

The Washington Township Board of Trustees met in Regular Session on September 12, 2011, at 7:30 p.m. at the Washington Township Government Center, 8200 McEwen Road. President Berry opened the meeting and led the Pledge of Allegiance.

FISCAL OFFICER'S BUSINESS

Year-to-Date Income/Expense Report

The Trustees have requested that a Year-to-Date Income/Expense Report be presented on a monthly basis. As of August 30, 2011, Washington Township has collected from all funds \$21,251,418.55, and has dispersed in all funds \$15,600,986.94, for a positive cash carryover of \$5,650,431.61.

LIBRARY LEVY PRESENTATION

Richard Carr, President, Library Board of Trustees; Kim Senft-Paras, Library Director; and Fran Kick, member of the levy committee were present to discuss the Washington-Centerville Public Library levy. A 10-Year Report to the Community was distributed to the Trustees. According to Mr. Carr, this report summarizes the activity of the Library over the past ten years, since the last levy. The theme of the 10-Year Report is, "your library. the key to it all." The report covers a number of areas that talk about what has happened with the budget, with the technology and with circulation.

He suggested thinking about the library as a key to this community. It is like a key and a lock in three areas. The values of the Library match the values of the community. They provide a diverse collection to a diverse community. People of every viewpoint, age, occupation, ability, interest, disinterest, athleticism, handicap, can find materials at their library. While someone might not like some of the materials at the library, it would be hard to find anyone who could not find an area of interest. They use this material to help service what is more than likely the basic value of the community—education. They work with the public school system to provide materials and work with a number of private schools to assist in providing materials.

They have two facilities—Woodbourne and Centerville. The Township is helping to study the rear access at Woodbourne. He thanked the Township for their assistance with the engineering study and getting the transportation system straightened out there.

The second area where the library matches this community is in terms of the economy, in terms of frugality. They went from a budget of \$7 million for expenditures in 2009 to expenditures of \$6.5 million in 2010—an actual decrease of a half million dollars. They did that without hurting services, through greater efficiency and management. They did it with a more efficient use of staff and more frugal purchasing of resources. That has allowed them to deliver a per item circulated cost that is 20% below the average in this State and 18% below the average of the other libraries in this county. Great technology, high circulation and high efficiency.

Mr. Carr noted that the Washington-Centerville Library is separate from the other library districts in Montgomery County. So, whatever Dayton Metro should choose to do with their facilities, the library levy in our area will not support what they do. The levy that is coming up this fall is to support our library and our future. Township and City money will not be spent on whatever the Metropolitan Library chooses to do.

The third key area is that they look forward to the future and they look at the technology in their community. They provide wireless access for people who have laptops. They provide access through computers for people who do not otherwise have computers or access to computers. They not only provide the computers, but they have databases that are accessible to library

users and research librarians to teach people to use those databases. They have remarkable technology in terms of the digital world and in terms of basic books. They have hardback books; hardback books with large print; books on cassette; books on CD's; books that can be downloaded; and they also have playaways, an MVP format that can be checked out from the library. He summarized that the library has kept track with technology and has helped all of the residents of the community to move forward with their technology.

As they look forward to the fall, they have been told that their levy will be Issue 9. The number reminded him of an independent survey that was done earlier this year where 9 out of 10 residents in the community gave the library high marks on its performance. He hoped that people would think about the levy and remember to express their opinions on levy number 9 and join those 9 out of 10 community numbers who give the library high marks. Anyone who has any questions was encouraged to call Mr. Carr or Kim Senft-Paras.

Mrs. Young asked how people could volunteer to help with this campaign. Mr. Carr indicated that there is a levy committee. Mr. Carr brought levy cards with him, some of which would be left at the back table in the conference room. He indicated that you could volunteer to help with some of the work that needed to be done, phone calls, help with the database, putting signs in yards, holding a coffee...he indicated there are many, many ways in which people could volunteer and support the levy.

Mr. Paulson thanked Mr. Carr for his presentation. He indicated his kids really enjoy the library and that the kids section was really great. He asked if there was going to be more expansion there. He also asked if there were plans in the future to expand online books that could be checked out. Mr. Carr responded that the children's section in both libraries has been upgraded, with support from the Yeck Foundation Fund. He indicated that it was a wonderful, children friendly environment. To expand, Mr. Carr indicated that they would need more land, but they do not have any specific expansion plans at this time. At this time they are really focused on getting that rear egress, which is critical.

