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SPECIAL MEETING

IN RE: MARTHA FAGAN, 14601 CAVES ROAD,

RUSSELL TOWNSHIP

JUNE 30, 2017

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BE IT REMEMBERED, that upon the hearing of the above-entitled matter, held at the Russell Township Administration Building, 8501 Kinsman Road, Novelty, Ohio, before the Russell Township Board of Trustees, and commencing on Friday, the 30th day of June, 2017, commencing at 1:33 o'clock p.m., at which time the following proceedings were had.

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1 **APPEARANCES :**

- 2 Justin Madden, Chairman
- 3 Gary Gabram, Trustee
- 4 Jim Mueller, Trustee
- 5 Charles Walder, Fiscal Officer
- 6 Jennifer Dorka,
- 7 Assistant to the Fiscal Officer
- 8 Kate Jacob, Attorney at Law
- 9 Tim Carroll, Chief of Police
- 10 John Frazier, Fire Chief
- 11 Shane Wrench, Zoning Inspector
- 12 Melissa Palmer,
- 13 Assistant to the Board of Trustees
- 14 William P. Smith, Attorney at Law
- 15 Martha Fagan, Property Owner
- 16 Charles Butters, Resident
- 17 Carina C. Meszaros, Court Stenographer

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1 PROCEEDINGS

2 MR. MADDEN: This is a special meeting
3 of the Russell Township Trustees. Generally
4 establish a quorum.

5 MS. DORKA: Mr. Mueller?

6 MR. MUELLER: Here.

7 MS. DORKA: Mr. Gabram?

8 MR. GABRAM: Yes.

9 MS. DORKA: Mr. Madden?

10 MR. MADDEN: Yes.

11 Given the nature of this hearing, we have a
12 court reporter taking everything down. Counsel for
13 Mrs. Fagan and counsel for the Township are not
14 required to be under oath when they speak. If
15 anybody else is going to speak, you will need to be
16 put under oath by the court reporter; and then any
17 time you offer something in the course of this
18 meeting, you will need to start off by just saying
19 your name, because our court reporter can't memorize
20 15 names and faces in two minutes.

21 Okay. I will jump in just so we have a
22 clear record if we forget. I'm not trying to pick on
23 anybody, but the record will make no sense if there's
24 just testimony given but not attributed to the Chief
25 or the individual or whatever else. Okay?

1 All right. With that I think the fairest
2 place to start would be with you, counsel for Mrs.
3 Fagan, Bill Smith.

4 **MR. SMITH:** Attorney William Smith.

5 **MR. MADDEN:** Okay. Where are we?

6 **MR. SMITH:** Well, my understanding is
7 the -- the first thing accomplished was the quitclaim
8 deed has been accomplished. So Mrs. Fagan now has
9 complete control of the property and so she can make
10 decisions and she can dispose of it.

11 My understanding is that the movers are set
12 to come out --

13 **MRS. FAGAN:** Monday.

14 **MR. SMITH:** on Monday morning. And
15 she found a real estate agent, a local agent, who
16 apparently has an interested buyer who would be
17 interested in purchasing and then doing the
18 demolition himself. He will not be able to look at
19 the property until Wednesday.

20 So I guess what we're looking for in this
21 is the opportunity to have him view the property, and
22 then if he is serious, perhaps make some kind of
23 arrangement where we can contact the Trustees
24 directly and make some demonstration of his
25 earnestness and see if we can go from there.

1 Other than that I know that we waive any
2 challenge to the demolition of the property. We
3 simply want some time to close out affairs.

4 **MR. MADDEN:** Okay. Hold on one
5 second.

6 Mrs. Fagan, I think you will probably be
7 talking in this matter, so I'd like to have the court
8 reporter put you under oath at this time.

9 **MRS. FAGAN:** Okay.

