



**BOARD OF COUNTY COMMISSIONERS  
WARREN COUNTY, OHIO**

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***TOM ARISS***

***PAT ARNOLD SOUTH***

***DAVID G. YOUNG***

**BOARD OF COUNTY COMMISSIONERS  
WARREN COUNTY, OHIO**

**MINUTES: Regular Session – January 18, 2011**

The Board met in regular session pursuant to adjournment of the January 13, 2011, meeting.

David G. Young - present

Pat Arnold South - present

Tom Ariss - present

Tina Davis, Clerk - present

Minutes of the January 11, 2011, and January 13, 2011, meetings were read and approved.

- 11-0099      A resolution was adopted to hire Kelsey Flaherty, as a Temporary Eligibility Referral Specialist II, within the Warren County Department of Job and Family Services, Human Services Division. Vote: Unanimous
- 11-0100      A resolution was adopted to hire Jennifer Parrett, as a Temporary Eligibility Referral Specialist II, within the Warren County Department of Job and Family Services, Human Services Division. Vote: Unanimous
- 11-0101      A resolution was adopted to accept Resignation of Erica Gons, Eligibility Referral Specialist II within the Warren County Department of Job and Family Services, Human Services Division, effective January 14, 2011. Vote: Unanimous
- 11-0102      A resolution was adopted to declare various items within Telecommunications as surplus and authorize the disposal of said items. Vote: Unanimous
- 11-0103      A resolution was adopted to approve Notices of Intent to Award the Warren County Jail Medium Security Control Room Renovation Project.  
Vote: Unanimous

- 11-0104 A resolution was adopted to enter into a Contract for Right-of-Entry with Patrick and Amy Brown for the Butler-Warren Road Improvement Project. Vote: Unanimous
- 11-0105 A resolution was adopted to enter into a Contract for Right-of-Entry with Junming Zhang for the Butler-Warren Road Improvement Project. Vote: Unanimous
- 11-0106 A resolution was adopted to enter into an Agreement with Mary P. Thomas, for a Storm Sewer Easement and a Temporary Construction Easement for the Butler-Warren Road Improvement Project. Vote: Unanimous
- 11-0107 A resolution was adopted to enter into a Temporary Entrance and Work Agreement with Shirley Day for the Morningstar Road Bridge Project. Vote: Unanimous
- 11-0108 A resolution was adopted to enter into a Temporary Entrance and Work Agreement with Kimdolyn M. Meadows for the Morningstar Road Bridge Project. Vote: Unanimous
- 11-0109 A resolution was adopted to approve and enter into a Lease Agreement on behalf of the Warren County Board of Developmental Disabilities and Faith Bible Fellowship. Vote: Unanimous
- 11-0110 A resolution was adopted to approve Supplemental Appropriation into Sheirff's Office Fund #288. Vote: Unanimous
- 11-0111 A resolution was adopted to approve Supplemental Appropriation into Probate/Juvenile Fund #243. Vote: Unanimous
- 11-0112 A resolution was adopted to accept Assignment of the Purchase Agreement between the Warren County Board of Developmental Disabilities and Clint Brown for the Purchase of the Real Estate located at 125 W. Forest Avenue, South Lebanon, Ohio. Vote: Unanimous
- 11-0113 A resolution was adopted to approve Text Amendments to the Warren County Rural Zoning Code to Amend Section 27.06 Telecommunications Towers in Residential Zones. Vote: Unanimous
- 11-0114 A resolution was adopted to approve Annexation of 2.4837 acres to the Village of Maineville, Richard Paolo, Agent, pursuant to Ohio Revised Code Section 709.023 [a.k.a. Expedited Type 2 Annexation]. Vote: Unanimous

11-0115      A resolution was adopted to approve Annexation of 25.3143 acres to the Village of South Lebanon, J. William Duning, Agent, pursuant to Ohio Revised Code Section 709.023 [a.k.a. Expedited Type 2 Annexation]. Vote: Unanimous

DISCUSSIONS

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On motion, upon unanimous call of the roll, the Board accepted and approved the consent agenda.

