

SWANTON TOWNSHIP
RECORD OF PROCEEDINGS
MINUTES OF: REGULAR MEETING
HELD: DECEMBER 14, 2021

Chairman Jeff Michael called the December 14th Regular Meeting of the Swanton Township Board of Trustees to order at 7:30 PM.

Roll Call:

Trustee Jeff Michael	- Present
Trustee April Grajczyk	- Present
Trustee Gary Schroeder	- Present
Fiscal Officer Peggy Michael	- Present

Visitors Present: 4

Business of the Fiscal Officer

Motion by Gary Schroeder to approve the minutes of the November 23, 2021 Swanton Township Trustee Regular Meeting. Seconded by April Grajczyk. Roll Call: Gary Schroeder, yes; April Grajczyk, yes; Jeff Michael, yes. Motion Carried. **Resolution 101-2021.**

Motion by Gary Schroeder to pay Warrant Numbers 6541 through 6565, Withholding Voucher 82-2021, and sign the payment report. Seconded by April Grajczyk. Roll Call: Gary Schroeder, yes; April Grajczyk, yes; Jeff Michael, yes. Motion Carried. **Resolution 102-2021.**

Fiscal Officer Peggy Michael reported that the November bank statement has been reconciled and signed by the Trustees.

Fiscal Officer Peggy Michael entered the correspondence into the Record.

Zoning Report

1. Trustee Gary Schroeder gave the zoning report.

Roads Report

1. Trustee Jeff Michael gave the roads report.

Cemetery Report

1. Trustee April Grajczyk gave the Cemetery report.

Old Business

1. Soul Road Zoning Issues – Court Opinion

See attached Summary of the Court's Judgement – Soul Road Zoning Compliance

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New Business

1. Schedule 2022 Organizational Meeting

Motion by Gary Schroeder to schedule the 2022 Organizational Meeting immediately following the December 28, 2021 Regular Meeting. Seconded by April Grajczyk. Roll Call: Gary Schroeder, yes; April Grajczyk, yes; Jeff Michael, yes. Motion Carried. **Resolution 103-2021.**

Executive Session - None

Motion by Gary Schroeder to adjourn at 8:26 PM. Seconded by April Grajczyk. Roll Call: Gary Schroeder, yes; April Grajczyk, yes; Jeff Michael, yes. Motion Carried. **Resolution 104-2021.**

Signed: 
Peggy Michael, Fiscal Officer

Signed: 
Trustee

Summary of the Court's Judgement – Soul Road Zoning Compliance

First, this was one of the worst cases of fake news, the Toledo Blade falsely reported that a judge has thrown out an attempt by the Swanton Township Board of Trustees to shut down a greenhouse operation, ruling that the greenhouse fits the zoning code's definition of agriculture.

This is not the case, the Judge ruled on the case based on the merits of the case and rendered a judgement, the Judge did not throw out the case.

The Swanton Township Zoning Resolution specifically addresses that Nursery and Greenhouses are only permitted in M-1 Limited Industrial zoned property.

The Swanton Township Zoning Resolution is supported by case law already decided by the Ninth District Court of Appeals in Blue Heron Nurseries, LLC v. Funk, that is strikingly similar to the facts in this case.

In addition, there were severe blight conditions and a colony of beehives on and over the property line and inside the prohibited setback area.

Swanton Township requested the defendant to remove the Greenhouses including the one in the front yard, cleanup the blight conditions, and to move the beehives from the property line and into the back yard.

The defendant refused to comply, refused to let the Zoning Inspector to inspect for any progress, and the defendant attended a Trustee meeting where he was confrontational, combative, and unwilling to work with the Township to resolve the issues.

For these reasons, Swanton Township took action as required by Ohio Revised Code Section 519.

During the proceedings, the defendant testified that he didn't clean up the blight conditions nor move the beehives until the day before the trial. As the Township testified, that information wasn't learned until the testimony of the defendant during the court proceedings.

The defendant's attorney conceded during the trial that the Township has the authority to regulate the use of land through its Zoning Resolution that is conferred by statute R.C. 519.21. This states that buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres are regulated by: set back building lines; height; and size. Something the defendant has not done as of today.

In addition, there are still reports of lights being on all night and loud music playing.

The Judge noted there was a legitimate and legal disagreement on whether this activity was primarily commercial or agriculture, that it was a question of law, and the only course of action for the Township was to have the Court decide.

The Judge noted only a couple of differences in her decision out all of the points made from the Blue Heron case:

1. The defendant grows his stock from cuttings to maturity and;
2. There is no evidence that anyone ever came to the Property to purchase any of his products

These 2 points are what formulated her decision, it was not cut and dried like the Toledo Blade reported.

The defendant never came to the Township to satisfy the requirements he admitted that he needed to do. He just thumbed his nose to the Township and did whatever he wanted to do, whether it impacted the health and safety of his neighbors.

It was also specially noted by the Judge the Defendants failed to provide evidence to establish an award of compensatory damages. There was no evidence to establish that plaintiff acted with actual malice in its enforcement of its Zoning Resolution to warrant an award of punitive damages and since there are no punitive damages, defendants are not entitled to an award for attorneys' fees. Finally, the parties in this action shall bear their own respective costs.

The Judge also noted this was a question of law and the Township's only recourse was through the courts.