

Held _____

20 _____

MINUTES OF ELLSWORH TOWNSHIP BOARD OF TRUSTEE'S
SPECIAL MEETING APRIL 15, 2015

Chairman Bob Toman opened the meeting at 7:00 p.m. with the Pledge of Allegiance. Roll call of officers, Trustee Fred Houston- Present; Trustee Art Spellman- Present; Trustee Bob Toman- Present.

Motion was made by Trustee Fred Houston to appoint Wayne Sarna as Reporter pro Temp. Motion was seconded by Trustee Art Spellman; All were in favor of motion. Trustee Houston- yes; Trustee Spellman- yes; Trustee Toman –yes.

Motion was made for Trustees to go into Executive Session by Art Spellman; seconded by Fred Houston; All were in favor of Motion. Trustee Houston- yes; Trustee Spellman- yes ; Trustee Toman – yes.

Motion was made at 7:45 p.m. to return to the Regular session of the Special Meeting by Trustee Art Spellman; Seconded by Trustee Fred Houston; All were in favor of Motion. Trustee Houston – yes; Trustee Spellman- yes; Trustee Toman – yes.

A Motion was made by Trustee Houston to officially accept the resignation of Karen Grittie as fiscal officer effective 4-8-2015; seconded by Trustee Art Spellman; All were in favor. Trustee Houston – yes; Trustee Spellman – yes; Trustee Toman – yes.

Trustee Fred Houston addressed the vacancy and position of fiscal officer by the resignation of Karen Grittie and made a Motion to place Jim DeCenso as fiscal officer for the remaining term. Vote as follows: Trustee Houston – yes; Trustee Spellman – no; Trustee Toman- yes. Motion carried.

Trustee Toman introduced the Township's legal counsel Jim Mathews to discuss the proposed Resolution initiating a Zoning Amendment; a 2 fold exercise. First rezoning portions of 3 parcels to section Rt 45; Second – adopting planning requirements including buffers and setbacks.

Township counsel Jim Mathews provided a brief description of the litigation pending on the property located on St RT 45 dating back to 2012 initiated by Mike Kurilla, Deputy Zoning Inspector for an enforcement action pursuant to Ohio Revised Code regarding certain conditions of Property owned by Basista Holdings LLC. The Gault Road property is not the subject of the proposed zoning amendment. Dispute in the lawsuit is over the depth of the industrial zoning classification district to the St Rt 45 property. Basista contends the industrial district is the entire parcel while the Township Zoning map in existence since 1969 reflects only the front portion of the Basista property is zoned industrial limited to 500 feet. This led to the pending lawsuit. Trial was held March 23, 2015 on a bifurcated issue of the case. Court issued it's decision that the industrial portion to the Basista property is limited to the front 500 ft subject to objections and appeal.

During trial Basista submitted evidence during the trial from a witness of the County GIS dept that the official map of 1969 was not accurate as far as the north-south industrial marking on the map in relation to the Basista property on Rt 45. This evidence submitted, shifts the industrial marking as reflected on the 1969 map to the south with only the width of 125 ft of the Basista property being maintained within the industrial marking of the map. The proposed resolution of zoning amendment maintains the depth of a 500 foot industrial district as ruled on by the Court while it seeks to conform the industrial district to the front 500 feet of the Basista property and conforms the 2 parcels to the south of the Basista property to agricultural.

Atty Mathews provided some historical background of the Basista property on St Rt 45 as to the operations of the East Fairfield Coal Co. which was originally 2 parcels with operations of the business on the front parcel to St Rt 45 that dealt with storage of coal that ceased a number of years ago. Some degree of Remediation was made to the Basista property, the extent of which has not been determined with some degree of contamination left to exist.