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Dave Gully, County Administrator, questioned the Board as to their desire to reapply for the 1<sup>st</sup> Time Homebuyer Assistance Funding.

Upon discussion, the Board requested a one-page review/report of the program prior to making any decision of re-application.

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PUBLIC HEARING

CONSIDER TEXT AMENDMENT TO THE WARREN COUNTY RURAL ZONING CODE  
TO AMEND SECTION—27.06 TELECOMMUNICATIONS TOWERS IN RESIDENTIAL  
ZONES

The public hearing to consider the amendment to Section 27.06—Telecommunications Towers in Residential Zones of the Warren County Rural Zoning Code was convened this 18<sup>th</sup> day of January 2011, in the Commissioners' Meeting Room.

Mike Yetter, Zoning Supervisor, stated that when the Rural Zoning Commission met to discuss the language proposed by the Regional Planning Commission, they were not comfortable with language in the Rural Zoning code that accepted an engineer report in exchange for the consideration of each tower on a case by case basis. They discussed the matter extensively and determined to modify Section 27.06 that allows for an appeal to the Zoning Board of Appeals

and also inserted language that allows for the tower owner to purchase an easement from adjacent property owners to accommodate the “fall zone” in instances where an appeal is not approved.

Stan Williams, Executive Director of the Regional Planning Commission, stated that the proposed text amendment eliminates the language in the existing code that states an applicant cannot appeal to the Zoning Board of Appeals which allows consideration on each application on a case by case basis.

Commissioner South acknowledged receipt of a letter from Derick McGrew, CelluSite, relative to comments on the proposed text amendments.

There was discussion relative to the modifications made by the Rural Zoning Commission meeting the expectations of what they desired in the amendment.

Upon further discussion, the Board resolved (Resolution #11-0113) to approve an amendment to Section 27.06—Telecommunications Towers in Residential Zones of the Warren County Rural Zoning Code.

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The Board met this 18<sup>th</sup> day of January 2011, in the Commissioners’ Meeting Room to consider the type 2 annexation of Richard Paolo and Steve Hunt, Agents, to annex 2.4837 acres to the Village of Maineville.

Commissioner South questioned the Clerk relative to if all matters required by law have been complied with.

Tina Davis, Clerk of Commissioners, stated that all requirements have been met.

Mr. Hunt stated that this is a single property owner annexation and that all matters required by law have been met and requested the Board to approve the annexation petition.

Warren Ritchie, Attorney for the Hamilton Township Trustees, stated the Township’s opposition to the annexation and reminded the Board of their assurance to the property owners on Whalen Lane in Hamilton Township that they would not open up their roadway to Regency Park Subdivision.

Mr. Ritchie then stated that this is a small parcel of land but it is the first of a two part annexation (aka serial annexation) that is leading to the annexation of a much larger parcel in order to avoid impact fees of the Township.

Commissioner Young stated his opinion relative to private property owner rights prevail in situations such as these.

Becky Ehling, Hamilton Township Trustee, stated her opposition to the proposed annexation.

Upon further discussion, the Board resolved (Resolution #11-0114) to approve the annexation petition.

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The Board met this 18<sup>th</sup> day of January 2011, to further consider annexation petition from J. William Duning, Agent to annex 25.3143 acres to the Village of South Lebanon (Expedited Type 2 Annexation).

Commissioner South confirmed that Commissioner Young has reviewed the tape and/or minutes of last week's discussion relative to this annexation as he had a prior commitment and missed a portion of the discussion. She then confirmed receipt of an affidavit from Mr. Duning relative to the date of the owners within the annexation signing the petition.

John Casper, present on behalf of J. William Duning, Agent, stated that the Board has received all the information and documentation required pursuant to law to approve the annexation petition and requested that the petition for annexation be approved.

