

**Perry Township Board of Trustees**

**Regular Meeting**

**June 20, 2017 7:00 pm**

**Call to Order/ Pledge of Allegiance:**

**Excused absence:**

**Additions/Deletions to Agenda:**

**Public Hearings/Invited Guests:**

**Opening of 2017 Paving Bids**

Trustee Chessler stated that the Board has previously authorized solicitation of bids for the 2017 paving year and added that those bids were to be received today. Trustee Chessler indicated that we have received two (2) bids today and added that he will ask Road Superintendent Masalko to assist Fiscal Officer Schlegel to open the bids and announce them.

Fiscal Officer Schlegel stated that the bids submitted are:

<b>Company</b>	<b>Total Bid Amount</b>
Northstar Asphalt – Bid Bond	\$243,861.00
Superior Paving – Bid Bond	\$219,191.30

Trustee Chessler made a motion that the Board accept the bids and refer them to the Road Superintendent and Law Director for further review and a recommendation as to approval; Seconded by Trustee DeChiara.

ROLL CALL: Mr. Chessler, yes. Mr. DeChirara, yes. Mr. Haines, yes.

**Consider Zone Change Case #: PE-02-17**

**May 9, 2017 Stark County Regional Planning Recommended Approval of Proposed Zone Change**

**May 18, 2017 Zone Commission Recommended Denial of Proposed Zone Change**

Trustee Chessler stated that this next item on the Agenda has been previously scheduled; it is a zoning matter that has been identified as Case #: PE-02-17. Trustee Chessler indicated that he will read into the record the prior history of this case; the matter has been applied for by Deville Development LLC; they are applying to have vacant land situated in the NW ¼ Section 34, Perry Township which is comprised of 20.71 acres changed in zoning; the current zoning is R-2, the proposed zoning is R-3. As these matters regularly do, this was referred to the Stark County Regional Planning for review; that was forwarded on

April 21, 2017. Trustee Chessler indicated that the record that we have would note that the Stark County Regional Planning has recommended approval of this zone change.

Trustee Chessler stated that the Perry Township Zoning Commission met in regular session on May 18, 2017 after duly publishing notification of that hearing as required by law, the Board for the Zoning Commission on that date conducted a hearing and their recommendation to this Board was denial. Trustee Chessler stated that we have made legal notice of publication; the date the notices were sent to the property owners were May 23, 2017 and a legal notice was published in the newspaper of general circulation on May 25, 2017. Trustee Chessler stated that with that, he would like to add a few extra comments here; that this matter has generated conversation among the community members down there; this was previously scheduled of their last meeting to be heard. By agreement of the parties, we have postponed a decision tonight because all Board members could not be present at the last regular meeting.

Trustee Chessler indicated that in light of that, this matter is coming before the Board tonight for consideration, but it should be noted for those here and for those who have not been here for all those things, that after that meeting, at the Board's suggestion, that the interested property owners and the developer and the primary home builder in that area offered to meet with any residents that were interested and that took place last Wednesday evening over at the Perry Township Police Department. Trustee Chessler indicated that this was not a legally required or scheduled hearing, but it was an opportunity for the developer and interested property owners to get together and have questions answered and to understand a little bit more of what is being proposed; there were also some ancillary issues that were discussed that evening as far as drainage, the specific building plans and things like that; that is not part of our record, but Trustee Chessler indicated that he thought it was a benefit to the people that are interested in this to know and have that opportunity to ask those questions.

Trustee Chessler indicated that we will proceed tonight as we normally do having that information in mind. Trustee Chessler stated that he will relay also to everyone in the audience that has some concern about this, this Board has had opportunity to review all of the information contained in this file; it contains maps, it contains a report from the Regional Planning Commission, it contains, not a verbatim, but a minutes transcript from the Zoning Commission Hearings so that we were aware of who testified there and what they said; we have also independently taken an opportunity to go out and visit the premises, both where this is proposed and the surrounding areas. Trustee Chessler stated that he believes that they all have a good idea of where this is, what is proposed and with that in mind, welcomes comments tonight.

Trustee Chessler verified of Law Director Hall if we would ask the proponents to be sworn. Mr. Hall confirmed yes. Trustee Chessler stated that we will ask you to be sworn tonight, you will be giving testimony that will comprise a full record of this case so if there are any further proceedings, what is said tonight under oath will be part of those proceedings.

