

EDINBURG TOWNSHIP TRUSTEES REGULAR MEETING

Edinburg Townhall

February 23, 2012

Thomas Repcik called the regular meeting of the Edinburg Township Trustees to order at 7:30 p.m. with the Pledge of Allegiance. Roll call shows: Diane Austin, present; Thomas Repcik, present; Sandra Templeton, present; Judy Repcik, present; Chris Diehl, present; Tim Paulus, present; Tami Scott, present.

RESOLUTION 2012-36: A motion was made by Sandra Templeton to approve the Agenda as presented; this was seconded by Diane Austin. Roll call shows: Diane Austin, yes; Thomas Repcik, yes; Sandra Templeton, yes.

COMMENTS OR QUESTIONS FROM PERSON(S) IN ATTENDANCE:

Denise Sondereker – Resident/ZC

Denise Sondereker: At our Zoning meeting last week we were going to forward you guys the Windmill Amendment that we've been working on for a year and a half and we understood that you have objections to it? They wanted me to come and ask you what they are and if they're workable or –

Thomas Repcik: I had some questions and I don't recall them all now but I'm going through it trying to jog my memory. Some of the things I guess I look at about the tower set backs—1.1 times the height—if a person had a lot or their property was 1-1/2 to 2 acres, but it was only 125 feet wide, or 150 feet wide, they virtually couldn't put it up for a side lot.

Denise Sondereker: And the thing is, if they're 100 feet tall, they require a fall zone of an extra ten percent so if pieces fall off--so if it should fall over, it's protecting the homeowner and the neighbors. My understanding is the sellers of the towers will tell them where it would situate on a site—the best place to get the wind--and so if we don't have a resolution for it or the setbacks like that, say they put it 20 feet inside the property boundary we have 20-foot sidelines on each property and it's 100 feet tall, if it fell over, it could fall on the neighbor's house.

Thomas Repcik: But if it's only 80, they can put it 20 feet.

Denise Sondereker: But if there's 40 feet between the houses, and it's 80 feet tall and it's right there at the edge of that 20, 40 feet of it could fall on the house next to it. So there's a safety zone of 1-1/2 times around it.

Chris Diehl: Wouldn't that be, technically, the homeowner's problem anyway?

Denise Sondereker: It would be but if it would impact the neighbors—

Chris Diehl: It'd still be that homeowner's problem to fix the neighbor's house.

Denise Sondereker: As long as they have updated property liability insurance --that's the thing.

Chris Diehl: Why is that our business to make sure that they have insurance?

Denise Sondereker: Well, the reason for that is safety and that's part of what Zoning does is provide safety for all of the residents -- that's the issue. What I did for you guys to be helpful—

Sandra Templeton: Are you not wanting to get to do that or are you trying to regulate?

Denise Sondereker: Our understanding is, we have a height limit of 35 to 40 feet in different districts. In order for these things to work they have to be 80 to 100 to 170 feet high so as is, they would not be permissible and I understand we're not allowed to tell people they can't have them because it's a renewable resource and the federal government has said that we need to encourage renewable resources. So the reason we want to do this is 1) to allow them and 2) to protect neighbors and the homeowners too. They're really expensive to put in -- for people to think about it.

Sandra Templeton: I couldn't think of anyone in Edinburg that could even [afford to] put one up.

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Denise Sondereker: But there might be somebody and that way they would be allowed to do it. But the first one is what we've been working on and I put stars next to each one—we looked at Ravenna, Palmyra and Rootstown and their resolutions are also in here. So if they have a star, all three of them have that requirement--the permitting things, a lot of that is from different sources. Brimfield's currently working on theirs and their October meeting -- they're looking at Ravenna.

Chris Diehl: Couldn't we even just ask them to show proof of insurance?

Tami Scott: That's in there.

Chris Diehl: Well then that fixes the problem, doesn't it?

Denise Sondereker: It does, I can see what you're saying, but it's also—

Chris Diehl: You're going to end up possibly stopping someone from putting one up if they wanted to.

Diane Austin: If we make it so that there are very minimum people—say everybody suddenly wanted to do this and our book is such that most people can't do it and they take us to court, we'll lose, right?

