

# RECORD OF PROCEEDINGS

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Minutes of

Waterville Township Trustees' Special

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 10149

Held at 7:00 pm at the Waterville Township Hall on November 20, 2014

**OFFICIALS:**

Chairman Kyle J. Hertzfeld - Present  
 Vice-Chairman Karen M. Schneider - Present  
 Trustee A. Leslie Disher - Present  
 Police Chief Richard E. Bingham - Present  
 Township Solicitor Dawn E. Sanderson - Present  
 Fiscal Officer Kay Ann Robertson - Present

**GUESTS:**

Deputy Fire Chief Josh Hartbarger, Whitehouse Fire Department  
 Fire Chief Daryl Mc Nutt, Whitehouse Fire Department  
 Ms. Christy Geha, 11781 Obee Road, Whitehouse, Ohio  
 Duke Wheeler, 11781 Obee Road, Whitehouse, Ohio

**PLEDGE OF ALLEGIANCE:**

Chairman Kyle J. Hertzfeld called the meeting to order at 7:00 p.m. All those present were asked to join Chairman Kyle J. Hertzfeld in reciting the Pledge of Allegiance.

**ROLL CALL:**

Roll was called by Fiscal Officer Kay Ann Robertson and all three (3) trustees were present; A. Leslie Disher; Kyle J. Hertzfeld and Karen M. Schneider.

**SPECIAL PRESENTATION:**

Chairman Kyle J. Hertzfeld opened the special portion of the meeting. The purpose of the special meeting was to discuss agricultural activities, structures used incidental to agricultural use of land and exemption from local zoning regulations.

**COMMENTS:**

Township Solicitor Dawn E. Sanderson: Solicitor Sanderson sent a notice to Duke Wheeler, owner of "The Stables" [a wedding reception rental facility located at 11781 Obee Road in Waterville Township], stating that at a special township trustees' meeting held on October 29, 2014, the trustees had revoked his "ag" exemption certificate. She also stated that the facility was being advertised as a wedding reception facility.

Duke Wheeler: Mr. Wheeler asked what on the "ag" exemption form was not true. He states the "ag" exemption is connected to his property not his rental facility. He questions the township's form. He does pasturing, raises field crops, etc. He feels the questions on the form had nothing to do with the building. He says he complies with the form. He purchased "The Stables" in December, 2013. He gives farm tours, he has the corn maze in the fall and many other events. "The Stables" constitutes less than 50% of the "ag" use. At the Lucas County Plan Commission hearing, it was stated that the building would be used for wedding receptions. Part of the conditions for the special use was that it be reviewed in one year and one year isn't here yet. He has baled 36 tons of hay. The County gave approval that it was agricultural based on the exemption certificate issued by the township zoning inspector. Mr. Wheeler uses Facebook as an advertising tool.

Township Trustee Les Disher: The Whitehouse Fire Department was waiting on Lucas County for their approval before they gave their blessing. Lucas County was invited to attend this meeting but apparently they chose not to come.

Duke Wheeler: Mr. Wheeler said he had talked to Bill Brown at Lucas County and Mr. Brown was shocked by Solicitor Sanderson's letter revoking the "ag" exemption. The burden of liability is on Mr. Wheeler's shoulders not on the township's.

Deputy Fire Chief Josh Hartbarger: Mr. Wheeler had asked the deputy fire chief about selling "cut" Christmas trees at "The Stables" facility and was told nothing inside the building everything must be outside.

Duke Wheeler: Mr. Wheeler felt he could sell trees from inside because that was agriculture. He states he has responded to everything that has been asked of him.

Township Trustee Karen Schneider: Ms. Schneider states that in her opinion "The

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Continued:

Stables" building does not meet "code" to be used for a commercial use. It's primary use is agriculture, with nothing stored inside. When Zoning Inspector Eric Gay accepted Mr. Wheeler's "ag" exemption certificate on July 5, 2014, he should have taken a closer look at the form. Inspector Gay only had two (2) days to look at the property before signing the certificate on July 7, 2014. He should have done his due diligence.

Township Solicitor Sanderson; Solicitor Sanderson states that Zoning Inspector Gay works for the trustees and the trustees reviewed the application; the open and obvious use, advertising and community perception, before they revoked the "ag" exemption certificate; however, the Special Use Permit still is in effect, it has not been withdrawn.

Duke Wheeler; This has been a very long drawn-out process. Trustee Les Disher has been very involved.

Trustee Karen Schneider; Trustee Schneider states that this a safety issue. She feels that if anything were to happen, the township would be liable.

Duke Wheeler; Mr. Wheeler pointed out that it took a very long time to get a letter back from the County.

Christy Geha; Ms. Geha (Duke Wheeler's daughter) asked what had triggered all of this.

Trustee Karen Schneider; Trustee Schneider states that at a meeting with Phil Klocinski, Lucas County Building Official, the issue was raised that "The Stables" was not a commercial building. Lucas County will not issue an occupancy permit. Mr. Wheeler applied for an "ag" exemption certificate on July 5th and Zoning Inspector Eric Gay approved it on July 7th. In August, Deputy Fire Chief Josh Hartbarger asked the Township Solicitor Sanderson for a letter of opinion that the exemption removes "The Stables" from state fire code regulations, and she declined. Next the County sent a letter that the building was not "ag" exempt, dated September 22, 2014. Since then, the issue has come to the attention of all of the trustees.