10 MARTHA FAGAN,
11 of lawful age, having been first duly sworn, as
12 hereinafter certified, testified and said as follows:

13 **MR. MADDEN:** And I think I better go
14 under oath at this time because we're going to have
15 an exchange, and although I'm counsel, I'm not
16 counsel in this hearing, I'm a party.

17 JUSTIN MADDEN,
18 of lawful age, having been first duly sworn, as
19 hereinafter certified, testified and said as follows:

20 **MR. MADDEN:** Okay. All right. So
21 just to kind of confirm the understanding, you have a
22 prospective buyer, you've seen the quitclaim deed. I
23 mean, did you actually --

24 **MR. SMITH:** I was informed that it
25 was posted on-line and viewed on-line, but it's

1 there.

2 **MR. MADDEN:** All right. But you
3 haven't --

4 **MR. SMITH:** No, but the counsel who
5 drew it up told me it was completed and done.

6 **MR. MADDEN:** Kate, on behalf of the
7 Township, have you seen it?

8 **MS. JACOB:** I have not yet, no, but
9 we've had good dealings with Mr. Smith and --

10 **MR. MADDEN:** Right.

11 **MR. SMITH:** Now, did you speak with
12 Michelle?

13 **MS. JACOB:** I have not.

14 **MR. MADDEN:** I saw the letter.

15 **MR. SMITH:** Okay.

16 **MR. MADDEN:** And the letter clearly
17 stated that there will be a quitclaim deed, and so --

18 **MRS. FAGAN:** There is.

19 **MR. MADDEN:** At least at this time it
20 looks like that's in motion, but until we actually
21 see it, we can't -- we haven't had it confirmed yet,
22 so we can't take that as a hundred percent.

23 But where we are going with this is now you
24 think you have a prospective buyer who would prefer
25 to do the demolition themselves and they won't be

1 able to look at the property and formulate a plan
2 until Wednesday, July 5?

3 **MRS. FAGAN:** Right.

4 **MR. MADDEN:** Is there a meeting set up
5 or a time?

6 **MRS. FAGAN:** No, it's through Janet
7 Kramarz with Howard Hanna, and she knows this man who
8 buys property out here and does the demos and -- you
9 know, he buys the property as a teardown.

10 **MR. MADDEN:** Does this person have a
11 name or a company name?

12 **MRS. FAGAN:** I don't have a name for
13 him. I'm sorry. Janet didn't tell me his name. But
14 she's worked with him before and he lives out here in
15 Russell apparently, and his daughter is getting
16 married tomorrow and that's why he is so busy.

17 **MR. MADDEN:** Sure. I understand it.
18 What is your realtor's name who put this
19 together?

20 **MRS. FAGAN:** Janet Kramarz,
21 K-r-a-m-a-r-t-z [sic]?

22 **MR. MADDEN:** T-z or c?

23 **MRS. FAGAN:** Z. And she's with Howard
24 Hanna down here in Chesterland.

25 **MR. MADDEN:** Does she have a phone

1 number?

2 **MRS. FAGAN:** Yeah. (440) 781-7660 and
3 her home is (440) 729-9735.

4 **MR. MADDEN:** Okay. Given that the
5 first opportunity for this person to look at the
6 property is Wednesday, what type of timeline are you
7 thinking after that?

8 **MR. SMITH:** Well, I mean, if he
9 chooses to move forward with the property, I guess at
10 that point we would ask him to contact -- or the real
11 estate agent to contact the Trustees and give some
12 demonstration of earnestness and allow them to give
13 you some sort of timeline, because, frankly, I
14 haven't talked to this person; I don't know.

15 But I think we do -- correct me if I'm
16 wrong, I do think we understand that if this doesn't
17 go through, the plan will be for the demolition to go
18 forward with your contractor, the contractor chosen,
19 and then a lien put on the property and move forward.

20 We're not looking at trying to get a demo
21 at this point, you know, simply because of the cost
22 up front. So I think that would be the backup plan.

