



**BOARD OF COUNTY COMMISSIONERS  
WARREN COUNTY, OHIO**

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***TOM ARISS  
PAT ARNOLD SOUTH  
DAVID G. YOUNG***

**BOARD OF COUNTY COMMISSIONERS  
WARREN COUNTY, OHIO**

**MINUTES: Regular Session – January 14, 2014**

The Board met in regular session pursuant to adjournment of the January 13, 2014, meeting.

Pat Arnold South - present

Tom Ariss - present

David G. Young - present

Tina Osborne, Clerk - present

Minutes of the December 19, 2013, December 31, 2013, January 7, 2014 and January 13, 2014 meeting were read and approved.

- 14-0029      A resolution was adopted to hire Ronnie D. Pinkston as a Temporary Custodial Worker I within the Facilities Management Department. Vote: Unanimous
- 14-0030      A resolution was adopted to hire David L. Griffith as a Temporary Custodial Worker I within the Facilities Management Department. Vote: Unanimous
- 14-0031      A resolution was adopted to approve a Pay Increase for Ashlee Gibson within the Warren County Department of Emergency Services. Vote: Unanimous
- 14-0032      A resolution was adopted to designate Family and Medical Leave of Absence to Vicki Perry, Grants Coordinator, within the Grants Administration. Vote: Unanimous
- 14-0033      A resolution was adopted to designate Family and Medical Leave of Absence to Laura Lander, Deputy Clerk, within the Commissioners' Office. Vote: Unanimous
- 14-0034      A resolution was adopted to designate Family and Medical Leave of Absence to Cheryl Sorrell, Customer Representative, within the Water and Sewer Department. Vote: Unanimous

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- 14-0035 A resolution was adopted to approve Leave Donation for Carolyn Bevins, Custodial Worker, within the Warren County Facilities Management Department. Vote: Unanimous
- 14-0036 A resolution was adopted to Advertise for Bids for the FY2013 Deerfield Township Loveland Park Road Resurfacing CDBG Project. Vote: Unanimous
- 14-0037 A resolution was adopted to Advertise for Bids for the Butler-Warren Road #2-9.16 Bridge Replacement Project. Vote: Unanimous
- 14-0038 A resolution was adopted to approve and authorize Agreement with Warren County Emergency Management Executive Committee relative to Warren County Emergency Services performing duties on behalf of said committee. Vote: Unanimous
- 14-0039 A resolution was adopted to acknowledge receipt of By-Laws of the Emergency Management Executive Committee for Warren County. Vote: Unanimous
- 14-0040 A resolution was adopted to authorize participation in Ohio Department of Transportation Cooperative Purchasing Program. Vote: Unanimous
- 14-0041 A resolution was adopted to authorize President of Board to sign a Professional Services Agreement/Statement of Work between Landesk Software, Inc. and Warren County Commissioners on behalf of Warren County Telecommunications. Vote: Unanimous
- 14-0042 A resolution was adopted to approve Amendment #2 to the Warren County CY 2012 Rural Transit Program and authorize the President and/or Vice President of this Board to sign documents relative thereto. Vote: Unanimous
- 14-0043 A resolution was adopted to Set Public Hearing for Rezoning Application initiated by the Warren County Rural Zoning Commission (Case #13-09), to rezone approximately 1.46 acres from Single Family Residence "RU" to Community Commercial Business "B2" in Harlan Township. Vote: Unanimous
- 14-0044 A resolution was adopted to authorize the President and/or Vice President of this Board to sign the Satisfaction of Mortgage for Joshua B. Hollon and Kimberly A. Hollon. Vote: Unanimous
- 14-0045 A resolution was adopted to authorize the President of this Board to sign a Satisfaction of Mortgage for Alecia Kelly. Vote: Unanimous
- 14-0046 A resolution was adopted to enter into Agreement with University of Cincinnati Research Institute on behalf of Warren County Common Pleas Court – Probation Improvement and Incentive Grant for training services. Vote: Unanimous

