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RUSSELL TOWNSHIP BOARD OF TRUSTEES

SPECIAL MEETING

WEDNESDAY MARCH 25, 2016

1:00 P.M.

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Transcript of proceedings held at
the Russell Fire-Rescue Station, 14810
Chillicothe Road, Novelty, Ohio, 44072.

KIMBERLY K. GIEL, RPR

(440) 655-2066

1 MR. MADDEN: Can we go on the
2 record please. We want to thank and welcome
3 Kim Giel as our court reporter for this
4 proceeding.

5 This is a special meeting of the
6 Russell Township Trustees. Jen, would you
7 establish a quorum please.

8 MS. DORKA: Mr. Mueller?

9 MR. MUELLER: Here.

10 MS. DORKA: Mr. Gabram?

11 MR. GABRAM: Here.

12 MS. DORKA: Mr. Madden?

13 MR. MADDEN: Here.

14 So we have a quorum and we'll go
15 forward.

16 Ladies and gentlemen, the elected
17 officials were elected and asked to take an
18 oath that included among other requirements
19 that we enforce both the laws and rules of the
20 State of Ohio and the laws and rules of
21 Russell Township. We have had a
22 responsibility to look into concerns that one
23 of our appointed public officials was living
24 in a situation that violated our zoning laws
25 and that that public official persuaded the

1 zoning inspector for a period of time not to
2 investigate that situation. We entered this
3 investigation not to undermine Russell Zoning.
4 We entered into this investigation to maintain
5 the credibility of Russell Zoning.

6 Last evening the chair of the
7 Russell Zoning Commission, Rick Snyder,
8 accepted or agreed to resign effective
9 immediately, and it is the purpose of this
10 meeting to accept or not accept that
11 resignation.

12 Some of you might be asking,
13 well, if this happened last night, why didn't
14 you call this off? Well, we still have to
15 meet to decide whether the resignation is
16 accepted. We have a court reporter here so
17 that any member of the public who wishes to
18 ask questions about this can do so. The court
19 reporter can only take down one person talking
20 at a time. So please keep that in mind, and
21 if you talk a little fast Kim may tell you,
22 hey, slow it down a little bit. But at this
23 time, unless there's any further discussion, I
24 will entertain a motion to accept the
25 resignation of Rick Snyder, chair of the

1 Russell Zoning Commission, effective
2 immediately, with the requirement that all
3 township property be returned to the township
4 immediately, as in this afternoon.

5 MR. MUELLER: So moved.

6 MR. GABRAM: Second.

7 MS. DORKA: Mr. Mueller?

8 MR. MUELLER: Yes.

9 MS. DORKA: Mr. Gabram?

10 MR. GABRAM: Yes.

11 MS. DORKA: Mr. Madden?

12 MR. MADDEN: Yes.

13 Okay. So for the benefit of the
14 members of the media, if you do have any
15 questions we would like to answer those
16 questions while we have a record being made.
17 At the point that we adjourn, it's our hope
18 that we're not going to have any off the
19 record conversations about that. So I know
20 that can be kind of tough to absorb the entire
21 story. You certainly have the right to do
22 public records requests. I believe we have
23 one from one of the media sources thus far and
24 certainly you can circle back.

25 Our outside counsel is Drew

1 Esposito, and he will be addressing those
2 questions. We'll open it up. Joan?

3 MS. DEMIRJIAN: Can you tell us
4 the situation?

5 MR. MADDEN: Sure.

6 MR. ESPOSITO: My name is Drew
7 Esposito, for those of you who don't know. I
8 was informed of a BZA decision that came down
9 in March that implicated the chairman of the
10 Zoning Commission that he may be residing in a
11 non-compliant property, and along with that
12 there was a complaint from a tenant of the
13 property, Mary Sullivan, that kind of stemmed
14 the allegations.

15 After completing my investigation
16 I ended up pursuing two charges or suggesting
17 two charges for this hearing. One was that
18 the zoning commissioner has been living in a
19 noncompliant property, that he was aware that
20 it was a non-compliant property and he's
21 failed to bring that to the attention of any
22 trustee or any member of the Zoning Commission
23 or BZA.