23 And I believe that the mover is coming to
24 get your stuff out, you said, on --

25 **MRS. FAGAN:** Monday morning.

1 **MR. SMITH:** Monday morning.

2 **MR. MADDEN:** July 3rd?

3 **MRS. FAGAN:** Yeah.

4 **MR. MADDEN:** Okay.

5 **MRS. FAGAN:** They're coming Monday
6 morning and they're taking it down to a storage unit
7 on 306.

8 **MR. MADDEN:** Okay. What company is
9 that, please?

10 **MRS. FAGAN:** Let's see. It's Five
11 Star Store It. It is Moving Ahead, they're with Five
12 Star Store It, they're recommended by them, so I --

13 **MR. MADDEN:** Okay.

14 **MR. SMITH:** Do you agree with what I
15 said that if this purchase doesn't go through, that
16 you would be looking to move forward in terms --

17 **MRS. FAGAN:** Right.

18 **MR. SMITH:** -- of having the
19 demolition being done and then a lien put on the
20 property as opposed to trying to find a contractor?

21 **MRS. FAGAN:** The only thing that
22 hasn't been explained to me is what it means when the
23 lien is put on the land.

24 **MR. SMITH:** What that means, when a
25 lien is put on the land, when you sell the land, you

1 can't transfer that property until it's paid off --
2 the lien is paid off. So the Township is paid off
3 the amount that they put forward for the demolition.

4 **MRS. FAGAN:** In other words, I
5 maintain the land until I sell it and then --

6 **MR. SMITH:** Yes.

7 **MRS. FAGAN:** -- they get their cut?

8 **MR. SMITH:** Exactly.

9 **MRS. FAGAN:** Okay. Now I didn't
10 understand that before, and I thought you took the
11 land and that was it.

12 **MR. SMITH:** No.

13 **MR. MADDEN:** I'll take a stab at it,
14 too. You're free to object.

15 Justin Madden, I think you got the three of
16 us so far.

17 **THE NOTARY:** (Nodding head up and down.)

18 **MR. MADDEN:** Actually what we're doing in
19 terms of the demolition, if it falls to us to
20 demolish the property, what we're actually doing is
21 fronting the cost for you to make that happen. The
22 Township can't do anything for a private residence,
23 so there has to be recoupment to the taxpayers.

24 What happens is the Township won't come to
25 you and pressure you for a bill. When the property

1 sells, whoever buys it will be aware there's a few
2 thousand dollars that's owed to a contractor that
3 worked with the land, and, therefore, when the sale
4 of your property goes forward, a separate check will
5 be cut out of the sale price. So you're paying for
6 the demolition, but we're not coming to you in a cash
7 strapped situation and saying, you know, "You have to
8 pay this bill right now."

9 **MRS. FAGAN:** Yeah.

10 **MR. MADDEN:** In a way it's a win win,
11 okay, because you aren't the one that is being
12 badgered into coming up with the money to pay for the
13 demolition to make it happen within the time frame.
14 So if the Township does it, that's how it will work.

15 **MRS. FAGAN:** Okay.

16 **MR. MADDEN:** Now, if you sell the
17 property to this person and they say, "I can do it
18 cheaper than the Township and I prefer to do it so I
19 can control how this is done," then they're simply
20 writing you a check for the land, the sale closes and
21 you don't have to worry about the demolition.

22 **MRS. FAGAN:** Yeah.

23 **MR. MADDEN:** But we will be on that
24 person's back that it has to be done immediately.

25 **MRS. FAGAN:** Yeah.

1 **MR. MADDEN:** Okay. So sometimes if
2 you are concerned that that may spook the potential
3 sale of the property, then you might just say, "Let
4 the Township demolish it," and then you can buy --
5 pay -- for whatever you want pay for the property and
6 not have us get in the midst of it.

7 **MR. SMITH:** Appreciate the
8 clarification. That was very detailed.

