that meets the time frame as spelled out in that section of ORC then you can include in your zoning resolution that cell towers are not permitted use. Brings up the question, should it be or should it not be. The input we

have gotten by the majority of the residence we have talked to, they do not want to see it next to their homes. They are permitted in any land in the township; zoning can not touch it, under industrial or commercial. If a cell tower wants to come in and the owner agrees that tower can go up and Zoning has no say so and the tower can go up. As I understand the Ohio Legislators are working on an amendment to this area to deal with agriculture and permitting cell towers erected in FR-1, providing it meets the specifications of not residential. We have not seen the final result as where that bill stands. Could even modify what we are looking at tonight. If it does that is fine. But the other issue, should it be permitted use, I will leave that open for discussion. Our Zoning Board felt they needed more information and left it the way it is at this time.

Calvin Finks asked what do you mean by open space on the other 50 acres.

Mr. Roberts: Answer was no homes.

Mr. Finks: Stated trees, farm ground or what? I guess this is a dumb question.

Mr. Roberts stated, No, this is not a dumb question. If you were the property owner and met the stipulations of the document what it says you are not going to put any homes on that 50%. OK, it could be used for agriculture, sports activities, lakes, walking trails; the whole idea is to make it green space. It is up to the developer or land owner to come to the Zoning Commission Board and Trustees with plans that especially identifies on how they want to use those 50 acres. The Zoning Commission is responsible in reviewing the use that has been brought to them and the Zoning Commission will make the decision as to good, bad or indifferent. I would go through negotiations, lack of another term, that meets the intent that not disruptive. Example: If someone wanted an Owners Association in this complex to take that 50 acres and turn it into a Gun Club we may have a problem. But on the other hand and they wanted to use it for natural recreation, lakes, ponds, etc, obviously we do not have a problem. It really depends on the land owner and the developer to define what they want. The Board of Trustees wants the Zoning Commission to be able to add to or subtract from. The Zoning Commission does no more than recommended. Final decision rests with the Trustees.

Mr. Cox: Do you require any land to be set aside for parks, street lamps or schools.

Mr. Roberts: stated no. That is up to the developer or the land owner.

Mr. Cox. It is not required?

Mr. Roberts: It is not required. I believe if you read through the documents that is what you will find in the documents. It is something that could be done, but it is not something the Zoning Board or the Trustees could require, but we are not going to at this time.

Theodore Luke: Let's take the Sherwood Development, a developer comes in and takes the 200 acres and puts in 100 houses on his 200 acres

Mr. Roberts: Stated 150 homes.

Mr. Luke: Then who decided who owns that 50 acres? Does the developer decide that we own it or if the Home Association owns the 50 acres?

Mr. Roberts: Let us look at what is spelled out in the documents. Starts with developer and home owner, they make the decision. What they are going to do with it and how it is going to be administrated and will require deed restrictions, and as to the further use of the land going forward. Again keep in mind they are going to specify the intended use. Once that is specified that is what we base the approvals on.

Mr. Luke: Can not change.

Mr. Roberts: Can't change. They can come back and request a change; they have to go through the complete process again. Now to get directly as to what you really trying to ask, the land owner or developer may come to the Trustees and say, we would like for you to acquire this land to do maintenance and all that good stuff' What the document says is your choice as Trustees as to whether you agree to that or not. What we are saying to the developer it is their "monkey" to start with.

Sandra Stults; You say it states we could require not exceeding 10% of the total parcel size.

Mr. Roberts: Let me interrupt, what that says, what the township may do (does not deal with the ownership) a public land dedication, not exceeding 10% of the total parcel size, may be required by the Township to facilitate trail or pathway connections. That does not say the Township owns the land. Just says we are dedicating it for a public use. These subdivisions will be springing up every where. In Ostrander we have two over here. They are setting basically side by side will they be connected? I do not know. The line items read is, what it is we are looking for in the future in terms, as should they be connected an how, common public right away access between the two developers.

Sandra Stults: If we wanted to build a bike trail, hiking trail or something like that, for instance maybe people using the railroads for the trails.

Mr. Roberts: Yes.

Bill Cox: If you develop a park on that land would that take the land off the tax duplicate?

Mr. Roberts: Who owns the park?

Mr. Cox: Park would be no good to most people.

Mr. Roberts: What I am saying the developer may in affect take these open spaces and use a portion for a park for the homeowners in the association and it could be limited to that, if that is the case it is not open to the township residents, not the public, would it come off the tax duplicate? I am going to tell you no. Take the next step and they wanted to dedicate it back to the Trustees, do the Trustees want to accept it and I suppose a step beyond that could be the Delaware Parks (Preservation Parks). I think on those cases it would go off the tax duplicate. The “king” does not tax himself and you know that. If it becomes public anyone can use the park.