There was discussion relative to the Ohio Revised Code not requiring governmental entities to be notified of their property being included in annexation petitions.

It was determined that the Kings School administration was not notified of today's discussion by the agent or Village.

Mr. Casper stated that all property owners were notified that were required by law

Commissioner Young stated his opinion that the law is wrong in not requiring notice to the school. He stated that there is a fatal flaw in the law and that this annexation petition creates a "taxation without representation" situation on the employees of South Lebanon Elementary School. He then stated that the representatives of the school district should have a say in whether they have an additional tax put upon them. He then read the definition of taxation without representation and stated his opinion of this situation being a tax book case. He then stated he cannot in good conscience approve this annexation petition.

Commissioner Ariss stated his agreement with Commissioner Young's but stated that until the law is changed, this annexation petition must be approved.

Commissioner South reviewed Mayor's Smith's statement relative to this annexation being a pride/heritage decision of the Village of South Lebanon.

Commissioner Young then acknowledged that he has spoken with Dr. Browning, Superintendent of Kings School, and she informed him of the “gentleman’s agreement” with the Village to agree to annex in the future prior to the new school being constructed. She also informed Commissioner Young that the principal at the school stated that the employees are not happy about the proposed annexation as they consider this to be a decrease in pay.

Commissioner South stated her opinion that all property owners, public or private, should be notified, even it is just a courtesy notice.

Commissioner Young stated he would not expect an agent to do anything outside of the law. He stated his opinion that this is a defect in the law.

Mr. Casper stated that the moral aspect and legal aspect of the law do not always coincide. He then stated that the intent of the law is to remove the aspect of compassion. He then stated that the Legislature has chosen for the law to work this way and until the law is changed, this is the way it is.

Bob Craig, Village Administrator, respectfully reminded the Board that these employees did pay a payroll tax prior to the new school built. He then stated it was a discussion at a school board meeting, and documented in said minutes, that the school board would not object to an annexation petition at such time one was filed.

Commissioner South stated his opinion that it is morally wrong that notification was not given in spite of what the law requires. She stated her opinion that it should have been given out of courtesy. She then stated her desire for the legislature to change the law but until that time, to deny this annexation would create a financial burden on the Village of South Lebanon and Hamilton Township with legal fees.

The Board then requested the Prosecutor’s Office to prepare a request to amend the annexation legislation relative to notification.

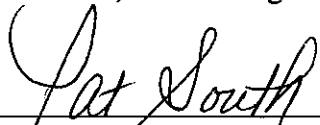
Bruce McGary, Chief Deputy Prosecutor, stated that if the Board denies this petition for annexation, they must state the specific legal reason for the denial. He then stated there is a bill pending in the legislature to amend the law relative to a political subdivision being counted as an owner.

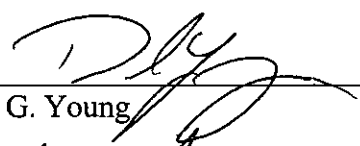
Commissioner Young stated that this would not be the first time Warren County has brought to the forefront problems within the law.

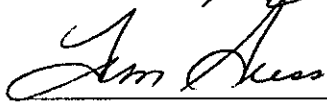
Upon further discussion, the Board resolved (Resolution #11-0115) to approve the annexation petition with Commissioner Young voting nay.

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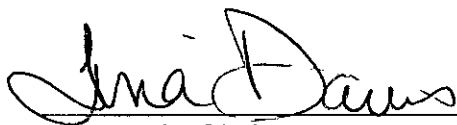
Upon motion, the meeting was adjourned.

  
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Pat Arnold South, President

  
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David G. Young

  
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Tom Ariss

I hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on January 18, 2011, in compliance with Section 121.22 O.R.C.

  
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Tina Davis, Clerk  
Board of County Commissioners  
Warren County, Ohio