Tami Scott: But the only thing with those, you can set the regulations on them but they're unzonable—I'll tell you that right now. I can't zone them. Because I don't know if they stop working for six months--that's in there that it has to be torn down after six months. I'm not going to sit and watch them. If they're not working for six months they have to be taken down—that's an unzonable issue.

Thomas Repcik: It might be working but the person just for some reason doesn't want to run it.

Sandra Templeton: Didn't Western Reserve School put some of those down; I think the school said that they were so expensive they couldn't—

Tami Scott: The bearings are so expensive; they can't afford the bearings.

Diane Austin: How do we determine that? We can't hire somebody to do that.

Tami Scott: That's an unzonable issue. You can zone where to place them, you can zone how many feet, but the part if they're not working, need to be torn down, I can't zone.

Thomas Repcik: I guess we say on here, the tower set back shall be at least 1.1 times the height of the tower, from all property boundaries except outlined in D but if I had a 100-foot tower that means I have to be 110 feet away from a property line. If I have property that is 125 feet wide and 600 feet deep, meets that 1-1/2 to 2-1/2 acres, I can't put it up.

Denise Sondereker: If it's 200 feet deep you could put it back, right?

Diane Austin: What about your sideline?

Thomas Repcik: Well, you still got your sideline. I've got 125 feet from here to here; I've got a tower that's 110 feet clearance, well I'm 110 over here I'm only 15 feet from this line.

Diane Austin: So even if it's a deep piece of property, if it's narrow, they still can't do it.

Thomas Repcik: That question could come up and then there's an issue.

Diane Austin: The other thing is, Tami, even in our Chapter 6 B10 with our noise levels, we can't do that either.

Tami Scott: That's unzonable.

Diane Austin: Anything with noise levels, I mean I know that's in there, but you can ask them not to do it but we can't monitor cause we'd have to hire a company and there are very few companies to do that. So again we've got regulations—

Tami Scott: And look how many times they lost even after they hired a company.

Denise Sondereker: The thing with the noise—I know the engineer's report--it may not be an Ohio engineer's report--and the line drawing for electrical are all provided by the manufacturer as far as documentation that those are what the unit would do. It's not something that would have to be tested—it's what their rating would be is what my understanding is. The engineers site it and try to make as effective as possible.

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Thomas Repcik: I just want to make sure that if we write something and say ‘here’s the rule’, that it’s 1) fair and 2) that its enforceable.

Denise Sondereker: So if you made the setbacks instead of having setbacks delineated as a fall zone then it would still be one and a half times the height from any structure versus property line, would that be more workable?

Tami Scott: I don’t know if you can do that either because what was the old zoning off the side lines where people built? Fifteen foot, you’ve got a lot of buildings around here where people are almost 15 foot off the sidelines. In agriculture they’re sitting on property lines.

Diane Austin: Here’s what I want to be cautious about, I don’t want to have a zoning book where—kinda like the camper thing, it had to be this, it had to be that—people own property and we pay a lot of money to have that property. We pay a lot of money for insurance and property taxes I don’t want a book full of ‘we can’t do that, we can’t do something else’; if somebody wants to do this, yes there needs to be guidelines but we need to try to make it as workable as possible not try to zone it out. I don’t think you guys are trying to zone it out—

Denise Sondereker: We weren’t trying to do that. We’ve been very consistent with every other—

Diane Austin: I understand. That’s what we have to make sure of because there have been things in the past and you have people on your Zoning Commission—and I’ve set through those meetings—that they tried to use our book to keep their pet peeves out of the Township and we have to be careful—I think some of the stuff you’ve had to correct over the last few years. In know that there are standards—doesn’t the prosecutor’s office or Regional Planning or somebody—

Tami Scott: Regional Planning already reviewed it.

Denise Sondereker: We have their results and then they recommended that we go forward.

Thomas Repcik: There’s nothing as far as public utilities that governs any of these towers?

