

Orange Township Trustees
July 6, 2010
Regular Meeting

Chairman Nelson Katz called the meeting to order at 7:00 p.m.

This meeting was held at the Orange Township Hall, 1680 East Orange Road, Lewis Center, Ohio 43035.

ROLL CALL: Nelson Katz, Robert W. Quigley.

TOWNSHIP OFFICIALS ALSO PRESENT

Jennifer Christian	Park Board
Tom Farahay	Assistant Zoning Inspector
Richard Gladman	Zoning Inspector
Beth Hugh	Maintenance and Parks Director
Michael McCarthy	Township Attorney
Scott Overturf	Owner's Representative
Shirley Raynard	Office Assistant
Christine Trebellas	Board of Zoning Appeals

PLEDGE OF ALLEGIANCE

The minutes were taken and prepared by Office Assistant Mary Ann Ross.

Mr. Katz reminded all present of the Public Administrative Review Hearing at 7:30 p.m. regarding Going Green Landscapes, LLC requesting minor modifications to the development text and plan for property located at 6605 Columbus Pike (U.S. 23), to allow for existing seating walls and piers constructed of landscape pavers to remain in place as part of a landscaping/patio/entry feature display within the front setback of the property.

APPROVAL OF MINUTES

June 16, 2010
Special Meeting

Minutes were approved.

June 21, 2010
Regular Meeting

Minutes were approved with the following changes:
Page 9, under Update North Orange Aquatic Center Statistics, seventh line, change "l.ast" to "last".

PUBLIC COMMENTS

No one came forward.

ZONING REPORT

Mr. Gladman commented on the Public Hearing on Monday, July 19, 2010, at 7:30 p.m. to adopt the Orange Township Comprehensive Land Use Plan 2010, and stated all had a copy of the zoning hearings/meetings report update. Mr. Katz reinforced Mr. Gladman's comment by reading the following from the Zoning Hearings/Meetings Report Update, for Tuesday, July 6, 2010; The hearing will be held to consider the recommendation of the Orange Township Zoning Commission, brought forth from its June 15, 2010 hearing, to adopt the Orange Township Comprehensive Land Use Plan 2010 as a recommendation and guide to Township development; consider the hearing input received, together with the recommendation of the Delaware County Regional Planning Commission regarding adoption; consider possible modifications to the Orange Township Comprehensive Land Use Plan 2010; and act upon adoption of the plan.

The Orange Township Comprehensive Land Use Plan 2010 has been prepared with the professional assistance of the Delaware County Regional Planning Commission and with input from: the members of the Zoning Commission and Board of Zoning Appeals; zoning department staff; township residents; property owners; interested developers; and other members of the public. It is intended to replace the Orange Township Comprehensive Plan 2001.

Mr. Katz also mentioned that the Township had been notified that Kroger is going to be holding a bagger competition on August 10, 2010. It will be a two hour event from approximately 1:30

Orange Township Trustees
July 6, 2010
Regular Meeting

p.m. to 3:30 p.m. This event includes a tent and there will be a MC and a DJ. This will require a temporary use/special event permit and will require a hearing. By consensus it was decided to have the hearing July 19, 2010, at 8:30 p.m. during the regular trustee meeting.

PURCHASE ORDER

RES.10-272 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO RUNFOLA REPORTERS

Motion by Mr. Katz to authorize the issuance of a purchase order to Runfola Reporters, in the amount of \$2,000.00 for transcripts of three BZA hearings regarding application #10-0139, Ohio Mulch.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

MAINTENANCE REPORT

ACKNOWLEDGE ROADS

RES.10-273 ACKNOWLEDGE ROADS

Motion by Mr. Katz to acknowledge the addition of the following roads:

- ⇒ 0.03 additional miles to Township Road 1409, Primrose Avenue
- ⇒ 0.17 additional miles to Township Road 1574, Marigold Street
- ⇒ 0.03 additional miles to Township Road 640, Oak Creek Drive
- ⇒ 0.06 additional miles to Township Road 700, Gladshire Boulevard
- ⇒ 0.51 additional miles to Township Road 1599, Little Bear Loop

For a total of .80 mile(s), bringing the township's total mileage to 94.06.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

RES.10-274 DECLARE A REASONABLE AND SAFE PRIMA-FACIE SPEED LIMIT FOR CERTAIN HIGHWAYS UNDER TOWNSHIP JURISDICTION AND LOCATED WITHIN COMMERCIAL SUBDIVISIONS OR RESIDENTIAL SUBDIVISIONS.

Motion by Mr. Katz ;

WHEREAS, R.C. Section 4511.21(K) (5) authorizes The Board of Township Trustees to declare a reasonable and safe prima-facie speed limit of less than fifty-five miles per hour, but not less than twenty-five miles per hour, upon a finding that the prima-facie permitted speed of fifty-five miles per hour is greater than is reasonable and safe in regard to certain township highways; and WHEREAS, such authority is limited to those highways under township jurisdiction which are located within commercial or residential subdivisions; and

WHEREAS, residents of subdivisions within the township have indicated that such prima-facie limit of fifty-five miles per hour is greater than is reasonable and safe, and have asked for lower speed limits to promote health, safety and welfare in their neighborhoods, and

WHEREAS, The Board of Township Trustees have conducted an investigation of those township highways listed in the attached Exhibit "A," and have received a recommendation from the Delaware County Engineer's Office to the Delaware County Commissioners regarding the appropriate speed limit which should be established for such highways; and

WHEREAS, the Delaware County Engineer's Office has previously, by letter to this Board dated January 16, 2004, confirmed that, prior to making such a recommendation to the Commissioners, it is the practice and policy of the Delaware County Engineer's office to conduct an engineering and traffic investigation as to each affected road; and

