

# Westfield Township Board of Trustees

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Regular Meeting  
August 4, 2014

Trustee Likley calls the meeting to order. Roll call: Likley- aye, Thombs- aye, Schmidt- aye.

***Likley makes a motion to go into Executive Session with Assistant Prosecutor Rictor, Assistant Prosecutor Thorne, Attorney Schrader and Zoning Inspector Sims to discuss court decision; seconded by Thombs. Roll call: Thombs- aye, Schmidt- aye, Likley- aye. The motion passes.***

***Likley makes a motion to come out of Executive Session; seconded by Schmidt. Roll call: Schmidt-aye, Likley- aye, Thombs- aye. The motion passes.***

Likley states that there were no decisions made while in Executive Session and Attorney Al Schrader would like to make a statement.

Al Schrader thanked the Board for the opportunity to speak and explained the ruling from Judge Collier. Attorney Schrader said that Judge Collier made a ruling on July 29, 2014 and the Board is deciding what their response will be. The courts have set a new standard for a Quasi Judicial Board such as the Board of Zoning Appeals. These Quasi Judicial Boards take evidence and sit like a court. There have been some articles in the newspapers and I saw an Article in the Beacon, they said the court set standards for a nonbiased board to make a decision. I think it's important to know that these are new standards and they weren't the standards back when the Board of Appeals was deciding this case. In fact, the court points out that the Assistant Prosecutor advised the Board that in his opinion that nothing in the documents or records showed any prejudice by either of the Appeals members, Schmidt or Daugherty. That was probably the proper advice to give back then but the Court of Common Pleas has set a new standard to show you are not prejudice and to show you are a nonbiased decision maker that can act as the court. Show the evidence and if you have a better case then you win and if not then we win. I wanted to make this clear that this isn't something that the members were prejudice or biased instead the court has given us a different standard. The trustees will be thinking about this case and thinking about what they want to do about the decision, but I did want to make it clear that I think there might be a tendency to think that somebody is biased or did something wrong. They did exactly what, as an attorney, what I want my clients to do which is to follow their attorney's advice. That's what the Board of Zoning Appeals did. They followed their attorney's advice. And quite frankly, at that time they followed the standards of the law when a year or two ago, when this thing started, it was decided that it was pretty good advice. It isn't anymore and so now we have to decide what we are going to do about Judge Collier's ruling. Thanks, I appreciate you listening.

# Westfield Township Board of Trustees

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The reporter from the Gazette asked, "What are your options based on the court's decision?"

Attorney Schrader said there are three things: 1. Appeal the courts' decision; 2. Review with the Board of Appeals these new criteria. In theory you have the right to ask the court to reconsider their decision but after reading Judge Collier's decision I don't think it would make much sense to ask him to reconsider; 3. To live with the decision. After some discussion with the board I can tell you that they are taking time to think about it.

Likley thanks Al Schrader for his comments.

## **Comments from the floor- None**

## **Fiscal Officer's Report**

- Fund Status in the amount of \$763,562.75 and the checking balance to date is \$461,008.78.
- Payments/ warrants in the amount of \$42,572.59. (Many costs for equipment rental and road repairs.)
- OTARMA in the amount of \$5763.00 for liability coverage for the year.
- CSX \$1965.84 is the final payment.
- PCS Paving, LLC in the amount of \$15,559.00 for road shimming.
- Zweife has her 3 month healthcare reimbursements and salaries together.

## **mental appropriations**

- **Transfer \$314.00 from contingencies to liability insurance for OTARMA bill #1000-110-382**
- **Transfer \$1200.00 from contingencies to equipment rental bill #2031-930-930 to Road Fund 2031-3300-599-7005**
- **Transfer \$1200.00 from Road and Bridge Contingencies 2031-930-930 to the line item for road grading 2031-330-599-0608**

***Likley makes a motion to approve each supplemental appropriation as presented; seconded by Schmidt.***

***Roll call: Likley- aye, Thombs- aye, Schmidt- aye. The motion passes.***

## **Correspondence**

1. Medina County Engineers' Dinner on September 18<sup>th</sup> at 4:30 PM at the Medina County Highway Facility. Likley would encourage all to attend the workshops followed by the dinner.

# Westfield Township Board of Trustees

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2. Medina County Prosecutors' Office regarding a delinquent tax proceeding on a residential property. The township may be able to acquire the 6-7 acre property. Likley requested the trustees to locate the property on Buffham Road and at the August 11<sup>th</sup> meeting will discuss if this is something the trustees wish to pursue.

## **Minutes to be approved**

***Likley makes a motion to approve the July 21, 2014 meeting minutes as corrected; seconded by Schmidt. Roll call: Thombs- aye, Schmidt- aye, Likley- aye.***

## **Roads' Report**

- Kennard Bids Report (culvert) – H & H Construction bid was accepted and now waiting for the final approval by the county.
- Ballash Road culvert will be done this week.
- Western Buffham Road (Friendsville West) shimming is done. The county has also shimmed on Kennard.
- Waiting for a Joint Resolution with Lafayette and Guildford Townships to share man power and equipment. Evans has been helping with ditches in Lafayette. The agreement will be trade of employee time and equipment and in the resolution will state if something happens to the equipment during a neighboring townships' job the township (where it happens) will be responsible for repairs.

