

Commissioners' Journal
March 30, 2009

The Geauga County Board of Commissioners met in session on March 30, 2009 at 6:30 p.m. in the Bainbridge Town Hall located at 17826 Chillicothe Road, Chesterland, Ohio.

It is declared and determined that all formal actions of the Board of County Commissioners concerning and relating to the adoption of all resolutions that were adopted in this meeting, and that all deliberations of the Board of County Commissioners that resulted in such formal action were open to the public and were in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.

The President of the Board, William S. Young opened the public hearing meeting at 6:30 p.m. by leading the Board and audience in reciting the Pledge of Allegiance.

COMMISSIONERS' OFFICE – PUBLIC HEARING

Those in attendance / or as signed in included: Commissioner Young, Commissioner Samide, Commissioner Jemison, County Administrator Dave Lair, Commissioners' Clerk Claudine Kozenko, Laura LaChapelle, APA, Rick Patz, Donna Patz, Anne Davidson, Jim Davidson Jr., Ted Ricker, Linda Ricker, Jean Savel, Dick Savel, Judith Gooding, Amy Brennan, Kathy Sabo, Joan Demirjian, Andrew Kenen, Bridey Matheney, Al Cipra, Ken Buterbaugh Jr., Ken Buterbaugh, George Smith, John Kline and Wayne Burge.

Commissioner Young opened the meeting by stating that having received a petition for the Ditch Improvement under Kenston Lake Drive, the Commissioners conducted a public viewing at the improvement site on February 26, 2009, and an initial public hearing on this matter on March 24th at the Bainbridge Township Town Hall. At that time, it was decided to continue the Board's deliberations regarding this matter until tonight.

After careful review of all the information available regarding this situation, it would appear that there remains a need to take additional steps to ensure that the rights of all stakeholders who may be affected by this project are fully protected. Therefore, I would entertain a motion to continue the actions of this board toward that end, this motion reading as follows:

Motion: by Commissioner Jemison, seconded by Commissioner Samide to request that the view and hearing for the Petition on the Ditch Improvement proposed for Culvert # 299-0.20 located under Kenston Lake Drive in Bainbridge Township be re-opened and scheduled for April 21, 2009 at 6:30 p.m. and May 5, 2009 at 6:30 p.m., respectively. The motion is being made because the Board has learned that several of the property owners designated as "benefited and/or damaged property owners" by the county engineer may not have received notice of the proceedings on the Petition and thereby may not have been fully advised of their rights, as required by law.

Notice by certified mail, return receipt requested shall be sent out to the benefited and/or damaged parcel owners no later than March 31, 2009. Since notice is being sent out by certified mail, publication shall be in one issue of the Maple Leaf and shall not be later than April 7, 2009.

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| <i>Roll Call Vote:</i> | <i>Commissioner Jemison</i> | <i>Aye</i> |
| | <i>Commissioner Samide</i> | <i>Aye</i> |
| | <i>Commissioner Young</i> | <i>Aye</i> |

Commissioner Young stated that no additional information is needed at this time so there is no need to continue the meeting unless anyone would like to make a comment. Commissioner Jemison stated he wanted to make sure everyone knew there will be another viewing on April 21st at the site and another meeting on May 5 at 6:30 p.m. Commissioner Samide added that all those involved will receive a letter which will inform land owners that there may be an assessment.

Jim Davidson inquired as to the assessments. Commissioner Young stated that the assessments will be a recommendation from the Engineer along with what should be done and how it should be done and present it to the Board. The Board will take the recommendation under advisement to see if it needs to be rejected or perhaps modified. Laura LaChapelle, APA added that there will be a final hearing before the assessments will be put in place. Before the final hearing the audience will receive a lot of information on the issue of assessments. Commissioner Jemison stated that the meeting on May 5 is to decide if this is a public project, it is not to discuss

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assessments. Until this is proclaimed a public project the Engineer will not have figures. Ted Ricker questioned that the Board is talking about the Kenston Lake Dam as a ditch project. Commissioner Young stated they are discussing the effect of the drainage from the dam. A new culvert needs to be installed as mentioned by ODNR. How much more has to be done after that is the issue that will have to be paid for. Ms. LaChapelle added that when this issue is revisited at the hearing the Engineer will flush out why he feels the project is necessary, why the benefit exceeds the cost and why the project is conducive to the public welfare which are the requirements under the O.R.C. Commissioner Samide read the legal notice.

