

MINUTES OF THE ROOTSTOWN TOWNSHIP TRUSTEES

December 11, 2012

The regular meeting of the Rootstown Township Trustees opened at 5:30 p.m. on December 11, 2012. Those in attendance were Trustees Diane Dillon, Brett Housley and Joe Paulus, JoAnn Townend, Fiscal Officer, Bill Hahn, Jim Mahood, Van Black, and Julie Gonzales.

Resolution No. 2012-183 – Motion was made by Brett Housley and seconded by Joe Paulus to accept the minutes of November 27, 2012. Upon roll call the vote as follows: Diane Dillon, abstained, Brett Housley, yea, Joe Paulus, yea.

ROAD SUPERINTENDENT REPORT

Bill reported the alternator on the backhoe was purchased at a cost of \$250.00 at CarQuest.

The seal on the transmission pump blew in the Sterling dump truck and is at CTR being repaired. Bill does not have a quote at this time.

The Board agreed for the Road Crew to attend the Annual Holiday Luncheon in Randolph on Friday during lunch.

Resolution No. 2012-184 – Motion was made by Joe Paulus and seconded by Brett Housley to authorize the purchase of fifteen (15) sweatshirts for the Road Crew in an amount not to exceed \$24.00 each from Five Star Apparel pending the approval of Bill Hahn, Road Superintendent. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

Cemetery

There was one full burial since the last meeting.

Bill has almost completed the cemetery audit summary.

Park

The park is closed for the season.

ZONING INSPECTOR REPORT

There was one (1) act of business.

There were two (2) violations sent.

- ✓ 4848 Greenwood Drive – Nuisance
- ✓ 4971 Greenwood Drive – Inoperable Vehicle

There was one variance applied for from David Thompson of 5622 Tallmadge Road for a right-of-way.

Jim reported a leak downstairs at the rental house. English Plumbing was called and they calked around the tub and seem to stop the leak.

Jim mentioned the pay for the end of the year paychecks for the Zoning Commission and Zoning Board of Appeals members.

Jim reported since he has been working evenings. He has only received eight phone calls and one person has stopped in. The Board agreed for Jim to discontinue working evening hours but to continue on April 1st. The following is the Zoning Departments winter hours:

Monday: 10:00 AM – 4:00 PM
Tuesday: 10:00 AM – 2:00 PM
Wednesday: Closed
Thursday: 10:00 AM – 2:00 PM
Friday: 10:00 AM – 4:00 PM

Brett received a letter of interest from Rob Swauger for the Zoning Commission. The Board agreed for Jim to contact Mr. Swauger to set up an interview for December 27th.

Resolution No. 2012-185 – Motion was made by Brett Housley and seconded by Joe Paulus to reappoint Ginny Hamilton to the Rootstown Zoning Commission term ending December 31, 2017. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

Resolution No. 2012-186 – Motion was made by Brett Housley and seconded by Joe Paulus to reappoint Jennifer Milnes to the Rootstown Zoning Board of Appeals term ending December 31, 2017. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

Resolution No. 2012-187 – Motion was made by Diane Dillon and seconded by Joe Paulus to reschedule the next Trustees Board Meeting scheduled Tuesday, December 25, 2012 to Thursday, December 27, 2012 at 5:30 PM at the Rootstown Town Hall. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

FIRE CHIEF REPORT

Diane reported the following:

The fire hydrants will be painted on the tops, Thursday and Friday to identify them from the water company.

The water tank on the pumper has rusted through both side and needs replaced. It can not be welded or repaired.

Resolution No. 2012-188 – Motion was made by Joe Paulus and seconded by Brett Housley to replace the water tank on the pumper in an amount of \$9,500.00 from Finley Fire Equipment in Twinsburg. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

FISCAL OFFICER

Resolution No. 2012-189 - Motion by Joe Paulus and seconded by Brett Housley to pay bills on file with the Fiscal Officer. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

JoAnn informed the Trustees that OTARMA has a million dollars to distribute. We will not know our portion until April.

UNFINISHED BUSINESS

The Board signed a letter to Regional Planning Commission giving their notice to withdraw their membership effective the end of calendar year 2013.

The Board agreed for Diane to get more quotes to install restrooms at the park.

Public Hearing – Zoning Amendment 2012-001 – Garage & Lawn Sales

Resolution No. 2012-190 – Motion was made by Brett Housley and seconded by Joe Paulus to open the public hearing for zoning amendment 2012-001 – Garage & Lawn Sales at 6:00 PM. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

Brett informed the public that this hearing has been properly advertised.

The Rootstown Zoning Commission has proposed the following under section 310.09, Garage/Yard Sales (Residential Selling Events):

Not to exclude tag sales auctions, estate sales, moving sales and similar household sales. Limited to 3 consecutive days per calendar month. Excluding Township or whole subdivision advertised sales. See Section 420 regarding signage. In the definitions Section the following is proposed for “Garage and Lawn Sales”:

“the sale of tangible personal property, which is advertised by legal means where the public is or can be made aware of the sale, including such things as tag sales, auctions, estate sales, moving sales and other personal sales.”

