

RUSHCREEK TOWNSHIP TRUSTEES
BOARD MEETING
11/16/2016

Hart Van Horn, Chairman called the Rushcreek Township Trustees Board meeting to order at 7:03pm leading with the Pledge of Allegiance. Those in attendance in addition to Hart were: Dave Myers, Trustee; Connie Moyer, Fiscal Officer; Robert Suer, Road Superintendent; and Will Duvall, Fire Chief. Hart asked that all cell phones be muted along with all fire radios except the Chief and Road Superintendent.

Bill Myers had advised the Board he would be out of town.

Visitors

Earl Lehman, Mary Hoffman, Tracy Shahan

SPECIAL ANNOUNCEMENT

Robert Suer, Rushcreek Township Road Superintendent, announced that he will be retiring with his last day of service to the residents and Board of Trustees will be January 31, 2017. Mr. Suer will turn sixty-six in January and has served on the road department since July 30, 1996. Last year he advised the Board that he began planning his retirement and asked the Trustees to be mindful of his desire. After meeting with Ohio Public Employee Retirement System, Social Security, and the Trustees, it has now come time to make the public announcement. It is with sadness and excitement to leave this position, however he will be available to aid in any way needed for the transition. It has been a pleasure serving, yet he will not miss the calls in the middle of the night.

Both Trustees advised that they appreciated his service to the community and wished him the best.

Dave made a motion to begin the hiring process for the replacement of the Road Superintendent and Hart seconded the motion. Hart advised that the goal of the board was to have someone hired on or about January 1st so the new hire had a chance to learn the process. The board will be placing the ad on the website, the Towne Crier, and sites in the trade industry. Roll Call: Hart, aye; Dave, aye.

Minutes

The minutes of the November 2nd Regular meeting and the November 11th Special meeting were presented to the Trustees for approval. Dave made a motion to dispense with the reading of the minutes as the Trustees had reviewed them prior to the meeting and approve the minutes of November 2nd and November 11th. Hart seconded the motion. Roll Call: Dave, yes; Hart, aye. Hart reminded everyone that the minutes are available on the website and upon request at the Fiscal Officer's office.

Treasurer's Report

EFT #759-2016 – #794-2016 and Warrants #40492-40503 in the amounts of \$18,951.67 were presented to the Trustees for signatures. This includes payroll dated November 17th, a voided check to Phil Miller who donated the amount back to the Township, and an adjustment due to the capital distribution on being an OTARMA member under the insurance program. Dave made a motion to pay the bills and Hart seconded the motion. Roll Call: Hart, aye; Dave, aye.

Will presented the Trustees with a list of expenditures for the next period in the amount of \$3,000.00. Dave made a motion to approve the list of expenses and Hart seconded the motion. Roll Call: Dave, aye; Hart, aye.

Robert presented the Trustees with a list of expenditures for the next period in the amount of \$14,900.00. Hart made a motion to approve the list of expenses and Dave seconded the motion. Bob advised that this amount included \$3,300.00 for the cost of repairs to the chip spreader. As previously reported, the transmission for the chip spreader is at Black Run Transmission. It was very difficult to locate parts due to the age of the unit. Black Run has advised that the cost of repairs is \$3,300.00. The job was placed on hold until the Trustees decided how to proceed. Hart asked when the unit was purchased and how much

was paid. After researching records, Connie advised the unit was purchased used on May 25, 2007 for \$15,000.00. Bob stated the unit sat for three years waiting on the Board to establish a chip/seal program. Dave stated that the chip spreader would work better than the roll gate spreader. The chip box spreads up to 14' wide and the roll gate spreader handles a maximum of 8'. Many of the upcoming roads in the chip/seal program are wider than 16'. Also included was 200 tons of #304 at \$75.00 per ton which was for the 127 Mulberry Street property for parking. Connie requested that the limestone be separated due to the 127 property. Hart amended the motion to approve \$11,450.00 expenses with the \$3,450.00 be equally divided between Fire Fund - Site Improvement and Road Improvement - Materials & Supplies. Dave seconded the motion. Roll Call: Dave, aye; Hart, aye.