Kim Senft-Paras indicated that they are currently evaluating the computer stations to determine what they are offering digitally to the children with the possibility of upgrading those stations. They are also working with their Friends Group at the library. They were successful with their first book sale. She also indicated that they work with a consortium of libraries, including Columbus Metro Public Library, to buy e-books. They, along with nine other libraries, are able to purchase e-books at a more economical cost due to volume purchasing.

REC ADVISORY BOARD APPOINTMENT

With a recent resignation, there is an opening on the Rec Advisory Board.

It was moved by Mr. Paulson, seconded by Mrs. Young, that the Board appoints Joyce Fronzaglia to the Rec Advisory Board for a four-year term, effective September 12, 2011, and ending September 11, 2015.

Vote on Motion: Paulson, aye; Young, aye; Berry, aye. M2011-216

LIQUOR PERMIT

Captain Osterfeld is in receipt of an application for a transfer of liquor permit number 8112834 from Gurpreet Inc., DBA as BP, to Shree Harikrushna Inc., DBA as BP, located at 1580 Miamisburg-Centerville Road in Washington Township. Captain Osterfeld has reviewed the application and sees no reason to object. No action taken.

ZONING CASE Z-697 VWC HOLDINGS LTD

This is a request from VWC Holdings, LTD to rezone approximately 43.82 acres from R-4 & R-5 to Planned Development Residential (PD-R) in the development known as The Villages of Winding Creek.

Mr. Surdyk gave a staff presentation. By rezoning to PD-R, the applicant will be able to develop the track of land into single-family residential homes. The applicant has submitted a proposed site plan; however, this is for informational purposes only and is not for consideration. Mr. Surdyk went over the zoning surrounding the property. He then showed a master plan that showed the proposed zoning is consistent and conforms to the proposed master plan for the Township. He then showed aerial photographs of the property; the applicant's plan that showed the existing zoning; and the applicant's proposed site plan, which was for informational purposes only. It is currently designed to include 66 single residential homes; however, it is subject to change. The recommendation of the Zoning Commission is that the property be developed for R-4 single family, but no more than 66 lots. Mr. Surdyk added that the property is currently undeveloped and that he believed there are crops currently on the land.

The application was reviewed by Montgomery County Planning Commission. The Commission made a recommendation for approval. It was also heard by the Zoning Commission who unanimously recommended approval.

Mr. Paulson asked if the 66 lots will change with the change from the R-4 or R-5 to PD-R. Mr. Surdyk answered no. He added that the specific number of lots will be defined in Stage Two. It is currently proposed that there will be 66 lots and the Zoning Commission has capped it at 66 lots. If the Trustees approve the Zoning Commission's recommendation, they would be limited to 66 lots or they would have to modify their request.

David Oakes, CESO and VWC Holdings, represented the applicant. He indicated he is predominantly a single-family developer. At this time, he indicated they are not interested in constructing multi-family units in that area of the Villages of Winding Creek. The density presently allowed in R-4 and R-5 zoning would be somewhere in excess of 150 units. They are requesting to build 66 units, based on the PD-R zoning. The product they would be constructing would be like the product that is already being built adjacent to this development, which is called the Creekside section of The Villages of Winding Creek.

Mr. Berry opened the public hearing portion of this zoning case. There being no one interested in speaking, Mr. Berry closed the public hearing.

Mrs. Young commented that this is a very good move. She stated she is always glad when we have more single families, even though multi-family dwellings are always welcome as well.

It was moved by Mrs. Young, seconded by Mr. Paulson, to adopt the recommendation of the Zoning Commission that Zoning Case Z-697 filed by VWC Holdings, LTD be approved so as to rezone open space from "R-4" Single Family Residential and "R-5" Multiple Family Residential to a Planned Development Residential (PD-R) Single Family Residential to allow up to 66 single family homes to be constructed on the property described in the application. The development of the property will be subject to the approval of a final site plan to be processed and approved in accordance with the provision of the Washington Township Zoning Resolution.

Vote on Motion: Young, aye; Paulson, aye; Berry, aye. M2011-217

Roll Call:

Berry, aye;
Paulson, aye;
Young, aye.

