



BOARD OF COUNTY COMMISSIONERS

WARREN COUNTY, OHIO

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C. MICHAEL KILBURN

PAT ARNOLD SOUTH

DAVID G. YOUNG

BOARD OF COUNTY COMMISSIONERS

WARREN COUNTY, OHIO

MINUTES: Regular Session – June 15, 2010

The Board met in regular session pursuant to adjournment of the June 10, 2010, meeting.

David G. Young - present

Pat Arnold South - present

C. Michael Kilburn - present

Tina Davis, Clerk - present

Minutes of the June 10, 2010 meetings were read and approved.

- 10-0831 A resolution was adopted to approve and enter into a Software Maintenance Agreement with Maximus, Inc. for the Quic+/RMS Program on behalf of the Warren County Department of Human Services. Vote: Unanimous
- 10-0832 A resolution was adopted to approve Notice of Intent to W.E. Smith Construction fro the Western Row Road Bridge Rehabilitation Project. Vote: Unanimous
- 10-0833 A resolution was adopted to Advertise and Set July 13, 2010, at 9:30 a.m., for the Public Hearing to consider the County's Year 2011 Tax Budget.
Vote: Unanimous
- 10-0834 A resolution was adopted to Amend the Contract between the Warren County Commissioners and Language Line Services on behalf of the Warren County Department of Human Services. Vote: Unanimous
- 10-0835 A resolution was adopted to Amend a Contract between the Warren County Commissioners on behalf of the Warren County Department of Human Services and the Ohio State University on behalf of Ohio State University Extension, Warren County. Vote: Unanimous

- 10-0836 A resolution was adopted to approve and enter into an Agreement with Robert D. Urton, Self-Employed, on behalf of the Warren County Clerk of the Court of Common Pleas to provide cleaning services for the Branch Title Offices located in Franklin and Mason. Vote: Unanimous
- 10-0837 A resolution was adopted to approve Change Order #3 with Progress Supply Inc. relevant to providing temporary cooling and air handling at 500 Justice Drive Common Pleas Court Building. Vote: Unanimous
- 10-0838 A resolution was adopted to Advertise for Bids for the US 22/3 and State Route 48 Water Main Relocation Project. Vote: Unanimous
- 10-0839 A resolution was adopted to approve and authorize the President of the Board to enter into Classroom Training Agreements on behalf of Workforce One of Warren County. Vote: Unanimous
- 10-0840 A resolution was adopted to affirm "Then and Now" requests pursuant to Ohio Revised Code 5705.41(d) (1). Vote: Unanimous
- 10-0841 A resolution was adopted to approve a Cash Advance from Water Revenue Fund 510-3219 (Surplus) into ST RT 122 and Utica Rd Assessment Project Fund No. 439-3235. Vote: Unanimous
- 10-0842 A resolution was adopted to approve Supplemental Appropriation within Building Services Fund #494. Vote: Unanimous
- 10-0843 A resolution was adopted to approve Supplemental Appropriations into within Probate/Juvenile Fund #247. Vote: Unanimous
- 10-0844 A resolution was adopted to approve Appropriation Adjustment within Veteran's Funds #101-5220 and #101-5210. Vote: Unanimous
- 10-0845 A resolution was adopted to approve Appropriation Adjustment within Veteran's Funds #101-5220. Vote: Unanimous
- 10-0846 A resolution was adopted to approve Appropriation Adjustment within Sheriff's Office Fund #101-2200. Vote: Unanimous
- 10-0847 A resolution was adopted to authorize payment of Bills. Vote: Unanimous
- 10-0848 A resolution was adopted to close Hearing concerning the Petition for Annexation of 4.270 acres to the Village of South Lebanon filed pursuant to Ohio Revised Code Section 709.02 (Regular Annexation) and render a decision June 29, 2010, at 11:45 a.m. Vote: Unanimous

- 10-0849 A resolution was adopted to acknowledge payment of Bills.
Vote: Mrs. South - yea; Mr. Young - yea; Mr. Kilburn - nay
- 10-0850 A resolution was adopted to approve and authorize the Submittal of a Grant
Application for the Community Oriented Policing Services (COPS) Secure Our
Schools Program on behalf of the Warren County Sheriff's Office.
Vote: Mrs. South - yea; Mr. Young - yea; Mr. Kilburn - nay
- 10-0851 A resolution was adopted to Cancel regularly scheduled Commissioners' Meeting
of Thursday, June 17, 2010. Vote: Unanimous

DISCUSSIONS

Mike Yetter, Zoning Supervisor, was present for the site plan review application of Landtech/CelluSite LLC and Emmor T. Baily requesting application to locate a telecommunications tower at 2973 Hatfield Road in Turtlecreek Township, Warren County, Ohio.