WHEREAS, that correspondence stated the belief of the Delaware County Engineer's Office that this practice and policy, and the resulting recommendation of the Delaware County Engineer, satisfies the requirement of RC 4511.21(k) (5) for an "engineering and traffic investigation," and that The Board, upon being presented with a copy of such a document, thus has a basis upon which to establish a speed limit conforming with the recommendation; and

WHEREAS, that correspondence further advised The Board that, pending further written notice from that office, it may rely upon such a written recommendation of the Delaware County Engineer's Office to the Commissioners as being in compliance with the foregoing and that the speed limit recommended therein is appropriate on the streets in platted subdivisions that are the subject of the document; and

Orange Township Trustees
 July 6, 2010
 Regular Meeting

WHEREAS, that correspondence further advised The Board that the foregoing applies to recommendations received in the future and to such recommendations as may have been received bearing a date subsequent to May 18, 1998; and

WHEREAS, upon such basis, it is the finding of The Board that the Delaware County Engineer's Office has reviewed those township highways listed in the attached Exhibit "A" and found them to be appropriate for a prima-facie permitted speed of twenty-five (25) miles per hour;

NOW THEREFORE BE IT RESOLVED that The Board of Township Trustees of Orange Township, Delaware County, Ohio, upon the basis of the investigation conducted and the recommendation received from the Delaware County Engineer's Office, finds that the prima-facie speed limit of fifty-five miles per hour set forth in R.C. 4511.21(B) (5) is greater than is reasonable and safe under the conditions existing at the location of those township highways listed in the attached Exhibit "A."

BE IT FURTHER RESOLVED that The Board finds all highways listed in the attached Exhibit "A" are located within residential or commercial subdivisions of the township outside the limits of a municipal corporation, and that all other requirements of R.C. 4511.21(K)(5) have been met or satisfied.

BE IT FURTHER RESOLVED that The Board declares the reasonable and safe prima-facie speed limit upon those township highways listed in the attached Exhibit "A" to be twenty-five miles per hour.

BE IT FURTHER RESOLVED that the Maintenance Supervisor is hereby directed to erect appropriate signage giving notice of this altered speed limit as soon as possible so that enforcement may begin.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

Exhibit A:

ROAD INVENTORY					
Project #	09003	Project Name	Glen Oak Section 5, Phase A		
Road Name	Primrose Avenue	Road Number	TR 1409		
Township	Orange	Map Location	J-8		
R/W Width	60 Feet	Pavement Width	27 feet f/f		
Shoulder Width	Curb & gutter	Surface Type	I		
Starting Point	Existing pavement at station 30+26+/-				
Ending Point	Centerline of its intersection with TR 1574 Marigold Street at station 31+81+/-				
Length of Section	0.03 mile	Existing Inv. Length	0.58 mile	New Inv. Length	0.61 mile
Date Accepted	6-14-10	Inventory Year	2010		
Notes:	Establishes a stop condition for TR 1409 Primrose Avenue at its intersection with TR 1574 Marigold Street				

Exhibit A:

ROAD INVENTORY					
Project #	09003	Project Name	Glen Oak Section5, Phase A		
Road Name	Marigold Street	Road Number	TR 1574		
Township	Orange	Map Location	J-8		
R/W Width	60 Feet	Pavement Width	27 feet f/f		
Shoulder Width	Curb & gutter	Surface Type	I		
Starting Point	Existing pavement at station 0+42+/-				
Ending Point	Phaseline at station 9+69+/-				
Length of Section	0.17 mile	Existing Inv. Length	0.04 mile	New Inv. Length	.21 mile
Date Accepted	6-14-10	Inventory Year	2010		
Notes:					

Orange Township Trustees
July 6, 2010
Regular Meeting

Exhibit A:

ROAD INVENTORY					
Project #	N06017		Project Name	Little Bear Section 2	
Road Name	Oak Creek Drive		Road Number	TR 640	
Township	Orange		Map Location	J-8	
R/W Width	70 Feet		Pavement Width	36 feet f/f	
Shoulder Width	Curb & gutter		Surface Type	I	
Starting Point	Existing pavement at station 34+30+/-				
Ending Point	Centerline of its intersection with TR 1599 Little Bear Loop at station 36+02+/-				
Length of Section	0.3 mile	Existing Inv. Length	0.65 mile	New Inv. Length	0.68 mile
Date Accepted	6-14-10	Inventory Year	2010		
Notes:	Establishes a stop condition for TR 640 Oak Creek Drive at its intersection with TR 1599 Little Bear Loop				

Exhibit A:

ROAD INVENTORY					
Project #	N06017		Project Name	Little Bear Section 2	
Road Name	Gladshire Boulevard		Road Number	TR 700	
Township	Orange		Map Location	J-8	
R/W Width	70 Feet		Pavement Width	36 feet	
Shoulder Width	Curb & gutter		Surface Type	I	
Starting Point	Existing pavement at station 27+95+/-				
Ending Point	Centerline of its intersection with TR 1599 Little Bear Loop at station 29+60+/-				
Length of Section	0.06 mile	Existing Inv. Length	0.53 mile	New Inv. Length	0.59 mile
Date Accepted	6-14-10	Inventory Year	2010		
Notes:	Establishes a stop condition for TR 700 Gladshire Boulevard at its intersection with TR 1599 Little Bear Loop				

Exhibit A:

ROAD INVENTORY					
Project #	N06017		Project Name	Little Bear Section 2	
Road Name	Little Bear Loop		Road Number	TR 1599	
Township	Orange		Map Location	J-8	
R/W Width	60 Feet		Pavement Width	32 feet f/f	
Shoulder Width	Curb & gutter		Surface Type	I	
Starting Point	Existing pavement at station 15+74+/-				
Ending Point	Existing pavement at station 42+90+/-				
Length of Section	0.51 mile	Existing Inv. Length	0.58 mile	New Inv. Length	1.09 mile
Date Accepted	6-14-10	Inventory Year	2010		
Notes:					

UPDATE – BIG WALNUT AND LEWIS CENTER ROAD SWAP

Mr. Katz commented that the township has been notified by the Delaware County Engineers Office that the swap between Big Walnut and Lewis Center Roads will not take place this year. Genoa Township did not approve of the swap, the Engineer's Office would not force the swap upon either Orange Township or Genoa Township. Big Walnut Road will remain a township road.