- 14-0047 A resolution was adopted to approve and authorize the President of the Board to enter into a Classroom Training Agreement on behalf of Workforce One of Warren County. Vote: Unanimous
- 14-0048 A resolution was adopted to acknowledge payment of Bills. Vote: Unanimous
- 14-0049 A resolution was adopted to affirm "Then and Now" requests pursuant to Ohio Revised Code 5705.41(D)(1). Vote: Unanimous
- 14-0050 A resolution was adopted to approve various Refunds. Vote: Unanimous
- 14-0051 A resolution was adopted to approve Bond Agreement for Robert Abernathy for completion of improvements in Country Brook North, Section 8, situated in Clearcreek Township. Vote: Unanimous
- 14-0052 A resolution was adopted to approve 2014 Budget Correction by approving Appropriation Decreases in Sheriff's Tactical Response Grant Fund #295 and Pass Thru Grant Fund #261. Vote: Unanimous
- 14-0053 A resolution was adopted to approve Appropriation Decreases within various Funds. Vote: Unanimous
- 14-0054 A resolution was adopted to approve an Operational Transfer from Juvenile Probation Fund #101-2500 into Juvenile Grant Fund #243 and a Supplemental Appropriation into Juvenile Grant #243. Vote: Unanimous
- 14-0055 A resolution was adopted to approve Operational Transfer from County Commissioners' Fund #101-1112 into Emergency Services Fund #290. Vote: Unanimous
- 14-0056 A resolution was adopted to approve Operational Transfer from County Commissioners' Fund #101-1112 into Emergency Services Fund #264. Vote: Unanimous
- 14-0057 A resolution was adopted to approve Supplemental Appropriation into Community Development Fund #265. Vote: Unanimous
- 14-0058 A resolution was adopted to approve Appropriation Adjustments from Commissioners General Fund #101-1110 into Detention – Sheriff's Fund #101-2210. Vote: Unanimous
- 14-0059 A resolution was adopted to approve Appropriation Adjustments from Commissioners General Fund #101-1110 into Detention – Sheriff's Fund #101-2210. Vote: Unanimous

- 14-0060 A resolution was adopted to approve Appropriation Adjustment from Commissioners' General Fund #101-1110 into Facilities Management Fund #101-1600. Vote: Unanimous
- 14-0061 A resolution was adopted to approve Appropriation Adjustment within Warren County TASC Fund #284-2911. Vote: Unanimous
- 14-0062 A resolution was adopted to approve Appropriation Adjustment within the Workforce Investment Act Fund #258. Vote: Unanimous
- 14-0063 A resolution was adopted to approve Appropriation Adjustment within Common Pleas Court/Probation Improvement and Incentive Grant Fund #289. Vote: Unanimous
- 14-0064 A resolution was adopted to approve Appropriation Adjustment within Adult Probation Fund #101-1223. Vote: Unanimous
- 14-0065 A resolution was adopted to approve Appropriation Adjustments from Veterans Fund #101-5220 into #101-5210. Vote: Unanimous
- 14-0066 A resolution was adopted to approve Supplemental Appropriation within the Sewer Fund No. 581. Vote: Unanimous
- 14-0067 A resolution was adopted to approve Appropriation Adjustments within County Court Clerk Computer ORC 1907.261B Computerization Fund #275-1410. Vote: Unanimous
- 14-0068 A resolution was adopted to authorize payment of Bills. Vote: Unanimous
- 14-0069 A resolution was adopted to approve Appropriation Adjustments within Commissioners Fund #101-1110. Vote: Unanimous
- 14-0070 A resolution was adopted to begin Thursday, January 16, 2014, Regular Meeting at 3:00 p.m. Vote: Unanimous

#### DISCUSSIONS

On motion, upon unanimous call of the roll, the Board accepted and approved the consent agenda.

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Chris Brausch, Sanitary Engineer, was present to give an update on the request for qualifications received for the Deerfield-Hamilton Area Water Master Plan. He presented the score sheets as ranked by the review committee and requested direction on how to proceed.

There was discussion relative to the small point spread of the top five (5) ranked firms as well as the discussion of the benefits of have a new firm provide a "fresh set of eyes" approach to the project as well as the benefit of having someone familiar with the water system.

Mr. Brausch explained that this is a significantly important project as we are searching for a firm that can provide the best "road map" for our future water system.

Upon discussion, the Board requested the review committee to conduct interview of the top five (5) ranked firms and make a recommendation.

Mr. Brausch informed the Board of an inquiry from Montgomery County to purchase wholesale water for the southern portion of Montgomery County around the Austin Pike Intersection. He stated that they would need an estimated two million gallons per day but would require softened water.

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Mike Yetter, Zoning Supervisor, was present for a follow up work session relative to streamside setbacks within the Warren County Rural Zoning Code.

Mr. Yetter distributed draft language for both a voluntary streamside set back and a mandatory streamside set back dated January 9, 2014.

