

The Board of Trustees of Sugarcreek Township, Greene County, Ohio, met in Regular Session on May 16, 2011, at 7:30 pm, at 2090 Ferry Road, Bellbrook, Ohio 45305.

1. Chairperson Dick King called the Regular Session to order at 7:30 pm.
2. All rose and recited the Pledge of Allegiance to the Flag.
3. Mr. Hodson called the roll with Board Members Dick King, Nadine Daugherty and Mike Pittman being present. In addition to Township Administrator, Barry Tiffany, others present who signed in were Scott Bryant, Gary and Barb Etter, David and Kathy Mesards, Bill and Pauline Gibbs, William Thomas, Emily Gerbes, Jeff Stewart, Mary Tisher, Randy Tisher, Sharon McGinnis, Jim Martin, Jerry Smith, Todd Gregg, Joe McCarthy, Bob Gable, Brenda Hood, Jerry O'Ryan, Cheryl Gregg Farenholz, Dave Linkhart, Gareth and Virginia Kozee, Barbara Burson, Barbara Murphy, Ben Monig, Steve Liles, Jeff Sebor, John Wolery and Patrick J. Hood.

Prior to Opening the Public Hearing Mr. Pittman said, after talking to several Citizens, he wished to clarify that the Township is in no way a part of or affiliated with the River Keepers. Mr. Pittman said there is a Citizen's group founded by Steve Knopp and Hope Taft to clean up the Little Miami River and commended them for their work.

4. Public Hearing – Regarding BZC Case 01-2010

Mr. King opened the Public Hearing.

Staff Report

Cara Tilford presented a summary of the proposed text amendments for adding the Little Miami River Overlay District to the current Comprehensive Zoning Plan as recommended by the Board of Zoning Commission. A copy is appended.

The testimony of those speaking “for “and “against” lasted approximately three and one-half hours. Following is a summary of some of the comments provided. Audio tapes are available, upon request, for those wanting verbatim testimony.

Mr. King asked for testimony from any, in attendance, who had expertise in any areas relating to the zoning issue being discussed. Mr. King said their comments should be heard before those speaking for or against.

Mr. Bob Gable from the Ohio Division of Natural Resources, Scenic Rivers Program, spoke about how a riparian buffer zone benefits the well-being of the river. Among those were the protection of water quality, help control erosion and surface water run-off problems and if the buffer forested, would help shade the river and increase the water oxygen levels which would help limit algae growth. Mr. Gable addressed many questions asked by the Board. In response to the question of what is the biggest threat to the river, Mr. Gable responded that it was urbanization and water run-off. He also said a forested buffer was the best protection. Mr. Gable also said in 1969 the Little Miami River was the first river in the State of Ohio to be designated as a 'Scenic River'. The river must be near pristine condition with good water quality to be designated as 'Scenic'. Mr. Gable said the O.D.N.R. plays no part in Overlay enforcement.

Mr. Dave Linkhart, Greene County Soil and Water Conservation District, said they were very supportive if riparian corridors for the protection they offer in helping with soil conservation. Mr. Linkhart talked about treats to the river from invasive species. He said you cannot let things go back to nature. There are so many new invasive species that you can't go back. Among those was Japanese Honeysuckle which chokes out all ground cover.

Aaron Rourke, Rivers Unlimited, said the Little Miami is partially threatened by two urban areas. He said the number of species in the river has declined to one-third of the number from fifteen years ago. Mr. Rourke said this may be an indicator of things to come. Mr. Rourke also said he was not familiar with the area but would suspect that urban run-off would be our biggest problem. Mr. Martin said our biggest problem is sewer plants. He said we have no developments along the river.

Those Speaking in Favor

Mr. Bill Schieman said the River is important to the identity of the Community and if something happens that damages the River it hurts everyone. Mr. Schieman said, by the standards of the Clean Water Act, the Little Miami River is considered impaired. He said phosphorous and sediment is the two biggest problems and riparian buffers serve to reduce both. Mr. Schieman said the Greene County sewer rates will get higher if the river quality does not improve. There have been problems with fish kills, low oxygen and a decline in mussels. Mr. Schieman said the old zoning overlay had a 175 foot setback and we are only asking for 120 feet.