Business

Advertisements were placed in the Towne Crier announcing openings on the Zoning Boards. Due to possible variance hearing request(s), Dave made a motion to make the appointments to the Rushcreek Township Board of Zoning Appeals pending clearance of conflicts and acceptance to include Mr. Bruce Duck to fill the unexpired term ending 2020 and Mr. Tim Thomas to fill the unexpired term ending 2019. Hart seconded the motion. Roll Call: Dave, aye, Hart aye.

Chief Will Duvall reported the following:

- Runs reported during the pay period: 24 squad which included 17 transports and 3 fire runs.
- A pre-bid conference is scheduled for November 22nd at 9:30am at the firehouse to allow bidders to visit the site and examine the conditions under which the work will be performed. The Trustees agreed that they will work a schedule out in order to be compliant with the Sunshine Law. The architect will run the pre-bid conference.
- Sealed bids will be received by Rushcreek Township Trustees at 9am on November 30th for the Renovation Project of the firehouse.
- Fire Department personnel are preparing the 127 Mulberry Street property for occupancy along with reducing unnecessary materials from the fire department. Any materials that can be donated are being taken to Good Will in Lancaster, Ohio however that does not include inventory items.
- All parties are diligently working on the FEMA grant which is due Friday, November 18th.

Road Superintendent Robert Suer reported the following:

- Marietta Road East of Holliday received 200 gallons of emulsion to repair the bad areas.
- Large culverts were replaced: Turkey Run Road – 1; and Locust Grove Road – 1.
- On November 10th Holliday Road was graded. The road was very hard and dry therefore, it is unsure how long the repairs will last without moisture to pack the road.
- Potholes were filled on Young Road using #304 limestone however without moisture it was too dry to grade.
- The Pesticide/Fertilizer Inspector from the Ohio Department of Agriculture performed an inspection in order to maintain our license. Areas of inspection included storage of chemicals, and the last three years of our records. All records were found to be in order.
- Weather permitting, the employees on the road department will be on vacation November 28th - December 2nd. However, should the need arise everyone will be available.

Connie reported the following:

- On December 6th she will be attending a presentation from the State Auditor in Columbus with several township fiscal officers riding together. This class is applicable towards the Continuing Education requirements.
- The Department of Commerce Division of Liquor Control sent notice that all permits to sell alcoholic beverages in Rushcreek Township will expire on February 1, 2017. Every permit holder must file a renewal application. Rushcreek Township has the right to object to the renewal of a permit and to request a hearing. Currently these are the establishments, Hide A Way Hills Lodge, Hide A Way Hills Golf Course, Pumpkin Vine Golf Course, One Stop Crossing, and Dollar General. It is unknown if Outback Run Thru will be included at this time. The Trustees and the Fiscal Officer stated that we have had no complaints regarding these establishments. There was some interest in checking on the status of the Outback Run Thru, as it has not been in operation for more than

one year. Therefore, the Trustees will research before responding.

- The Volunteer Fire Fighters' Dependents Fund 2017 certificate of annual election of board members was presented to the Trustees. After discussion, Dave made a motion to maintain the same members as 2017 and Hart seconded the motion. Roll Call: Dave, aye; Hart, aye.

Trustee Reports

Dave – No Report

Bill – Although Bill was not in attendance he left the following report. As of November 2nd the following zoning permits were issued: Rick Moyer, 2941 Bethel Road – new home; Tracy Stover, 11039 McCullough Road – pole barn; Roger Holmes, 6990 Pleasantview Rd. – new home.

- Hart – The State of the Township Address was given on November 10th at the Historical Society.

To recap the report the following information was presented.