ZONING CASE Z-698 WASHINGTON TOWNSHIP ZONING RESOLUTION

It is the recommendation of the Washington Township Zoning Commission to adopt the proposed amendment to the text of the Zoning Resolution providing for outdoor dining areas as conditional uses in B-1, B-2 and B-3 business districts.

Bob Surdyk gave a staff presentation. He indicated that the Zoning Commission initiated this proposed amendment to the zoning resolution so as to prevent outdoor dining facilities in specific locations throughout the Township. The Zoning Commission felt there was a need for this type of amendment to the Zoning Resolution for two reasons: 1. The fact there has been an increase in the number of requests by various businesses in the community to allow these types of facilities, and 2. The Board of Zoning Appeals has been considering these types of facilities and, in certain cases when they felt it appropriate, has been allowing them by means of a variance. The Zoning Commission felt there was some need to address this because of the proliferation of these types of uses throughout the community. They spent a tremendous amount of time trying to come up with some type of legislation that would permit them within the area, but would also control them so as to prevent them from becoming a nuisance to adjacent businesses. At the last Zoning Commission hearing, the Zoning Commission unanimously approved the proposed amendment to the Zoning Resolution to allow outdoor dining as conditional uses within the B-1, B-2, and B-3 business districts. This was also presented to the Montgomery County Planning Commission, which, unanimously, approved the proposed amendment to the Zoning Resolution.

As drafted, these types of uses would be conditional uses. They would be subject to review on a case by case basis by the Board of Zoning Appeals. The Township Zoning Commission felt it was an appropriate and necessary step to insure that specific uses would be of the type that they felt would promote the business center in which they would be located and also to be able to control and regulate any type of activity which may be detrimental as well. Based on their discussion, this legislation was proposed. It basically allows outdoor dining facilities under controlled and regulated situations. It specifies the type of equipment, seating, tables, umbrellas, etc. that are permitted. It prevents any type of noise that would be deemed to be a nuisance to adjacent businesses or residents. They tried to address all of the various issues they felt were appropriate and could be foreseen as problem areas.

Mr. Paulson asked if this is being designated only in business districts. Mr. Surdyk replied yes. He stated that it is only in the business district and under controlled situations.

Mr. Paulson asked if there was any consideration given to whether it would be on the front or the side or in any specific location. Mr. Surdyk replied no. Mr. Berry interjected that it would have to be adjacent to it. Mr. Surdyk indicated that it was discussed at the Zoning Commission as to whether or not it should be limited to businesses that are on main thoroughfares, such as I-725. They felt that this was a little too limiting. They could not determine whether or not there would be something on Far Hills or some other location in the Township where they would be appropriate. They felt it would just be appropriate that they be adjacent to an established eating and drinking establishment, which is also defined in this legislation. Mr. Surdyk added that part of this package is the adoption of definitions that are pertinent to this specific legislation.

Mrs. Young commented that she read it and thought it was very carefully crafted. She was impressed with all of the eventualities that it seemed to foresee; therefore, she has no problems with this amendment.

Mr. Berry indicated that it looked like the Zoning Commission spent a lot of time on this one.

Mr. Berry asked if there was anyone present who wanted to comment on Zoning Case Z-698.

Andy Czyzewski, 8130 Longcreek Drive, asked if it had anything to do with smoking areas. Surdyk replied that this was an issue discussed by the Zoning Commission. They recognized that Ohio's no smoking legislation requires an outdoor patio of some sort. They attempted to try to reconcile that statute with this particular legislation. They had some particular difficulties doing that. They attempted to just identify outdoor dining and eating facilities, recognizing that Ohio law provides and mandates outdoor patio-type facilities for smoking. On those types of facilities, they would not be permitted to have any eating and drinking unless first approved by the Board of Zoning Appeals.

With there being no other comments or questions, Mr. Berry closed the public hearing.

It was moved by Mr. Paulson, seconded by Mrs. Young, to approve Zoning Case Z-698 Washington Township Zoning Resolution, an amendment to the text of the Zoning Resolution providing for outdoor dining areas as conditional uses in B-1, B-2 and B-3 business districts.