Deputy Fire Chief Hartbarger; Mr. Hartbarger had a conversation with Solicitor Sanderson asking her for something in writing that it was all right with the trustees. Township Solicitor Sanderson directed Deputy Fire Chief Hartbarger to contact the Whitehouse Village Law Director.

Trustee Schneider; Ms. Schneider said that no one wanted to put their name on a letter.

Fire Chief Daryl Mc Nutt; Chief Mc Nutt states his fire department wants the building to be safe and his department can not inspect the facility unless the County has issued an occupancy permit.

Duke Wheeler; Before Mr. Wheeler purchased the property, it had been rented out to Anthony Wayne Youth groups. He owns nineteen (19) properties in the area. He feels there is no integrity in the township, that he has been stabbed in the back. He is willing to accept all responsibilities, but he refuses to address the foundation question.

AT THIS POINT, DUKE WHEELER AND CHRISTY GEHA LEFT THE MEETING.

Fire Chief Daryl Mc Nutt; We are waiting on the paperwork.

Solicitor Dawn Sanderson; The trustees have not revoked his Special Use Permit so for all intents and purposes, he can continue doing what he is doing and maybe pay the cost to meet the building code requirements down the road.

Deputy Fire Chief Hartbarger; Duke Wheeler needs to get plans or drawings before he can give specific help on any fire safety issues. Mr. Wheeler could do "adjudication." If the county issues a violation notice if Mr. Wheeler continues his reception rental, then he can file for adjudication. After Mr. Wheeler files, it would come before a board and they would make a ruling. Mr. Wheeler has all of the information to file. He would probably need to do fire alarms or maybe a sprinkler system. What the County wants is for Mr. Wheeler to put in a foundation in order to get an occupancy permit.

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Waterville Township Trusters' Special

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DAYTON LEGAL BLANK, INC. FORM NO. 1018B

Held at 7:00 pm at the Waterville Township Hall on November 20, 20 14

Continued:

Fire Chief Mc Nutt: Duke Wheeler came to his fire department before he purchased "The Stables" in December of 2013. He questioned what he needed to do to use the building for what he wanted to do. Mr. Wheeler has been told numerous times that he needs an architect to draw the building plans for the deputy fire chief to make comments on in order to assist him.

Deputy Fire Chief Hartbarger: There is a letter circulating that has been addressed to himself, dated September 22, 2014, from Phil Klocinski (Lucas County Building Official) stating the county is bound by the determination of Inspector Eric Gay and the "ag" exemption which should have cleared all of this up; however Mr. Hartbarger claims he never received it; and, according to Mr. Hartbarger, even if he had received it in the mail he would still have asked the trustees to write a letter that it was "ag" exempt.

Trustee Karen Schneider: The township zoning inspector should have never issued the "ag" exemption certificate. It was just "plain" stupid.

Deputy Fire Chief Hartbarger: We are all in the same loop here. It was his job to make sure the township was onboard.

Trustee Les Disher: Phil Klocinski's (Lucas County Building Official) arm was twisted so he would come out and inspect the building (this was sometime in June) and to meet with Mr. Wheeler, the fire department, Trustee Disher and Zoning Inspector Eric Gay.

Fire Chief Mc Nutt: Some years back, the Metro Parks had a problem with his department when they re-did their big old barn on their property on Schadel Road in Waterville Township and they never did get it resolved. So this is nothing new.

Solicitor Sanderson; Mr. Wheeler has to resolve this issue. Before this meeting, he had called her and said someone had told him he should apply for a temporary restraining order, but he had not. He hoped to get the matter resolved amicably.

Trustee Schneider: If he went the adjudication route, hopefully he could prove he could safely put 200 people in his facility. What if it came down to he has only a footer and no foundation?

Deputy Fire Chief Hartbarger: If Mr. Wheeler had a function at "The Stables" now and he had a fire, it would shut him down. The deputy chief only addresses fire issues, Lucas County addresses the county issues and also fire issues. The County has to be very transparent.

Trustee Disher: Trustee Disher had an offer to throw on the table - toss the ball back to Lucas County. Our solicitor has tried to get someone from the county to attend this meeting - no luck. He would suggest having Solicitor Dawn Sanderson contact Deputy County Prosecutor John Borell and ask him for some direction.

Trustee Schneider; Why should the township contact the Prosecutor's Office?

Solicitor Sanderson: We are trying to clear this up by asking John Borell to look at the situation again, he passed on looking at it before because of the "ag" exemption certificate. Suppose the township is wrong and it really is "ag" exempt, that would not fix the building but it would relieve the township, the fire department and the county of any responsibility.

Chief Mc Nutt: We are working in a grey area.

Trustee Schneider: We would be asking John Borell to write a legal opinion on this?

Solicitor Sanderson: The Prosecutor's Office passed on this the first time, they should be willing to take another look.

Trustee Chairman Kyle Hertzfeld: Trustee Hertzfeld asked if we were sure that Mr. Wheeler would want us to do this.

Solicitor Sanderson: Solicitor Dawn Sanderson stated she could send a letter to Duke Wheeler saying the township would be willing to contact the Prosecutor's Office (John Borell). Fire Chief Mc Nutt would like to see the letter first.

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Fire Chief Mc Nutt: Chief Mc Nutt wanted to make it clear that his fire department has no issue with the fact that "The Stables" does not have a foundation or letting people occupy it. It is the County that will not issue an occupancy permit with no foundation.

ADJOURNMENT:

There being no further business, Karen M. Schneider made a motion to adjourn.  
Seconded by A. Leslie Disher.

Motion Carried.

adjourned at 8:37 p.m.

Attest:



Trustees:


