

RECORD OF PROCEEDINGS
CLEARCREEK TOWNSHIP TRUSTEES
Minutes of Regular Meeting
March 14, 2022

The Clearcreek Township Trustees met in regular session at 5:30 p.m. with the following members present: Mr. Gabbard, Mr. Muterspaw, and Mr. Wade.

Mr. Wade opened the meeting and led in the Pledge of Allegiance.

Mr. Wade asked for a motion to suspend the regular meeting to hold a Public Hearing on Resolution 5357 – A Resolution to approve/modify/deny the zone change request of Don Birdsall of Birdsall Consulting, LLC, agent for owner Scot Dorrough to amend the Zoning Resolution and Map of 8.39 acres from Suburban Residence Zone “SR-1” to General Business Zone “B-2” and dispense with the second reading. This Public Hearing relates to Parcel ID #04-15-101-008, Clearcreek-Franklin Road (Wood Road). Mr. Muterspaw so moved with Mr. Gabbard seconding the motion. Upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

Mr. Palmer, Planning and Zoning Director, gave background on the requested amendment to the Board and audience. Mr. Palmer noted that the Regional Planning Commission and the Township’s Zoning Commission had denied the rezoning request.

Don Birdsall of Birdsall Consulting came forward to discuss the background of the rezoning request. Mr. Birdsall stated that the land was ideally suited for commercial development and referenced a store and lock in Tipp City as an example. The Board had no questions for Mr. Birdsall.

Mr. Scot Dorrough, 4619 Paradise Isle, Destin Florida, the owner of the property, came forward and stated the property had been used for storage for some time and was costly to maintain being mowed twice per year.

Mr. George Morman, 384 Enrick Road, West Milton, Ohio, who is the potential developer of the project, came forward to discuss using the property as a store and lock. Mr. Morman has built similar properties locally and stated that the rezoning request as presented would allow the least cost for development.

Mr. Wade then asked for public comment for the application. Amy Vogel, 9871 Clearcreek-Franklin Road came forward and discussed her opposition to the rezoning stating that the request as presented would allow any type of business allowed in B-2, not just a store and lock. Ms. Vogel stated she wanted the area to remain residential. Ms. Vogel stated that she had talked with many neighbors who also stated their objection to the rezoning and wanted to maintain the residential character of the neighborhood.

Ms. Jonelle Cripe, 9776 Clearcreek-Franklin Road, came forward to discuss her opposition to the rezoning due to traffic issues possibly causing problems with school bus traffic and to state her opposition to a straight B-2 rezoning that would allow any type of business to be developed. Ms. Cripe stated that Mr. Birdsall had originally stated a doctor’s office was being developed and now Mr. Birdsall was stating a store and lock was being built. She was concerned as to what type of business would be built and how it would affect her property value.

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No further attendees came forward for this Public Hearing.

Mr. Wade then asked Mr. Palmer about how many residential properties could be built on the 8.5 acres. Mr. Palmer and Mr. Wade estimated about 6 properties could be built within the parcel and that an adjacent parcel could be used to make an even larger housing project. Mr. Wade then stated his opposition to a straight B-2 rezoning. Mr. Wade then said that not all commercial development made for bad neighbors and that a store and lock would have less traffic than a number of housing units, especially at night.

Mr. Gabbard also stated his opposition to a straight B-2 rezoning. Mr. Gabbard stated that the request, as proposed, was similar to a blank check for what type of business could be developed.

Mr. Muterspaw stated his opposition to opening the zoning to a regular B-2. Mr. Muterspaw stated the Township needs to know what is going to be there before looking at a zoning change.

Mr. Wade then stated he would not vote for the rezoning but would entertain another request that would lock in how the property would be developed. Mr. Wade recognized the additional resources needed to create a Planned Use Development (PUD), but felt that this would allow the rezoning to reflect the concerns of the Board and neighbors.

Mr. Morman came forward and stated he had a contract on the land and intended to build a store and lock. Mr. Morman stated his concern about the process and asked the Board what he needed to do next. Mr. Wade then asked Mr. Palmer to explain the options available to Mr. Morman. Mr. Palmer then explained how the PUD process worked and how it could be applied to Mr. Morman current request or be denied in total and restart the entire rezoning process. Mr. Morman stated he wished to proceed with a decision on the application tonight, instead of asking for the hearing to be tabled at this time to amend the application to a B-2 PUD for consideration. Mr. Wade then stated he would vote to deny the request and force the rezoning process to start again from the beginning.