Those Speaking Against

Mr. Gareth Kozee, 2589 State Route 725, said his son hopes to build on his land. Mr. Kozee asked if the Board had the authority to this type of regulation. Mrs., Daugherty and Mr. King said yes. Mr. Pittman said the previous attorney said we did not. Mr. Tiffany told Mr. Kozee that the wording of the amendment has been modified and the attorney has changed since the last opinion. Mr. Kozee said he has trails that his grandchildren ride on. Cara said they could continue current usage but could not expand. Mr. Kozee said if he sells his property that won't be the case. He said this is an unlawful taking of my land.

Mr. Patrick Hood, 3025 Springland Circle, said he has over twelve acres on the river. He said the 120 foot setback will affect over thirty percent of his property. He said he would like to be able to use and enjoy his land as he wants. This will regulate what we can and cannot do. He said he hopes he will be a good steward of the river. Mr. Hood talked about other court cases where they courts have stood up for the property rights of the people. Mr. Hood urged the trustees to carefully consider this and not encroach on the rights of the citizens. Mr. Hood thought the Overlay restrictions would be oppressive.

Mr. Jerry O'Ryan, 1677 River Ridge Dr., said we have had good testimony. Overall, our river gets a good report card. We have the River Keepers and Little Miami Inc. policing the river. There is nothing broke. What are we trying to fix. Mr. O'Ryan said we are all being good stewards and would be the first to report any infractions.

Ms. Emily Gerbes, 2852 State Route 725, said she has sixteen acres on the river. She said she respects what the Board is trying to accomplish but felt it should be tabled for further study. She said all of the people living on the river are good stewards and are protecting the river. Ms. Gerbes said that Mr. Schiemans testimony, being on the Zoning Board, and serving on a State Water Board was a conflict of interest. She said she did not think what she read in the amendment was the same as what the Board and Staff was saying. Ms. Gerbes suggested a simplified plain language version would be helpful. Cara Tilford agreed that a partner piece would have been very beneficial. Ms. Gerbes said the biggest problem along the river were the canoeists.

Mr. Gary Etter, 3092 Washington Mill Road, said the Township was a fault with any problems with the river due to run off and salt on the roads etc., and not the people who live there. They are taking good care of the river. He also said he agreed with Ms. Gerbers that Mr. Schieman had a conflict of interest. If I give to Little Miami Inc. that is my choice, but not my choice if you pass all these regulations. Any problems affecting us are created upstream and not here. You have a big blanket on the board and I think you need to cut it up into smaller pieces.

Mr. Jeff Stewart, Director of Bellbrook/ Sugarcreek Park District, said we are having a hard time supporting this as much as we would like but we feel it is too restrictive for our purposes. You do not have to pay for conservation easements. We have not paid for ours, other than maybe a dollar, and they can be tailored to the individual property owner. I think the Overlay District is a little over reaching.

Mr. Jim Martin said property rights are very important. He said the biggest contributor of phosphates in the water is the sewage plant. Mr. Martin said there are already several agencies regulating the river. Why do we want to get involved? He asked how we would know when there is a violation. How would we police it? I think you are infringing on people's property rights. No one along the river is causing a problem. It looks like you've got a solution for a problem that doesn't exist. A pre-existing nonconforming use disappears with the sale of the land. Mr. Schieman is State Water monitor and has no right to be here. It is a conflict of interest.

Ms. Cheryl Gregg Farenholz read an E-mail from Gary MacDonnough, another involved party that was out of town. He said he would not be able to build his home or his vineyard. Please do not pass this proposal. It will make almost one hundred percent of my land unusable. Ms. Farenholz read an E-mail from Steve and Teresa Griffen, who also

could not attend. They said they have plans to extend their pond. They have already had twenty feet taken from them for a sewer line. If you want our land you can buy it. Ms. Farenholz said she was also against the proposal. She said this will restrict my ability to build on my land. It will prevent my children from building a home on our land. I consider this an attack on my rights and my children's rights. She said she disagreed with Mr. Schieman. There are other State and Federal agencies regulating the water. She said she would like the Board to consider not approving the Overlay District.

