

**Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008**

The regular meeting was called to order by Chairman, Mr. Doug Price at the Troy Township Hall, 4293 U. S. Route 23 North, Delaware, Ohio 43015 with Trustee's Mr. Doug Price, Mr. Paul Price, and Mr. Earl Lehner, Fiscal Officer, Ms. Pam Starling, Zoning and Trustee Secretary, Ms. Kelly Williams, and Zoning Inspector, Mr. Charlie Cooperider, all being present.

Mr. Doug Price led those in attendance in the Pledge of Allegiance to the Flag.

The agenda for tonight's meeting was reviewed and amended as follows: Old Business: 1) Section Line Road tile repair at 3935 North Section Line Road. New Business: 1:) Residency Requirement Resolution for Convicted Sex Offenders; 2:) Kelly McMaster Road Culvert Repair; and 3) Community Development Block Grant.

Mr. Earl Lehner moved to approve the agenda as amended. Mr. Paul Price seconded. All voting yes, the motion passed.

OPEN COMMENTS

Mr. Dan Weber of 3688 Horseshoe Road, Delaware, Ohio 43015 started to discuss the noise ordinance.

Mr. Paul Price put on the record that he and Mr. Doug Price are not related.

Mr. Dan Weber then continued his remarks that Section 505.172 noise ordinance states the following:

505.172 Noise control:

(A) As used in this section, "law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, or municipal police officer.

(B) Except as otherwise provided in this section and section 505.17 of the Revised Code, a board of township trustees may adopt regulations and orders that are necessary to control noise within the unincorporated territory of the township that is generated at any premises to which a D permit has been issued by the division of liquor control or that is generated within any areas zoned for residential use.

(C) Any person who engages in any of the activities described in section 1.61 of the Revised Code is exempt from any regulation or order adopted under division (B) of this section if the noise is attributed to an activity described in section 1.61 of the Revised Code. Any person who engages in coal mining and reclamation operations, as defined in division (B) of section 1513.01 of the Revised Code, or surface mining, as defined in division (A) of section 1514.01 of the Revised Code, is exempt from any regulation or order adopted under division (B) of this section if the noise is attributed to coal mining and reclamation or surface mining activities. Noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas wells or pipelines or any appurtenances to those wells or pipelines or from the distribution, transportation, gathering, or storage of crude oil or natural gas is exempt from any regulation or order adopted under division (B) of this section.

(D)(1) Except as otherwise provided in division (C) or (D)(2) of this section, any regulation or order adopted under division (B) of this section shall apply to any business or industry in existence and operating on October 20, 1999, and a regulation or order so adopted shall apply to any new

**Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008**

operation or expansion of that business or industry that results in substantially increased noise levels from those generated by that business or industry on that date .

(2) Any regulation or order adopted under division (B) of this section applies to any premises to which a D permit has been issued by the division of liquor control regardless of whether the premises was in existence and operating on October 20, 1999, or whether it came into existence and operation after that date.

(E) Whoever violates any regulation or order adopted under division (B) of this section is guilty of a misdemeanor of the second degree. Fines levied and collected under this section shall be paid into the township general revenue fund.

(F) Any person allegedly aggrieved by another person's violation of a regulation or order adopted under division (B) of this section may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person committing the act or practice that violates that regulation or order. A board of township trustees that adopts a regulation or order under division (B) of this section shall seek in a civil action an injunction against each person that commits an act or practice that violates that regulation or order. The court involved in a civil action referred to in this division may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

(G) If any law enforcement officer with jurisdiction in a township that has adopted a regulation or order under division (B) of this section has reasonable cause to believe that any premises to which a D permit has been issued by the division of liquor control has violated the regulation or order and, as a result of the violation, has caused, is causing, or is about to cause substantial and material harm, the law enforcement officer may issue an order that the premises cease and desist from the activity violating the regulation or order. The cease-and-desist order shall be served personally upon the owner, operator, manager, or other person in charge of the premises immediately after its issuance by the officer. The township thereafter may publicize or otherwise make known to all interested persons that the cease-and-desist order has been issued.