Mr. Wade asked for a motion to end the Public Hearing and to immediately resume the Regular meeting. Mr. Gabbard so moved with Mr. Muterspaw seconding the motion. Upon roll call the vote was as follows: Mr. Gabbard-yea; Mr. Muterspaw-yea; and Mr. Wade-yea.

The Regular Meeting resumed at 6:20 p.m.

Mr. Wade then asked for a motion on Resolution 5357 to approve, modify, or deny the rezoning request. Mr. Muterspaw moved to deny the rezoning request. Mr. Gabbard seconded the motion and upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

Mr. Wade then asked for a motion to suspend the regular meeting and to hold a Public Hearing on Resolution 5358 - A Resolution to approve/modify/deny the zone change request of Backstop 48 Properties, LLC to amend the Zoning Resolution and Map of .50 acre from Residence Zone "R-1" to

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Neighborhood Business Zone “B-1” and dispense with the second reading. This involves the property located at 8142 State Route 48. Mr. Gabbard so moved with Mr. Muterspaw seconding the motion. Upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

Mr. Palmer updated the Board on the history of the parcel and gave background information on the current rezoning request. Mr. Palmer noted the half acre under discussion is adjacent to an already existing 1.23-acre B-1 parcel, and would ostensibly be used for parking. Mr. Palmer noted that the Regional Planning Commission and the Township’s Zoning Commission had approved the request. With no questions to Mr. Palmer from the Board, Mr. Wade asked the developer to come forward and present his request to the Board.

Mr. Ron Sparks, 10145 Park Edge Drive, Dayton, Ohio, came forward as a co-owner of Backstop 48. Mr. Sparks asked if he was allowed to let his legal counsel speak for him. The Board had no objections and Mr. Glen McMurry, 40 N Main Street – Suite 1700, representing the law firm of Taft, Stettinius & Hollister, came forward to answer any questions the Board had regarding the request. Mr. McMurry stated the wiffle ball business being proposed would be good for families and would invest in the local community. Mr. McMurry stated the maximum number of people for the facility would be 150. After a short presentation to the Board, Mr. McMurry asked the Board for approval of the rezoning request.

Mr. Wade then asked if anyone attending wished to speak at the Public Hearing. Mr. Doug Rhinehart, 8107 N State Route 48 (Grandma’s Gardens) came forward and stated he wasn’t opposed to having a business across the street but had a question on what constituted a B-1 zoning classification. Mr. Palmer then explained the nature of types of business that would fit the B-1 classification. Mr. Rhinehart then stated his concern for how traffic would be routed and how it would affect access to his business.

Mr. Wade then asked Mr. Palmer for options regarding merging the two properties to make a B-1 PUD. Mr. Palmer gave direction on how the Board could proceed and a short discussion with the Board ensued. Mr. McMurry entered the conversation and said that in his opinion a PUD on the half acre would put restrictions on the larger parcel that currently do not exist. Mr. McMurry then stated that in his opinion the best use of the half acre is to align the B-1 zoning with the larger property.

Mr. Pat Bracci, 8193 Jack London Drive, came forward to discuss his concerns with additional traffic in the area being a safety issue.

Mr. Jeff Poulos, 1447 Hemingway Drive, came forward to discuss his concerns with the noise associated with putting 150 people into a sports venue with lights and loud noises occurring at night. Mr. Poulos also told the Board that he hears the rodeo on State Route 73 which is almost a mile away. Mr. Poulos stated that a busy sports venue at the proposed location would be devastating to the neighborhood.

Ms. Melissa Hoban, 1604 Wisteria Way, came forward to discuss her concerns with traffic safety associated with the proposed business.

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Mr. McMurry again came forward to discuss how the business was working with the Ohio Department of Transportation (ODOT) to mitigate some of the concerns associated with traffic safety by dedicating specific entry and exit locations. Mr. McMurry also advised that 150 people was a maximum density and that normal business likely would not be at that capacity. Mr. McMurry said the business was open to help alleviate issues associated with noise created by the business. Mr. Muterspaw said that the half acre lot would add 16 additional parking spaces to the total parking capacity.

Mr. Bracci came forward again and reiterated his concerns about the proposed business adding additional congestion to the area.