9 **MR. MADDEN:** You're okay with it?

10 **MRS. FAGAN:** Yes, that was --

11 **MR. MADDEN:** Kate, was I right?

12 **MS. JACOB:** Yes.

13 **MRS. FAGAN:** Now it's clear.

14 **MR. MADDEN:** I'm off to a good start
15 there.

16 **MRS. FAGAN:** I have three other
17 demolition companies who have -- two have given me
18 quotes, and the only problem with that is I have
19 nobody like you do to talk to to find out whether
20 their bids are too high and whether I'm being taken
21 by them.

22 I've got one young man who has given me a
23 \$7,000 quote on the house, tearing it down and taking
24 everything away, and 2,000 for the shed, and I
25 thought, "Gosh," you know.

1 **MR. MADDEN:** Let me stop you there.

2 That's a good point and I think we talked about this
3 at the last meeting.

4 The price quotations are one thing, knowing
5 how to do it so that it complies with all the
6 different regulatory bodies that will be involved in
7 this, the Board of Health, how the septic is handled,
8 the utilities being shut off, what condition things
9 are left in. Somebody may give you an attractive
10 looking bid, but if they do it wrong, you're going to
11 have an ongoing problem.

12 **MRS. FAGAN:** Mm-hmm.

13 **MR. MADDEN:** What we can offer you and
14 about all we can offer you is that Melissa Palmer is
15 pretty familiar with some very reliable demolition
16 crews. If you want to bring the list over to her,
17 you can kind of compare. If you have somebody on her
18 list that's on your list and it's an attractive bid,
19 then you're probably going to be safe with that. But
20 if you have somebody that she's never heard of --

21 **MRS. FAGAN:** Right.

22 **MR. MADDEN:** -- then you're going to
23 need to be worried about whether they're going to do
24 it right or you're going to keep paying and paying
25 and paying and paying.

1 **MRS. FAGAN:** And that's my concern is
2 that I'm trying to do everything myself and I have
3 nobody around me that -- you know, like you guys can
4 all talk to each other and "Oh, I know this person
5 that does that kind of thing, let's go talk to them,"
6 and I don't have that.

7 So I've been working for weeks, you know,
8 talking to demolition people and everything. I've
9 got two, one is in Burton, Cherokee Demo, and the
10 other is Andy's Empire, and they couldn't even come
11 until after the holiday, and I talked to them two
12 weeks ago, so --

13 **MR. SMITH:** Did the person that gave
14 you an actual bid, an actual number, did he come out
15 and eyeball the house? Did he look to see --

16 **MRS. FAGAN:** He's been out about three
17 times on me.

18 **MR. SMITH:** Okay. Okay. I just
19 wanted to make sure, because if they find a lot of
20 asbestos, it can really kick up the price. I wanted
21 to make sure he's actually eyeballed it.

22 **MRS. FAGAN:** Well, there's no
23 insulation. The house has never been insulated. So
24 there won't be asbestos, but there is lead paint.

25 **MR. MADDEN:** All right. Well, let's

1 stay away from what's in there.

2 **MRS. FAGAN:** Okay.

3 **MR. MADDEN:** Let's focus on the fact
4 the list that you recited, I know at least one of
5 them clicked as somebody that we're familiar with.
6 So that's a good sign.

7 **MRS. FAGAN:** Okay.

8 **MR. MADDEN:** If I was guessing, I
9 would say it was Cherokee. So Cherokee --

10 **MRS. FAGAN:** They're in Burton.

11 **MR. MADDEN:** Right. I can't tell you
12 whether their bid is fair or not, I can just tell you
13 that we know them to know how to do this correctly.

14 **MRS. FAGAN:** Okay.

15 **MR. MADDEN:** The more -- the
16 other item we ought to address, Counsel, is
17 hypothetically -- and I know it wouldn't help, but
18 hypothetically whoever is interested in the property
19 comes Wednesday, writes a check, you've sold the
20 whole thing, they're ready to demolish Thursday of
21 next week, hypothetically do you need to do anything
22 else?