PURCHASE ORDERS

Mr. Overturf explained that this is the widening of the entries at Station 362 on South Old State Road. The south entry needs widening due to all the tandem trucks coming in for deliveries to the Maintenance Department. The entry currently is not wide enough to make these turns and it is also very hard to see in the winter, if there is snow piled up. The south entry is made of concrete. The north entry is an asphalt drive and the design of the drive is not advantageous for trucks or fire trucks. Also this entry is deteriorating. Concrete is much stronger and bears the weight of trucks much better. Quotes were obtained and Decker Construction was the lowest.

Orange Township Trustees
July 6, 2010
Regular Meeting

Mr. Katz had pictures which he offered to the public for viewing. Mr. Katz asked about the frequency of trucks, and it was frequent. Mr. Katz asked about other materials for the entry and concrete was the strongest material.

RES.10-275 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO DECKER CONSTRUCTION CO.

Motion by Mr. Katz to authorize the issuance of a purchase order to Decker Construction Co., in the amount of \$15,550.00, to replace and enlarge apron at north and south entry ways to accommodate tandem truck deliveries at Station 362 and Maintenance Department.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

Mr. Overturf explained that this is part of the East Orange Road Improvement Project.

RES.10-276 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO AMERICAN ELECTRIC POWER

Motion by Mr. Katz to authorize the issuance of a purchase order to American Electric Power, in the amount of \$3,500.00, to relocate a utility pole along East Orange Road due to excavation cut.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

7:30 P.M. PUBLIC ADMINISTRATIVE REVIEW HEARING; GOING GREEN LANDSCAPES LLC

The following is not a verbatim of the public hearing. There was a court recorder present who recorded the hearing.

Mr. Katz commented at the start of the public hearing that Going Green Landscapes LLC was requesting a public hearing for the Board of Trustees to administratively approve minor modifications to the approved application development plan, zoning text, and related materials of the Dantomka Limited Backyard Outfitters Inc., planned commercial and office district. This is zoning application #3242. Mr. Katz reminded everyone that Section 14.06E of the Orange Township Zoning Resolution provides that such a change should be approved if the Board finds purpose and necessity for the change; evidence of reasonable effort towards the accomplishment of the original development plan and that change is not in conflict with the general health, welfare and safety of the public or development standards of the district. Dantomka Ltd. is specifically requesting that landscaping and hardscape seating wall displays of stacked paver construction are allowed within the 80 foot front set back along US23. These seating walls shall not exceed approximately 24 inches vertical height, at finished patio grade, with supporting piers not exceeding approximately 36 inches of vertical height, at finished patio grade. Mr. Katz asked the court recorder to administer the oath to any and all who intend to testify. Mr. Katz instructed all who were to testify that they were to give their name and address. Mr. Katz also instructed that all exhibits be clearly marked and turned into the Fiscal Officer for the record. Mr. Katz asked Tom Farahay if proper notice has been given. Mr. Farahay stated that the notice was published in the Delaware Gazette on Saturday, June 26, 2010. It was mailed to all who lived within 200 feet of the property. Mr. Farahay then read the notice. Mr. Katz explained the procedure. He stated there will be a public portion of the hearing in which the applicant will make their presentation; the applicant could be questioned at this time by those present. Those present can also present testimony and evidence themselves. All testifying can be questioned by all present as well as the board. The public portion will then be closed and then the Trustees will deliberate and give their final verdict in the form of a resolution. Mr. Katz stated that as chairman it is his function to maintain order and to keep the discussion focused and directed to the topic at hand. Mr. Katz asked all, that as they addressed the Board, that they try not to be repetitious, all remarks should be germane and related to the topic under consideration. That is, they should have direct bearing on whether the minor modifications to the development text and the plan for the property should or should not be granted. Mr. Katz reminded all the Board is looking for relevant input as to whether or not the Board should grant the proposal for minor modifications to the text and plan therefore allow or disallowing the seating walls and piers to remain in the 80 foot front set back of the property.

Mr. Katz asked the applicant or whoever was representing the applicant to step forward and give his testimony. Tom Hart, 300 Spruce Street, Columbus, Ohio 43215-1173, attorney for Going