Rushcreek Township is stronger than it has ever been in organization and financially. The Management and Financial Administration have been changed over recent years. This has resulted in a more productive, open and effective use of resources. Currently, the financial status of the Township now provides a 6 month reserve and the ability to continue the improvement of the Township's infrastructure without the need for borrowing money. This puts the Rushcreek Township in a strong position to negotiate contracts, make major purchases and make capital improvement without asking the community for new taxes. Therefore the taxpayers do not have to carry the burden of interest and services changes and the Administration can move more quickly and expeditiously. These are benefits Township residents enjoy while other communities of today struggle with financial crisis and the limited administration abilities.

Using charts of financials reports, photos and schematics, Hart provided figures and examples. These demonstrate how Rushcreek Township has improved since the last decade. Under prior management, the fire department could not pay its bills within a pay period and the road department could not get credit to buy fuel.

Connie Moyer, Fiscal Officer, made changes to the financial administration and audit procedures that has shown continued improvement of the last several years and has resulted in the township's first ever, "Clear Audit" by the Auditor of State, something only 20% of the 5,000+ governments in Ohio are able to record.

Management changes in the past 3 years have posted a significant improvement in financial and resource management to support the Fiscal Office's gains. This has been done by improved compliance with state and federal in part with restricting private interests that were "adverse to the general public interest". These changes have allowed a more focused management and operations of the Township Departments. The results have provided – [Highlights]

24/7 Scheduling of Fire EMS

Wage increases for all Fire/EMS personnel

Increased staffing for Road Department

Recovered 2.5 miles of Chip Seal Roads

Recovered a one mile of road washout

Equipment purchased without financing

Ability to maintain full fire department operations during a self-financed renovation

Next, Hart reported a response to a letter received, signed as "Concerned Resident", who requested, should time allow, that the answers be read in the meeting. This letter and responses were submitted into the meeting minutes.

Time was limited, so additional reports will be given at future meetings.

Meeting Adjourned: 8:45 p.m.

**Date; as presented to the Rushcreek Township Board of Trustees:
November 16, 2016**

FROM:

*Hart Van Horn
Rushcreek Township
Trustee of Administration
Board Chairman
213 Marietta St. P.O. Box 88
Bremen, OH 43107*

TO:

IN RESPONSE TO:

On Saturday, November 5, 2016, 5:06 PM, Concerned Resident <concernedrushcreekresident@gmail.com> wrote:

Dear Concerned Resident:

The Rushcreek Township Trustees and Fiscal Officer have discussed your message and questions. They have agreed to have me speak to your comments on behalf of the Township. As with any inquiry, I attempt to see that every one is answered. This sometimes requires a review of existing policy or law and sometimes clarification of prior events. A simple Yes or No answer is not always adequate. Please accept this response in that spirit as your questions cover a broad range of issues connected to the business of Rushcreek Township. I will also present these replies at the next meeting of the Board of Trustees as you have suggested.

The responses follow your (Concerned Resident referenced as CR) questions and comments in **blue bold face**.

CR: "I attended the township trustee meeting on November 2nd and have a couple questions. I read the minutes from the last meeting on website, so one of my questions is answered but I would like to state what it was."

Rushcreek Township conducts its business in accordance with the laws of the State of Ohio in an open manner, so that every citizen has the opportunity to witness its use of taxpayer's resources and the methods of applying those resources.

CR: "1. Is the township looking into purchasing other property in addition to the property purchased from the estate of Helen Van Atta?"

The Township did not make a purchase from the estate of Helen Van Atta. Her grandson, Timothy Van Atta sold the property at 127 Mulberry St., to the Township. As already noted for public disclosure, the Rushcreek Board of Trustees has engaged in the consideration of the "purchase of property for public use". Therefore this would imply, but not be limited to include, nor be limited to property(ies) to buy, trade, split or otherwise negotiate the change in ownership of property(ies) with Rushcreek Township.