23 If the movers are coming Monday -- and you
24 haven't been staying there at night -- and they're
25 going to move all your things out either to storage

1 or wherever you're going, you would no longer have
2 any reason to be in the structure after Monday the
3 3rd; is that correct?

4 **MRS. FAGAN:** No, except to --

5 **MR. MADDEN:** To let the people look at
6 the demolition project.

7 **MRS. FAGAN:** Yeah, yeah.

8 **MR. MADDEN:** Okay. All right. Chuck,
9 would you go under oath, please?

10 CHARLES WALDER,
11 of lawful age, having been first duly sworn, as
12 hereinafter certified, testified and said as follows:

13 **MR. MADDEN:** In terms of timeline,
14 Chuck, in your experience where does this leave us?

15 **MR. WALDER:** Well, my only concern is
16 we've added two degrees of freedom different than our
17 first meeting.

18 I believe the conversation we had at the
19 first meeting was -- our recommendation was to not
20 focus so much on your performing the demolition but
21 to focus on getting out of the house both on a daily
22 basis as well as in the evening; and I believe it
23 centered around the problem being that you had a dog
24 and you were taking care of the dog. At one point in
25 time there was talk about putting the dog down.

1 **MRS. FAGAN:** Wednesday.

2 **MR. WALDER:** She did?

3 **MR. SMITH:** Yes.

4 **MR. WALDER:** So that being said, the
5 other two degrees of freedom is that you're now
6 investigating doing your own demolition, which -- and
7 you're investigating selling the property prior to us
8 taking any action to secure it.

9 **MR. SMITH:** Mm-hmm.

10 **MR. WALDER:** So I guess from a timing
11 perspective the issue I have is it's really moving
12 our envelope back until after the holidays, which --
13 I mean, Melissa could probably speak better to this,
14 but we have not secured any backup bids for the
15 demolition. We have no plan B at this moment that's
16 secured. It would obviously not make sense for us
17 both to be doing the same work.

18 So I guess I don't see any huge obstacles
19 with what's being proposed other than as long as we
20 all recognize it's moving our window of time
21 slightly. We cannot immediately go in and tear down,
22 we have to do our due diligence.

23 **MR. MADDEN:** Okay. Counsel for the
24 Township, Kate Jacob, anything?

25 **MS. JACOB:** No. I think it really

1 just depends, like Chuck said, what the Township is
2 comfortable with in terms of timeline. But I think
3 it sounds like Mrs. Fagan has done her due diligence
4 in terms of securing movers and an alternate
5 residence and all that.

6 So I think -- I mean, I personally would
7 be comfortable with a little bit of wiggle room in
8 the timeline because I don't think it's set in stone
9 with her not living there. I don't think that the
10 emergency concern might be there, although,
11 obviously, you can have vagrants and whatnot in the
12 structure, there's some impotence. But how much
13 wiggle room you're comfortable with really depends on
14 the Trustees' preference.

15 **MR. MADDEN:** Should we set a new
16 deadline as far as the day of demolition? Are we in
17 a position to do that?

18 **MS. JACOB:** I don't know if we're in
19 a position to set a hard and fast deadline. I'm just
20 not familiar with the demolition process and how much
21 time on the Township's end that might take. I
22 haven't been involved with the demolition of a
23 structure. Again, I'm just not familiar with that
24 timeline to say.

25 How much time you want to wait before

1 starting on the Township's end, I'm not sure either.
2 You want to give it a week, two weeks, I wouldn't go
3 too long. But it sounds as though Mrs. Fagan has
4 already done quite a bit of the legwork, and if it's
5 a company that the Township is comfortable with, and
6 Mrs. Fagan is comfortable pursuing that angle, then I
7 think giving it a week, maybe two weeks is reasonable
8 at least to figure out where we are and reconvene.