## **Cemetery and Parks**

Likley informs the board of a burial on Sunday and the metal sleeves in the cemetery are just markers for the gas lines. Zweifel and Thombs will sign the cemetery deeds and meet with the notary. Thombs would like to relay to the trustees that the mowing at the cemetery looks really good.

## **Zoning Report**

- 7 permits have been issued from July through August 4, 2014.
- 3 zoning violations: 6479 Kennard Road- fence was removed so violation remediated, 7552 Seville Road- Certified letter unclaimed due to Mr. Lesiak was traveling for work. ZI Sims will reissue zoning notices.  
8514 Friendsville Road (Fix a Fence)-10 day violation reissued and ZI Sims will hand deliver.

## Westfield Township Board of Trustees

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- North Coast Premier Soccer- Area variance application incomplete (no payment). ZI Sims has turned this over to Bill Thorne and Mike Sweeney would like the trustees to wave fee of \$250.00 for the variance application. Likley would like to know under what pretense? Thorne answers that Sweeney feels that this variance was created because the state took some of the property and the site plan was approved incorrectly. Schmidt states that this is not a new variance. Bill Thorne stated that NCS driveway always crossed the property line of another property (partner of NCS) and no one has raised the issue until now. Likley points out that Carrasco and Sweeney are partners of NCS and this is the property that the drive crosses into. The requested variances are to allow parking up to the property line, no paving of parking spots and a variance to the tree planting requirement.

Likley asked Schmidt to provide his expertise as a previous BZA board member.

ZI Sims feels that if the fee is to be waved than other applicants will request the same.

Thombs wanted to know if the property was sold what would happen with the drive. Bill Thorne stated that they already have an easement so that would go with the property.

ZI Sims did address the trustees that she did have a call regarding another party purchasing NCS.

Schmidt said he is inclined, in this particular case, due to the circumstances brought on by the state and also by the previous site plan review, that the trustees should wave the fee.

Bill Thorne stated that if variances aren't granted then NCS would have to move the parking.

***Schmidt makes a motion to wave the variance application fee of \$250.00 and revisiting the site plan; seconded by Thombs. Roll call: Likley- aye, Thombs- aye, Schmidt- aye. The motion passes. ZI Sims will provide Porter with the completed application for NCS at this time.***

- Comp Plan- BZA received their copies at their last meeting.
- Natural Hazard Overlay Map: Meeting Gary Norcia on August 11<sup>th</sup> of MC Soil and Water Conservation District to review.
- Kratzer Lawsuit Update: DEFER ZI report to Prosecutors' Office for further information.  
Case #14CIV 0173 (2506 Appeal/BZA): Judge Collier issued a judgment entry.  
Case #13 CIV 0971: Status Conference on July 15<sup>th</sup> at 1 PM, attended by council. Bench Trial set for March 11, 2015 at 1:00 PM.
- Porter will contact BZA for NCS Public Hearing
- Two nonconforming lots (1958) applicant would need a variance unless the applicant can supply the documentation. Likley asked if there was a deed recorded and Schmidt said that deeds do

# Westfield Township Board of Trustees

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not have to be recorded but the title company would find that information. ZI Sims does not feel she legally can make this decision. The property is vacant and doesn't have an address.

## Old Business

Hall rental deposit/fee forms are not done as of today.

Hall cleaning-Likley said that the young lady who was pursuing the cleaning could not secure insurance and a bond so Likley will clean the hall since the present cleaning schedule is not sufficient. Likley will contact the cleaning company and end the once a month service.

Records disposal- Thombs will contact the Westfield Company again (done by maintenance). The person in charge is on vacation.

## New Business

Township Association Annual Steak Roast is on August 21<sup>st</sup> and the cost is \$10.00. Bring a dish to share.

## Announcements

ZC reg. meeting on August 12, 2014 @ 7:30 PM

WFRD/ Township special meeting on August 11, 2014 @ 6:30 PM (further discuss warning sirens and make decision)

Ohio Ethics Training on August 13, 2014

Public Hearing for Solar Panel Language on August 18, 2014 @ 6:00 PM

WFRD reg. meeting on August 18, 2014 @ 6:30 PM

Trustee reg. meeting on August 18, 2014 @ 7:00 PM

***Likley makes a motion to adjourn at 9:30 PM; seconded by Schmidt.***

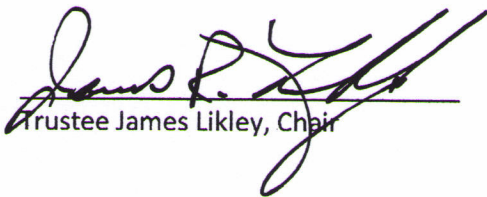
**Respectfully Submitted by:**

**Cheryl Porter, Zoning Secretary**

# Westfield Township Board of Trustees

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Date Approved: Aug. 18, 2014

  
Trustee James Likley, Chair

  
Trustee William Thombs

  
Trustee Michael Schmidt