CR: "I read there was an executive session regarding property purchase, so I assume the answer is yes."

Your assumption, would be just that, an "assumption".

Furthermore, we would assume your question is based on the Board's decision to convene an Executive Session (ORC 121.22 (G)(2) "to consider the purchase of property for public use". Please understand that the spirit of this rule is stated in Ohio Revised Code as to prevent "premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest." The Rushcreek Township Trustees are already aware of attempts of private individuals to act on such a subversion that would preclude or prevent the Trustees ability to act in the best interests of the public and we are therefore prepared to take legal action against anyone who would use such information in that manner. It is unethical and illegal to put a potential seller or buyer of Township property in such a position.

Basically it would also be a travesty, if those with private interests and individual persons would take confidential information to use against your neighboring property owner. This is "adverse to the general public interest".

CR: "Are you able to state what property and for what purpose at this time?"

No. Such is the purpose of legally applying the exception listed in Ohio Revised Code 121.22(G)(2). It would be inappropriate to say more.

CR: "If you are not able to at this time, will you keep the public informed and up-to-date as much as possible and as soon as possible?"

Within the context of precedent actions of this Board, the answer is, Yes. Since I have served as a Rushcreek Township Trustee, we have always and immediately made known our work and our actions as soon as possible with every intention and effort to follow the rule of law as it is described in the Ohio Public Records Act and as the public knows, The Ohio Sunshine Laws.

CR: " 2. I am confused about the recording of the meeting. Why could it not be plugged in to the electric outlet? If it was because it was under the rug/in front of the door, isn't there another outlet in the back office?"

As you indicated, you attended the last meeting. On the surface, it may appear confusing if you did not know that there are individuals who have demonstrated various attempts in what appear to be efforts to avoid or even subvert the rule of law within Rushcreek Township.

Although not required, the individual was informed and accommodated within the law. She chose not to follow the letter of the law, but attempted to subvert it with a technicality. Because of her history of disruptions to public meetings at the Township that

border disorderly conduct, she could have instead been dismissed from the premises. I chose to allow her to stay with conditions. I could not save her from a public display or possible embarrassment from such childishness, since we attempted to spare her that some weeks before.

This is the exact quote she was given on 09/20/2016 - From the Ohio Attorney General, Sunshine Laws, "916 A Public body may, however, establish reasonable rules regulating the use of recording equipment to be silent, unobtrusive, self-contained, and self powered to limit interference with the ability of others to hear, see, and participate in the meeting. 917"

BACKGROUND -

Clearly, you have based this question on the disruptive use of recording equipment and actions of Mrs. Mary Hoffman. At the Board of Trustees meeting on 09/07/2016, Mrs. Hoffman and others engaged in the use of recording equipment, loud discussion and moved their seated positions in manners that disrupted the meeting and imposed on the rights of others to hear and observe a public meeting*. On 09/20/2016, to avoid embarrassing them in public, I contacted notified Mrs. Hoffman and her associates, individually and privately, that such conduct could not and will not continue, as they are breaking the laws of this state. Those laws were explained to each of them. If nothing else, the conduct was nothing less than rude and childish.

In addition, we found that Mrs. Hoffman's reckless behavior and use of substandard equipment was disruptive by causing a short circuit in the Township building's electric supply. We don't know if that was intentional. Initially, we took the result of her actions as a result of her ignorance in operating equipment. However, as the wife of a veteran firefighter, the manner of passing electric cords under a rug, thus creating a risk of fire and a tripping hazard and blocking an exit, we are left to suspect that ignorance was not the only issue in play. Whatever the reason, ignorance of the law is no excuse.

***Ohio Attorney General, Ohio Sunshine Laws - "905 Further, a disruptive person waives his or her right to attend meetings, and the body may remove that person from the meeting.906**

Only one of those persons chose to apologize and refrain from such conduct. Mrs. Hoffman, however, has continued to act out and her demonstrations appear to be a means of nuisance gestures and disruptions of the meetings in Rushcreek Township. In as much as I have attempted to accommodate her right to record, she appears to show a disregard for the law and respect for her fellow citizens. I have the duty and authority to limit such reprobate behavior within the business of the Township.