Thomas R. Brown: In Mr. Cox’s first question about the open spaces you mentioned parks, but in the same sentence you set an example. On schools do you think the attempt of the Commission is to draft a document that schools and emergency services would be, or those types of services would be defeating the green spaces in the conservation of the concept of the district. Would you agree with that? Maybe schools, emergency services, and parking lots, as important as they maybe, I think they fit in the 50%. I do not think a developer would get credit for green space.

Mr. Roberts: I don’t believe our intent for this is directed in that way. Why it is in there is you don’t want to exclude it and you as a developer, in order, if this is subject to referendum and you are wanting to buy community support, you may do an offering of a public land that could be a park, school, you tell me. Would we want to count this as a part of the open space? I don’t think so. We planacted this on Regional Planning likes to use the term “net developable”. We decided we were not going to deal with “net developable”. What that translates to is the developer or land owner gets credit for taking roads, easements out of the equation and still getting the same number of units. We did not feel that was in our best interest.

Rodger C. Finks: You have active recreational outdoor sports, after thinking about that for a while that could be a dirt track, four wheeler track or a motorcycle track. I guess what it comes to if you back this up against another conservation district the houses are there. There is a problem. The only thing I could come up with is to exclude all gas powered vehicles. We need to exclude extremely loud recreational vehicles.

Mr. Roberts: Let me give you the background. One of the comments we got out of Legal was the document you are looking at does not have the initial effort of defining all those activities. We took a cut at that and Legal came back and said well, gee, that is neat, and I am going to paraphrase – But what about the dirt tracks. How do you deal with it in narrative form that includes everything that you want to permit or deny? You don’t. What you see in the documents and when you reference the rest of the document it is a subject to approval. You, as a presenter have to come to us. I’ll turn the question around for what it is worth. Let’s assume for one second, for what it is worth, that the Zoning Commission says we don’t want dirt tracks, or we say we do want dirt tracks, what are the Trustees going to do? Subjective in terms of what you do and what you don’t want, but it is very objective in terms of what you don’t want.

Jason Hutchisson: You take it case by case.

Mr. Roberts: Exactly.

Rodger C. Finks: Who maintains the path?

Mr. Roberts: Again it is the Homeowner's Association and is exclusive to the subdivision it is their responsibility on the other hand if it is dedicated and accepted then you are going to buy it, but it doesn't say you got to do the maintaining. The other thing I would point out in that section in Preliminary Design Process and Preliminary Design Guidelines these are not requirements, they are suggested "should be nice if we saw it". The next sections deals with those that are mandatory, we want to see it. Where it talks about Procedures to create they are very explicit and in affect---

Rodger C. Finks: If it is in the preliminary usually they will include it in the application. Most generally they should.

Mr. Roberts: Interesting take we got from Legal was that suggested guideline be out all together because they said you are wasting your breath. If it is not mandatory don't even put it in there, because they are going to skip to what is mandatory. We beat on it quite awhile but decided it was better to have it in there, It's a guideline, if no more that a carrot, if you will, than anything else. We took the things we definitely wanted to see as mandatory and put those in as development standards. Keep in mind it is all subject to approval.

Rodger C. Finks: On that same line under 11.08 under G, I think this should be reviewed by the Fire Chief, but I'd like something in there about fire hydrants to be installed at least every 300 feet. I think that is what our standards are now or could be 300 to 500 feet.

Bruce Stayner: I think 400 feet is what we use.

Mr. Roberts: When going through Subdivision Regulations in affect if going to involve our Fire Chief and all other agencies and what ever standards that have been defined in the Subdivision Regulations is what's going to be affected.

Rodger C. Finks: Would have been nice to have it spelled out a little bit ahead of time, that way they would know what they could do.

Mr. Roberts: That is what I am saying to you. Not trying to disagree. "Example: For we have tried to not replicate or duplicate other agencies we have been burned so many times because they make a change and they never tell us. So we leave it to their disgression to administrate those things that they are responsible for in Subdivision Regulations. Better example: You will find written on our Zoning Resolution, by the way, culverts, if I use the wrong words forgive me. Where you have to put in the drainage tile at the driveway the township has absolutely no responsibility for that any longer. You will find it spelled out in our resolution. We never took it out because the word was, it may come back to

you. But there is another classic case. We tried to spell it out but were told we couldn't enforce it. Don't even bother. Not saying you have a bad idea.

Rodger C. Finks. At least something in there and hopefully the Fire Chief or his Inspector looks at that and sees we need fire hydrants here – here and here.

Sandra Stults: Also need to make sure they can get the fire trucks turned around.

Rodger C. Finks: There is always a case where, hopefully not, that something slips through the cracks. If you got something spelled out there that helps.

Mr. Roberts: There again, I 'm going to come back to its final approval, less we use the Trustees, not trying to hedge. But if this becomes an extremely important issue we can amend this. First step is to decide whether we want to or not.