Trustee Chessler indicated that it is our custom and our practice to allow the developer to have the opportunity to have an opportunity to explain for the record tonight what the proposal is; the Board will

have an opportunity to ask any questions as there may be and we will then allow anyone else who would like to speak in favor of the proposal to have an opportunity to address the Board. We will then allow anyone who wishes to speak in opposition of the zone change again to have the opportunity to give sworn testimony today.

Trustee Chessler stated that one other thing that he would like to note that is a little out of the ordinary that as this has developed and the parties have had some conversation, and added that he realizes not everybody in the surrounding allotments have spoken with the developer, a few people have been around to have conversations and ask questions about this. Trustee Chessler stated that in light of that and in light of the concerns that were previously raised about the type of structures and the number of living units in there, the Board has received, and this was distributed at the last meeting, a proposal by the developer to adopt a declaration of restrictions. Trustee Chessler added that this would be adopted and incorporated and with regard to the concerns that the property owners had about the type of structures that could be directed in an R-3 district; this being three and four unit structures. Trustee Chessler stated that these declarations of restrictions will preclude those sizes of units of being built. Trustee Chessler stated that if the zone change goes through to R-3, it would allow the lot sizes that are permitted in an R-3 and would also incorporate the set back requirements for front and side lots and square footage requirements of the homes.

Trustee Chessler indicated that those are things that have developed and if you are here tonight and haven't had the opportunity to previously participate, you should be aware of those things that are going to be part of the record tonight and part of the proposal that is coming before us. Trustee Chessler stated that he will turn the floor over to Mr. Deville, the applicant in this matter.

Trustee Chessler indicated that he would ask all present to please address the Board at the podium and according to the Township public speaking policy.

Trustee Chessler asked the proponents and developers to please rise and raise their right hand; (thereupon, all potential witnesses were sworn). Trustee Chessler stated that for the record, the developer and those who will speak on his behalf tonight have been sworn.

Roger Deville – Mr. Deville briefly identified the attorney, engineer and Ryan Homes representative here this evening to answer any possible questions that might arise. Mr. Deville gave explanation regarding the requested zone change from R-2 to R-3 and the newly proposed development of Cedar Grove.

Trustee Chessler indicated that we will follow the procedure of any questions will be directed to the Board and we will refer them to Mr. Deville. Trustee Chessler added that if there are other things that come up after comments, we will certainly give opportunity to supplement what has already been said.

Keith Mitchell , Ryan Homes – Mr. Mitchell gave an overview of details of the proposed homes that would make up this Cedar Grove development; 3 bedroom ranch homes, approximately 1200 to 1700-1800 square feet, two car garages, price point of \$170,000-225,000, affordable. Mr. Mitchell indicated that the HOA (homeowners association) would take care of the common areas and the homeowner would have the option to opt in to have their lawn mowed, snow plowed, etc.

Trustee Haines verified of Mr. Mitchell that once this is completed, the homeowner's association would take care of the common areas and would be deeded to the homeowner. Mr. Mitchell confirmed yes.

Trustee Chessler indicated that the Board has been involved with the discussion which led to the preparation of the declaration of restrictions document and asked if either Law Director Hall or Attorney Rambacher, for the record, would recite what the intent of that is and what the intent of the effect of those restrictions are.

John Rambacher, counsel for the developer - Mr. Rambacher indicated that what they have prepared and submitted and committed to get recorded was the condition of the approval of the zone change declaration of restrictions. Attorney Rambacher stated that in essence, what this does is limit the development of these lots; it cannot be changed unilaterally by the developer; the only difference between the current zoning of R-2 and R-3 will be, as Mr. Deville indicated, the size of the zoned lots and setbacks. Mr. Deville added that the only way these stipulations could be documented was to put together a full document to specify them and they would then be signed and recorded.

Trustee Chessler inquired of Mr. Deville if there was anyone else on his behalf. Trustee Chessler verified of Law Director Hall that he had reviewed those (declaration of restrictions) and inquired if he was in concurrence with this. Mr. Hall stated yes and added a comment for the Board's information; as a general rule, the Board of Township Trustees and the Zoning Inspector does not have jurisdiction to the forced deed restrictions; this is for the benefit of Perry Township and added that he felt if there would be some violation or deviation from this, the Board would now have jurisdiction to setbacks. Mr. Hall stated that this is a stronger document than we would normally state.

Trustee Chessler relayed to Zoning Inspector Cugini that the current zoning is R-2 and asked if he would please recite for the record the type of structures that are permitted in an R-2; the minimum lot sizes and the setbacks.

