

Minutes of the
Board of Trustees of Troy Township
Regular meeting held July 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, and Zoning and Trustee Secretary, Ms. Kelly Williams all being present.

Mr. Charlie Cooperider, Zoning Inspector, was excused.

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: New Business: 1.) Trading in lawn mowers; 2.) Trash at cemetery; 3.) Phil Montique wants to hire township to mow along road right-of-way; and 4.) Ditch on Hills Miller Road filled with dirt to make an entrance without a culvert.

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

OPEN COMMENTS

Mr. Stan Haas was present to discuss the railroad. He reported that Norfolk Southern has had their designated mowing people on top of mowing the vegetation at Willey Road. They have mowed up to 600' all around.

Mr. Haas also reported that his wife may be interested in typing the zoning code book and saving it to a disk. The Trustees' asked that she give them an estimate of her time and cost and they told him their estimated time of completion would be within three months.

Gary Walters was present to go over our liability insurance renewal. The Trustees' asked Gary to look into blanket coverage for equipment not owned by the township. For example, tractors the township may borrow. Also, change the computer equipment to blanket coverage.

Gary suggested that if we have subcontractors perform work for the township we request proof of insurance and statutory limits for worker's compensation. If they are uninsured they become an employee of the township.

ZONING REPORT BY ZONING INSPECTOR

Mr. Charlie Cooperider, Zoning Inspector, was not present so Mr. Doug Price, Chairman, gave his report. He reported that phone calls are down. The Trustees recommended that Mr. Cooperider attend one of the Zoning Seminars either on October 17, October 24, or October 31, 2008. The Zoning Inspector and/or the Zoning Commission Board can attend these Seminars.

A resident had an inquiry regarding wind turbines. There are height limitations in our zoning code.

The Zoning Commission is going to research the new junk motor vehicles law R. C. 505.871.

In the Ohio Township News (July/August 2008) they explain the new law as follows:

Question: What does the new law (R.C. 505.871) do?

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Answer: With the enactment of R.C. 505.871, effective March 5, 2008, townships in Ohio have new statutory authority to address junk motor vehicles located within a township. The provisions of R. C. 505.871 specifically vest township boards of trustees with the express statutory authority to actually remove or cause the removal of junk motor vehicles from both public and private property located within the unincorporated area of a township. Prior to the enactment of R. C. 505.871, most townships that undertook the removal of junk motor vehicles relied primarily upon an opinion provided by the Ohio Attorney General in OAG 90-020 that such vehicles were “refuse” or “other debris” and ultimately could constitute nuisances under the provision of R. C. 505.87. While helpful in many ways, it was still necessary for a board to determine that a junk motor vehicle constituted a nuisance before any action could be taken. The new law, on the other hand, specifically allows a board, after adopting a written resolution and sending proper notice, to cause a vehicle that satisfies the statutory definition of a junk motor vehicle to be removed from property located in the unincorporated area of a township. A board is no longer required to make a determination that a nuisance exists. R. C. 505.871 provides a specific definition of a “junk motor vehicle” and sets forth a statutory procedure for dealing with them. Basically, a “junk motor vehicle” is defined as a “vehicle that is three model years or older, is apparently inoperable and is extensively damaged, including, but not limited to, any of the following: missing wheels, tires, engines or transmissions. This definition notably does not include a dollar limit or value of the vehicle. Once a board makes a determination that a junk motor vehicle exists, the statutory process discussed later in this article must be followed.

Question: Does my township need to pass a resolution to implement this new law?

Answer: Yes, it is recommended that a township adopt a broad based policy resolution implementing the new law so that residents are aware of the new junk motor vehicle removal authority. Once a township official or officer notices a junk motor vehicle, a board should adopt an additional resolution addressing that specific vehicle. A township may address multiple junk motor vehicles located on various properties with the same resolution.