The cease-and-desist order shall specify the particular conduct that is subject to the order and shall inform the person upon whom it is served that the premises will be granted a hearing in the municipal court or county court with jurisdiction over the premises regarding the operation of the order and the possible issuance of an injunction or other appropriate relief. The premises shall comply with the cease-and-desist order immediately upon receipt of the order. Upon service of the cease-and-desist order upon the owner, operator, manager, or other person in charge of the premises, the township law director or, if the township does not have a law director, the prosecuting attorney of the county in which the township is located shall file in the municipal court or county court with jurisdiction over the premises a civil action seeking to confirm the cease-and-desist order and seeking an injunction or other appropriate relief against the premises. The owner, operator, manager, or other person in charge of the premises may file a motion in that civil action for a stay of the cease-and-desist order for good cause shown, pending the court's rendering its decision in the action. The court shall set a date for a hearing, hold the hearing, and render a decision in the action not more than ten days after the date of the cease-and-desist order, or the cease-and-desist order is terminated. Division (F) of this section applies regarding an action filed as described in this division.

(H) Nothing in this section authorizes a township to enforce any regulation or order adopted under division (B) of this section against a premises to which a D permit has been issued by the division of liquor control if that premises is not located in the unincorporated territory of that township.

Effective Date: 10-20-1999; 09-21-2006

Mr. Doug Price reported that the Board of Zoning Appeals has not scheduled a meeting yet. The Court of Appeals opinion that was handed down was remanded back to the BZA.

Mr. Dan Weber said that the Sheriff's Department was at Mr. Roger Schuette's property and the

**Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008**

Sheriff's Deputy said they couldn't do anything until the court case was done. The Sheriff's Department said it is in the jurisdiction of the Delaware Municipal Court. The township cannot request an injunction be filed if the sheriff's office has not issued a citation. The BZA has to make a determination if there is an expansion from the opinion handed down from the Court of Appeals.

The expansion opinion is remanded back to the BZA to decide if the relocation of a driveway from one spot to another spot is considered expansion.

Ms. Kathy Hon of 3115 Horseshoe Road asked about the business at 3616 Horseshoe Road. Mr. Doug Price explained that in the 1970's the business started as a legal nonconforming use and it is a legal business. The business cannot grow more than they are now unless they go before the BZA for a variance. The inventory of the business has been documented and is filed with the Zoning Inspector.

Mr. Dan Weber asked if the Trustees could explain the Public Utility situation with Mr. Roger Schuette's business.

Mr. Roger Schuette explained that he is regulated as a PUCO. But he does not fall under Troy Township's public utility. He is not exempt from the Troy Township zoning code.

Ms. Janice Hitzman, Delaware County Assistant Prosecuting Attorney, was present and explained that a public utility is based on the fact that a business is looked at as to what services they provide in order to be exempt from the zoning resolution. This business is not exempt from the Troy Township zoning resolution.

ZONING REPORT BY ZONING INSPECTOR

Mr. Charlie Cooperider, Zoning Inspector, had three violations and one variance and eight phone calls.

MINUTES

The Chairman dispensed with the reading of the minutes of the March 17, 2008 regular meeting. Copies were available.

Mr. Paul Price moved to approve the March 17, 2008 regular meeting minutes as written. Mr. Earl Lehner seconded. All voting yes, the motion passed.

TRUSTEE REPORTS

Mr. Paul Price submitted the following report:

March 18 - Delaware County Health Department meeting

March 19 - Railroad Task Force meeting. Turned in request for road work to Jerry Ungashick at County 3:30 p.m. We could chip and seal Penry Road first, before applying leveling course.

March 20 - LEPC meeting

March 21 - Picked up new 3000 # power washer with Honda motor. Cost \$398.96. Spoke with Bill Adams about fixing water line at Marlboro cemetery.

**Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008**

March 25 - Pete Price called concerning Clarence's work at the cemetery.

March 31 - Reset 2 reflector posts at northwest corner at Hills Miller and Troy Rd. Leveled berm stone and ruts on Hills Miller west. Called Strawser Corp. about road sealants. Dave O'Donnell will attend our meeting 4-21-08. 614-276-5501.

April 1 - Had to have the JD 6210 repaired by Parrotts. Wouldn't start.

April 2 - Magill and myself returned 7200# of road salt to the county. Found water problem on north side of Whipple Road, East of Lewis's place. Culvert may have obstruction in it. Leveled intersection right of ways due to snowplowing. Leveled township drive with small truck and shovels. Cleaned up shop.

April 3 - Magill and myself took snow plow off small truck and greased and oiled it. Power washed same truck. We dug a hole on south side of Whipple Rd. to see if water was flowing to the south. 8 inch tile about half full, water standing over tile on north side. We checked the Wheel horse lawnmower and weed eater to get them ready for spring work. A person called concerning the Marlboro cemetery looking bad at the grave sites. Attended the County Engineers dinner at Lehn's country building.

April 16 - Magill and I removed the spinner off the small truck. Fixed running board on right side, fixed air leak for airbag, applied rust inhibitor on bed. Put new front tire on Wheel horse lawnmower. It had a bulge on side. Tire from Chad's repair. Picked up sticks in small cemetery by hall, leaves as well. Checked tile on Section Line Road, north of Buttermilk. Tile full of water on west side. Tile possibly damaged by new waterway constructed by homeowner. Went to Marzane to get cold mix. Mix was not satisfactory for applying, but would not charge for it. Picked up 5780# of cold mix from county. Fixed potholes on Stonebrook, also repaired right of way at intersection caused by snowplowing. Fixed potholes on Clearun Road. Got gas for truck.

April 17 - Magill and I repaired potholes on Downing Road, Willey Road, and Troutman Road at bridge. Leveled intersections by hand from snowplowing. Worked on 4" tile at Stan Haas' in ditch just west of drive. Will need solid 4" tile and fittings. County will give cold mix in exchange for the salt returned on 4-2-08.

Mr. Doug Price submitted the following report:

3/19 - Spoke with Ms. Jennifer Stachler of Buttermilk Hill Road about standing water at the corner of Buttermilk Hill and North Section Line.

3/28 to present - Received multiple e-mails from Mr. Dan Weber with questions, demands, and inquiries. Wrote multiple responses back to him. Have written multiple times to the prosecutor and have been in contact with the prosecutor.

3/28 - Attended the Regional Planning meeting

4/3? - Attended the Delaware County Engineers dinner

4/4 - Investigated a pile of dirt at the cemetery. Spoke with Mr. Clarence Fraley of Associated Trenching about the mounds of dirt on fresh gravesites, discussed waiting for the ground to dry out to clean up the gravesites.

**Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008**

4/7 – Met with Mr. Steve Spence about the enlarged commercial district along 23 in the comprehensive plan.

4/9 – Received a call from Mr. Pete Price (who mows the cemetery) complaining about the piles of dirt in the fresh gravesites at the cemetery, informed Mr. Pete Price of my conversation with Mr. Clarence Fraley about waiting for the ground to dry out and not make ruts in the cemetery. Mr. Pete Price informed me the electric was off at the building at the cemetery. Mr. Pete Price also informed me that the third mower at the cemetery does not work.

4/11 – Went to cemetery to see about the electric problem, electric was on when I got there, called Mr. Pete Price who informed me that a breaker was tripped and he reset it. Third mowers' PTO switch and clutch are not working.

4/14 – Called Parrots to have them come over and get the third mower.

4/16 – Received a call from Mr. Pete Price about gas for the cemetery mowers, told him to order 150 gallons from McWherter's.