Mr. Yetter explained that, due to clerical error, notices to the adjacent property owners relative to the time and date of this site plan review application were not notified and requested the Board continue this discussion for two weeks.

Upon discussion, the Board continued the site plan review application to June 29, 2010, at 11:15 a.m.

Dave Gully, County Administrator, informed the Board of a state wide appeal filed by Duke Energy for a reduction in property values which, if approved, will result in significant revenue losses especially to the local school districts.

Chris Brausch, Sanitary Engineer, was present along with Nancy Foreste, property owner in Deerfield Township, for an update on the installation of a filtering system at her water tap due to dirty water.

Mr. Brausch stated that the filter installed yesterday and they will monitor the filter every other day to check for debris.

Mrs. Foreste stated she is excited to see progress towards to project and will keep the County informed on the status of her water.

Upon discussion, the Board requested them to give another update in a few weeks.

Chris Brausch, Sanitary Engineer, discussed the Shaker Road Non-participant charges with the Board and stated his concern to not price ourselves out of having customers.

Upon discussion, the Board stated they would schedule this item for discussion and a determination at a later date.

Rachel Hutzal, Prosecutor, was present to inform the Board that there is a meeting schedule this afternoon with the Common Pleas Court Judges and she was informed that the purpose of the meeting was to question when she is moving out of her space at the Common Pleas Court Building in order for them to move their staff from the trailers in the parking lot into her existing space.

PUBLIC HEARING
4.270 ACRES TO THE VILLAGE OF SOUTH LEBANON
JAMES D. SMITH, AGENT
(GENERAL ANNEXATION)

The public hearing to consider the regular annexation petition filed by James D. Smith, Agent to annex 4.270 acres to the Village of South Lebanon was convened this 15th day of June 2010, in the Commissioners Meeting Room.

David G. Young, President of the Board, call the public hearing to order and read aloud the facts of the case and the process which would be followed relative to the order of presentation of evidence for the public hearing.

Tina Davis, Clerk of Commissioners, read aloud the documents received to date as well as when said documents had been received. She also confirmed that all matters required by law had been complied with.

Catherine Cunningham, Attorney for the agent, gave an opening stated and listed the exhibits she would be filing in favor of annexation. She also stated that this annexation will eliminate an existing island of township land within the corporation boundary.

Ray Barrett, owner within the annexation, clarified that Bonnie Barrett who is listed on the deed with him is in fact his deceased father, not his wife.

Commissioner Young questioned if there was anyone present who would like to remove their signatures from the petition. There was no response.

Commissioner Young then questioned if anyone present desired to challenge the authorization to sign the petition. There was no response.

Commissioner Young then questioned if the Tax Map Department found the map and legal description to be accurate. It was indicated that the map and legal description are correct.

Mrs. Cunningham stated her objection to letters from 3rd parties that have been filed by Mr. Barrett due to a procedural defect. She stated that since the information was not presented in affidavit form in a timely manner and since the parties are not present to testify in person, the information is not admissible.

Commissioner Young then swore those present desiring to give testimony during the public hearing.

Mrs. Cunningham presented the following exhibits in favor of the annexation:

- Petitioners' Exhibit 1 - Certified copies of the deeds of the property owners included in the annexation
- Petitioners' Exhibit 2 - Map of the Territory
- Petitioners' Exhibit 3 - Map of the ½ mile radius of the area
- Petitioners' Exhibit 4 - Area photo of the ½ mile radius of the area with the well fields shown
- Petitioners' Exhibit 5 - The map of the area if the annexation is approved
- Petitioners' Exhibit 6 - A legal memorandum in support of the annexation being approved

Robert Craig, Village Administrator, reviewed the map exhibits and spoke in favor of the annexation petition.

Mrs. Cunningham stated that the property owners that signed the annexation petition desire sanitary sewer service, cheaper water rates, and uniform enforcement of regulations.

Commissioner Young questioned what parcels are actually being included in the annexation and what the existing use of said parcels is.

Mr. Smith, Agent for petitions and Mayor of the Village of South Lebanon, stated that there are two residential homes, a veterinary clinic and a gas station.