Orange Township Trustees
July 6, 2010
Regular Meeting

Green Landscapes thanked the Board for allowing them to come before the Board this evening. Mr. Hart thanked the chairman for his review as the first portion of his presentation was to focus on the narrow issue at hand, and Mr. Katz did that for him. Mr. Hart gave a background, saying that his client's site plan was administratively approved by the Zoning Inspector sometime this past spring. This approval was then appealed to the Board of Zoning Appeals (BZA) by a neighboring business owner. The Board of Zoning Appeals (BZA) ruled on this on May 27, 2010, finding that the land use involved on this site was acceptable, but the BZA also required either the removal or further processes before the Trustees to consider the stone seating walls and the related piers within the setback. The BZA also required the removal of a chimney structure that is on the site, which is not before the Trustees tonight. His clients want to remove that structure along with stone roughs around, which both have some height to them. Because of the BZA concerns at the hearing, his clients felt it was a good idea to remove those two items. But they are seeking the minor modifications for the walls and piers. Mr. Hart wanted to emphasize that his clients, Going Green, Mr. Chiavaroli and Mr. Shively, have a good and long history with seeking cooperation with the township staff and in compliance with the zoning requirements in general. Mr. Hart felt that those two gentlemen were proud of their relationship with the township and the professional working relationship they have with both Mr. Gladman and Mr. Farahay. They try to respect the rules and regulations. They are a new business in a highly competitive industry at a very challenging time. That is why they are asking for this minor change. They are proactively seeking clarity on any issues regarding zoning compliance, in an effort to bring their focus and concentration back to their business and give their new business the chance to succeed. In terms of his presentation there are two main reasons why they believe the walls should stay. They are, one, allowing the walls to stay in the set back will not create a precedent for the township. They also believe they are a good fit for a definition of a minor modification because the visual impact of these walls is minor. Allowing two foot and three foot structures does not set a precedent because there are many other stone structures, piers, walls and landscape features within entry ways installed within the 80 foot setback along US23. Visually, aesthetically, and in reality Going Green's walls and piers are no different than the other stone walls and piers that are along US23 corridors that are in the setbacks. Mr. Hart commented that he felt that is why the Zoning Board initially approved their plans because Going Green's is an entry feature, welcoming people to their site, much like other entry site features in the township. Mr. Hart then presented various comparative examples and exhibits of other entry ways along US23. He went through each exhibit/example and gave measurements and differences in each. After reviewing the exhibits, Mr. Hart commented that it is Going Green's contention that they have an entry feature much like those others that he had exhibited. He felt Going Green's were the same or similar in nature also. Mr. Hart commented that Going Green's display is a major aesthetic improvement of the site based on how it appeared in the past. It simply welcomes the visitor and markets the business. There are safety reasons also for keeping the wall. First there is a fall off ranging from 2 foot to a 15 inch drop off, and second there is a waterfall, so the wall would keep children away. In conclusion of his testimony Going Green is asking that the walls stay, they feel they are low laying and blend with the grade, they are aesthetic, they are an improvement to the site. Going Green sees them as consistent with others in the area. Going Green sees this as a positive. They feel there is no real reason to remove the walls. Mr. Hart stated he would be happy to answer any questions. Mr. Katz asked for comments or questions from the public. No one came forward.

An alternate speaker came forth, Chris Slagle, 100 South Third Street, Columbus, OH 43215, an attorney with Bricker & Eckler Attorneys At Law; they represent the immediate adjacent property owner to the south, Ohio Mulch, at 6675 US23. The purpose of his presentation was to oppose the request for minor modification of the existing site plan under Section 14.06E of the Orange Township Zoning Code. He provided a little additional background for their opposition to this particular request. It is Ohio Mulch's position that these are not minor modifications to the current zoning site plan. The current zoning site plan to which he was referring to was provided to the Zoning Commission in 1992 as part of the original zoning process. The question is whether it is sufficient to follow the current processes in the Orange Township Zoning Code to ask for a variance if a construction use is permissible within the 80 foot setback as required by both the zoning code and the limitation of the 1992 site plan, or is it sufficient to build, be cited for a zoning violation, and ask a separate body for permission to leave that use within a setback. Mr. Slagle asked if there is a purpose or a necessity for this particular landscaping drawing versus the entrance sign that Mr. Hart's exhibits provided. Mr. Slagle submitted to the Board that there is a significant difference between a landscaping use and a marketing of sales equipment

Orange Township Trustees
July 6, 2010
Regular Meeting

where the public can enter, walk around, children may or may not have the opportunity to play in the display, versus a monument sign depicting the entrance to a development which would never be intended to be a play area, to be a display area, where the individual public may peruse at their leisure; which is depicted by the Going Green Landscapes plan. That would have no purpose or necessity in the zoning code, allowing individuals to play around an entrance marker to a subdivision which is clearly delineating to the public by the roadway what entrance they are seeking versus a marketing effort of allowing the public to participate in a display area within the 80 foot setback. Mr. Slagle questioned whether there was a reasonable effort to comply with the Orange Township Zoning Code. Mr. Slagle said no. The 1992 Zoning limitation for this site clearly indicates there is an 80 foot right of way setback into which no use is to be constructed. Section 2109 of the Zoning Code provides for a mandatory 80 foot setback for this particular use along US23. Mr. Slagle questioned if it is reasonable to believe that particular type of construction could take place before a variance request could be initially applied for. He commented that it may be something that may have been approved of, but not after the fact. He stated that is the situation we have here presently. He questioned if there was a reasonable effort to comply, or had construction taken place, a zoning violation occurred and then after the fact approval being sought. Mr. Slagle questioned whether the general health, safety and welfare of the public was advanced by allowing public displays for public viewing, for public participation of these displays within the 80 foot setback. Again Mr. Slagle said no and in fact is the general welfare, health and safety of the township advanced by permitting an after the fact approval of construction that could have easily been accomplished, had the variance application been filed in the first place. Mr. Slagle had a second site plan that was the overall site plan in the form of a landscaping drawing that was provided to the township by the applicant. Mr. Slagle questioned whether the small feature on the front of the applicant's design was consistent with the totality of the development of this site, in relationship to the 1992 zoning agreement. Again Mr. Slagle said no. Mr. Slagle stated there may or may not be a question of whether it could happen, however Mr. Slagle commented, on the landscaping drawing there is no way of knowing how far into the 80 foot setback this display module is currently constructed. Mr. Slagle found it interesting that we do not have pictures displaying how far it is into the setback. There are no setback lines on the landscape drawing. There are no easement lines depicted on the landscaping plan. There are no public utility rights of way depicted on the landscaping plan. Mr. Slagle asked would this type of landscaping plan be approved for any other type of rezoning. Mr. Slagle said the answer is no. There are required plats that require specific set back lines, that require specific depictions of utility lines, specific water, drainage lines, run off lines. He questioned what are the gradients on the landscape drawing, how significant are the reductions in this green space. He asked how it is going to affect run off towards US23. He said we don't know, because he stated we were looking at a very rudimentary landscaping drawing, from a landscaping company, versus the specific site information required in advance of construction if the Orange Township Zoning process were followed. Mr. Slagle felt the public's interest in the application and the following of the zoning code have not been met in this particular case. He questioned is this a minor or a major modification of the site plan; does it change the use or character of the development from 1992 until what is being seen today. He questioned if it increased the density of the use, does it increase the traffic flow, the pedestrian traffic flow closer to US23. He asked does it significantly decrease the green space. He asked does it substantially comply today going forward, with what was intended and approved by the Township or is it an encroachment of the 80 foot setback. These are the specifics that would lead to the difference between a major and a minor modification. Mr. Slagle commented that this issue was before the Board of Zoning Appeals and Mr. Slagle stated that the BZA concluded that this development was in the 80 foot setback and must be removed. The applicant is now trying to appeal to the Trustees to appeal the BZA decision. Mr. Slagle went on to discuss other issues. Mr. Katz redirected Mr. Slagle back to the current issue, the seating walls and the piers.