Mr. Martin said he has asked for copies of opinions the Board has received from private attorneys and the Prosecutors Office but has not received them. Mr. King apologized for the oversight and said he would see he got them.

Ms. Mary Tisher thanked those in attendance and, for those speaking against, for expressing their own thoughts. She said she thought this proposal was out of bounds and wished the Board would turn it down.

Mr. Scott Bryant said he would like to offer a non-river resident opinion. He said Mr. Schieman has taken a lot of spears tonight and appreciates his efforts but disagrees with him. Mr. Bryant said zoning is not needed. We have good stewards along the river. Before we enact zoning that restricts people's rights we need to explore all other options. This proposal needs to go away and I hope you do so tonight. As a non-river property owner, if you do this, I will start to worry what you might do to me.

Mr. Steve Liles said this got off to a bad start. He said he was unaware of the proposal until he later received a call from Mr. Martin. Mr. Liles said not all the experts say they are familiar with the river in our corridor. We are good stewards. My neighbor has planted many Sycamores. They are hard to get started. We need to continue mowing to keep the honeysuckle down and continue to plant sycamores. In the summer, at night, the river smells bad from the sewer plant upstream in Beaver creek and not from run-off. Mr. Bob Gable said that was under the E.P.A. And he would get in touch with them.

Mr. King closed the Public Hearing.

Mr. King said we can now deliberate or defer the issue. Mr. Pittman and Mrs. Daugherty said they were ready to vote.

Mrs. Daugherty said I have always wanted to protect the Township and its resources. Protecting the river is important to me and I know it is to you also. All of you have been good stewards. I think we're working on something that is not a problem.

Mr. King said he thinks there is a problem but the burden far outweighs the benefit.

Mrs. Daugherty said we do have to protect the river but also people's property rights.

Mr. Pittman said the Overlay District was at one time a part of the Township Zoning Code and it affected no one. The reason being you are all good stewards. This zoning is not intended for you but proactive for future owners. We have several Citizens who will be seriously impacted by this and because of such, I cannot support this.

Mrs. Daugherty said we need to look at other agencies to help us protect the river.

Mr. King moved to not approve zoning as recommended by the Board of Zoning Commission. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Mr. Tiffany reminded all present that the motion was to not approve so a vote 'yes' meant 'no'.

5. Reports

A. Administrator

A report prepared by Mr. Tiffany is appended.

B. Fire

A report prepared by Chief Pavlak is appended. .

C. Police

A report prepared by Chief Flick is appended.

D. Roads and Services

A report prepared by Tracey Messer, Director of Roads and Services, is appended.

E. Zoning

A report prepared by Cara Tilford, Township Planner/Zoning Official, is appended.

6. New Business

Fiscal Office

A. Payment of Bills

Mr. King moved to accept the Payment of Bills as presented by the Fiscal Officer. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

B. Transfer of Appropriations

Resolution # 2011.05.16.01

Debit		Credit		Amount to
Fund Number	Account Name	Fund Number	Account Name	Debit/Credit
2021-910-910	Trans. Out -Gas Tax	3102-810-810	Bond/Note Principle	\$ 25,000.00
2231-910-910	Trans. Out – Permissive	3102-810-810	Bond/ Note Principle	\$ 25,000.00
2031-910-910	Trans- out- Road & Bridge	3101-810-810	Bond/Note Principle	\$180,000.00
2031-910-910	Trans- out- Road & Bridge	3101-830-830	Bond/Note Interest	\$ 7,050.00
			Total Transfers:	\$237,050.00

Explanation of Transfer: Second of three scheduled payments for Clyo Road Phase One.