Bruce Bradstetter, Village Engineer, stated that this annexation will eliminate private septic systems and help eliminate the potential of future groundwater contamination of the well fields.

Mayor Smith then testified that the properties being annexed will be offered free sewer tap-in fees and will eliminate a small island.

Mr. Barrett stated that the Mayor had made a comment that there are contaminants leaking into the ground from his fuel station. He stated that there are no contaminants leaking from his property. He then stated that if the Village widens the roadway in front of his property and places a continuous turn lane as he has been shown to be proposed, it will put him out of business. He stated that Federal law prohibits the unloading of fuel within 5 feet of the roadway.

Bruce McGary, Chief Deputy Prosecutor, stated that any damage caused by the Village of South Lebanon that prevents the use of his property would be reverse condemnation and they would have to, by law, compensate him for his property.

Mayor Smith stated that the Village does not have any desire to own this property and has no plans for improvements that would close down his business.

Robert Jett, property owner within the annexation petition, stated if he would have known that Mr. Barrett was being included in the annexation against his will, he would not have signed the

annexation petition. He then stated that he does not want to withdraw his signature as he needs the sanitary sewers.

There was discussion relative to Bonnie Barrett being deceased and what the actual percentage of signatures should be.

Upon determination, it was determined that 4 out of 5 property owners have signed for annexation rather than 4 out of 6.

Mr. Barrett testified that he has been located on that property since 1966 and that the business was his life. He then presented a letter from Bishop Oil stating that if barriers are installed on the roadway, they will no longer be permitted to deliver fuel.

There was discussion relative to what the future road improvements would include.

Mayor Smith stated that the Village has not intention of doing anything except a deceleration lane on Bishop's (South Side) that would help trucks access Mr. Barrett's property. He stated there is no curb or divider proposed and there are no plans except to give additional room for the trucks.

Mr. Barrett then presented the Public Utilities Commission regulations that stated regulations relative to the delivery of fuel. He then stated his desire to be removed from the annexation petition.

There was a question as to what the water and sanitary sewer rates would be. Mr. Craig stated that the 35% surcharge would be removed from the current rate.

Mr. Barrett stated that they Mayor had informed him that they would widen and divide the roadway.

Mrs. Cunningham stated her objection to the email from Bishop Oil being submitted into evidence.

Mayor Smith stated the Village is sympathetic to Mr. Barrett and they have no intention of doing anything to put Mr. Barrett out of business. He then stated that the Village has been purchasing fuel and utilizing his wrecker services since 1966. He stated that they support his business and plan to continue in the future.

Mr. Barrett stated again his desire to be excluded from the annexation.

Commissioner Kilburn questioned if there is any issue with removing his property from the annexation petition.

Mrs. Cunningham stated that the new annexation law does not allow for deletion of territory.

The Board then listened to closing arguments and accepted the exhibits presented into evident.

Commissioner Young reviewed the findings of fact that must be met per the Ohio Revised Code and upon further discussion, the Board resolved (Resolution #10-0848) to close the public hearing and render a decision on June 29, 2010, at 11:45 a.m.

Megan Manual, Board of Developmental Disabilities Director, was present along with Michelle Swearingen, Business Director, for a work session relative to the strategic plan of the Board of Developmental Disabilities and the five year projection of income vs. expenditures for the Program.

Ms. Swearingen reviewed the strategic plan and presented the five year projection and stated that, due to the future financial outlook, the BDD (Board of Developmental Disabilities) will be considering a roll back of 1% rather than 2% for the collection of the voted millage for 2011.

There was discussion relative to the carryover remaining.


Commissioner Young stated his opinion that collection of 3 mills is not justified.

Commissioner Kilburn stated he does not support the collection of an addition mil and feels they need to stick with the 2 mil collection rather than increase to 3 mills.

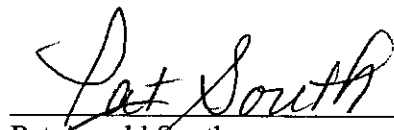
Commissioner South stated she too is not ready to add an addition mil for collection on the 2011 taxes.

Upon further discussion, the Board stated his appreciation to BDD for the continued cooperation and good financial management.


Upon motion the meeting was adjourned.



David G. Young, President




Pat Arnold South



C. Michael Kilburn

I hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on June 15, 2010, in compliance with Section 121.22 O.R.C.

A handwritten signature in black ink, appearing to read "Tina Davis", written over a horizontal line.

Tina Davis, Clerk
Board of County Commissioners
Warren County, Ohio