Trustee Housley opened the public hearing to residents who wish to comment:

Amy Coleman a resident of Hartville Road said she doesn't see an issue with yard or garage sales in the community. If she wanted to be limited to what she does; she would move into a development. They have bylaws.

Ron Coleman a resident of Hartville Road asked how the Trustees plan to patrol the yards sales, how would they proceed? If there are 4 people living in a household, does each person get 3 days? They are concerns he has.

Summer Carpenter of St. Rt. 44 said her main concern that the township is passing an ordinance that is not necessary. Garage sales have not been proved to be a safety issue. They are taking away a landowner's freedom of choice, and also costing the taxpayers more money by having an employee to mandate the ordinance. How are yard sales going to be mandated, who is going to drive around, if they are not driving around are there going to be calls made saying whoever is having a garage sale? Is it only people are visible? Will she be targeted because she is easily seen? Will the township spend more money for a person to drive around? That is taxpayer's money. Ms. Carpenter asked for a clarification of why there was exclusion in Section 310.09 the township and subdivision sales.

Joy Carpenter of St. Rt. 44 said last year she and her friend started a club for cancer and sell things at yard sales. If it is taken away she would not be able to sell things for "Kids for Cancer".

Roger Carpenter of St. Rt. 44 presented the Trustees with a signed petition and asked if they received his 5 page e-mail. Diane and Joe did receive it. Brett said he did not – it may have gone into his spam mail. Brett will check. Mr. Carpenter asked that the Trustees read this e-mail before making a decision.

Wes Willis of Pletzer said the biggest complaint is safety issues for residents and property values were discussed at the zoning meeting. If there is a concern for danger of traffic accidents it is only heresay no one got any research. Also, property values you have to take in account that people might want to buy in an area where there is a lot of things going on that would be helpful for the community like yard sales and tag sales. There is still a major impact on this as business. You would still be putting laws in effect to stop business activity. It could be designed as a business. You shouldn't exclude areas such as subdivision or development. The law should include the township.

Tom Weiss of Wilkes Road said this is an invasion of his property rights. That is the bigger issue that garage sales. It is their rights as an American that you would be taken away.

Scott Kreiger of St. Rt. 44 said he has one garage sale a year but is confused as to what you can and can not sell. Scott asked if they would he be aloud to sell a vehicle in his front yard, a stack of fire wood? Jim Mahood said anything produced on your property such as wood you would have to get an agricultural permit. It is very broad as to what you can sell.

Marion Gordon of Sanford Road she is very disturb if one of the Township Trustees contact via e-mail that it would go into spam and would get tossed aside. Ms. Gordon agrees with Tom Weiss regarding the yard sales, it is too broad. It needs to be looked further into. For

example on Route 44 county cottage there is always stuff out for sale, Dollar General for instance has stuff out front are those yard sales.

John Gordon of Sanford Road asks is it 3 days per month, year? How is the resident supposed to know what to do? Would they need to register? It is an invasion as to what they can do on their property.

Ms. Gordon asked an appeals process if the Trustees adopt this tonight. Diane said the appeals process is in the Zoning Commission Chapter 6.60 (k.) (JoAnn Townend read the appeals process section).

Amy Coleman asked what are the consequences are if you have it 5 days instead of 3 will you get fined? Jim said as for any violation of the code, first a violation letter will be sent, after 10 days a second violation letter will be sent and you will have 7 days to correct the violation then after that, it would go before the Trustees and request permission to send a letter to the Prosecutor's Office send the resident a letter. The Prosecutor's Office will send you a letter if the violation is not corrected they will proceed with legal action.

Wes Willis asked if there was a fine. Jim said you could be fined up to \$100.00 per day for each day you were in violation.

Ron Coleman asked if there was a monetary consequence. Can you give your items to your neighbor who is having a yard sale to sell? Brett said this is based on residence not individuals.

David Bosko of Campbellsport Road asked for a clarification of the exclusion of a development. Does that mean all the developments are excluded from the petition? Brett said that is they way the Zoning Commission presented it to the Trustees.

Katherine Lynch of Seifer Road asked what is considered a development. Can you have a yard sale two weekends in a row are you limited? Joe said you are allowed 3 consecutive days per calendar month.

Sharon Graham of Homestead Road says based on what everyone is saying in this room tonight; why we are discussing this issue to begin with. Everyone in the room agrees. Is this genuinely a problem? Diane said it is the Zoning Commission's recommendation to the Trustees. Ms. Graham asked if there was a complaint.

Maureen Durbeck of Robin Drive asked how we got to this meeting. Brett said it was presented to the Trustees by the Zoning Commission.