Pam Jones, Warren County Zoning Board Member and Streamside Setback Committee Member, reviewed an email she sent to the Board in follow-up to statements made at the last meeting (email attached).

William Stohlman, Turtlecreek Township resident, stated that if streamside setbacks were in place when he constructed his home many years ago, he would not have been permitted to build. He then stated he has owned his farms since the early 1960's and the "ditch" in front of his property, which would qualify as a stream if regulations are adopted, has not flooded in the 50+ years he has owned it.

Jim Obert, Cincinnati Homebuilders Association Member and also representing Dayton Homebuilding Association relative to this matter, presented review comments (attached) stating all the concerns relative to the regulations.

Commission Young stated his opinion of private property rights being paramount and that he is struggling with the proposed regulations.

Fred Grimm, Zoning Board Member and Streamside Setback Committee Member, stated that the guts of each of the proposed regulations are the same, that there is a process to follow for an exception to the regulations.

Doug Smith, an engineer with McGill Smith Punshon, stated his concerns relative to the 11 acre watershed which will include numerous residents. He questioned if the Board is willing to invest the staff and resources to enforce the regulations. He then stated he is an engineer and does not understand the analysis that GIS put together and questioned if it was based upon movement of a stream or flood limits. He then stated that many property rights will be affected by these regulations.

Commissioner South stated that she is not considering anything other than voluntary regulations in the zoning code which already exist today. She then stated that the regulations in place today are more restrictive than those being proposed in the voluntary regulations presented today.

Commissioner Ariss stated his agreement that the regulations should be voluntary, not mandatory.

Commissioner Young stated that the information collected by the Streamside Setback Committee is valuable and should be used for education of property owners. He then stated that this issue has not been a problem for Warren County so far and he cannot agree to mandatory regulations.

There was then discussion relative to the liability of having a map and regulations exist relative to insurance rates, marketability, and property values.

Bruce McGary, Assistant Prosecutor, stated the Board may need to consider removing the language from the zoning code and creating a separate program not associated with zoning.

There was then discussion relative to the maps associated with the identification of streams included in the regulations not being completed.

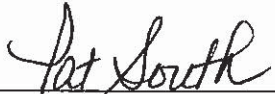
Upon discussion, the Board requested Dawn Johnson, GIS Director, to contact the Clerk upon completion of the maps to schedule a follow-up work session.

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On motion, upon unanimous call of the roll, the Board entered into executive session at 11:13 a.m. to discuss matters requested to be kept confidential per federal or state law pursuant to Ohio Revised Code Section 121.22 (G)(5) relative to deliberations on the decision for the site plan review application of Marvin and Ann Duren in Union Township and exited at 12:24 p.m.

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Upon motion the meeting was adjourned.



Pat Arnold South, President

David G. Young



Tom Ariss

I hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on January 14, 2014, in compliance with Section 121.22 O.R.C.



Tina Osborne, Clerk  
Board of County Commissioners  
Warren County, Ohio

Osborne, Tina

1/14/14  
Meeting

**From:** TinaBarBob@aol.com  
**Sent:** Monday, January 13, 2014 3:34 PM  
**To:** South, Pat Arnold  
**Subject:** Stream Side Protection

January 13, 2014

Dear County Commissioners:

The Stream Side Protection issue is on your agenda tomorrow at 9:30, and I would like to make a few comments before this meeting. At our previous meeting a few statements were made that I feel need some clarification.

The first was that **“Stream Side Protection belongs in the Subdivision Regulations”**. I do not feel this is correct. There is a lot of development in Warren County that happens outside of subdivisions. It would be a shame to only protecting the streams of Warren County that are in subdivisions, and then allow stream encroachment on all other properties.

Second, it was asked, **“Why if you receive an exception to the Stream Side Setback do you need to set aside an amount of land equal to that intrusion on another piece of your property”**. Please remember the only place an exception would be needed is in the areas that are closest to the stream, all other areas are voluntary. This area is very vulnerable to flooding and erosion. If the flooding water is obstructed by a closely placed structure, and the water does not have another area on the same property to expand into, the flooding water and erosion could then be pushed onto an adjacent property causing damage to the neighboring personal property.

Next, I would like to comment on something that Commissioner Young said. He stated that he did not want to create more **“Big Government”**. I think that we all can agree with that. But, in a civilized society we have rules that protect the innocent from their neighbors. These rules are needed and justified like laws against murder, stealing and property damage. A Stream Side Protection regulation that restricts building within the very closest distances from the stream bank would be such a rule, not more Big Government. This regulation would help to protect the public from damage caused by a neighbor that has located his structure too close to a stream, thus changing water flow and erosion affecting everyone else’s personal property.