Judith Gooding asked what kind of assessment is being done. Ms. Gooding stated that it is confusing to the residents and they want to know how much they will be assessed. Ms. Gooding stated that asking the audience make a decision and to give input is confusing when they don't have the assessment information. Ms. Gooding would like the assessment information sooner than at the hearing. Ms. Gooding stated that the Engineer must have information on this project. Ms. LaChapelle replied that the Board is not aware of information the Engineer has and that she would have to contact the Engineer's Office. Ms. LaChapelle responded that the Board and the Engineer are following the O.R.C. process. If the Board finds this to be a public project the Engineer will be instructed to draw up the plans, specifications and schedules. The Engineer won't know costs before that and cannot do it until directed by the Board, as set forth by the Ohio legislature. Ms. Gooding stated that she felt the public interest would be better served if the public had the assessment information and not be surprised by it. The estimate given is preliminary as required by O.R.C. and the Engineer indicated that it was an estimate but will be more accurate at the assessment hearing. Commissioner Young added that the township could chose to contribute to this project with the balance allocated to the landowners. There are a lot of issues to cover including who all should be included in the assessment or just give the project back to ODNR. Commissioner Jemison added that once this is declared to be a public project the Board must deposit 25% of the estimated cost of the project with the Engineer to start the engineering for this project.

Ms.. Gooding asked everyone in the room to raise their hands if they are not here to find out how much this is going to cost them, if that is not why they were here tonight. Commissioner Young stated he understood the need to know that information. Ms. Gooding added that she noticed the township trustees were surprised as to their cost of this project. Karen Prochazka, one of the dam owners, asked how this next meeting and the delay affects the grant with Chagrin Valley Watershed. Ms. LaChapelle reported that the Board learned that some people did not get notice. The O.R.C. is very specific in the timing of the mailing of the notices, the viewing and the hearing. Amy Brennan reported is not sure how OEPA will look at it but she continues to share the information with them to know that work is being done on this project. They are currently nine months behind. Ms. Prochazka asked if this meeting is showing progress to which Ms. Brennan added that that will be her argument. A question from the audience was that ODNR has determined that the dam was not safe so has ODNR asked the county to step in. Commissioner Jemison responded that a section in the ORC allows for a resident to petition the Board. The Commissioners can chose to decide this is or is not a public project. If it isn't it will go back to ODNR. Commissioner Young added that the information available was that ODNR first made a recommendation was in 1990. Commissioner Young stated that the Board has not spoken with ODNR. Ms. LaChapelle said that ODNR does a five year inspection and she believes they are set to do an inspection between April and July. George Smith, representing his mother a property owner since 1957, stated that he wanted to make sure his mother know her rights and responsibilities. Mr. Smith asked who is providing advice to the Commissioners. Ms. LaChapelle introduced herself as legal counsel from the Prosecutor's Office. Mr. Smith asked if Ms. LaChapelle's notes are public information to which Ms. LaChapelle responded that they were not. Ms. LaChapelle suggested that Mr. Smith, or anyone, look up O.R.C. Section 6131 as it is the best place to get the information for his mother. This is the entire process. Mr. Smith stated that his mother is not in a position to bear any more costs concerning this dam. Mr. Smith wants to make sure that his mother's rights are being taken care of and if legal counsel was needed. Ms. LaChapelle, again, directed Mr. Smith to the O.R.C. Section 6131 as it tells what her rights are as well as the steps the Board is to take. Ms. LaChapelle, in responding to Mr. Smith's question, stated that we are in Section 1 and Section 12, right now. Mr. Smith asked when he can obtain legal counsel to which Ms. LaChapelle replied "Anytime". Ms. LaChapelle added that when the Board makes a decision there are certain deadlines to be followed and that Mr. Smith should consult the O.R.C. as there are dates that he should be concerned about.

Commissioner Young closed the public hearing at 7:00 p.m.

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BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, COMMISSIONER YOUNG ADJOURNED THE MEETING AT 7:00 P.M.

Geauga County Board of Commissioners

Tracy A. Jemison

Mary E. Samide

William S. Young

Claudine Kozenko, Commissioners' Clerk