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Atty Mathews stated that in light of the historical use of the Basista property by East Fairfield as well as the conditions left on the front of the East Fairfield property of the Basista parcel and as a result of the remediation and practical limitation as to the utilities of the former parcel that was on the frontage of the parcel as to the agricultural, residential and recreational uses; the Board desires to form a zoning district reclassification of the 3 parcels to fit the legislative judgment of the Board and prospective uses of the property and protect existing boundaries and established developmental uses of the properties adjoining to the property per RC 519.12

Amendment will establish an industrial zoning district for that portion of the Basista property measuring 900 feet along the western feet boundary of the parcel to a depth of 500 to the east from the centerline

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BEAR GRAPHICS 800-325-8094 FORM NO 10148

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of the roadway and rezone 775 feet along the west boundary of the Basista parcel from the NW corner for a depth of 500 feet to the east from the centerline of St Rt 45 and maintain the 125 feet of the Basista parcel to the SW corner of the parcel for a depth of 500 feet to the east from the centerline of St Rt 45.

Next step will be to rezone that part of the Lyden parcel that bears a portion of the industrial district classification to agricultural. Next step is to rezone the portion owned by Wilson parcel that bears the industrial classification to agricultural.

The balance of the Basista property shall be maintained as agricultural and transitional from the industrial district created to the neighboring agricultural districts that have established residential developmental uses. The Board wishes to use its legislative authority to protect the neighboring residential uses of the surrounding property by limiting and/or confining the industrial use. Further the Board wishes to maintain the aesthetics of Ellsworth Township and exercise its legislative authority for the adoption of an amendment and exercise its zoning authority as a matter of law.

Atty Mathews then referred to the maps contained in the amended zoning resolution to point out how the amended zoning resolution is reflected in the zoning map.

Atty Mathews stated that in order to protect residential development and agricultural uses of the neighboring properties in the Board's judgment there shall be a front setback of 50 ft. from the center of the roadway, 50 ft. from the side yard and 50 ft. from the rear yard.

Atty Mathews stated there shall be no building or structural uses within the transitional setback properties other than screening or yard materials.

Screening requirements as follows

- Landscape plan shall be submitted as part of the zoning application and following features;
1. dense vegetation plan incorporating trees shrubs or other variety that will form a 6 ft. screen within 2 years of planting;
 2. A nonliving opaque structure such as a solid fence, landscape, wall or sound wall compatible with the principal existing structure measuring 6 ft. and no more than 8 ft. in height.
 3. Maintain landscape or mound 5 ft. and not less than 4 ft. and not more than 6 ft. in height.
 4. Proposed amendment also provides that landscape to allow maintenance of existing vegetation.

Questions were asked of the public as follows

that addressed the frontage to the Basista industrial property;

2. effect of the zoning amendment to the Basista property;
3. Next steps to be taken by the Board; Zoning commission; Mah Co. Planning Commission; back to the Zoning Commission for meeting; recommendation to Trustees; notices to landowners affected and adjoin property owners.
4. Time limits set by the Ohio Revised Code;
5. Effects of amendment to submitted site plan;

Trustee Art Spellman made a Motion to Accept the Resolution Initiating Zoning Amendment and initiate the zone change process as specified in the Amended Zoning Resolution; Seconded by Trustee Fred Houston. Roll Call vote; Trustee Houston – Yes; Trustee Spellman – yes; Trustee Toman – yes

Questions by the public were for copies of the Amended Zoning Resolution, setbacks between industrial to agricultural districts, the reasons why the resolution is being proposed and the time spent by trustees zoning officials in resolving disputed zoning issues addressed herein and use of the rear of the Basista property as agricultural since 1969.

Motion to Adjourn the Special Meeting by Trustee Art Spellman; Seconded by Trustee Fred Houston; all in favor; Trustee Houston- yes; Trustee Spellman – yes; Trustee Toman yes at 8:26 p.m.

/s/ Wayne W. Sarna

Appointed Reporter to Trustee's Special meeting

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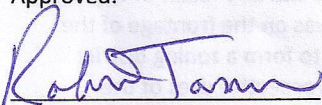
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Approved:



Bob Toman, Chairman
Ellsworth Township Trustee

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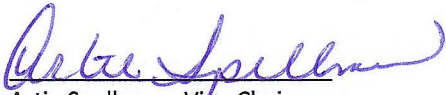
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Artie Spellman, Vice-Chairman
Ellsworth Township Trustee



Fred Houston
Ellsworth Township Trustee