Vote on Motion: Paulson, aye; Young, aye; Berry, aye. M2011-218

Roll Call:

**Berry, aye;
Paulson, aye;
Young, aye.**

ZONING CASE Z-699- WASHINGTON TOWNSHIP ZONING RESOLUTION

It is the recommendation of the Washington Township Zoning Commission to adopt the proposed amendment to Article II of the Zoning Resolution empowering the BZA to grant use variances.

Mr. Surdyk did a staff presentation. He indicated this amendment would alter the language in the Zoning Resolution pertaining to the power and authority of the Township Board of Zoning Appeals. The Ohio Revised Code allows a township's Board of Zoning Appeals to grant variances when there is an unnecessary hardship resulting from the application of that variance. That language has been interpreted by the Ohio Supreme Court to allow variances in two different types of situations. One, when there is a use variance, which allows the Board of Zoning Appeals to grant someone the authority to use his property in a manner that is not specifically provided for in the resolution. The other type of variance is a height variance. Height variances are variances from the development standards of the Zoning Resolution that dictate setbacks and the height of items and buildings. In 1984, when this distinction was drawn by the Ohio Supreme Court, a number of jurisdictions, including Washington Township, made a conscious decision not to allow their Board of Zoning Appeals to grant use variances.

For whatever reason this decision was made, it is Mr. Surdyk's opinion that this is no longer valid. These decisions have been successfully challenged in court cases. To avoid that from happening in Washington Township, Mr. Surdyk is proposing that the resolution be amended to

specifically allow our Board of Zoning Appeals to grant use variances and height and area variances. This amendment would allow them to grant use variances under very strict conditions. There has to be specific evidence of a hardship by the applicant in order to be entitled to receive a use variance. Regarding area and height variances, the Zoning Commission felt it was appropriate to continue using what is commonly referred to as the practical difficulties test, which is established by the Supreme Court in these decisions to which he previously referenced. In this particular case, we have a change in the legislation which will allow the Board of Zoning Appeals to grant use variances and also area and height variances. This is being done for two reasons: 1) The Board of Zoning Appeals has been presented in the past with a number of cases, which from a technical standpoint probably were in fact requests for use variances and the Board of Zoning Appeals has felt that those requests were necessary, appropriate and has granted those variances. What we are in fact doing is recognizing what the Board of Zoning Appeals is already doing. 2) We are doing this to avoid a number of court challenges to the restrictive legislation that has been adopted by other communities and by Washington Township. It has been discussed with the Board of Zoning Appeals. Members of that organization welcome the proposed change because, in certain situations, they recognize that they were walking the line and felt uncomfortable doing so. They are very much in favor of this. The Township Zoning Commission considered the purposes and the language and recommended adoption as did the Montgomery County Planning Commission.

Mr. Paulson asked if it is significantly different how we were doing things versus how we will be doing things should this legislation pass. Mr. Surdyk responded that it will be different in a way...by specifically saying that we can now grant use variances, but can only do so in specific situations when there is evidence of an unnecessary hardship. This amendment also contains text which indicates what constitutes an unnecessary hardship. This was done intentionally by the Zoning Commission with the idea in mind that they wanted to give the Board of Zoning Appeals this additional authority, but make the Board of Zoning Appeals realize that there are restrictions upon their use of this particular authority. When they have these cases come before them, they have to look at them a little bit more carefully and judge them on a different standard than they may have been doing in the past. By putting that additional wording in the legislation, they hope to restrict the number of use variances that will be granted by the Board of Zoning Appeals. An unnecessary hardship is a much more difficult standard of proof that must be presented by an applicant before that type of use variance can be granted.

Mr. Paulson asked if he would be correct in saying that, before this, Trustees may have been hearing all of the zoning cases when they shouldn't have been hearing some of them and now they are going to narrow them down to a very specific limited condition for that. Mr. Surdyk replied that this was correct. Mr. Paulson then commented that we will now have rules to play by, to know what we can and cannot hear. Mr. Surdyk replied that we are now expanding their authority, but yet regulating or limiting that authority by specific legislation defining what constitutes an unnecessary hardship.

Mr. Berry opened the public hearing portion of the zoning case. Since there was no one interested in speaking, Mr. Berry closed the public hearing.

It was moved by Mr. Paulson, seconded by Mrs. Young, to approve Zoning Case Z-699 Washington Township Zoning Resolution, an amendment to Article II of the Zoning Resolution empowering the BZA to grant use variances.