4/21 – Revisited the cemetery and all graves have been cleaned up and leveled off except one, it looked recent.

4/22 – Water line at cemetery

Mr. Earl Lehner submitted the following report:

Inspected cemetery twice and talked with locals who called and thought our cemetery was in good shape. Attended the County Engineers dinner. Monitored the recycling bin.

CEMETERY REPORT

Mr. Pete Price complained about piles of dirt left over the winter on gravesites by Mr. Clarence Fraley of Associated Trenching. Mr. Doug Price talked with Mr. Clarence Fraley and told him to leave them alone until it dries out so he didn't put ruts in the ground. The third mower's clutch is out and Mr. Doug Price called Parrots to come and get it to repair it. The gas tank is empty so Mr. Doug Price told Mr. Pete Price to call McWherter's to fill it and schedule it to be filled each month and keep it full. Mr. Doug Price noted that Mr. Clarence Fraley has the piles of dirt on the gravesites leveled off except for one fresh grave.

The water line that is leaking is a plastic line. Mr. Doug Price will turn it on and see where the leak is and then get it fixed.

FIRE DISTRICT

Mr. Earl Lehner reported that they are still working with the architect to finalize the contract. They purchased various items last month. A boat motor for water rescue needed a 25 horsepower motor and it cost \$3,200.00. The vests for the new boat with paddles and safety helmet came to \$1,400.00. They approved various trainings and authorized an increase for their uniforms.

FISCAL OFFICER'S BUSINESS

The Fiscal Officer presented the cash journal for the month of April as of the date of this meeting

Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008

and certified that the amounts required to meet the obligations has been appropriated and were in the treasury.

Mr. Earl Lehner moved and Mr. Paul Price seconded that funds be released to pay the pending warrants. All voting yes, the motion passed.

Correspondence:

- Grassroots Clippings April 2008
- July 2008 Renewal for Ohio Plan Application with Ohio Government Risk Management Plan (Gary Walters will attend our July 21, 2008 meeting to go over the plan with the Trustees and Fiscal Officer). The Trustees will make notes on their copy from the Fiscal Officer. There will be discussion at the May meeting before sending it in to Rinehart-Walters-Danner and Associates for preparation for the July 2008 renewal.
- National Lime and Stone Company – Mid-Year price increase information

OLD BUSINESS

Mowing for County on Troy Road: The county contract is to pay the township for using township equipment and manpower approximately \$92.00 per mowing on Troy Road. The first mowing would be to mow to the bottom of the ditch. The contract maintains mowing Troy Road at the City limits to Radnor Road. Mr. Paul Price will check with John Link at the Delaware County Engineer's Office about the contract to sign.

Mr. Earl Lehner moved that Troy Township use the township road mower to mow Troy Road from the City limits to Radnor Road and to be reimbursed at approximately \$92.00 per mile per mowing from the Delaware County Engineer's Office. Mr. Doug Price seconded. All voting yes, the motion passed.

Township Parking Lot: The Trustees decided to use the berming machine to spread gravel on the township hall parking lot. Mr. Paul Price suggested that someone needs to empty the salt out of the trucks and then someone needs to load some gravel into one of the trucks so it can be hauled to the parking lot of the township hall. The Trustees will coordinate this among themselves and get it done when they are all available.

Work Agreement on Section Line Road: Mr. Earl Lehner contacted Mr. Bumpy Rhoads to repair the tile at 3935 North Section Line Road. His estimate for the repair is \$600.00. Mr. Earl Lehner will talk to the property owner and get the consent signed to allow them to be on the property for the repair. Radnor Township agrees to pay 1/3 of the bill.

NEW BUSINESS

Strawser Inc.: Mr. Dave O'Donnell was present to discuss road surfacing options. Microsurfacing can extend the life of the pavement of the roads. His company is on the state bid contract with Microsurfacing products. They are one of the companies that work with the Delaware County Engineer's Office.