Although R. C. 505.871 does not specifically set forth the information that must be included in the resolution, the resolution ordering the removal of a junk motor vehicle from private property should contain several provisions. First, the resolution should specifically identify by mailing address, tax parcel identification or legal description the property where the junk motor vehicle is located. Second, the resolution should provide a general description of the vehicle to be removed, state that the vehicle is “three model years or older, apparently inoperable, is extensively damaged (identifying _____)” and specifically state that the board has determined that the vehicle is a junk motor vehicle under the provisions of R. C. 505.871. Third, the resolution should instruct a township administrator, employee or a board member to provide written notice to the property owner and all lien holders of record of the board’s determination and its intention to remove or cause the removal of the vehicle unless the vehicle is removed from the property within 14 days of receipt of the notice sent by the township. Last, a board may want to include provisions authorizing a board member to enter into any necessary removal contracts in the event the junk motor vehicle is not removed from the property within the applicable timeframe, and requesting the township fiscal officer to certify the removal costs to the county auditor for inclusion on the tax duplicate for the property where the junk motor vehicle was located.

Question: Does the township have to go through the courts under this new law?

Answer: One of the primary benefits of R. C. 505.871 is that it does not require court involvement prior to removing a junk motor vehicle from a property located in the unincorporated area of the

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township. Instead, the statute sets forth a specific procedure that allows a board to move forward with the removal of a junk motor vehicle without the assistance of the courts while still providing some due process procedural protections for citizens of the township. Since the determination that a vehicle is factual in nature, it is extremely important that a board exercise care to accumulate sufficient facts to justify its determination that a vehicle is a junk motor vehicle and to ensure that all procedural requirements are followed.

Prior to passing a resolution causing the removal of a junk motor vehicle, a township zoning inspector or other township official should inspect the property and document the existence and condition of the vehicle and preferably take pictures of the property and the junk motor vehicles for use as evidence and support of the board's decision. The zoning inspector or township official should then appear at a special or regular meeting of the board and provide the board with a written report documenting the existence of the junk motor vehicle and any pictures and/or other evidence regarding the vehicle in question. If a complaint was filed by someone other than the zoning inspector or township official, the complainant and any persons, particularly neighboring property owners, should also be allowed to provide additional comments regarding the existence and condition of the junk motor vehicle. If the board determines, based upon the facts and evidence submitted, that the vehicle in question is a junk motor vehicle under the provisions of R. C. 505.871, the board must then pass a resolution in the format previously discussed declaring the vehicle to be a junk motor vehicle and ordering the property owner to remove the vehicle within 14 days. If a township is addressing multiple junk motor vehicles located on various properties, one resolution can be used to declare all such vehicles junk motor vehicles. Once again, it is extremely important that the board keep very thorough and detailed meeting minutes to document the board's decision making process.

As part of the procedural process required by the provision of R. C. 505.871, the township is specifically required to provide notice to the owner of the property on which the junk motor vehicle is located and to all holders of liens on that property. In order to ensure that all parties are notified, the board should have a title search performed to identify the property owner of record and the names of the record lien holders. The notice must (i) generally describe the vehicle to be removed, (ii) advise the property owner and lien holders that the board has determined that the vehicle is a junk motor vehicle, (iii) order the owner to remove the vehicle within 14 days after service of the notice, (iv) advise the owner and lien holders that if the junk motor vehicle is not removed, the board will remove or cause the removal of the junk motor vehicle, and (v) advise the owner and lien holders that any expenses incurred by the township in removing or causing the removal of the junk motor vehicle will be entered upon the real estate tax duplicate for the property and become a lien against the land.

The notice to the owners and lien holders must be sent by certified mail, return receipt requested, to the owner and each of the lien holders. If the address of the property owner or one or more of the lien holders is unknown and cannot be reasonably ascertained or if the certified mail is returned bearing the notation "refused" or "unclaimed," the board must cause the notice to be published in the newspaper of general circulation in the township and, if the land contains any structures, must post the notice on the principal structure on the property, before the junk motor vehicle may be removed. If the junk motor vehicle has not been removed within 14 days after proper notice has been served on the property owner and record lien holders, a board may remove, or cause to be removed, the junk motor vehicle from the property. All expenses incurred in the removal of junk vehicles must be paid from the general fund from moneys not otherwise appropriated, unless the expenses exceed \$500, in which case a board may borrow moneys from a financial institution to pay for all removal costs. The township fiscal officer then certifies all removal costs to the county

auditor for inclusion on the tax duplicate.

Question: Will the township be sued for removal of the vehicle?

Answer: Never say never! Even if a board does everything in accordance with R. C. 505.871, the possibility that the township will be sued still exists. As with any decision of the board, there is simply no foolproof way to prevent someone from filing suit or otherwise challenging a board's decision. Therefore, the more appropriate question is "what is the likelihood that such a suit against the township will be successful?" The answer to this question will likely depend upon the facts and circumstances surrounding the board's decisions and actions.