Vote on Motion: Paulson, aye; Young, aye; Berry, aye. M2011-219

Roll Call:

Berry, aye;
Paulson, aye;
Young, aye.

CITIZEN CONCERNS

John Koonts, 2310 Mill Trace Lane, indicated that Washington Creek I suffered a great deal of storm damage and expressed his extreme frustration with the storm chasers. He called Development Services and found out that there was a requirement for these people who were soliciting business to obtain some kind of a permit. The fourth gentleman to show up at his door had a Texas accent and license plate and walked up his driveway at 8:00 p.m. and asked him if he had hired a contractor. This person was insistent and Mr. Koonts told him to get off his property. Mr. Koonts indicated this happened about eight or nine times. Finally, Mr. Koonts posted a sign in their door saying that they have hired a roofing contractor. This past Saturday, Mr. Koonts indicated he received two telephone calls from people. His concern is that if the Township has a requirement for obtaining permits, were they out checking these people—especially those working at 7:00 a.m. or 9:00 p.m. His second concern was about repaving Mill Trace Lane.

Ms. Lightle expressed her empathy with the amount of solicitation he has received. She encouraged him to contact the Sheriff's Office. Mr. Koonts replied that a person in Development Services informed him that the Sheriff's Office could not be expected to know all the different ordinances of all these Townships in Montgomery County and that too much was being asked of him. Ms. Lightle indicated her surprise at the response he received and apologized. She assured him that the Township's deputies are aware and she encouraged him to call them about unwanted solicitation. She asked Mr. Wanamaker to address the paving of Mill Trace Lane. Mr. Wanamaker assured Mr. Koonts that both the street and curb would be addressed. They prioritize their pavement program each year and he indicated that Mill Trace Lane was getting close. When they repave the streets, they look at the drainage issues and try to address those issues at that time.

Mr. Koonts asked about the ordinance that states that you may park your vehicle beside or behind the front of your house, but it must be on a pad. He indicated there are a lot of people in Washington Creek I whose vehicles are on grass. He asked what can be done about this. He asked about the authority the Trustees had to enforce their ordinances.

CONSENT AGENDA

All matters under the Consent Agenda are considered by the Board of Trustees to be routine and will be enacted by one motion. Any Trustee may remove an item from the Consent Agenda by request. No second is required for removal of an item. Items removed for separate discussion will be considered after the motion to approve the Consent Agenda.

A. Meeting Minutes

- August 15 Pre-Meeting
- August 15 Regular Meeting

B. Finance – A motion approving the following:

- Check Register dated September 12, 2011, in the amount of \$373,593.75, said amount having been certified and appropriated.

- Rec Refund Check Register dated September 12, 2011, in the amount of \$1,226.00, said amount having been certified and appropriated.
 - Special Check Register dated August 25, 2011, in the amount of \$141,994.10, said amount having been certified and appropriated.
 - Special Check Register dated September 6, 2011, in the amount of \$31,466.26, said amount having been certified and appropriated.
- C. Fire** – A motion approving the purchase of a Ferno X35 cot for the new medic from Sameca USA, at a total cost of approximately \$3,749.
- D. Public Works** – A motion to approve purchasing a leaf collector from Old Dominion Brush for the total cost of approximately \$16,830.
- Public Works** – A motion to approve awarding L.J. DeWeese Co. the New Freedom Grant/Lyons Road Sidewalk Project for the total cost of approximately \$61,829.
- Public Works** – A motion to approve purchasing additional asphalt materials from Valley Asphalt for a total cost of approximately \$11,000.
- Public Works** – A motion to approve entering into an agreement with Montgomery County Engineer for guardrail replacement on McEwen and Munger Roads for a total cost of approximately \$22,461.
- E. Recreation** – A motion approving contracting with Harry Bond, Moraine, Ohio, for maintenance and repair work at the Recreation Center and Rec West building for the remainder of 2011 at a total approximate cost of \$2,500.

It was moved by Mrs. Young, seconded by Mr. Paulson, to approve all items on the Consent Agenda.