Mr. Hart asked to speak to Mr. Slagle's remarks. He asked that the Trustees read the BZA decision, as he felt it was not as Mr. Slagle characterized. Mr. Hart and then Mr. Slagle spoke about their positions, and what they believed needed to be done this evening.

Mr. Katz asked if there were any questions for Mr. Hart or Mr. Slagle. There were none. Mr. Katz reminded both Mr. Hart and Mr. Slagle that the Trustees reserved the right to call them back for additional questioning.

Orange Township Trustees
July 6, 2010
Regular Meeting

Mr. Stephen Martin, 50 North Sandusky Street, Delaware, OH 43015, asked to speak. He is an attorney representing Dantomka Ltd., the owners of the property. Mr. Martin wanted it known that they support the application. Mr. Martin also wanted to clarify a couple things. The statement “no attempt to comply”; there were meetings between the tenant, Going Green, the other tenant, and the township. After the construction of the feature, there was a complaint to the Board of Zoning Appeals, filed by Mr. Reynolds on behalf of the adjoining property owner of Ohio Mulch. Mr. Martin thought it was interesting that no one had talked about the grounds that were set forth by Ohio Mulch, in that appeal. It did not address these entry features or any alleged violation of the setback. Mr. Martin commented that if the records were checked they would find these (entry feature) concerns were first raised in a communication by Township Counsel, then they were raised in a response by the Board of Zoning Appeals. That was the only violation or inappropriateness the BZA found. Mr. Martin felt it was minor. Mr. Martin felt that Ohio Mulch would have raised it if it were major. Or it would have been raised by the Zoning Department. We are talking about a minor modification. The nature of the tenant in 1992 was such that Dantomka in its application along with The Outfitters, didn't ask for this kind of change. It is appropriate today.

Mr. Jack Reynolds, 37 West Broad, Columbus, OH 43215, asked to speak. Mr. Reynolds felt it was important since he represented Ohio Mulch when they went through a rezoning process in 2004. Ohio Mulch is in the landscaping business as well. What Ohio Mulch is asking today in terms of use of the 80 foot setback was denied to Ohio Mulch in 2004. In terms of providing additional landscaping and the sale of products out front, Mr. Reynolds commented that they were required to build a wall along the front of Ohio Mulch's property and install a locking gate. Mr. Reynolds commented that what the Trustees are being asked to do is deviate from a plan from 2004, in terms of the setback, and what a landscaping business was allowed to present to the public. Mr. Reynolds commented that they are back ending into a different treatment of next door neighbors. Mr. Reynolds does not think it is fair for someone to go out and build something and then later ask for forgiveness. Mr. Reynolds felt there would be an unequal treatment if the Trustees would go ahead and approve the modifications. Mr. Reynolds commented they just wanted to take the time to object to the difference in treatment.

Mr. Hart commented on Mr. Reynolds statements and felt they are irrelevant. What is relevant is what this zoning code allows. Mr. Katz asked if there were any questions or comments from the public for the speakers. There were none. There were no questions for the speakers from Mr. Quigley. Mr. Katz had questions for Mr. Hart regarding this area. If there were marketing, sales, or other purposes connected with this area. Mr. Hart commented that he believed the purpose of the area like any other entry was to welcome the public. Mr. Katz asked if any of the prior speakers had concluding remarks. Mr. Hart and Mr. Slagle both gave concluding remarks. Mr. Katz again asked Mr. Hart specifically if there was any sale of products in the 80 foot setback area. Mr. Hart said no, but it represents products that are sold by his client. Mr. Katz asked if Mr. Farahay had anything to add. Mr. Katz asked what kind of activity he has seen in the front setback at this property. Mr. Farahay has rarely if ever seen any activity in this area. Mr. Katz asked Mr. Farahay if he had any pictures for the Trustees to view. He did. Mr. Farahay gave Mr. Spitzer a labeled set of pictures. The pictures were viewed by all. Mr. Gladman, Mr. Slagle, and Mr. Hart had questions and comments about the pictures. Again Mr. Katz asked for any further comment from the public. None noted.

Mr. Katz moved to officially close the public portion of the hearing.

Seconded by Mr. Quigley.

VOTE: Katz – yes. Quigley – yes.

Mr. Katz moved to recess and deliberate the matter that has been brought before the Board

Seconded by Mr. Quigley.

VOTE: Katz – yes. Quigley – yes.

Mr. Katz brought the meeting back to order. Mr. Quigley had a few questions for Mr. Farahay. Mr. Quigley asked what in the 1992 landscaping was not allowed. Mr. Quigley asked if whatever it is, is it now allowed. Mr. Farahay stated that it is now allowed. Mr. Farahay went on to explain about landscaping plans. No structures are allowed. The township has never considered a patio a structure. Mr. Katz had other questions concerning this area for Mr. Farahay and Mr. McCarthy also.