24 The second one was that as zoning
25 commissioner he actually instructed the zoning

1 inspector to not talk to the landlord, which
2 effectively was to not do her job because her
3 job is to talk to the property owners about
4 potential violations that occur in the
5 township.

6 MS. DEMIRJIAN: What was the
7 non-compliance?

8 MR. ESPOSITO: The non-compliant
9 property was -- the property owner was Peter
10 Rogers. The address was 8230 Fairmount Road,
11 Novelty, Ohio, and the issue of compliance was
12 that it is zoned single-family but from my
13 investigation it appears that it has been a
14 multi-family property for a number of years.
15 The entire time Rick Snyder has been living
16 there, there's been an influx of tenants,
17 various families, no blood relation by
18 marriage, adoption. So it appeared it was in
19 violation of the definition of what a family
20 is under the Russell zoning regulations.

21 MS. RUSEK: Joan Rusek, Chagrin
22 Falls Sun.

23 Were there complaints against
24 these other tenants or was it just the Zoning
25 Commission person singled out?

1 MR. ESPOSITO: It actually came
2 up -- Mary Sullivan actually submitted a
3 complaint against the landlord believing the
4 property was not in compliance. And in her
5 complaint she raised issue of how can the
6 zoning chair of the Zoning Commission be
7 living in this property and will he actually
8 see my email, and she didn't feel that that
9 was right or thought there was a potential
10 conflict of interest. That's kind of what
11 spurred the investigation was the conflict of
12 interest. Under Ohio ethics laws there's a
13 certain degree of separation that needs to be
14 had if you are a public official and you have
15 a vested interest in decisions that could
16 impact yourself individually. And since he
17 lives in a property that's non-compliant and
18 any decision he makes to amend those
19 definitions or to instruct employees to pursue
20 those definitions could directly affect his
21 tenancy, such as an eviction or any of the
22 other people evicted or taking any other
23 adverse action like not doing repairs to the
24 house. He could just -- so I'm not saying
25 that did happen, but when you have that

1 conflict of interest, public officials have to
2 divest themselves. And as chair of the Zoning
3 Commission who knows the rules, there's not a
4 really good way to divest yourself unless
5 through resignation or through -- if the
6 hearing would have gone through, the trustees
7 would have been forced to make the decision on
8 whether to remove or not.

9 MS. RUSEK: Did he -- follow-up
10 question, I'm sorry. Did he take any action
11 as head of the Zoning Commission to change any
12 rules that would favorably affect his
13 situation?

14 MR. ESPOSITO: From what I found
15 there could have been two instances that could
16 have favorably affected his tenancy. One was
17 the zoning definition of family from the
18 period of 1992 to 2012 was defined -- a family
19 unit was defined as not to exceed five or more
20 people that can be related by blood, marriage,
21 or adoption. In August of 2012 that
22 definition was amended and it was broadened
23 greatly to include that, but then it expanded
24 to -- not verbatim, but it included people who
25 are living as a single economic unit, which

1 was defined as people who cook together, I
2 think they have some shared utilities, things
3 like that. What I discovered was in the BZA
4 appeal, that's the actual argument that his
5 landlord used was our house is compliant
6 because we are a single economic unit. If it
7 would have been under the old definition there
8 wouldn't have been any argument because
9 clearly they're not related by blood, marriage
10 or adoption.

11 There was also an email that I
12 discovered where he did instruct Diana
13 Steffen, who was the zoning inspector, to not
14 contact Peter Rogers, Eileen, which I believe
15 is his wife, or refer the matter to any other
16 zoning member. He asked that they not
17 intervene because it could make matters worse
18 for him. It appeared that the property was
19 not in good repair, so I think he was
20 concerned about his living status.

21 MR. MADDEN: We're going to stay
22 with the press first. I understand you want
23 to be heard.

24 MR. MURPHY: I would like to
25 respond directly to one of these

1 allegations --

2 MR. MADDEN: I'll give you that
3 opportunity, but right now the press is --

4 MR. DUSTMAN: Just specifically
5 the issue about family definition of zoning
6 please --

7 MR. MADDEN: First of all, we
8 need to have a clear record. So Mr. Murphy is
9 asking to address a topic. Does the press
10 have a problem with him intervening? Okay.
11 Mr. Murphy is now asking questions.