Lastly, I would like to apologize for the mix-up in the different or incomplete texts that were circulating at the last meeting. This was my fault. The committee had been trying to combine multiple texts and at the same time revise previous drafts. My final proof reading was lacking and the end result caused this unfortunate mishap.

I look forward to your final decision tomorrow.

Sincerely,

Pam Jones  
Stream Side Setback Committee Chairman



January 13, 2013

## Review of Warren County Proposed Stream Protection Overlay

### Consolidated comments

Section	Comment	Voluntary	Compensatory
2.610.0	Stated purpose is to "ensure adequate setback from where the stream is calculated to most probably meander over time". Item "D" states "Minimize encroachment of stream channel & Item "E" states "Minimize damage to property and structures as a result of stream erosion by providing the area necessary to natural meandering and lateral movement of stream channels".	√	√
2.610.2(F)	The "SPO Stream" is defined as "A surface watercourse with a well defined bed and bank, either natural or artificial, which contains and conducts continuous or periodical flowing water". What constitutes a stream? Does Warren County intend to accept the US Corps of Engineers definition of a Waters of the US to define the streams protected by the Stream Protection Overlay, or do they have a different standard to identify those streams? In many cases road side ditches and farming swales are identified by the US Corps as Waters of the US in order to gain jurisdiction. Will Warren County reserve the right to make their own judgments if these areas are indeed streams that should be protected by a Stream Protection Overlay?	√	√
2.610.2(H) & (I)	SPO Variance "A SPO Variance is not necessarily balanced by a corresponding increase in width elsewhere on the same property" while a SPO Waiver "is a reduction in the streamside setback width over a portion of a property in exchange for an increase in streamside setback width elsewhere on the same property such that the average setback width remains the same." Typically a "Waiver" eliminates the need for compliance.		√
2.610.3 2.610.3(C)	Exempts Agricultural uses. Why are agriculture operations exempt? As demonstrated in St. Mary's Ohio these practices can have a dramatic impact on water quality and do not currently operate with near as strictly enforced best management practices as are required of the construction and	√	√

	<p>development industries. Does this exemption only pertain to fields, or would pole barns, manure ponds, and other agricultural based uses also be exempt from the Stream Protection Overlay requirements?</p> <p>Uses "shall" as compulsive rather than "may" which is permissive.</p>	√	
2.610.4(B)	<p>Discusses empowerment to the Zoning Inspector to approve applications under the Exceptions category, including the location of septic systems. Merits discussion of minimum qualifications and training of said inspector if they are to make such judgments. Must the Zoning Inspector be both an architect and geotechnical / professional engineer?</p>	√	√
2.610.4(E)	<p>Precludes the construction of decks (and boardwalks as specifically permitted in 2.610(C)) and other ancillary structures that are anchored in the ground (foundation) that otherwise do not impact the landform.</p>	√	√
2.610.4(J)& (K)	<p>One driveway crossing per tax parcel and all roadway crossings perpendicular to stream flow are not always practical and will likely result in unusable properties and / or variances / waivers. Need to look at extension of utilities and ability to create multiple building sites on larger land holdings.</p>	√	√
2.610.5	<p><b>Design Guidelines / Standards.</b></p> <p>(A) (1) &amp; (2) are redundant (as is this entire proposed legislation) with existing Federal and State legislation and requirements to conform to all OEPA, USEPA, Army Corp of Engineer and ODNR requirements related to impacts to Wetlands and Waters of the US.</p> <p>As mentioned above, the Purpose of the Overlay is stated as "to ensure adequate setback from where a stream is calculated to most probably meander over time." The required setbacks are excessive for this purpose. The ordinance also requires increased Stream Protection Overlay widths for areas with steep slopes. This doesn't make sense if the primary purpose is to protect the area were a stream "may meander over time" as meandering is typically associated with flatter topographic conditions. Steeper topographic features typically</p>	√	√