RES.10-277 TO APPROVE, WITH MODIFICATION, REQUESTED MINOR CHANGE TO THE APPROVED APPLICATION, DEVELOPMENT PLAN, ZONING TEXT AND RELATED MATERIALS OF THE DANTOMKA, LTD./BACKYARD OUTFITTERS, INC. PLANNED COMMERCIAL AND OFFICE DISTRICT (ZONING APPLICATION NO. 3242).

Mr. Katz moved the adoption of the following Resolution:

WHEREAS, Going Green Landscapes, LLC has requested the Orange Township Board of Township Trustees to administratively approve a minor change to the approved application, development plans, zoning text and related materials of the Dantomka, Ltd./Backyard Outfitters, Inc. Planned Commercial and Office District (Zoning Application No. 3242) and has submitted Exhibit "E" titled *Addition of Language to 1992 Development Plan Approval* and Exhibit D, referenced as the *Going Green plan* in Exhibit "E" and titled *Landscape Plan – Lower Outdoor Showroom* to the Board with its request, which documents reflect the requested change; and

WHEREAS, Section 14.06 e) of the Orange Township Zoning Resolution provides that such a change should only be approved if the Board finds purpose and necessity for the change, evidence of reasonable effort toward the accomplishment of the original development plan and that the change is not in conflict with the general health, welfare and safety of the public or development standards of the district; and

WHEREAS, a public hearing has been held by the Board upon this request;

NOW THEREFORE BE IT RESOLVED that the Board finds that valid purpose or necessity exists for the requested change.

BE IT FURTHER RESOLVED that the Board finds the requested change is not in conflict with the general health, welfare and safety of the public.

BE IT FURTHER RESOLVED that the Board finds the requested change is not in conflict with the development standards of the Dantomka, Ltd./Backyard Outfitters, Inc. Planned Commercial and Office District (Zoning Application No. 3242), but rather is complementary to such standards.

BE IT FURTHER RESOLVED that the change to the approved application, development plans, zoning text and related materials of the Dantomka, Ltd./Backyard Outfitters, Inc. Planned Commercial and Office District (Zoning Application No. 3242) reflected in Exhibit "E" titled *Addition of Language to 1992 Development Plan Approval* and portrayed as a part of Exhibit D, referenced as the *Going Green plan* in Exhibit "E" and titled *Landscape Plan – Lower Outdoor Showroom*, both received from Going Green Landscapes, LLC with its request, is approved by the Board, with modification.

BE IT FURTHER RESOLVED that the change hereby approved specifically consists of the following:

1. That portion of Exhibit D, as submitted with the request of Going Green Landscapes LLC, referenced as the *Going Green plan* in Exhibit "E" of the request, titled *Landscape Plan – Lower Outdoor Showroom* and dated 06-22-10, which reflects the seating wall displays as

Orange Township Trustees
July 6, 2010
Regular Meeting

allowed to amend the 1992 approved development plan, is hereby adopted. Such adoption is only as to the portion of such exhibit portraying the seating wall displays and does not encompass any other detail indicated thereon.

2. The following language is added to the page entitled “ARCHITECTURAL DESIGN CRITERIA FOR DISPLAYS” within the application, development plans, zoning text and related materials of the Dantomka, Ltd./Backyard Outfitters, Inc. Planned Commercial and Office District (Zoning Application No. 3242):

6. Landscaping and hard-scape seating wall displays of stacked paver construction are allowed within the 80 foot front setback along US 23. These seating walls shall not exceed approximately 24 inches vertical height at finished patio grade, with supporting piers not exceeding approximately 36 inches of vertical height at finished patio grade.

BE IT FURTHER RESOLVED that the modification by the Board to the above listed exhibit and language is as follows: There are to be no sales or display of items for sale within the setback area.

BE IT FURTHER RESOLVED that the above described portion of Exhibit D and the above stated additional language and modification constitute the change approved by this Board to the originally approved application, development plans, zoning text and related materials of the Dantomka, Ltd./Backyard Outfitters, Inc. Planned Commercial and Office District (Zoning Application No. 3242) and all portions of the originally approved application, development plans, zoning text and related materials not changed herein shall continue in full force and effect.

Motion seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

Mr. Katz called for an eight minute recess.

PARK REPORT

ABOLISH EMPLOYMENT POSITION OF PARKS, FACILITIES, AND GROUNDS MANAGER

RES.10-278 ABOLISH EMPLOYMENT POSITION OF PARKS, FACILITIES AND GROUNDS MANAGER.

Mr. Quigley moved the adoption of the following Resolution:

BE IT RESOLVED that the previously existing exempt, full-time, non-bargaining unit Township employment position of Parks, Facilities and Grounds Manager, established by Res.03-199, is hereby abolished.

Motion seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

GLEN OAK PHASE II BID ADDENDUM 2

Mr. Katz asked why there were SO MANY changes. Mr. Overturf commented that there was duplicate information, some information was not valid, and other information needed clarification of words, of counts or numbers.

RES.10-279 ACCEPTING AND APPROVING BID ADDENDUM #2 TO THE PROJECT MANUAL FOR THE GLEN OAK PARK PHASE II PROJECT.

Orange Township Trustees
July 6, 2010
Regular Meeting

Mr. Quigley moved the adoption of the following Resolution:

WHEREAS, Bid Addendum #2 has been prepared in regard to the Project Manual for the Glen Oak Park Phase II Project, including without limitation a revised bid opening date of July 20, 2010 at 1:30 p.m. at the Orange Township Hall, together with other changes; and

WHEREAS, the content of Bid Addendum #2 is deemed acceptable by the Board;

NOW THEREFORE BE IT RESOLVED by the Board of Township Trustees of Orange Township, Delaware County, Ohio, that Bid Addendum #2 in regard to the Project Manual for the Glen Oak Park Phase II Project, such addendum being dated July 7, 2010, is hereby approved and becomes a part of the bidding documents, contract documents and agreement.