Zoning Inspector Cugini stated that in an R-2 zone, only single family and duplexes are allowed; for a single family home, the minimum square footage for a lot is 12,000 square feet and that is a lot with sanitary sewer and in this area, there is sanitary sewer. Mr. Cugini stated that two family structures are a minimum square footage of 15,000 square feet; the other minimum lot and yard requirements are lot frontage on a public street, 55 feet for a single family, 55 feet for a two family; lot width at the building line for a single family is 65 feet; for a two family dwelling, it's 82 feet and the front yard setback for both are 40 feet; the rear yard setback is 25 feet and the side yard setback is 10 feet, respectively.

Trustee Chessler thanked Zoning Inspector Cugini and stated that as he has noted before, the matter was before the Perry Township Zoning Commission on May 18, 2017 and there were several of the residents that were present then to give comments and testimony before that Board. Trustee Chessler stated that he will ask if there is anyone else in the audience that wishes to address the Board and speak in favor of the zone change request. Seeing none, Trustee Chessler stated that he will ask that anyone wishing to speak to please step forward to the podium and identify themselves by name and current residence address. Trustee Chessler asked that anyone wishing to speak to please confine any comments to the Board; if there are questions, please direct any questions to the Board and they will

direct them appropriately. Trustee Chessler stated that we will give everybody a full and fair opportunity to speak before anybody would speak a second time, we want to make sure that everyone has the first opportunity to speak.

Trustee Chessler inquired if there was anyone who cares to speak in opposition of the proposed zone change.

Trustee Chessler gave direction to the two people standing, Mr. Smith and Mr. Fye, and asked if they would please stand and raise their right hands (thereupon, these potential witnesses were sworn).

William Smith, 5919 Bosford St. SW, Navarre – Mr. Smith stated that he also owned half of this farm and gave direction to the map before the Board. Mr. Smith indicated that he didn't want anything built there and added that his problem was drainage. Mr. Smith briefly gave his explanation of this issue and indicated that Mr. Deville assured him that his drainage issues would be taken care of and added that it was being worked on at this time so was satisfied.

James Fye, 4336 Duke Circle SW, Massillon – Mr. Fye stated that he has spoken against this from the very beginning and added that he is now standing before the Board to put into the Boards' hands whatever decision that is deemed best and will go along with the plan that has been presented. Mr. Fye stated that he appreciated Mr. Deville and the Board taking the time to meet with them to listen to their concerns. Mr. Fye gave a brief explanation regarding this matter and added that with the alternatives, felt this was their (residents of Knights Crossing) best option.

Trustee Haines thanked Mr. Fye for spearheading this matter and expressed his and the Board's appreciation for taking the lead regarding these issues.

Mr. Deville stated that he wanted to second Trustee Haines comments and added that he also appreciated Mr. Fye taking the lead in this matter.

Trustee Chessler briefly indicated that he felt this meeting between Mr. Deville and the Knights Crossing homeowners went a long way in answering questions and addressing their concerns and added that it was time well spent.

Trustee DeChiara directed his concern to the Ryan Homes representative in regard to them addressing any proposed drainage issues in this newly developed neighborhood. Mr. Mitchell indicated that he and Mr. Deville were working on any of these possible issues as a team.

Mr. Smith interjected that the Regional Planning Commission had turned this down before. Trustee Chessler established that there was something similar in 2004. Zoning Inspector Cugini indicated that this matter was tabled at that time for some reason or another and indicated that it never went to the vote.

Mr. Deville stated that he could give some clarification to this matter and indicated there was a builder that wanted to build condominiums at that time and relayed that due to the market and timing, everything fell apart in reference to that proposed case.



Trustee Chessler stated that based on the testimony and evidence that we have before us based on consideration of the recommendations from Regional Planning Commission and the Zoning Commission made a motion that condition upon the adoption of the declaration of restrictions, as written and submitted to the Board, that the Board approve the zone change from R-2 to R-3; Seconded by Trustee DeChiara.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

Trustee Chessler indicated that before taking a short recess at this time, he wanted to thank Zoning Inspector Cugini in response to this manner of zone hearings wherein the community is very passionate and involved. Trustee Chessler stated that Mr. Cugini took much time to facilitate these parties to meet and answer questions and address concerns. Trustee Chessler stated that this matter could possibly have been an unpleasant experience tonight for everyone, but it was not and wanted to thank him on behalf of the Board.

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#### **Brief Recess**

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#### **Communications:**

##### **Consider Waiving Temporary Sign Permit Fee for Central Catholic High School**

Trustee Chessler stated that the Board has received a request from Mr. David Oates, Principal of Central Catholic High School to waive the permit fee charged to Central Catholic for a portable sign at the McKinley Eagles on Monticello St. NW to advertise their Bingo night. Trustee Chessler indicated that this request has previously been made and granted regarding the policy that permits this.