12 MR. MURPHY: No, I'm going to
13 state for the record why the definition of
14 family was changed and what it was changed to.
15 The definition of family as it is stated now
16 is purely a product of constitutional law. We
17 changed it because we did not fit the current
18 Supreme Court rulings on family. That change
19 was instituted and written to fit U.S. Supreme
20 Court decisions. That's all that was done.

21 MR. MADDEN: Just in response, I
22 think you'll agree that Mr. Snyder
23 participated in those discussions and did not
24 disclose his personal living situation at the
25 time he participated.

1 MR. MURPHY: Personally I don't
2 see the relevance to that. The only point I
3 wish to make is that the change in the family
4 definition was due to our existing family
5 definition not meeting constitutional
6 standards, and we changed it to meet
7 constitutional standards.

8 MR. KOTOWSKI: May I respond very
9 briefly?

10 MR. MADDEN: Sure. Mr. Kotowski,
11 for the record.

12 MR. KOTOWSKI: And also for the
13 record, the person who spearheaded that effort
14 was, in fact, Bruce Murphy on the Zoning
15 Commission.

16 MR. MADDEN: That's fine. I
17 don't disagree.

18 Drew, anything in response on
19 that?

20 MR. ESPOSITO: No, no direct
21 response. Although, just to be clear, Ohio
22 ethics laws doesn't require that you actually
23 do something in response and receive a
24 benefit. The conflict of interest lies when
25 there's just a relationship and it's the

1 potential relationship because it could cloud
2 the judgment of the individual. So whether or
3 not an amendment was made to receive a favor
4 or for more favorable treatment is actually
5 not the crux of the matter. That may be the
6 crux of the matter if an investigation was to
7 occur if a violation happened. With a
8 conflict of interest it doesn't matter whether
9 you did it for a favor. It's does the
10 conflict of favor exist. And since he has an
11 interest in the property owner's well-being --
12 or not well-being -- the property owner's
13 continued rental agreements being
14 multi-family, he has an inherent interest in
15 it being considered multi-family because it
16 risks an eviction. So because there is that
17 risk, it creates a conflict of interest under
18 Ohio ethics laws. So that's the concern that
19 I had and why I came to the conclusion for
20 that charge.

21 MR. MADDEN: Can you identify
22 your name and who you're with please?

23 MS. CHERNIN: Yes, my name is
24 Shelley Chernin. I'm a Russell resident. I'm
25 very confused. I don't understand why we're

1 discussing the substance of charges when
2 Mr. Snyder has resigned. It seems to me
3 that's highly inappropriate. Either you're
4 having a hearing on the charges or you're not.
5 And if you're not, then to be discussing the
6 substance of the charges with the press when
7 Mr. Snyder is obviously not here, he's
8 resigned, charges against him are meaningless
9 at this point because he has resigned. It's
10 an attack that seems entirely unfair to me. I
11 really don't understand what's going on here.

12 MR. ESPOSITO: I don't know if
13 there's a question. I can respect that
14 opinion. I do feel opening it up and asking
15 the press if they have questions about what
16 occurred is important because your public
17 officials and your residents and press deserve
18 to know what's happened. There's been a lot
19 of public records requests from the media
20 about them. So I don't find that completely
21 objectionable, but I do understand your
22 position. But merely the fact that someone
23 resigns doesn't mean that, you know, a problem
24 didn't occur and that residents have the right
25 to know so that when going forward things

1 don't happen like that again.

2 MR. MADDEN: I can weigh on that
3 if you wish. If there were no questions after
4 we voted to accept his resignation, we weren't
5 pushing to have the conversation. But I
6 believe transparency dictates that if there
7 are questions from residents or members of the
8 press, we have an obligation to let them ask
9 those questions and have counsel discuss
10 what's being done. There were a number of
11 public record requests and we can't just
12 ignore those. We have to honor those, right?
13 And produced a volume, including a lot of
14 weekend hours by township staff, volumes of
15 public records in response to both
16 Mr. Snyder's requests and another party's
17 request.