Ms. Lara Ullery, 8706 Cypress Trail, came forward to advocate for the parcel to be rezoned since the main business location is already zoned B-1, and the half acre parcel being added would allow better traffic solutions. In addition, Ms. Ullery advised that the property was a long-term eyesore and that the proposed business would clean up that area.

The Board discussed with the audience the traffic concerns and how ODOT controls traffic on state routes along with other related issues already discussed previously. Also included in the discussion were concerns about future use of the property.

Mr. Wade asked for a motion to end the Public Hearing and to immediately resume the Regular meeting. Mr. Muterspaw so moved with Mr. Gabbard seconding the motion. Upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

The Regular Meeting resumed at 7:13 P.M.

Mr. Wade then asked for a motion on Resolution 5358 to approve, modify, or deny the rezoning request. Mr. Gabbard moved to approve the rezoning request. Mr. Muterspaw seconded the motion and upon roll call the vote was as follows: Mr. Gabbard-yea; Mr. Muterspaw-yea; and Mr. Wade-yea.

A short break was then called.

Mr. Wade called for Public Comment.

Mr. Driskoll 'Pete' Gibbs, 7328 Larkspur Court, came forward to discuss flooding issues at his property. Mr. Wade asked Mr. Jones, Road Superintendent, to update Mr. Gibbs on communications with the Warren County Engineer. Mr. Wade asked all the Board members to contact the County Engineer, Neil Tunison, for help with resolving this issue.

Mr. Wade asked if the Board members had any consent agenda item or items that they wished removed. No removal from the consent agenda was requested.

Mr. Wade read Resolution 5359 – A Resolution determining that the maintenance of 8346 Bunnell

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Hill Road, parcel ID #05-32-300-009, constitutes a nuisance, and ordering the removal of debris and the removal of junk vehicles after sufficient notice, dispensing with the second reading, and declaring an emergency. The emergency will allow the Township to resolve the matter in a timely manner. Mr. Wade asked for a motion to approve the Resolution. Mr. Muterspaw so moved with Mr. Gabbard seconding the motion. Upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

Mr. Wade read Resolution 5360 – A Resolution amending and revising the Clearcreek Township Road Department’s Mailbox and Winter Road Treatment Operating Procedures and dispensing with the second reading. Mr. Jones and Mr. Clark, Township Administrator, advised that the Township needed to adopt a policy to allow consistent treatment of issues involved with snow removal and Township damaged mailbox replacement. The Board discussed the issue for a short time. Mr. Wade asked for a motion to approve the Resolution. Mr. Gabbard so moved with Mr. Muterspaw seconding the motion. Upon roll call the vote was as follows: Mr. Gabbard-yea; Mr. Muterspaw-yea; and Mr. Wade-yea.

Mr. Wade read Resolution 5361 – A Resolution declaring personal property as surplus and approving an internet auction, direct sale, donation, disposal, trade-in, or destruction of said personal property, dispensing with the second reading, and declaring an emergency. Mr. Jones advised the Board that the item being declared surplus was going to be used as a trade-in on a newer model. Mr. Wade asked for a motion to approve the Resolution. Mr. Muterspaw so moved with Mr. Gabbard seconding the motion. Upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

Mr. Wade then asked for a motion on the recommendation to purchase, with trade-in, of a new John Deere 310SL HL backhoe/loader on state bid at a net cost of \$62,943.75. Mr. Gabbard so moved with Mr. Muterspaw seconding the motion. Upon roll call the vote was as follows: Mr. Gabbard-yea; Mr. Muterspaw-yea; and Mr. Wade-yea.

Mr. Jones then updated the Board on the costs associated with renting or leasing a loader for salt loading. Mr. Jones then advised that he was purchasing a larger bucket with the new backhoe/loader alleviating the need for a dedicated salt loader.

Mr. Wade read Resolution 5362 – A Resolution authorizing the Township Administrator to enter into a Coterminous Boundary Agreement with the City of Springboro, dispensing with the second reading, and declaring an emergency. Mr. Clark gave background information Board on the agreement and that the goal of the agreement was to build a new fire station (Station 24) inside the City of Springboro. Mr. Wade asked the Board for comments. Mr. Muterspaw asked Mr. Agenbroad, Fire Chief, what percentage of service calls were for City versus Township residents. Chief Agenbroad stated give or take about 60% City and 40% Township. Mr. Muterspaw then asked Chief Agenbroad the percentage of property tax revenue for the fire levies came from city residents versus township residents. Mr. Clark advised that Mr. Carolus, Fiscal Officer, had researched the tax revenue information and would likely stipulate that they were accurate. Mr. Muterspaw advised that the number was approximately