Trustee Chessler made a motion that the Board approve the request that the permit fee charged to Central Catholic High School be waived for their portable sign at the McKinley Eagles; Seconded by Trustee Haines.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

**Public Speaks on items up for Board Approval:** None.

**Township Business requiring Board Action:** None.

**Unfinished Business:** None.

#### **New Business:**

Trustee Chessler made a motion to approve bills and payroll in the amount of \$164,856.46 for the week ending June 13, 2017 and bills only in the amount of \$67,913.35 for the week ending June 20, 2017 for a combined total of \$232,769.81; Seconded by Trustee DeChiara.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

**Fiscal Officer:**

**Administration:**

**Consider Renewal of SCOG Natural Gas Program**

Trustee Chessler stated that for several years the Township has independently and separately from residential customers participated in a natural gas aggregation program through the Stark Council of Governments. Trustee Chessler indicated that we were on a three (3) year cycle which is coming to the end and added that the broker that we have has obtained and reviewed bids for the next program that begins in October 2017. Trustee Chessler relayed that the expected savings that we have enjoyed will continue; Mark Burns is the consultant from Independent Energy and he has chosen a supplier; in order to strike the price, they need to know how many buildings of each public entity will be participating; the more buildings, the better rate that we can obtain. Trustee Chessler stated that he will ask Administrator Fetzer to fill out the form identifying the buildings that we get natural gas from and we will send those in with the form to participate in this again. Trustee Chessler indicated that this was actually due today and stated that he had the form sent in and will ask the Board to affirm our participation for the next three (3) year cycle. Once all of the buildings are identified countywide, he will go in August to strike the price.

Trustee Chessler made a motion that the Board renew its participation in the SCOG Natural Gas Program for the next three (3) years; Seconded by Trustee Haines.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

**Consider BWC Claim #14-804969 Settlement**

Trustee Chessler indicated that this is another matter of renewal and asked Administrator Fetzer to please fill in the details of this request.

Administrator Fetzer stated that attached for the Board's consideration is the OTARMA renewal which happens annually for us. For the past twenty-three years, the Board has had the experience of the OTARMA providers and their vast variety of knowledge in which they represent our Township with. The Ohio Township Association Risk Management Authority is a governmental risk-sharing pool whose members consist solely of Townships only; of that, OTARMA represents 1,109 Townships in the state of Ohio out of 1,309 of them; so there are many people reaping the benefits of the OTARMA assistance.

Administrator Fetzer also indicated that the stated purpose of OTARMA is to provide members with broader coverage than is available in the conventional insurance marketplace and provide that coverage on a continuous basis that allows members to keep pricing stable and accurately budget over a long period of time. Also, the Capital Distribution check will be received of the Board in the amount of \$10,310.68 along with a \$500.00 anniversary royalty check. In addition, a \$500.00 MORE program check.

Administrator Fetzer indicated that based on this information is requesting the Board to consider making a motion to renew the OTARMA renewal premium in the amount of \$168,986.

Trustee Chessler made a motion that based on the presentation of information, the Board renew our agreement with OTARMA and authorize the payment of the premium in the amount of \$168,896; Seconded by Trustee DeChiara.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

Law Director Hall indicated that we had an employee that suffered a worker's comp injury; as the Board may be aware, there was an open claims period for up to ten (10) years for that employee if there should be a subsequent injury or re-injury or aggravation of that injury. Mr. Hall stated that the Township's third party administrator has recommended an issuance of a cash settlement, or buy-out of that claim and that takes any future risk for everybody. Mr. Hall stated that this is entirely within the discretion of the Board and added that the Board has accepted these recommendations for other injured employees in the past. Trustee Chessler inquired of Mr. Hall if this discussion should be in an open session. Mr. Hall stated that it would be appropriate to go into an Executive Session under ORC 121.21 (G) (1) since it would be compensation to an employee. Mr. Hall again stated that if there is some concern or further inquiry that the Board needs to make, it would be appropriate for an Executive Session.

**Fire Department:**

**Police Department:**

**Consider Accepting the Retirement Letter of Officer Timothy Cecil**

Trustee Chessler stated that the Board has received a memo from the Police Chief notifying us that Officer Tim Cecil has submitted a letter of resignation for retirement; he wishes to retire from the police department and has been with the Perry Township Police Department since September 30, 2005, 11 ½ years with our department. Officer Cecil was a great officer on the roads serving the residents of Perry Township. Prior to working in our department, Officer Cecil also worked as a police officer with the Massillon Police Department from 1990-2004 and the Lancaster Police Department in South Carolina from 2004-2005. Trustee Chessler stated that he will ask our Administrator and the Chief to coordinate some recognition at a future date so that we can ask Officer Cecil to come in and we can appropriately congratulate him on his retirement and thank him for his service.