Mr. King moved to accept the Transfer of Funds as presented by the Fiscal Officer. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Police Department

C. Agreement to Provide School Resource Officer Services for the 2011-2012 School Year to the Sugarcreek Local School District, Greene County, Ohio

Resolution # 2011.05.16.02

WHEREAS, the Sugarcreek Local School District, Greene County, Ohio has expressed a desire to have a School Resource Officer on assignment at the Bellbrook High School for a period of four (4) hours each school day; and,

WHEREAS, the Board of Trustees of Sugarcreek Township has previously authorized the additional position of School Resource Officer; and,

WHEREAS, Chief Gilbert Flick recommends that the Board of Trustees enter into the attached Agreement for the School Resource Officer and finds it in the best interest of the community; and,

WHEREAS, the Sugarcreek Local School District and the Sugarcreek Township Trustees desire to enter into an Agreement for the School Resource Officer services for the 2011-2012 school year (see attached agreement).

NOW THEREFORE, BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby accepts and enters into this Agreement for the School Resource Officer services for the 2011-2012 school year.

Mr. Pittman moved to accept the Resolution as presented. Mr. King seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

D. To Recognize National Police Week 2011 and to Honor the Service and Sacrifice of those Law Enforcement Officer Killed in the Line of Duty While Protecting Our Communities and Safeguarding Our Democracy.

Resolution # 2011.05.16.03

WHEREAS, there are approximately 900,000 law enforcement officers serving in communities across the United States, including 19 sworn members of the Sugarcreek Township Police Department; and,

WHEREAS, some 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 16,000 injuries; and,

WHEREAS, since the first recorded death in 1792, more than 19,000 law enforcement officers in the United States have made the ultimate sacrifice and have been killed in the line of duty; and,

WHEREAS, the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and,

WHEREAS, 316 names of fallen heroes are being added to the National Law Enforcement Officers' Memorial this spring, including 152 officers killed in 2010 and 164 officers killed in previous years; and,

WHEREAS, the service and sacrifice of all officers killed in the line of duty will be honored, and the names of the officers newly engraved on the Memorial will be formally dedicated during the National Law Enforcement Officers' Memorial Fund's 23rd Annual Candlelight Vigil on the evening of Thursday, May 13, 2011; and,

WHEREAS, the Candlelight Vigil is part of National Police Week, which takes place this year on May 15 – 21; and,

WHEREAS, May 15 of every year by Act of Congress has been designated as Peace Officers Memorial Day, with federal law (P.L. 103-322) directing that all flags be flown at half-staff on that date in honor of fallen officers and their families,

THEREFORE, BE IT RESOLVED that this Board of Trustees for Sugarcreek Township formally declares May 15 - 21, 2011, as Police Week in Sugarcreek Township, and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

Mrs. Daugherty moved to accept the Resolution as presented. Mr. King seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Roads and Services Department

E. Proclaiming National Public Works Week

Resolution # 2011.05.16.04

WHEREAS, Citizens are served every day by public servants at the federal, state, county, city and township levels, who supply continuity to our democratic society; and,

WHEREAS, public employees and volunteers make great contributions to their communities by serving in areas such as health, education, crime prevention, fire protection and conservation; and,

WHEREAS, the public employees and volunteers of Sugarcreek Township are committed to exhibiting the highest standards of excellence, dedication, creativity and skills; and,

WHEREAS, the public employees and volunteers of Sugarcreek Township are an integral part of improving the quality of life in our township by being responsive to the needs of citizens and supporting township services, thus making Sugarcreek Township a highly-valued community; and,

WHEREAS, the effectiveness and efficiency of government depend in large measure on public employees and volunteers, whose task is to provide service of the quality and quantity required and expected by the public on a daily basis; and,

WHEREAS, this Board of Trustees of Sugarcreek Township recognizes the dedication and talents of its public employees and volunteers, as well as the importance of the services they render at all levels of government;

NOW THEREFORE, BE IT RESOLVED, that this Board of Trustees of Sugarcreek Township, does hereby proclaim May 15 - 21, 2011, as “National Public Works Week” in Sugarcreek Township, and does thereby call upon all citizens to recognize and express their appreciation for the vital contributions made daily by the public employees throughout Sugarcreek Township.