BE IT FURTHER RESOLVED that the bid opening date for the Glen Oak Park Phase II Project is revised to July 20, 2010 at 1:30 p.m. at the Orange Township Hall.

BE IT FURTHER RESOLVED that all holders of a copy of the Project Manual for the Glen Oak Park Phase II Project shall be forwarded a copy of Bid Addendum #2 and all persons hereafter receiving a copy of that Project Manual also receive a copy of Bid Addendum #2.

Motion seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

PARK DONATION

RES.10-280 ACCEPT PARK DONATION FROM JASON CLYMER

Motion by Mr. Quigley to gratefully accept the donation of \$10.00 from Jason Clymer to the Park Fund.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

SWIM LESSON REFUNDS

RES.10-281 REFUND OF SWIM LESSON FEE

Motion by Mr. Quigley to refund the swim lesson fee to, Rodrigo Farinazo, 2200 Omaha Place, Lewis Center, OH 43035, in the amount of \$160.00 and Andre Farinazo, 2200 Omaha Place, Lewis Center, OH 43035, in the amount of \$160.00.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

OBSOLETE ITEMS

RES.10-282 FINDING CERTAIN PERSONAL PROPERTY NOT NEEDED FOR PUBLIC USE, OBSOLETE, OR UNFIT FOR THE USE FOR WHICH IT WAS ACQUIRED TO HAVE NO VALUE AND ORDERING IT TO BE DISCARDED OR SALVAGED, PURSUANT TO R.C.505.10

Mr. Quigley moved the adoption of the following resolution:

WHEREAS, the Township has certain used property that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, and which has no value, which property may, per R.C. Section 505.10, be discarded or salvaged;

NOW THEREFORE BE IT RESOLVED that the property listed in Exhibit “A” of this resolution, the content of which is incorporated herein by reference as if fully repeated, is found to be not needed for public use is obsolete, or is unfit for the use for which it was acquired, and to have no value.

BE IT FURTHER RESOLVED that such property shall be discarded or salvaged and the Maintenance and Parks Director or her designee shall oversee its’ disposal.

Orange Township Trustees
July 6, 2010
Regular Meeting

Exhibit "A"

PARKS OBSOLETE ITEMS 7-6-10

Item	Obsolete
(2) pool beach chairs	discard
(7) Park Uniform T- Shirts	Remove logo and discard
(1) Park Uniform Orange Long Sleeve Shirt	Remove logo and discard
(2) Park Uniform Orange Short Sleeve Shirt	Remove logo and discard
(2) Park Uniform Green Short Sleeve Shirt	Remove logo and discard

Motion seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

CHANGE DATES OF NIGHT SWIMS

Ms. Hugh had a modification to the dates of the night swims; that this coming weekend, Saturday, July 10, 2010, due to the weather forecast, be kept, but the remainder night swims in August be moved to Fridays, August 6, and August 20. Consensus was given.

INCREASE PRICE OF SODA IN VENDING MACHINES

RES.10-283 INCREASE PRICE OF SODA IN VENDING MACHINES

Motion by Mr. Quigley to increase the price of soda in all vending machines located on all township properties to \$1.50.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

SPOT LABOR APPOINTMENT

Mr. Katz asked when this would be effective. Ms. Hugh said immediately, with the spot laborer working weekends to cover Doug Frazer and a few hours during the week.

RES.10-284 APPOINTMENT OF PARKS SPOT LABORER.

Mr. Quigley moved the adoption of the following Resolution:

BE IT RESOLVED that Lucas Martindale is appointed to the non-exempt, non-bargaining unit position of Parks Spot Laborer, effective July 7, 2010.

BE IT FURTHER RESOLVED that the compensation for this position is at the rate of \$11.00 per hour, to be paid bi-weekly.

BE IT FURTHER RESOLVED that the compensation for this position also includes those benefits mandated by Ohio law, but does not otherwise include any employee benefits.

Motion seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

UPDATE ON OLENTANGY RIVER WATERSHED PLANNING PARTNERSHIP

Ms. Hugh commented that the group met on July 1, 2010. They discussed the top criteria that have been proposed for the PDA, the PCA, and the PAA for development, conservation and agriculture. The technical committee came up with the criteria proposed. The technical committee is going to meet again to define that criteria and identify any conflicting items. The committee will then bring them back to the group again. When something is proposed, typically the process is, they do the criteria, and they take all the finalized criteria back to the different maps. The proposal was that a lot of people are visual, and those criteria, especially conflicting and overlapping spots would have an indication as to how strongly they want to rank those criteria. MORPC has agreed to go back to the grant agency that is funding the project to merge

Orange Township Trustees
July 6, 2010
Regular Meeting

those two processes, the criteria and the mapping. It will give the group an idea as to what the criteria means, where it starts to place and what it means graphically to their areas. Ms. Hugh answered Mr. Katz's questions about these maps being a possible overlay with the township land use maps. Their next meeting is July 29, 2010, at which time it is hoped that the technical committee will come back with a text to vote upon. Ms. Hugh commented that on July 27, 2010, they are going on an agricultural site visit, to see how local farmers are dealing with the watershed in their area. If anyone is interested in going along they are to contact Ms. Hugh.