18 So it doesn't seem appropriate --
19 and I respect your point of view, I truly do,
20 but it doesn't seem appropriate to say now we
21 have a resignation, nobody is going to talk
22 about this. People have a right to know and
23 we're honoring that right.

24 Any other questions?

25 Mr. Campbell.

1 MR. CAMPBELL: Yes. Is there any
2 culpability on the previous zoning department,
3 inspector, and that department that kind of
4 were asked to turn their heads?

5 MR. MADDEN: Do you want to
6 answer it or do you want me to?

7 MR. ESPOSITO: She resigned.

8 MR. MADDEN: She retired.

9 MR. ESPOSITO: You can answer it.

10 MR. MADDEN: Mr. Campbell, that's
11 a fair question and the answer to your
12 question is one of the multiple public record
13 requests made by Mr. Snyder was copies of all
14 emails about a wide variety of subjects within
15 this investigation. That required us to go
16 into the previous zoning inspector, Diana
17 Steffen's emails through the township. We
18 discovered a number of things that Drew felt
19 were germane to Mr. Snyder's situation. I
20 will tell you that at this time we have not
21 had a discussion about whether there is
22 another step to take. We're going to have to
23 get some legal opinion whether or not what we
24 have uncovered warrants another investigation
25 of some kind. I don't have an answer for you

1 on that right now because the subject of this
2 has been Mr. Snyder. But it was his request
3 pretty much put us into going through all
4 these other emails that were in there, and we
5 can't just sift through and say, boy, that's a
6 problem. It all went out and they say what
7 they say. They're communications between
8 Mr. Snyder and Ms. Steffen.

9 MS. RUSEK: If the kind of
10 central subject is the particular property,
11 where does that stand now? Is it still a
12 multi-family house, single-family? Where in
13 zoning does that reside?

14 MR. ESPOSITO: The property, the
15 March 7th hearing was held. I'm trying to
16 remember the date that the fax and findings
17 were issued. I'm not entirely sure of the
18 date, but it was -- his appeal was denied. It
19 was at the Board of Zoning Appeals, so it was
20 already at the first level of appeal because
21 it was found to be a violation. He appealed
22 that decision to the Board of Zoning Appeals.
23 They had a hearing. They held that the -- it
24 is not a single-family economic unit as argued
25 by Peter Rogers through his counsel.

1 Mr. Rogers and any other
2 interested party have the ability to appeal
3 the BZA decision up to court. I have no
4 knowledge and I'm not aware of any appeal
5 being filed at this time, but that is a
6 possibility.

7 MR. MADDEN: I can elaborate on
8 that for your benefit. Mr. Rogers has hired a
9 law firm downtown, Frantz Ward. They have
10 been conducting public record requests on his
11 behalf. That's as far as that's gotten.

12 MS. RUSEK: Is the property still
13 in violation then?

14 MR. ESPOSITO: Yeah, the process,
15 once the property is in violation, the
16 homeowner I believe is given a period of time
17 to remedy the situation. Now since he's got
18 an appeal process, you know, that may stay the
19 remedy. I'm not entirely sure on how the BZA
20 regulations are set up for that. If he fails
21 to remedy it, then I believe it is forwarded
22 on to the prosecutor's office to pursue it as
23 a continued violation. I don't know if it's a
24 misdemeanor or anything like that or just a
25 civil fine. I'm not sure what the penalty is,

1 but I believe it's going to the prosecutor's
2 office.

3 MR. MADDEN: Mrs. Jones?

4 MS. JONES: Yes. Can we clarify
5 when or about when that BZA appeal occurred
6 since we're talking about current attorneys
7 and an appeal process?

8 MR. ESPOSITO: The BZA appeal was
9 heard on March 7th of 2016. Yeah, March 7th,
10 2016, is when the appeal was heard.

11 MS. JONES: And judgment was
12 rendered on that?

13 MR. ESPOSITO: Hold on. The
14 findings of fact were issued on May 2nd, 2016.

15 MR. MADDEN: Mr. Murphy?

16 MR. MURPHY: The findings of fact
17 were May 2nd and Mr. Rogers has until June 1st
18 to actually file an appeal. He has a 30-day
19 period to do that. And technically until
20 either the time for the appeal runs out or the
21 appeal to the court is denied or ruled on by
22 the court, there is no technical violation
23 yet. Until the decision is finalized through
24 the time limit for the appeal running out or
25 the court itself denying it, it's still

1 subject to adjudication.