Trustee Chessler stated that the letter dated June 7, 2017 notifies the Board that as of end of shift on June 29, 2017, Officer Cecil indicated that his retirement will be effective. Trustee Chessler stated that he moves that the Board accept that letter effective that date and authorize the Police Chief will commence and continue to search for replacement for this; Seconded by Trustee DeChiara.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

**Road and Park Department:**



**Law Director:** None.

**Zoning:**

### **Problem Properties**

Trustee Chessler asked Zoning Inspector Cugini if he would please make some comments regarding the zoning grass/mowing procedures.

Zoning Inspector Cugini stated that there are numerous weekly complaints regarding high grass and added that he could not do this without his assistant, Butch Kraus. Mr. Cugini stated that Assistant Zoning Inspector Kraus handles most of the grass complaints and relayed that he is on top of every complaint; if it is not investigated the same day, it is investigated the next day. Mr. Cugini stated this zoning process is on a strict time frame wherein seven (7) days is given in order to comply; in some instances, a second notice is forwarded, but added that generally speaking, the grass matter is taken care of within fourteen (14) days. Mr. Cugini relayed that we have a lot of happy residents who live next to some of these houses with absentee owners or some that just don't want to cut the grass.

Zoning Inspector Cugini stated that in regard to the dilapidated structures, that is an ongoing issue and added that he is always looking for ways to take care of some of these problems. Mr. Cugini stated that they try to work with the landowners as well as attempt to find some of the absentee owners to try and do something with them. Mr. Cugini again stated that this is a continuing and ongoing battle, but added that we are certainly making progress in that area.

### **Department Matters Not Requiring Board Action:**

**Administration:** None.

**Fire Department:** None.

**Police Department:**

### **May Monthly Activity Reports**

**Road Department:** None.

**Parks/Recycling:** None.

**Zoning:** None.

**Law Director:** None.

### **Public Speaks-Open Forum:**

Dave Magenau, 214 Roxbury Ave. NW – Mr. Magenau stated that he was here tonight to discuss some drainage problems. Mr. Magenau stated that he purchased this house in 2008 and has been fighting drainage issues ever since. Mr. Magenau stated that he heard that Roxbury Road might be getting

redone (paved) and inquired if this was true. Road Superintendent Masalko stated not this year. Mr. Magenau stated that the way the road is graded, water flows directly toward his house. Mr. Magenau stated that when it rains, it destroys everything and gave a brief description of the water damages he has experienced as well as various ways he has attempted to remedy this issue. Mr. Magenau stated that he is here tonight because he doesn't know what else to do.

Trustee Haines inquired of Road Superintendent Masalko if he was aware of these issues, Mr. Masalko confirmed yes. Trustee Haines also inquired of Road Superintendent Masalko if there were any easements at Mr. Magenau's location, Mr. Masalko stated no.

Trustee Haines indicated to Mr. Magenau that he would be happy to come to his residence and meet and asked if Road Superintendent Masalko would be a part of this as well. Trustee Haines stated that he would get Mr. Magenau's contact information before going into the Executive Session.

**Executive Session(s):**

Trustee Chessler made a motion that the Board adjourn into Executive Session pursuant to ORC 121.22 (G) (1) to discuss compensation of a Township employee with possible action to be taken on that matter; Seconded by Trustee Haines.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

The Board adjourned into Executive Session at: 8:02 pm

The Board adjourned from Executive Session at: 8:07 pm

Trustee Chessler indicated that a third party administrator for our Workers Comp claims has identified this continuing case and is pending on the Board's favor amended a settlement; according to certain terms, they are asking for the Board's authority to pursue settlement along those guidelines.

Trustee Chessler made a motion that we authorize that it be done through Careworks to pursue a buyout of the claim and settle with the claims; Seconded by Trustee DeChiara.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

**Adjournment:**

With nothing further to come before the Board, Trustee Haines made a motion to adjourn the meeting at 8:08 pm; Seconded by Trustee Chessler.

ROLL CALL: Mr. Chessler, yes. Mr. DeChiara, yes. Mr. Haines, yes.

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Craig Chessler, President

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Joe Schlegel, Fiscal Officer