Denise Sondereker: As long as it’s under 5 megawatts per day, then it can be regulated by local government if it’s over that it has to be state and federal. Our intention was not to regulate it out, it was to make something in there that was a standard so that the people who wanted to do it could do it. It’s pretty standard stuff compared to all the other townships like not putting signs on it—it’s not a concern, I don’t know that it would happen but for me as a resident, I wouldn’t want one twenty feet outside my bedroom so having that space requirement—maybe you could do something as far as if there’s an exception to that then they could go—because it’s a conditional use anyway—

Tami Scott: I don’t think it should be a conditional use.

Denise Sondereker: It’s permitted in—I forget which one—one is permitted the other two are conditional.

Tami Scott: If somebody is going to spend \$10,000 on a wind thing we’re going to make them pay another \$300 to see if they’re allowed to put it up? I have a problem with that.

Sandra Templeton: If you can put it up, you can put it up.

Tami Scott: I think if you’re going to let them put them up, you let them put them up.

Diane Austin: If you’re going to have regulations, and we get to the point where there are regulations and they meet those regulations, it shouldn’t be conditionally permitted. That’s my personal opinion.

Tami Scott: Cause conditionally permitted is only going to stay with the person who owns the property so if they go to sell that house and their selling point may be that solar energy system, that solar energy system can’t go with that property because it’s a conditional use. They have to tear it down.

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Diane Austin: That's true. Or the new person—it has to be a condition of the sale—and the new person has to come in and reapply because the conditional use is not for the property a variance stays with the property --conditional uses changes when ownership changes they have to reapply.

Denise Sondereker: So to get it high enough, any of the lots in town center would be excluded.

Tami Scott: There are a lot of 60-wide lots.

Denise Sondereker: Say one person puts in a tower on a 60 foot-lot and the next person on a 60-foot lot wants to put in a tower?

Diane Austin: Well down on [State Route] 14 they're only 120-foot wide there.

Tami Scott: The problem is when you start with a conditional use--say you had a person with a 60-foot then you start setting a precedence if you do, so once that conditional use is granted on one, there's no sense in having conditional uses because you pretty much set a precedence when you start granting one, you're going to grant them all.

Diane Austin: Even though they say it's case by case.

Tami Scott: That's really not true cause when you go to court they're going to come in and prove that you gave conditional use for the same size lot to this one but not to this one.

Diane Austin: So if we're going to do it, we need to figure out how you guys are going to set it but I don't feel that it should be conditionally permitted I agree with Tami on that. If you have standards and they meet the standards then it shouldn't be conditionally permitted because they have to meet the standards to get the permit and the standards are set by the Commission.

Thomas Repcik: The standards--it can go 20 feet from the property boundary if it's not more than 80 feet high. [reading] May be 20 feet from the property boundary of the installation site. If, 1) the tower is a crank up or tilt down monopole design, 2) that the tower does not use guy wires, 3) and the total height does not exceed 80 feet. If I put it at 20 and it's 80 and it falls over, it still goes 60 feet over on the other property.

Denise Sondereker: The crank up, tilt down ones are designed to break instead of just falling like the monopoles that's the difference between them. So the question—we require it to have 'shall prove initially of liability insurance' but there's no way to monitor that they continue that liability insurance.

Tami Scott: That's not something Zoning should have to do anyway. You make them place a bond on a cell tower but we don't make them prove liability insurance on it. I really don't know under Zoning can we make somebody prove they have insurance on something?

Thomas Repcik: Hot Stove and the Soccer Association—

Diane Austin: That's different; they're using our property.

Thomas Repcik: They provide insurance.

Tami Scott: I'm talking about somebody whose own, personal--like me telling everyone whose going to build a new house, show proof of house insurance.

Thomas Repcik: There's people I'm sure in this township that own their property and probably do not have liability insurance. If you're buying through the bank, you have to have that.

Denise Sondereker: I just think cause Chris said if they have insurance that should cover his neighbor's house but what if they don't have insurance?

Diane Austin: [gave examples] We could go on and on like this.

Chris Diehl: That's what I was getting at. [gave example] I guess I don't understand why we even have to worry about that because it's their responsibility anyway if something comes from their property and destroys somebody else's.

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Thomas Repcik: [gave example]... does that make us liable?