Mr. King moved to accept the Resolution as presented. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Administration Department

F. Emerald Ash Borer Awareness Week

Resolution # 2011.05.16.05

Whereas, Over five billion ash trees exist in the great state of Ohio that contribute to air and water quality, property and land values, reduced heating and cooling costs, reduced soil erosion, temperature moderation, recreational destinations, wildlife habitats, manufacturing, commerce, and tourism, and

Whereas, Emerald Ash Borer (EAB), a destructive exotic beetle, was first discovered in 2003 in Northwest Ohio -- now a major gateway for the lethal pest -- creating a threat to all of the eastern United States' ash tree resources, and

Whereas, by increasing public awareness and understanding of EAB, our community can assist in curtailing the artificial spread of the beetle, and

Whereas, to halt the artificial spread of EAB by discouraging the movement of firewood and other ash tree materials, our community would help reduce the need for state, federal, and local governments, business, industry, and Ohioans to employ costly methods to control and eradicate new EAB-infested sites and restore affected areas, and

Whereas, employing a cooperative spirit and encouraging environmental stewardship in our community ultimately reduces the risk to Ohio's ash resource, and

Whereas, spring marks the beginning of the travel and tourism season in Ohio, and

Whereas, Emerald Ash Borer Awareness Week is an opportunity for Sugarcreek Township to join forces with state and federal agencies, township and county governments, business, industry, environmental groups, community organizations, and citizens to take action against the spread and introduction of EAB,

NOW, THEREFORE BE IT RESOLVED, that this Board of Trustees does hereby proclaim the week of May 22, 2011 as Emerald Ash Borer Awareness Week and encourages all citizens to increase their understanding and awareness of EAB and its environmental, ecological, and economic impact on our community, the State of Ohio, and the United States of America.

Mr. King moved to accept the Resolution as presented. Mr. Pittman seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

G. Authorizing the Township Administrator to Sign the commitment to Continue Membership Agreement with the Ohio Township Association Risk Management Authority (OTARMA)

Mr. Pittman moved to accept the Resolution as presented. Mr. Mr. King seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

7. Trustee/Staff discussion

Chief Flick said he would like two video cameras and audio recording equipment for the new room off the lobby of the Public Safety Building. Chief Flick said it would cost \$3,000.50 for the equipment and installation. He said it would be paid for with Federal Drug Seizure money.

Mr. Kink moved to approve the purchase. Mr. Pittman Seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Chief Pavlak said the external passage way doors have been in bad shape for a couple of years. He said they will soon become a security problem. He said he was not happy with initial bids but now has a bid of \$4,686.00 for both doors and frame replacement. Chief Pavlak said he did have these items budgeted for this year.

Mr. King moved to approve the purchase. Mrs. Daugherty seconded. Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Daugherty - Yes
Mr. King - Yes

Public Comments

Ms. Barb Burson said Mr. Martin has asked for copies of opinions from the Prosecuting Attorney. She asked if someone could get him copies tonight. Mr. Tiffany said he would get them together and see that he gets them tomorrow.

Mr. Jim Martin said tonight's meeting is the way government should operate. We elected you guys to make decisions for us. We do not need a community of do-gooders to get involved. They will be back with this overlay and we should be done with it. This thing about the Prosecutor, the Documents are secret until you receive them. After that, you can release them. Not releasing them makes it look like your hiding something. One of this country founding rights is property rights. We do not need one hundred and eighty pages of zoning code. You should stick to the basics.

Ms. Barb Burson said when we held our meeting in the old Town House, there was always a folder of all communications with the Township Offices since the last meeting. She thought that was a good idea. Mrs. Daugherty and Mr. King said they remembered that and thanked her for reminding them of it.

Mr. King moved to adjourn. Mrs. Daugherty seconded. Roll was called with the vote being as follows:

Mrs. Daugherty - Yes
Mr. King - Yes
Mr. Pittman – Yes

The meeting adjourned at 11:25 pm.

Theodore L. Hodson, Fiscal Officer