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60% of the revenue for the Fire District was from the township residents with 40% coming from Springboro residents. A short discussion ensued as to whether the percentage of township to city revenue was growing. Mr. Clark read the numbers from the most recent report which stated the last two years at 58% township, 42% city. Mr. Muterspaw stated his reservations about tying the coterminous agreement to the building of the new fire station. Mr. Muterspaw stated that the Township didn't know where the pattern of runs and property tax revenue would be in the next ten to twenty years. Mr. Muterspaw also stated that the agreement was set for twenty years, which is five election cycles. Mr. Muterspaw stated he couldn't support the coterminous for that length of time. Mr. Muterspaw stated that he recognized the need for a new fire station, while also stating his concern that the disparity of cost sharing needed to be addressed. Mr. Wade then stated the \$5 million from the City in the coterminous agreement merely softened the blow. Mr. Wade stated the new agreement would limit annexations for twenty years. Mr. Wade discussed his support for the term of the agreement ending in the year 2042. Mr. Clark advised that the City had communicated with him about forming a committee to help discuss the revenue balancing issues. Mr. Wade suggested that Chief Agenbroad and Mr. Muterspaw would be good participants in such a committee. Mr. Muterspaw stated that the disparity of runs and revenue, while static for the last two years due to COVID-19, would continue to increase. Mr. Gabbard stated that much of the disparity came from the fact that township homes had higher values. Mr. Gabbard stated that he felt that as new developments were added that the disparity would even out. Mr. Gabbard then stated his belief that township residents used Fire District services while doing business in the city of Springboro which helped offset some of the disparity. Mr. Gabbard stated the non-annexation clause of the agreement for twenty years would benefit the township. Mr. Gabbard stated that the agreement had been renegotiated twice within the last few years and could probably be renegotiated before the end of the agreement term, and that the proposed agreement was the best deal possible. The Mr. Wade asked for a motion to approve or deny the Resolution. Mr. Gabbard moved to approve the Resolution with Mr. Wade seconding the motion. Upon roll call the vote was as follows: Mr. Gabbard-yea; Mr. Wade-yea; and Mr. Muterspaw-nay.

Chief Agenbroad thanked the Board and Mr. Clark for working through the issues involved with the Coterminous Agreement.

Mr. Wade asked for a motion to approve the Consent Agenda as presented. Mr. Muterspaw moved to approve the Consent Agenda as presented to the Board:

- 1 Approval of Minutes – February 28, 2022, Regular Session.
- 2 Approval of Minutes – February 28, 2022, Work Session.
- 3 Current Bills and Financial Report.
- 4 Accept the resignation of Admin/Police Clerk, Kristen Eggers effective March 25, 2022.
- 5 Accept the Road and Parks, Planning and Zoning, Police, and Fire District's February 2022 monthly reports.

Mr. Gabbard seconded the motion and upon roll call the vote was as follows: Mr. Muterspaw-yea; Mr. Gabbard-yea; and Mr. Wade-yea.

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Mr. Clark updated the Board on the intersection of State Route 122 and Utica Road. He advised that he had talked with Kurt Weber from the Warren County Engineers Office about the excellent report generated by Corporal Dan Morgan regarding accidents at the intersection. Several options were discussed including making the intersection a four way stop. The option preferred by the Engineer was to add flashing yellow and red lights to the intersection with red on Utica and yellow on SR 122. Mr. Clark indicated that the County would be investigating the cost for adding flashing lights to the intersection.

Mr. Clark then updated the Board on the traffic situation along State Route 741 near the schools. Mr. Clark had attended a meeting involving School and City officials that were attempting to find alternatives to reduce traffic congestion. One suggestion was to route some of the car traffic to Weidner Road. Mr. Gabbard suggested that the options offered at the meeting were probably not in the best interest of everyone involved, and in his opinion the extension of Red Lion-Five Points Road was the preferred option. Upon further discussion by the Board, it was decided that there was no good single option available.

At 7:57 p.m., Mr. Wade asked for a motion to adjourn the Regular Meeting. Mr. Gabbard so moved with Mr. Muterspaw seconding the motion. Upon roll call the vote was as follows: Mr. Gabbard-yea; Mr. Muterspaw-yea; and Mr. Wade-yea.

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