Mr. Finks: I see a lot of merit in it but I don't see a problem with adopting the district itself. I am just looking, I think, fire hydrants are very important and also important for the Township and for a subdivision like this being , hate to say this, “dense packed housing,” it is not really that close but close enough, you get a fire in one you got a fire in two. They get to hot to quick. With fire hydrants close hopefully you could keep that in check.

Mr. Roberts: Your assumption when you made the statement they are on Del-Co. Is that fair:

Mr. Finks: Yes, and with that close in housing you better be on Del Co Water or some city water.

Mr. Roberts: You would not have to.

Mr. Finks: If you are going to build that may houses you can't put wells that close.

Mr. Roberts: I didn't say that. All I'm saying to you it doesn't have to be. By definition the requirements for utilities, sewer, and water is public or private, either-or. You could end up like an Ashley that is different thing because they are incorporated, but these developments depending upon size and the amount of money they are willing to spend could put in there own water system. That more than likely is wells, purified and the whole nine yards. Point, I am trying to drive at, is would that mandate fire hydrants. Maybe and maybe not. If there are retention ponds or dry hydrants that may be the way it gets addressed. We have tried to look at this from all angles. The first place you run into it is with sewer and whether you like it or you don't like it package plants or the new system being put in are all options even for a facility. The 100 acres example, by the way the one thing I didn't say, I believe we say this is a ten (10) acre requirement, minimum to meet, that would be the smallest acres we would look at. But that could depend on size and money available.

Mrs. Stults: Is that in here that it is a ten (10) minimum.

Mr. Roberts and Mr. Finks: Yes.

Mrs. Stults: The way this is written is that everything we ok is it going to be referendum able?

Mr. Roberts: Yep. Now tell me if you prefer it not be that way. We made that decision based on our Zoning Commission based on the input we had.

Mrs. Stults: I think people should have a say on the matter. I really do.

Mr. Roberts: That was our feeling. But that is always subject to change. I would very quickly add, if the attitude changes sometime in the future then you can come back and amend the document. Similar as to what we did with the first set. It's not a "we" working kind of thing. Sight specific it gets to line item specifics.

Mr. Cellar: I have always like the county's idea of net availability, because developers look at the 100 acres and 50 of it is ravines, they want to stack the houses right up on top of another and that leaves most of the property go. It is undevelopable and immediately faces the ravines. Transmission lines, power lines out, roads out of the 100 acres. To give you another scenario, the developers to make it cheaper they want to stack the houses right up to the road and leave the rest, hard to access for police, fire or anything else and suddenly it looks like Delaware.

Mr. Roberts: The best way to answer your question is that the Commission worked with both sides of the revision. The number of exceptions we could sight like you said, transmission lines, ravines, look in the Township and see how much of that is there is. I don't know that it would be that many ravines. The general feeling was that generally a flat plained area not the extent they have down along the Olentangy.

Thomas R. Brown: Using net available acres, there is also a very next calculation they give this developer is a 12 to 15% bulk in density to make up for the developable acre penalty or the net penalty if there are those special features. They give those townships wide. On the net developable acres they give them an automatic 12% credit because of road right-of-ways. For some infrastructure, they couldn't avoid. I think they are pretty offset.

Mr. Roberts: Tom sparks a comment, one of the concessions, if you will, that we made in this document we said up to a maximum of 10%. If your land has the peaks and the valleys we will discount 10% of the lack of being able to develop that land to reduce the open spaces. So on the 100 acre project and you have 10% of it that is ravines and what have you; we will drop the open space down to 40% requirement and by the way giving you a boost of 10 going from .75 to .85. But you have to agree to put in some wetlands, some vegetation, to make it ethically more pleasing.

Mr. Cox: Does this say they have both a place for condominiums and single homes?

Mr. Roberts: Yes. They can use condommiums.

Mr. Brown: Can they use attached structures?

Mr. Roberts: It is in there.

Mr. Luke: I make a motion to accept the Planned Residential Conservation District Amendment to the Scioto Township Zoning Resolution.

Sandra Stults seconded the motion.

Fiscal Officer: Vote Please

Sandra Stults	Yes
Theodore Luke	Yes
Rodger C. Finks	Yes

Mrs. Stults: Ed, I like to thank you for all the work that you personally put into this project and please thank the Zoning Commission for all of their hours. We do appreciate the work they do.

Mr. Roberts: I will pass that on.

Mrs. Stults: That way we don't have to do it.

Mr. Roberts: Good or bad unfortunately we all have to live with it and let me emphasize that when it is time to go forward and we find that we have errored or we need to revisit that is what the learning process is all about .

Mrs. Stults: We really appreciate them. Thank You!

Mrs. Stults: The Public Hearing is now closed.

Closed at 7:50 p.m.

Susan Beckley, Fiscal Officer