North Section Line Road and Buttermilk Hill Road Culvert: There may be damage to the culvert due to the waterway or the tile is too small. Water goes over the road not through the tile. A resident called the engineer's office and the engineer's office informed the resident that the two roads were township roads and to call the township. The engineer's office also informed the resident that the township could put in a request for engineering assistance to the County Engineer's office. The Trustee's can also request the contractor look at the work that he did years ago and see what has happened with the repair.

Resident request for an injunction: This was already covered in opening comments.

Countywide Outdoor Emergency Warning System: This is an organized effort by a number of other townships to organize an outdoor emergency warning system. The Trustee's will discuss this further at the next meeting.

Residential Sex Offender Resolution For Convicted Sex Offenders: This resolution would restrict the residency of adults who have been convicted of "sexually oriented offenses" and "child victim oriented offenses" to prohibit them from residing within 1,500 feet of any "location where children regularly congregate." The resolution includes, but is not limited to, "schools, libraries, parks, childcare facilities, playgrounds, child daycare centers, school bus stops, recreation areas, community centers, arcades, movie theaters, athletic fields, bowling alleys, swimming pools," as well as other locations. The Trustee's will discuss this further at the next meeting.

Culvert Repair on Kelly McMaster Road: Mr. Doug Price reported that Ms. Ann Wurm and Ms. Nancy Thompson were in agreement with the repairs to the culvert on Kelly McMaster Road. The Trustees need to show them the requested road right-of-way when it is completed. Ms. Wurm and Ms. Thompson said they would be willing to work with the township in securing the necessary road right-of-ways. The township needs to put in a request for engineering assistance so the township knows how much of an easement is needed and if there is a need to buy any easements.

**A RESOLUTION OF
TROY TOWNSHIP TRUSTEES**

Resolution No. 2008-4

A Resolution

To make a request to the Delaware County Engineer's Office for engineering assistance.

The Board of Trustees of Troy Township, Delaware County, Ohio met in regular session on April 21, 2008 at the Troy Township Hall, 4293 State Route 23 North, with the following members present:

Mr. Doug Price, Chairman
Mr. Paul Price, Vice Chairman
Mr. Earl Lehner, Trustee

Mr. Earl Lehner moved the adoption of the below resolution:
Troy Township is requesting that the Delaware County Engineers Office prepare plans,

Minutes of the
Board of Trustees of Troy Township
Regular meeting held April 21, 2008

specifications, and cost estimates for the replacement of the culvert located on Kelly McMaster Road based on the report submitted by the Delaware County Engineers Office and known as Kelly McMaster Road Culvert #219-00.16 Culvert Safety Inspection and Guardrail Warrant Analysis.

Mr. Paul Price seconded the motion and the roll was called on the question of its adoption.

The vote was as follows:

Mr. Doug Price, Chairman	<u>Yes</u>
Mr. Paul Price, Vice Chairman	<u>Yes</u>
Mr. Earl Lehner, Trustee	<u>Yes</u>

The above resolution was adopted on April 21, 2008 by:

Mr. Doug Price, Chairman	_____
Mr. Paul Price, Vice Chairman	_____
Mr. Earl Lehner, Trustee	_____

Attested to this date by:

Mrs. Pamela Starling, Fiscal Officer	_____

2008 Community Development Block Grant Program: Applications for funding request must be completed and submitted to the County by the close of business on May 16, 2008.

Road Signs: By the year 2011 or 2012 road signs must be high intensity reflective signs. Townships can apply for Issue II money to help pay for the upgrade.

Mr. Earl Lehner moved to adjourn. Mr. Doug Price seconded. All voting yes, the motion passed.

The next Troy Township Trustee meeting is Monday, May 19, 2008 at 8:00 p.m.

Mr. Doug Price, Chairman	_____
Mr. Paul Price, Vice Chairman	_____
Mr. Earl Lehner, Trustee	_____
Attest: Ms. Pam Starling, Fiscal Officer	_____