Vote on Motion: Young, aye; Paulson, aye; Berry, aye. M2011-220

ADDENDUM

Finance

Chase Credit Card

On May 2, 2011, the Trustees approved a resolution to authorize the Township Administrator to enter into an agreement with Chase Bank to obtain a corporate flex card. This corporate card pays a one percent rebate and has a credit limit of \$2,500 per employee. At this time, staff would like to take full advantage of the Chase credit card account by using it to pay certain vendors for goods and services over the \$2,500 credit limit.

It was moved by Mrs. Young, seconded by Mr. Paulson, that the Board approves an additional credit card in the Fiscal Officer's name for making large purchases of goods and services from vendors like those included on the list below:

Credit Card Vendors

BWC	Genuine Auto	Scott Tissue
Boundtree	Handyman	Sears
CDW	Lowe's	Southeastern Equipment
Car Quest	Med 3000	Speedway
City Electric	Minuteman Press	Staples
Dalco	Mitel	Tractor Supply
Dayton Daily News	Nextel	Vogelpohl
Donet	Office Depot	Waste Management
Dorothy Lane Market	P&R Communications	Zep
Frank Gates	Sams	

Vote on Motion: Young, aye; Paulson, aye; Berry, aye. M2011-221

DEPARTMENTAL BUSINESS

PUBLIC WORKS

Staff would like to apply for grant money for the improvements on Gebhart Road. Montgomery County Engineers and Centerville-Washington Park District will participate with the Township on this project.

It was moved by Mr. Paulson, seconded by Mrs. Young, that the Board approves Public Works to apply for grant money for the improvements to Gebhart Road.

Vote on Motion: Paulson, aye; Young, aye; Berry, aye. M2011-222

TOWNSHIP ADMINISTRATOR'S REPORT

Ms. Lightle thanked Bob Surdyk for stepping in and helping with zoning duties over the last few months. She also welcomed Ryan Lee, our new Zoning Manager.

Ms. Lightle thanked residents for their patience during the construction season.

Ms. Lightle announced the Volunteer Dinner on Wednesday evening. This is when the Trustees honor and thank all of the Board and Commission volunteers as well as other various volunteers in the Township. The dinner is at Rec West. The Business Breakfast will be held at Champs on Thursday morning.

TRUSTEE COMMENTS

Mrs. Young reported that she had the opportunity to attend the National Association of Townships Conference in Washington D.C. last week. This will be the last one that NATAT holds. They are now going to a one-day regional fly in for township trustees and they will never have another opportunity to get together on a national level. The keynote speaker was Craig Fugate, the new administrator of FEMA. She reported that the educational sessions were very

good and helpful. One of the sessions was on recruitment of volunteers. She informed Chief Gaul that she will have things to share with him about that. They also had the opportunity to go on the Hill and advocate for several issues. She had the opportunity to speak with Mike Turner about three issues. One issue was about the Volunteer Responder Incentive Protection Reauthorization Act. Apparently the IRS has been granting an exemption for income that goes to volunteers in the terms of awards, banquets, and that sort of thing. It terminated in December and they asked them to reauthorize that and asked for an exemption of \$600 per volunteer. Another was the Transportation Reauthorization bill. There is a sign deadline. Every sign needs to be replaced, street signs, stop signs, everything, whether they need it or not. Mrs. Young advocated that it be taken out of the Transportation Reauthorization Bill. The third issue concerned funding for bridges, which is also in the Transportation Reauthorization Bill. She advocated that some of the funding be set aside for off-system bridges (bridges we maintain that are not county bridges). Mrs. Young also met with Congresswoman Marcy Kaptur and Betty Sutton.

Mr. Paulson stated that he was looking forward to our Volunteer Recognition Dinner and Business Breakfast. He also welcomed Ryan Lee. He also asked everyone to pause for a moment of silence to remember the sacrifice that so many gave on September 11th and since then to protect our country.

Mr. Berry indicated that since the last meeting, the Trustees had the opportunity to get together with other Montgomery County Trustees at Jefferson Township for a delightful, informative meeting and dinner. On Monday, August 29th, they had a Public Entities meeting with the school system, the library, the Park District and the City of Centerville.

ADJOURNMENT: 8:36 P.M.

All formal actions of the Board of Trustees of Washington Township concerning and relating to the adoption of resolutions and/or motions passed at this meeting were adopted in an open meeting; and of any of its committees resulting in such formal action, were in meetings open to the public, in compliance with the law, including Section 121.22 of the Ohio Revised Code.

President

Fiscal Officer