2 MR. ESPOSITO: Just a little
3 clarification. That may be true for
4 Mr. Rogers' case, but as for the charged
5 presented, the evidence that I gathered had
6 Mr. Snyder residing in the house back into the
7 1990s. So even under the old family
8 definition, which was a family is people
9 living together that are blood, marriage, or
10 adoption, that is it, there was no broadened
11 definition, he would have been residing in a
12 non-compliant house up and through 2012
13 regardless of the change in the amendment. So
14 there's still a significant period of time.

15 MR. KOTOWSKI: Can I ask about
16 that?

17 MR. MADDEN: Mr. Kotowski for the
18 record.

19 MR. KOTOWSKI: So when he was
20 originally living in the house, so I don't
21 know all the circumstances, I just want
22 clarification, when he was originally living
23 in the house, a home is allowed to have a
24 caretaker. And so one of the units there was
25 a caretaker's unit, and I know one of the

1 issues is that Mr. Rogers has actually added,
2 and fairly recently, but as far as I know not
3 rented out, but he's added an additional
4 rental suite. So in '98 I'm assuming that
5 we're talking about the unit that Mr. Snyder
6 was in plus a caretaker's suite. Was there
7 anything else at that time in addition to that
8 that put it in violation at that time?

9 Because the additional suite that Mr. Rogers
10 built is fairly new, so I'm just curious about
11 the whole sequence of the alleged violation.

12 MR. MUELLER: It is my
13 understanding that there was also another unit
14 in the house he was living in and a woman was
15 living there paying rent as well.

16 MR. KOTOWSKI: So you had three
17 units at all times in the house?

18 MR. MUELLER: I believe that's
19 correct.

20 MR. KOTOWSKI: So this additional
21 unit that Rogers has built is a fourth unit in
22 the house?

23 MR. MUELLER: I don't know about
24 that. I just simply know that there were --
25 an unrelated female living under his roof in

1 the same house that Mr. Snyder was living in.

2 MR. KOTOWSKI: Yeah. So there
3 was also an accessory building, a garage or
4 barn or carriage house, whatever you determine
5 it to be, and that also had a unit.

6 MR. MUELLER: That's correct, I
7 believe.

8 MR. ESPOSITO: Yeah, I think
9 Mr. Snyder actually started in that unit in
10 the barn, which was allegedly the caretaker's
11 unit. But there was no testimony that
12 Mr. Snyder was ever the caretaker of the
13 house. So he wouldn't have satisfied the
14 definition when he was living in the barn.
15 There's also testimony that everybody had
16 leases, that it was posted on Craigslist. The
17 time limit is pretty muddy in the BZA appeal,
18 but there was various tenants that came forth.
19 And that's kind of the BZA issue, you know.

20 Regarding the charges here, to
21 redirect, when you're talking about the
22 ethics, there's a four-part test and the
23 four-part test if it was a conflict of
24 interest in these types of matters is, one is
25 the leased property is not the subject of a

1 land use matter. In this case it is the
2 subject of a land use matter.

3 The rent terms and duration of
4 lease are not changed in consideration or
5 recognition of the action of the public
6 official. In this case there's no direct
7 evidence that the terms were changed, but the
8 email suggests from Mr. Snyder that Peter
9 Rogers is not repairing things because of the
10 actions that have happened. So there is an
11 indication that that may be there.

12 The third is no disputes exist
13 between the public official and the property
14 owner. In the email from Mr. Snyder to Diana
15 he specifically states that Mr. Rogers is not
16 fixing my repairs, not fixing my leaky roof,
17 so there obviously is an issue between him and
18 the property owner.

19 And the fourth is that the rent
20 and other terms and duration of lease are
21 fixed in -- basically in writing, and the BZA
22 transcript says that the lease was oral, a
23 handshake agreement for hundreds of dollars.
24 And the importance of that is if you have a
25 fixed written lease, your landlord or property

1 owner can't take action against you if you
2 vote against them in doing your action. Kind
3 of insulates you from having that undue
4 influence on your decisions.