	<p>portend straighter drainage courses.</p> <p>The voluntary section "recommends" consultation with the Warren County Soil and Water Conservation District. Is existing staff specifically trained in hydrology, soils, geotechnical engineering and botany / dendrology?</p> <p>In the compensatory section, it states the WCSWCD can adjust the dimensions and location of a zone upon an "environmental analysis". What is to be included in this analysis and what are the qualifications of the person(s) completing the analysis. If outside resources are needed to complete the analysis, is the county going to bear the costs of acquiring the necessary expertise?</p>	√	√
2.610.6	Requires all Mandatory Zones of the SPO to be maintained in a naturally vegetated state. This may or may not be the best for the area AND the property owner.		√
2.610.6(B)(3)	<p>Permitted by right uses – "Projects or activities serving a public need where no feasible alternative is available and the repair and maintenance of public improvements where avoidance and minimization of adverse impacts to the stream and aquatic ecosystems have been addressed" This statement essentially exempts public bodies from the proposed requirements:</p> <p>Section 2.610.6 requires storm water retention or detention facilities to be located at least 50 feet from the top of the stream bank. 50 feet is an arbitrary distance. This may make sense in some cases it is an excessive distance in many. All of these facilities have to be located near the stream to which they outfall. This requirement should be reworded to require the basin be designed so that the top of the basin is outside of the 100 year flood plain. That requirement would allow developers to locate basins adjacent to streams that do not flood often or carry high volumes of water, but still protect the water quality from flooding events that overflow the water quality pond.</p>	√	√
2.610.7 & 2.610.8	<b>Waivers &amp; Variances</b> - This ordinance is going to create a large number of waiver and variance		√

	<p>requests from existing uses in the flood plain looking to expand, or design uses that cannot avoid crossing the SPO. At a minimum, the removal of the restrictions from improving or expanding existing uses in the SPO and to allow crossings of the area by driveways, streets and utilities without requiring a variance or the mitigation required by Section 2.610.6. Limiting the Waiver reduction to 20% will likely not be sufficient, and requiring the balancing by increases in other portions of the site do not constitute a waiver but rather mitigation (for what reason?). Requiring the applicant to go through the BZA variance process is burdensome and costly to the applicant in both cost and timing.</p> <p>Requiring mitigation in the Variance section can be costly to the owner. What is the intent of this? <u>Warren County should not be in the mitigation business.</u> Section 2.610.7 leaves it up to staff to determine what is reasonable mitigation for any event in which a developer or land owner would be required to cross a SPO area, even if they are doing so perpendicular to the stream. Utilities, driveways and roads should be allowed by right to cross these areas at the shortest distance reasonable. In the event the SPO includes a stream or other body of water that is protected by the OEPA or US Corp of Engineers, the permitting agency will require a permit and mitigation for that impact. There should not be a double mitigation requirement enforced by the SPO and Warren County.</p> <p>Also recommended is giving staff and/ or the Planning Commission the authority to grant variances to the SPO when incorporated into a Planned Unit Development where the developer is making reasonable efforts to protect the SPO area and the water quality of the associated stream.</p>		
2.610.9(B)	<p><b>Delineation of Stream Protection Overlay:</b> Does this provision continue through the development / construction process even after the lot has been sold to a 3<sup>rd</sup> party? How about impacts by others who have trespassed on to the property, including government officials?</p>		√
2.610.11	<p><b>Boundary Interpretation and Appeals</b></p>		

	<p><b>Procedure:</b> The timeframes and cost issues associated with this section are costly to the owner / developer. It is presumed that the phrase "The party contesting the location of the SPO shall have the burden of proof" means the owner / developer must pay for all studies associated with contesting staff decisions. This section does not state that only one 30 day extension is permitted by staff after requesting additional information. Does the clock re-start after every request? If the findings of any studies conclude that the staff position was in error, is the county going to compensate the owner / developer for all costs (including interest and costs associated with delays)?</p>		√
2.610.12	<p>There is concern that "The zoning department, WCSWCD and/or the WCGIS may amend the dataset as necessary". What will be the basis of any amendments? How can the Owner / Developer perform necessary and prudent due-diligence if the county has the opportunity to modify either the criteria used or the results of the impacts to a specific property as referenced on the SPO MAP?</p>		√
other	<p>How will the SPO ordinance work when the developer or owner has received a permit to impact from the OEPA or the US Corps of Engineers? Will the developer also need a permit from Warren County? Once the developer has impacted the wetlands or stream per the terms of their permit with the OEPA or US Corps, will the SPO area be redefined to the area existing after impact?</p>	√	√
other	<p>As the SPO virtually makes the acreage under it undevelopable, will the county offer to take title to the property at the basis value plus holding costs based on the impacts of any new regulations / requirements imposed on it as a result of this proposal? At a minimum, will the land be revalued accordingly by the Warren County Auditor's office for property tax purposes to a zero value?</p>	√	√