Tami Scott: I don't know how we could be liable cause it's on their property.

Denise Sondereker: So you think it would be alright if we just said it had to be within the defined side yard, rear yard, setbacks— cause we have it only in the rear yard not the side yard.

Thomas Repcik: Yes. I really think if you're going to permit it, and it falls within the boundaries and they're within the boundaries of the side lot and the back lot then that's it. Because there are a lot of properties that are 130 feet wide.

Judy Repcik: I think we've got 80-foot oak trees. That fall on other people's houses.

Denise Sondereker: Right. I thought of that too. I have big trees in my yard and if they would fall on the neighbor's I know it's my responsibility because they're my trees.

Thomas Repcik: In common sense, if someone's going to put it up, they're going to put it up where it's reasonable.

Denise Sondereker: The other issue too is they do get ice build up on them too and they throw ice.

Thomas Repcik: I think if we permit it and it's enforceable, by the Zoning Inspector then it's a permitted use and not a conditional use.

Denise Sondereker: Is there anything that's not enforceable?

Tami Scott: You can't enforce the noise and you can't enforce if they're not working.

Sandra Templeton: They're on the person's property and that belongs to them. It's their responsibility if it's not working.

Thomas Repcik: When do you have to make a decision on this?

Diane Austin: They're going to have to go back and rework on it.

Denise Sondereker: Right because we sent it to Regional Planning and then we were going to send it to you.

Thomas Repcik: That will give us a chance to review these other ones too.

Denise Sondereker: We also wanted to know if you're satisfied with the book the way that it is or if there's something that you want us to work on. We're already decided to change our meetings to quarterly.

Thomas Repcik: I think I brought it up a year or two ago that—I wasn't in agreement then—about the motor homes.

Tami Scott: That's gone.

Thomas Repcik: All right.

Diane Austin: I kinda rely on Tami to tell us.

Tami Scott: We're going to have to leave it where it is right now. [gave example] We're doing small things that—you're constantly reprinting pages to a book. Unless you're going to rewrite a whole chapter, I really don't know what we're going to change.

Denise Sondereker: Well, the thing is, is when I first started on this and you just said it in November—

Tami Scott: We are repetitive in that book, but if you read the book, each chapter has to have a repetitive part. You're going to have to repeat in each chapter.

Denise Sondereker: And that's fine if that's what you want but I have the instruction that you thought is was: too wordy, to discombobulated, too hard to read and that's what we were trying to do is try to make it more streamlined and more user friendly and I if you're happy with it the way it is—Marlin said then there's no reason to meet.

Diane Austin: If we're going to do it, instead of small changes, you need to do a whole overhaul.

Tami Scott: But the problem is, if you do a whole overhaul, how do you notify the Township? You have to be very informative.

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Diane Austin: It's very specific to the Ohio Revised Code how you have to do it. That's what we had to do before because that was a whole new book. We had public meetings published in the paper—everybody wanted a letter. We had it posted even more than what they said and they still complained.

Denise Sondereker: Is there – every so often you're supposed to review the book?

Diane Austin: Yeah every year.

Tami Scott: If you want to review it, review it

Denise Sondereker: It doesn't mean we're going to redo the book, just to review it—cause that's what we proposed at the last meeting.

Tami Scott: But I think you're going to have to give specific instructions as to what you're going to review at that meeting because that's going to have to be put in the legal ads for the public notice. If you don't that's where you get the problem of 'I didn't know' 'when did this come about?' 'How many years has this been in affect?' 'Why aren't we notified?' I hear that four or five times a year.

Diane Austin: I hear that too and I would say 'we had it published in the newspaper'. When they put that in the book about reviewing it yearly, what that was for--from the meetings we had--to have once a year--anytime that the Zoning Inspector says, hey I'm having an issue with this I need you guys to look at this. The Zoning Inspector should notify the Zoning Commission any time but once a year to keep things that have come up for the year, and maybe they weren't anything that had to be dealt with at that second, but that yearly meeting was to take a look at those things and address that. Before, the Zoning Commission would go years with nothing to do.