5 And if you can meet all four of
6 those things, the ethics commission has said
7 there is no conflict of interest. But you
8 have to meet all four. And when I reviewed
9 the facts I found it's likely that we couldn't
10 even meet three out of four, potentially four
11 out of four. So just regarding the conflict
12 of interest and that's -- whenever you have a
13 conflict of interest and they continue to
14 operate in office, I feel that substantial
15 grounds for levying a charge of misconduct in
16 office is appropriate.

17 MR. MADDEN: Mr. Murphy for the
18 record.

19 MR. MURPHY: Was this presented
20 to the Ohio Ethics Committee?

21 MR. ESPOSITO: The Ohio Ethics
22 Committee was asked a question specifically
23 about this. They refused to issue an advisory
24 opinion because their response was the facts
25 that you have said are not hypothetical. We

1 only issue advisory opinions on hypothetical
2 situations. So if we had a zoning
3 commissioner that wanted to go live in a house
4 and the property owner, then they could issue
5 it. When the facts have already occurred you
6 can refer to their investigative unit to
7 actually investigate, and they can potentially
8 find that a violation has occurred and then
9 possibly turn it over to the Attorney
10 General's office to pursue it if there was a
11 crime. As far as I know, the trustees have
12 not elected to turn it over to the
13 investigative unit.

14 MR. MURPHY: So essentially --

15 MR. MUELLER: As a matter of
16 fact, we specifically excluded that.

17 Mr. Chairman --

18 MR. MADDEN: Ms. Rusek, you had
19 your hand up?

20 MS. RUSEK: Yeah, I had a
21 question. If this situation has been going on
22 for whatever, a decade or more, why is the
23 action happening now as opposed to in the
24 past? And maybe that's not a question you can
25 answer.

1 MR. ESPOSITO: I can answer to
2 the best of my knowledge, what happened was
3 the BZA appeal happened on March 7th and the
4 testimony during that actually identified Rick
5 Snyder and actually brought that problem to
6 light. They're all separate boards. The BZA
7 is a separate board from the Zoning
8 Commission, Zoning Commission is separate from
9 the trustees, and then Mary Sullivan submitted
10 her actual complaint to Diana, which I don't
11 think it really funneled through the trustees
12 it doesn't appear until some of the public
13 records requests happened, and then it was
14 discovered. As soon as the trustees became
15 aware that there was this ongoing infraction,
16 that's when they notified me, hey, we need you
17 to do an investigation and see if there are
18 charges that need to be brought.

19 MS. RUSEK: I have a follow-up
20 question too. When the Zoning Commission
21 changed the ruling or the description of who
22 can live together in a single-family house
23 basically, in order for that to be enacted
24 into the law, in the rules, the trustees would
25 have had to vote on that, correct?

1 MR. ESPOSITO: Yes.

2 MS. RUSEK: And so the trustees
3 had no problem with it at that point in time?
4 But now you do?

5 MR. MUELLER: We didn't know
6 about his situation because it wasn't on the
7 record.

8 MS. RUSEK: His situation. But
9 you're using that as one of the findings, so
10 it's a problem. I am just wondering, that's
11 all.

12 MR. ESPOSITO: It's not one of
13 the findings that the amendment was adopted.
14 It was the individual who is participating and
15 making that amendment and recommending it to
16 the trustees has a vested interest in that
17 change. It's not the trustees or it's not
18 even the other Zoning Commission members
19 because they don't have a conflict of
20 interest. It's the individual that has an
21 interest because that definition could benefit
22 his landlord, which will then benefit him.

23 MS. RUSEK: So you're saying it's
24 not an objection to that amendment. It's the
25 fact that there was a conflict of interest.