Finally, let me finish this answer by posing some questions to you [general public] – A person has a right to stand in front of your home and record your activities while standing on a public Right Of Way.

HOWEVER, would you take exception, if that person were to plug their equipment into your electrical supply?

Would you hold that person liable for a disruption to your electrical service, if it caused a short circuit?

Would you consider that an act of Vandalism, whether you had (or had not) told that person that they did not have your permission to use your electrical service?

OR, If in a grade school setting, a the child was instructed to follow the line of the other students so as to maintain an orderly procession and strayed off to one side by several yards and was stopped and then corrected by the teacher in charge; Would the Child have a worthy argument by saying that he actually DID FOLLOW the line of students, even though it was 30 feet off to one side?

THE MESSAGE -

Please focus on the objective to maintain order, so that conducting the business of the organization can be orderly and the rights of all to see and hear are not thrown aside by a minority faction to satisfy personal interests which are "adverse to the general public interest". Focusing on those who would disrupt the orderly process is counterproductive to the greater good.

Just because the Township is a public entity, does not give an individual citizen the right to the perfunctory use of its resources. As custodians of the taxpayer's property and resources, the Public Officials of the Township we have a duty to protect those properties and resources from abuse and the potential detriment to their security.

CR: "3. "Parking on Dick Kilbarger property is removed" Could you please explain that? Did Mr. Kilbarger revoke his permission for parking at the side of the township office and should visitors park in a different area?"

Mr. Kilbarger has not revoked his permission and Rushcreek Township continues to enjoy and appreciate his continued willingness to allow the Township Road Department the partial use of his land.

Whereas, Road Superintendent Bob Suer has spoken with Mr. Kilbarger on a few occasions; an offer from the Township was relayed to Mr. Kilbarger to make more formal arrangements for the use of the respective parcel. This could have taken any number of forms at Mr. Kilbarger's choice. However, he indicated that he remained steadfast with his offer and has no interest in changing the informal agreement.

Therefore, lacking anything more formal, the Township has been advised by its Risk Management group to limit the use of properties in such manner. This, then precludes parking by township personnel or taxpayers with Township business to limit the Township's liability. The area continues to be used by the Road Department only for the conveyance of its vehicles and equipment, which are insured for such liabilities and mutually protect Mr. Kilbarger and the Township.

CR: "4. There was discussion a year or so ago about Rutter Hill and plowing snow. Is it part of Rushcreek Township or is it Village?"

Rutter Hill is part of the Township in an unincorporated area. This road is not within Village corporate limits. We are unsure of your reference from a year ago, as we have found no record of that discussion.

CR: "5. I have a concern regarding fire personnel being "housed" at the Van Atta house during remodeling. My concern is safety. When there is a fire or squad run during the winter months, I hope the utmost caution will be taken to insure their safety regarding snow and ice between the 2 properties. I am sure you have thought of it, but I would like to extend my concern."

The precedent has been set for many years that fire personnel may have to travel a significant distance by foot and in vehicles (sometimes from home) during adverse weather conditions. That is the nature of the job and for which they are trained. On arrival at any scene, the Fire/EMS personnel may encounter adverse conditions of which we have no control. The "utmost care" is always used with situational awareness by all personnel. Under Chief Duvall's management and care, there has not been one work related injury in that past two and a half years in the Fire Department. This is a vast improvement over prior management.

CR: "There is not need to answer via email. If you feel the questions are valid, please feel free to address at the next meeting. If time permits, during the open session or if you prefer during one of the trustee's reports."

CR: "Thank you for your time."

Your welcome.

Regards.

Hart

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Trustee of Administration
Board Chairman
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