Tami Scott: So basically the book is saying the Zoning Commission should meet once a year and go over the books.

Diane Austin: And at the meeting the Zoning Inspector saying 'ok, these are the things I had to deal with during the year, we need to take a look at these'. If there's something major that happens during the year, you know what you need to deal with any time the Zoning Inspector needs to have the Zoning Commission review it, she should contact you and a meeting be set. So really there were years that we had one meeting in six months.

Denise Sondereker: They were once a month when I first started.

Diane Austin: That's when we were doing the book.

Denise Sondereker: When there comes a time where we have to do a site plan review and as chairperson I would have to leave the site plan with you and talk to an attorney and say 'there needs to be this many trees in this front space' and then when you go to spacing there's no way you can put that many trees there because they contradict each other. So I don't want to be in that position where I'm going wait a minute its' not consistent they don't agree.

Diane Austin: Isn't there some state standards for that?

Denise Sondereker: We changed that—that was one of the things we worked on. I think it's a great book. It's a little flippy back and forth here and there and that's what we were trying to get so it wasn't to that point—so you know that all of the performance standards are now in chapter 6. They wanted me to ask you if there was anything specific you wanted us to address if you still wanted us to do that. We agreed on quarterly but if there isn't anything that you feel we need to do, we won't have a meeting at all.

Sandra Templeton: Historically, we've always gone by whomever the Zoning Inspector was if issues came up in the Zoning book then the Zoning Commission would address those, critique them and we kinda did that.

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Diane Austin: The other thing when we talked about the yearly reviews, in the meetings we had it was discussed that the BZA would also be invited to that meeting so that if they had issues that had come about they could bring them up.

Denise Sondereker: I think it's really good it's just not as orderly as I am.

Thomas Repcik: As chairman you should look through that and then go to your board and recommend that we move this over there.

Diane Austin: [We were told that] we have one of the best books in Portage County.

Thomas Repcik: We had a high professional person help us put that together. Well, you heard us and you have a little bit of work to do then you'll come back. You know when we have a resolution change of something we have to go to the Recorder's office then have the recorded and paid and the law library also gets a copy of it.

Denise Sondereker: If there's a problem we'd like to fix it ahead of time.

Thomas Repcik: Zoning has to be enforceable.

Ok. Thank you very much.

RESOLUTION 2012-37: A motion was made by Diane Austin to approve the minutes of the February 9, 2012 Regular Meeting as presented; this was seconded by Sandra Templeton. Roll call shows: Diane Austin, yes; Thomas Repcik, yes; Sandra Templeton, yes.

CORRESPONDENCE

--OTARMA newsletter update

--PCRPC Block Grant Application

--Certified copy Resolution12-0163 Porter Road Partial Vacation

OLD BUSINESS

Letter from Judy Diehl regarding EMS billing -- the Trustees agreed to let Life Force handle this and set up a billing/payment plan.

NEW BUSINESS

--Public Records Class in the Townhall -- June 4 & 5, from 1:00 to 4:15 p.m. will be given to the presenters as possible dates.

--The Tax Incentive is coming up. It has to be done by March 27th.

DEPARTMENT REPORTS

Tami Scott - Zoning Inspector, Zoning Secretary, Administrative Secretary & Parade

--She made/received 20 phone calls.

--She has prepared the donation letters for the Parade and they will be mailed out March 15th.

--She presented an updated list of Township Officers.

--She presented the updated Zoning Book pages.

--She asked if, starting March 10th, the Zoning Office hours could be switched to Saturdays from 8:00-10:00 a.m. (instead of Wednesday evenings). All agreed. This is to be well advertised.

--Thomas announced that Karen Ross has agreed to attend the Zoning meetings to record and type the minutes of the meeting while Tami is off for medical reasons.

--She asked, and it was confirmed that there is a digital Zoning map on CD in the office.

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Chris Diehl - Roads, Buildings, Cemetery and Park

--He reported that they've been doing some patching.

--He is recommending that the Township purchase a used Hustler mower from Miner's for \$3,800 [the retail price is about \$10-\$12,000] for the Fire Department. It is one size bigger than the current (cemetery) mowers. He also recommends selling the old mower at auction.