1 MR. ESPOSITO: That's what it
2 boils down to.

3 MS. RUSEK: Okay, thank you,
4 because that was a little confusing.

5 MR. MADDEN: Mr. Murphy?

6 MR. MURPHY: I'm wondering how we
7 as a Zoning Commission can do anything to
8 amend anything that affects residential
9 properties then because it affects all of us.
10 We're all residents here, and any amendment we
11 do to residential property would be directly
12 affecting ourselves. I'm just not sure I
13 see --

14 MR. MUELLER: As long as you're
15 in conformity with the law --

16 MR. MURPHY: -- the limits of
17 this conflict --

18 MR. MUELLER: As long as you're
19 in conformity with the law, you can amend it
20 as appropriate and as needed.

21 MR. MURPHY: How is our efforts
22 to amend the definition of family to conform
23 with constitutional law in any way an ethics
24 concern?

25 MR. ESPOSITO: I can answer that,

1 Bruce. When you make an amendment that
2 affects yourself, but affects the entire
3 township as a whole, there's an assumption
4 that you're not making that amendment to
5 solely benefit yourself. Like a good example
6 would be in a collective bargaining agreement,
7 if the appointing authority, they're
8 ultimately the ones who are approving a
9 collective bargaining agreement which could be
10 a raise for people. Some of the people in the
11 bargaining unit may be spouses or sons or
12 cousins of people that are on city councils or
13 county commissioners. They are permitted to
14 vote on that contract because it's an across
15 the board raise. So but they have held -- but
16 the ethics commission has actually held but
17 when you vote on things that substantially,
18 like changing insurance, that just affects
19 singly the bargaining unit versus the whole
20 county that that member should maybe have to
21 recuse themselves from that part.

22 So in this case Rick was
23 participating in amending something that
24 affected one property that he had an interest
25 in. The other people -- and it's specifically

1 because of his landlords. There's three
2 ethics opinions that specifically deal with
3 city council members and other elected
4 officials voting on matters where they are
5 tenants in a property that is owned by a
6 landlord. So this isn't something that I have
7 created. This is something the Ohio Ethics
8 Commission has already ruled on, that when
9 these four factors are present, if you can
10 meet all four, you're good and you can vote.
11 If you can't meet all four, then there is
12 potentially a conflict of interest. So this
13 isn't pulled out of the sky. This is the
14 guidance that the Ohio Ethics Commission has
15 issued when interpreting Revised Code 102,
16 which is the ethics laws in Ohio.

17 MR. MURPHY: Could we have --

18 MR. MADDEN: Again this is Mr.
19 Murphy.

20 MR. MURPHY: Could we have
21 something put together for all of township
22 administrators to cover basically -- can I
23 make that request?

24 MR. ESPOSITO: The policy manual
25 currently contains an Ohio ethics law section

1 and the ethics laws are provided to all
2 employees upon hire.

3 MR. MURPHY: The other point I
4 would like to make is that the definition of
5 family did affect every single residence in
6 this community. It did not affect solely
7 Mr. Rogers' property. It affected every
8 property. It does not apply -- it was not
9 narrow. It was the whole township and every
10 family here.

11 MR. ESPOSITO: I understand.

12 MR. MADDEN: Mr. Kotowski?

13 MR. KOTOWSKI: Thank you. Ben
14 Kotowski. I think it's important that you
15 brought this up as trustees because this
16 community has always had a reputation for good
17 governance. And now going forward we do have
18 those questions that Bruce brought up because
19 as a member of the Zoning Commission, for
20 instance, I live in a corner house. And if we
21 make any requirements on corner houses, I'm
22 directly affected. If I want to build a shed
23 and I, in fact, am working on zoning which
24 affects sheds, I'm affected. If I want to
25 have my mother move in with me or a close

1 friend who is getting divorced, having been
2 involved with the definition of family, I'm
3 affected. So I think what we need to do going
4 forward is to make sure that we clarify what
5 we mean by conflict of interest and that the
6 members of the various volunteer groups, the
7 BZA, the Zoning Commission, are aware of where
8 their limitations are and when they cross the
9 line.

10 MR. MADDEN: And, Ben, I
11 completely concur and agree with what you're
12 saying. And there's two very simple common
13 sense steps that should be taken when there's
14 even a question. One, disclose it. And
15 probably, two, the safe thing is recuse. Just
16 stay out of the conversation. The others
17 aren't necessarily affected by it, they can go
18 forward if there's a quorum. If we have an
19 appointee who is involved in a number of
20 different things and virtually every subject
21 coming before the ZC is going to cause a
22 problem, probably the appropriate thing is to
23 go and say, you know, you might want to
24 replace me. Not because they're dishonest,
25 not because they did anything wrong. But

1 because, you know, I've got a lot of things
2 that are going to come up in conversation
3 where I stand to either benefit or not
4 benefit, okay.