There are a number of measures that a township can and should take when removing, or attempting to remove, junk motor vehicles. For example, a board should (i) collect sufficient evidence to justify finding that the vehicle is a junk motor vehicle, (ii) document all of its findings, (iii) pass an appropriate resolution, (iv) carefully follow the notice provisions of R. C. 505.871, and (v) use care in the removal of the junk motor vehicle. Again, if a township is addressing multiple junk motor vehicles located on various properties, one resolution can be used to declare all such vehicles junk motor vehicles. In other words, what a township can do is to ensure they have taken and documented all the appropriate steps required by R. C. 505.871. If a township is sued, the board's defense is that the township has acted within the specific statutory authority to remove junk motor vehicles pursuant to the provision of this new law. If there are any questions about any aspect of this process, the board should always contact the township's legal counsel or the county prosecuting attorney for advice.

MINUTES

The Chairman dispensed with the reading of the minutes of the June 16, 2008 regular meeting. Copies were available.

Mr. Earl Lehner moved to approve the June 16, 2008 regular meeting minutes as written. Mr. Paul Price seconded. All voting yes, the motion passed.

TRUSTEE REPORTS

Mr. Paul Price submitted the following report:

6/17/08 – Brent and I worked on road mower.

6/18/08 – Brent and I finished the road mower work.

6/19/08 – Mowed on Willey Road, Downing Road, Penry Road, and Section Line Road.

6/20/08 – Mowed on Hills Miller Road, West.

6/21/08 – Mowed on Section Line Road and Buttermilk Road.

6/24/08 – Magill and I put on 10.21 tons of berm stone on Penry Road.

6/25/08 – Mowed on Kelly McMaster Road, Case Road, and Coover Road. Pavement Technology put sealer on Penry Road, East of Railroad to Route 23.

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6/27/08 – Pete Price called about non-working lawn mower. On checking I found the throttle wire broken inside cable. Talked to Mrs. Thompson (Kelly McMaster Road) about spraying ditches. Checked on tile on south side of Coover Road just West of Route 23. Tile is a 6". Drove to Parrots in Richwood to pick up mower parts and motor oil for tractor.

6/30/08 – Trimmed with weed eater at the guard rail on Hills Miller Road at Delaware Run and the intersection of Hills Miller Road and Troy Road.

7/1/08 – Mowed Troy Road.

7/2/08 – Mowed Troy Road.

7/3/08 – Magill and I worked on 2 lawn mowers. Picked up starter parts for Wheelhorse mower at Caldwell repair, 1398 Horseshoe Road. After replacing starter part in Wheelhorse, we found the motor still would not run correctly. We put the throttle cable on John Deere mower.

7/4/08 – Worked on the road mower.

7/7/08 – Magill and I greased and cleaned deck on 735 John Deere mower. The deck was completely filled with grass. Fixed the tile on South side of Coover Road, just West of Route 23, with 90" heavy wall pvc 6" pipe. Put #2 stone around the pvc pipe to stop erosion and stone on South side of Penry Road for the same reason. We trimmed and mowed the cemetery and the township lot.

7/10/08 – Magill and I put 8.2 tons of berm stone on Penry Road and Troutman Road.

7/11/08 – Called the State Highway ODOT about fixing the hole at Penry Road and US 23 Southwest corner. State later bermed West side of US 23. Called the Delaware County culvert inspector concerning the new construction on Hills Miller Road that did not put pipe under driveway just East of Troy Road on South side. Pipe was installed within the weeks' time.

7/14/08 – Magill and I put 7.11 ton of berm stone on North side of Case Road just East of old church building due to homeowner spraying ditch which caused the road edges to break and allowed the ditch to erode. Put 3 tons on Hills Miller Road.

7/15/08 – Phil Montique called about hiring township to mow along the railroad right-of-way on his property.

7/17/08 – Magill and I put on 10.83 tons of berm stone on South side of Penry Road West of Troy Road.

7/21/08 – Magill and I measured 48 culverts under roads for info that Doug Price needs for Issue 2 funds. Noticed that someone placed dirt in ditch for entrance to field on Hills Miller Road on South side, East of Troy Road.

Attended Railroad Task Force meeting and LEPC meeting.