Tom Weiss heard that most everyone at the Zoning Commission meeting agreed not to do this and they still move forward? It shouldn't have gotten to this point.

Summer Carpenter asked since this is the second time it was brought to the Trustees. It was denied the last time, so they changed the wording to take out the \$10.00. Here we are again and there is trouble with the wording again, so if this does get denied and the wording change

and brought forward again. Then nobody will show up at that public hearing and it will get approved. That is here concern. Diane said that is always possible.

David Bosko asked the method of rescinding and they will exercise it.

Scott Kreiger said if Jim Mahood worked on the weekends? Brett says he does not. What will we be relying on, citizen complaints or neighbors telling on neighbors? Is this how we will enforce it? That is a big problem.

Discussion with the Trustees:

Joe Paulus said he agrees with the public here tonight. Yard sales have been going on for decades, why all of a sudden is there a yard sale problem. The whole township suffers because one person can't get along. Now we all suffer. Joe said he appreciates the Zoning Commissions hard work. Joe does not like the wording either. How would we enforce this? There is should not be any exclusions – what is good for one should be good for all. Joe said he is not in favor of adopting the Zoning Commission as written.

Brett Housley said he has spoke to a lot of people and they don't have a problem with the Carpenters, but most do not want their neighbors having a yard sale every day of the week. It is not just your property right to enjoy your property. Once a month would be a yard sale and acceptable. You have the right to peacefully enjoy your property. He would not want his neighbor having strangers and does create problems with parking. Brett does not have a problem with yard sales, but everyday of the week would be running a small business in a residential area. Just because there are 50 people here, it doesn't mean that is what the public wants. We have to be careful the way the facts are presented. Brett believes there should be some stipulation of having yard sales all year round but does not believe the way the Zoning Commission is recommending it.

Diane Dillon said she has done a lot of research with other townships and communities and most are limited to 1-5 yard sales per year. There is a lot of work to the wording; there are a lot more definitions. The problem here needs to be addressed not as a garage sale, but as it being operated as a business aspect. She is a business owner and has her business in business areas and pay appropriately. She doesn't think it is right to operate businesses out of their homes that don't fall within the guidelines the township has. We should like at this as a home-based business. We shouldn't limit "yard sales".

Joe said if he wants to sell something (car) he doesn't want to bring it back and forth. This needs a lot of work. Diane said one car is fine what about five cars. Is that a home based business. Joe agrees we need to look at it at a different angle.

Resolution No. 2012-191 – Motion was made by Diane Dillon and seconded by Joe Paulus to deny the Rootstown Zoning Commission recommendation ZC 2012-001 Garage & Lawn Sales. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

The Board thanks the members of the Zoning Commission who were present.

Ken Howe of Queen Road says Tom had a very good point about doing things and why it was brought to the Trustees and out of respect to the Trustees here; he feels they are doing their job that we as citizens asks them to do. I'd rather them bring something and this be the reaction if we are against something so he respects all their opinion. Mr. Howe said he disagrees with Brett and is in total favor of the garage sales but if we were here talking about a gun shot everyday by him at his house. What do you think would happen? Brett said he would call the sheriff. Mr. Howe said you would do nothing because within the township you are allowed to discharge a weapon, we are not a village or city. Brett examples are very poor examples.

Resolution No. 2012-192 – Motion was made by Diane Dillon and seconded by Brett Housley to close the public hearing at 6:45 PM. Upon roll call the vote as follows: Diane Dillon, yea, Brett Housley, yea, Joe Paulus, yea.

RESIDENT'S COMMENTS

Darrell Wayt of Cherryhill asked why the two residents from Muzzy Lake who attended the last meeting got 45 minutes to speak but the residence at the public hearing got 3. Diane said she is chairperson and as long as she is present, residents get 3 minutes to speak.

Wes Willis said the Trustees need to seriously look into these home-based businesses.

Misty Dulaney said she hopes they are not going to use the home-based businesses a back door for the garage sale issue. I would hope the Trustees represent the people and listen to what they said tonight.

Resolution No. 2012-193 – Motion was made by Diane Dillon and seconded by Joe Paulus for the Rootstown Township Trustees to move into executive session at 6:50 PM to discuss property and personnel issues. Upon roll call the vote as follows: Diane Dillon, yea, Joe Paulus, yea, Brett Housley, yea.

Resolution No. 2012-194 - Upon conclusion of the above referenced discussion a motion was made by Diane Dillon and seconded by Joe Paulus that the Rootstown Township Trustees move out of executive session at 7:15 PM. Upon roll call the vote as follows: Diane Dillon, yea, Joe Paulus, yea, Brett Housley, yea.

After exiting Executive Session, the Trustees took no action.

Resolution No. 2012-195 - Motion by Diane Dillon to adjourn at 7:15 p.m.

Respectfully submitted,

Diane Dillon, Chairperson

JoAnn Townend, Fiscal Officer