5 Chuck?

6 MR. WALDER: Chuck Walder, for
7 the record.

8 To go directly to your comment,
9 Mr. Kotowski, at the last trustee meeting we
10 actually reported on an audit that we were --
11 we just went through with the Ohio group that
12 handles all of our insurance, OTARMA. As an
13 outcome of their audit which is done every
14 three years they highly recommend that the
15 township adopts a policy that's uniformly
16 applied to employees, elected officials, and
17 all appointed officials which would include
18 board members. And that recommendation said
19 that we should adopt policies which require
20 periodic testing and periodic training in the
21 case of specifically ethics as well as things
22 like hiring practices, harassment policies,
23 all of those things which affect all of us
24 regardless of whether we're direct employees
25 or whether we're volunteers.

1 The trustees have taken that
2 under consideration. They have empowered me
3 to get with our counsel, Drew, to design a
4 series of training classes that will be
5 conducted throughout the year. We are working
6 on what period of time those would have to be
7 attended, and those would become a mandatory
8 requirement for all people participating in
9 government. So I think the positive out of
10 something like this is what action is taken to
11 improve the system. That is a direct action
12 that actually began to arise before the
13 proverbial ash hit the ground.

14 MR. MADDEN: And just to echo
15 your other point, the three of us take very
16 seriously the positive image that our township
17 has. I think you came in after I made an
18 opening remark before we accepted Rick's
19 resignation that this investigation was not to
20 undermine Russell Zoning. It was to maintain
21 its credibility. That's why we did the
22 investigation. It's part of maintaining that
23 image that all of us that reside in Russell
24 want to have.

25 MR. MUELLER: Mr. Chairman, I

1 would move to end this hearing. I believe
2 that the individual involved has resigned and
3 I believe we should just go with that.

4 MR. MADDEN: Are there any other
5 questions?

6 MR. KOTOWSKI: I did have a brief
7 one, Justin.

8 MR. MADDEN: Sure.

9 MR. KOTOWSKI: Given that, you
10 know, we're -- everyone who is working on
11 various boards for the township, our citizens
12 with concerns and complaints from time to
13 time, we will have to also get some policies
14 to us on what appropriate interaction with
15 township employees and officials are because
16 we will, of course, as citizens be interacting
17 with them in our non-official capacity. And,
18 you know, take the confusion over Rick's
19 interaction with the zoning inspector. The
20 zoning inspector doesn't report to him, you
21 know. Only a zoning secretary does while
22 we're in a meeting, and he has no authority
23 outside the meeting. So for him to have
24 crossed the line speaking to a zoning
25 inspector who he has no authority over is

1 something that we want to make sure is not
2 repeated with other members of the Zoning
3 Commission, BZA, and anywhere else within the
4 township.

5 MR. MUELLER: My motion is on the
6 table.

7 MR. MADDEN: Were there any other
8 questions?

9 Okay. Is there a second, Gabe?

10 MR. GABRAM: Second.

11 MS. DORKA: Mr. Mueller?

12 MR. MUELLER: Yes.

13 MS. DORKA: Mr. Gabram?

14 MR. GABRAM: Yes.

15 MS. DORKA: Mr. Madden?

16 MR. MADDEN: Yes. So we are
17 adjourned. Thank you, everyone, for coming,
18 for your questions, and for your civility.
19 This is how meetings should be conducted.
20 Thank you, everyone.

21 (Off the record at 1:36 p.m.)

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C E R T I F I C A T E

I, Kimberly K. Giel, Registered Professional Reporter, do hereby certify that the above proceedings were taken down in stenotypy and transcribed by me using computer-aided transcription and that the above is a true and correct transcript of said recording.

So certified this 31st day of May, 2016.

Kimberly K. Giel, RPR
Notary Public - State of Ohio
Commission expires July 16, 2016.