PURCHASE ORDERS

RES.10-285 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO DELAWARE GENERAL HEALTH DISTRICT

Motion by Mr. Quigley to authorize the issuance of a purchase order to Delaware General Health District, in the amount of \$890.00, for application fee, permit fee, and variance fee for Glen Oak Park septic system.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

RES.10-286 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO COLUMBUS POOL MANAGEMENT

Motion by Mr. Quigley to authorize the issuance of a purchase order to Columbus Pool Management, in the amount of \$750.00, to replace broken pool furniture.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

RES.10-287 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO COLUMBUS POOL MANAGEMENT

Motion by Mr. Quigley to authorize the issuance of a purchase order to Columbus Pool Management, not to exceed the amount of \$1,300.00, to repair pool vacuum.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

THEN AND NOW PURCHASE ORDER

RES.10-288 AUTHORIZE THE ISSUANCE OF A THEN AND NOW PURCHASE ORDER TO GOLD MEDAL COLUMBUS

Motion by Mr. Quigley to authorize the issuance of a then and now purchase order to, Gold Medal Columbus, in the amount of \$2,400.00, for the purchase of a slushie machine for North Orange Aquatic Center Concessions.

Seconded by Mr. Katz.

VOTE: Quigley – yes, Katz – yes.

PUBLIC SAFETY REPORT

Mr. Katz wanted to make mention that the kitchen stove in Station362 has been installed and passed inspection. Mr. Katz wanted to thank all involved.

FISCAL OFFICER REPORT

LIQUOR HEARING REQUEST SKYBOX SPORTS BAR INC.

- This is for a transfer of a liquor license from JCS Pub to Skybox Sports Bar

There is a consensus of the board to not request a hearing.

THEN AND NOW PURCHASE ORDERS

Orange Township Trustees
July 6, 2010
Regular Meeting

RES.10-289 AUTHORIZE THE ISSUANCE OF A THEN AND NOW PURCHASE ORDER TO RINEHART-WALTERS- DANNER

Motion by Mr. Katz to authorize the issuance of a purchase order to Rinehart-Walters-Danner, in the amount of \$3,124.00, for balance of invoice 29162 insurance premium.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

RES.10-290 AUTHORIZE THE ISSUANCE OF A THEN AND NOW PURCHASE ORDER TO OHIO INSURANCE SERVICES AGENCY, INC.

Motion by Mr. Katz to authorize the issuance of a purchase order to Ohio Insurance Services Agency, Inc., in the amount of \$750.00, for COBRA administration services.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

PURCHASE ORDER

RES.10-291 AUTHORIZE THE ISSUANCE OF A PURCHASE ORDER TO DELAWARE COUNTY TREASURER

Motion by Mr. Katz to authorize the issuance of a purchase order to Delaware County Treasurer, in the amount of \$7,089.40, for property taxes second half 2009.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

EXECUTIVE SESSION

Motion by Mr. Katz to go into Executive Session to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, and pending or imminent litigation. The following were invited to attend: Township Counsel, Mike McCarthy for the front portion.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

Motion by Mr. Katz to return to regular session.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

RES.10-292 APPOINT AND AUTHORIZE MICHAEL MCCARTHY

Motion by Mr. Katz to appoint and/or authorize Township Legal Counsel Michael McCarthy to represent the Township and the Zoning Inspector's Office in the ongoing litigation concerning the appeal of Ohio Mulch in a decision of the Board of Zoning Appeals in the Delaware County Common Pleas Court.

Seconded by Mr. Quigley.

VOTE: Katz – yes, Quigley – yes.

Mr. Katz noted that the representation is to be in support of the decision of the Board of Zoning Appeals.

OLD BUSINESS

SET DATE FOR TRUSTEE CANDIDATE INTERVIEWS

Consensus was given to begin candidate interviews for the trustee vacancy at a special meeting Monday, July 12, 2010, at 8:00 a.m.

SET DATE FOR TRUSTEE APPOINTMENT

Consensus was given to do the appointment of the new trustee at a special meeting on Wednesday, July 14, 2010, at 5:00 p.m. at Township Hall.

Discussion was held between the Board and Mr. McCarthy about the interviewing procedure. Mr. Katz asked Ms. Ross to get with Ms. Fay to schedule the interviews and to make sure the notices go out for the special meetings.

Orange Township Trustees
July 6, 2010
Regular Meeting

LAW ENFORCEMENT FUNDING

Mr. Katz reviewed the updated numbers, listed below

LAW ENFORCEMENT FUNDING
Deputy Cost Projections

<u>Year</u>	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL</u>
2010	\$91,220.97	\$91,220.97	\$106,343.90	\$106,343.90	\$395,129.74
2011	\$109,534.22	\$109,534.22	\$109,534.22	\$109,534.22	\$438,136.87
2012	\$112,820.24	\$112,820.24	\$112,820.24	\$112,820.24	\$451,280.97
2013	\$116,204.85	\$116,204.85	\$116,204.85	\$116,204.85	\$464,819.40

Red = 7 Deputies

Blue = 8 Deputies

Mr. Katz commented that the Board will be taking up Mr. Spitzer's suggestion, that the Board ask the County Auditor what millage it would take in order to generate \$500,000.00 per year for the next three years. This will have to be done in a Special Meeting. The Board has been advised that some of the verbiage that we used in the past when going to the County Auditor's Office and to the Board of Elections for ballot issues, needed to be altered by order of the Secretary of State of Ohio. It will take the Township Counsel another couple days to get this accomplished. Once this is done, the Board will be in a position to approve the paperwork. Mr. Katz then asked for consensus for a special meeting for Friday, July 9, 2010, at 8:00 a.m. Consensus was given. Ms. Ross was asked to make sure the notice is sent out. Mr. Spitzer asked if he could add the spot labor for the Fiscal Office on the agenda for the Special Meeting on July 9, 2010. After a brief explanation by Mr. Spitzer and a discussion with the Board, Mr. Spitzer was given the go ahead to add the spot labor position to the agenda.

NEW BUSINESS

There was no new business.

There was no further business, meeting adjourned at 11:15 p.m.

Nelson Katz, Chairman

Robert W. Quigley, Trustee

Attest: _____
Joel M. Spitzer, Fiscal Officer