RESOLUTION 2012-38: A motion was made by Diane Austin to approve the purchase of the used Hustler mower from Miner's at a cost of \$3,800 for the Fire Department; this was seconded by Thomas Repcik. Roll call shows: Diane Austin, yes; Thomas Repcik, yes; Sandra Templeton, yes.

--Jerry Scott has donated the Christmas decorations that were used this past Christmas. He only asks that they be returned to him if the Township decides not to use them in the future.

Tim Paulus - Fire Department Report

Purchases

--He requested that sometime in the near future a standard freezer top, 18 cu.ft. refrigerator be purchased for the Fire Department to replace the 9 cu.ft one that is currently there.

Grants

--He has completed the FEMA SAFER Grant and it will be sent in tomorrow. This is a 0% match grant that would last four years. He has requested just over \$412,000 that would provide:

- Accident, Sickness and Cancer Insurance
- Secondary Education Tuition Assistance
- Advanced Training Funds
- Responsive/Training Attendance Incentive
- New Firefighter Mentor Program
- A Recruitment and Retention Coordinator/Grant Administrator

--Thomas had asked him to review the Ohio EPA's Diesel Emissions Reduction Grant (DERG) Program. This is a grant toward vehicle/equipment replacement, repower or retrofit for the purpose of emissions reduction and idle reduction equipment is also available. The State has \$10,000,000 of funding available and any request must be at least \$20,000 to be considered. This is an 80/20 reimbursement grant. The application deadline is 5:00 p.m. on **March 30, 2012**. There may be subsequent grants available if they don't spend all of the money in the first round. Projects must result in the reductions of *Oxides of Nitrogen* (NOx) and/or *Fine Particulate Matter* (PM2.5) emissions from pollutant sources. There are some limitations to this grant. Nothing can be purchased that is scheduled to be replaced in the next five years and it requires on-going record keeping for five years.

He will proceed with this if the Trustees agree. He will just need to know what to get prices on. [a dump truck?]. All agreed to proceed.

--He requested the use of the Townhall on December 8th for a Fire Department Christmas party. This was approved.

--The bank caught a fraudulent charge on Tim's business credit card (\$74 at a theatre in Germany). His card was voided and they are sending a new one.

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Judy Repcik - Fiscal Officer Report

She presented:

--Cash Summary Year-to-Date

--She has filed the End of Year Balances and Permanent Appropriations with the Auditor as of February 16th.

--She received a call from a gentleman doing a survey. He asked if Edinburg has a hotel/motel tax. She informed him that Edinburg does not have a motel so there is no need for a tax.

TRUSTEE REPORTS

Sandra Templeton

She had nothing further to report at this time.

Diane Austin

She had nothing further to report at this time.

Thomas Repcik

--He sent paperwork to the Fire Marshal's office for a loan program to correct deficiencies in fire stations or add buildings to it. It's only \$300,000 but he put the paperwork together for it anyway.

--The March 6th blood drive had to be cancelled because it was scheduled on the same day the Board of Elections needed to set up the polling site.

--The property across the street is up for short sale and the bank wants \$22,000. Thomas will call Ed Riegenbach.

RESOLUTION 2012-39: A motion was made by Diane Austin to approve the payment of the bills; this was seconded by Sandra Templeton. Roll call shows: Diane Austin, yes; Thomas Repcik, yes; Sandra Templeton, yes.

RESOLUTION 2012-40: A motion was made by Sandra Templeton that the Township bid up to \$24,000 to purchase the property at 4037 Rock Spring Road this was seconded by Diane Austin. Roll call shows: Diane Austin, yes; Thomas Repcik, yes; Sandra Templeton, yes.

RESOLUTION 2012-41: A motion was made by Diane Austin that the meeting be adjourned at 8:47 p.m.; this was seconded by Thomas Repcik. Roll call shows: Diane Austin, yes; Thomas Repcik, yes; Sandra Templeton, yes.

Thomas Repcik, Chairperson

Diane Hargett Austin, Trustee

Sandra Templeton, Vice Chair

Judy Repcik, Fiscal Officer