Mr. Doug Price submitted the following report:

He has been to the cemetery to instruct the community service patron on his job duties for the

township.

He talked with the Delaware County Prosecuting Attorney's office about HB 50 and the ongoing litigation case against the township.

Mr. Earl Lehner submitted the following report:

He took over his own truck and picked up one of the mowers at the cemetery when the Wheelhorse would not run.

He talked with Mr. Pete Price regarding a complaint about the seeding and filling in of gravesites with trash in the dirt piles. They need to be more conscientious and observant of what is in the dirt piles.

Mr. Lehner picked up a truck at Chad's after repair work was completed.

CEMETERY REPORT

It has been determined that people have been throwing their trash in the dirt piles at the cemetery. The Trustees are going to purchase a metal trash can with a lid and have it available from December to March for cemetery trash only.

Mr. Lehner is approved to purchase a metal trash can with lid and secure it at the cemetery for grave refuse only (no food items). The cemetery caretakers are to monitor when the trash can needs to be emptied. Mr. Doug Price seconded. All voting yes, the motion passed.

FIRE DISTRICT

Mr. Earl Lehner reported that they saw a plan of the new building. They closed on the bank loan with Fayhee Bank. They received a grant from Eagles for \$4,800.00 and will purchase an infrared camera, a heat seeking camera. Health insurance went up but they decided to stay with their current vendor. Mike's Roofing did some repairs to the roof of their current building.

There has been no change in the volunteer pay run charge since 1987 which is \$7.00. So effective July 1, 2008 it goes up \$1.00 making it \$8.00. Then January 2009 it goes up another \$1.00 making it \$9.00. Then in January 2010 it goes up another \$1.00 and will make volunteer run charge \$10.00.

They bought some equipment: 5 flashlights at \$42.99 each for a total of \$214.99.

Their equipment levy is expiring at the end of the year so they are increasing their renewal at .9 mil in November 08.

The county received a grant to purchase 2 truck computers.

FISCAL OFFICER'S BUSINESS

The Fiscal Officer presented the cash journal for the month of July as of the date of this meeting 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 July 2008
- Resolution 2008-6
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**A RESOLUTION OF
TROY TOWNSHIP TRUSTEES**

Resolution No. 2008-6

A Resolution

To hereby submit our Year 2009 revenue estimates to the Delaware County Budget Commission:

The Board of Trustees of Troy Township, Delaware County, Ohio met in regular session on July 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 following resolution:

To hereby submit our Year 2009 revenue estimates to the Delaware County Budget Commission and report that they are on file in the office of the Troy Township Fiscal Officer.

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 | _____ Yes _____ |
| Mr. Paul Price, Vice Chairman | _____ Yes _____ |
| Mr. Earl Lehner, Trustee | _____ Yes _____ |

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

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

Attested to this date by:

Mrs. Pam Starling, Fiscal Officer _____

OLD BUSINESS

Removal of Junk Motor Vehicles – explained in open comments.

Residents spraying of ditches is causing expense to the township – Mr. Paul Price reported that he and our seasonal workers have put approximately 7 tons of berm and the cost of the seasonal labor due to residents spraying ditches and losing the berm.

He suggested sending a form letter to residents explaining that it is the vegetation that is holding the ditch to the road. And the berm is in the road right-of-way. It is the townships responsibility to mow the ditches and the township mows the roads. The ditches are there to shed water off the roads.

Mr. Doug Price will talk to the Prosecuting Attorney about what to say in the letter to the residents.

NEW BUSINESS

Trading in Lawn Mowers – Cub Cadets – Mr. Lehner took the third mower to be used by our seasonal employee. It is the oldest one and is the one in the worst shape. The Wheelhorse is not running and the mowing needs to be taken care of. The big Cub Cadet is not used anymore. The Trustees discussed trading in the big Cub Cadet and the Wheelhorse and purchasing another mower for the cemetery. Someone will take the 525 mower back over to the cemetery.

Mr. Earl Lehner will get some estimates on mowers and look at the trade-in's.

Phil Montigue wants to hire the township to mow along road right-of-way - The Trustees said no.

Ditch on Hills Miller filled with dirt to make an entrance without a culvert – Mr. Doug Price will talk to the resident.

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

The next Troy Township Trustee meeting is Monday, August 18, 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 _____