9 **MR. MADDEN:** All right. Counsel for
10 Mrs. Fagan, previously you stated on behalf of your
11 client, Mrs. Fagan, there's a waiver on your part to
12 any objection or challenge to the demolition.

13 **MR. SMITH:** Yes. We agree it needs
14 to be demolished.

15 **MR. MADDEN:** What I'm going to
16 recommend, and my two colleagues have a right to
17 weigh in on this, we'd have to put you under oath, is
18 that we set -- even if it may not be realistic, we
19 set a demolition deadline of a week from today, which
20 would be --

21 **MS. JACOB:** You said "demolition." I
22 don't mean to interrupt, but to have the structure
23 down or --

24 **MR. MADDEN:** Down, yeah, July 7th,
25 which gives the movers a chance to move everything

1 out on July 3rd, the prospective buyer the chance to
2 look and assess whether or not they want it, and if
3 they want it, whether they want the Township to
4 handle demolition or not. We would be lining up
5 potential bids to see who might be in the position to
6 move in if that person backs out for whatever reason.

7 **MRS. FAGAN:** Mm-hmm.

8 **MR. MADDEN:** Okay. And since all of
9 your personal belongings and so forth would be moved
10 out by July 3rd, you would only need access to the
11 structure itself for this potential purchaser on July
12 5th, then July 7th really should not be deemed
13 unfair. Are you comfortable responding to that,
14 Counsel?

15 **MRS. FAGAN:** Yeah.

16 **MR. SMITH:** How do you feel about
17 that?

18 **MRS. FAGAN:** Yeah. And I would like
19 to add, it just popped into my head, when I spoke to
20 the movers the other day and -- the fellow's name is
21 Paul R-u-k -- I'm sorry.

22 **MR. MADDEN:** It's okay.

23 **MRS. FAGAN:** R-u-k -- I can't read my
24 own writing now -- a-e-n-a-s -- oh, no, Ruksenas,
25 R-u-k-s-e-n-a-s.

1 When I spoke to him -- and I couldn't get
2 him on the phone this morning because I wanted to see
3 if -- he proposed that within their company they have
4 people that they know that do demolitions and -- buy
5 the property and do demolitions, and he was going to
6 talk to them and find out.

7 And when I called this morning, he wasn't
8 there. And what I was going to ask is when they come
9 out to move, if he could come with them -- whoever
10 this person is or this company is, could they come
11 with them when they're moving my things out and take
12 a look at the property and the place.

13 Like I say, he wasn't there, but the person
14 that answered the phone -- oh, gosh, Devon said that
15 he was going to talk to him and find out what was
16 going on, you know, and whether they would be able to
17 possibly do that, too. So he is another potential
18 that just sort of popped in there.

19 **MR. MADDEN:** Yeah. If I may, I'll set
20 forth the Township's position subject to anything my
21 colleagues may wish to add on the record.

22 **MRS. FAGAN:** Okay.

23 **MR. MADDEN:** I do very much appreciate
24 on behalf of the Township that you have worked very
25 hard to help us move this forward and allow us to be

1 fair to you in terms of getting your things out.

2 **MRS. FAGAN:** Yeah.

3 **MR. MADDEN:** And also looking out for
4 your safety and not staying there. The only
5 essential and time sensitive concern that we have is
6 demolishing the structure because of the danger it
7 poses.

8 **MRS. FAGAN:** Yeah. I would tell them,
9 you know, when I get ahold of Paul -- excuse me, when
10 I get ahold of this Paul -- I can't pronounce it -- I
11 will, you know, tell him the timeline and everything.
12 I will give him that information.

13 **MR. MADDEN:** Okay. The other portion
14 of the Township's position, ma'am, is that once the
15 demolition is done and even though you're not living
16 in it any more, we still have to be concerned for our
17 first responders, for any neighbors who might look
18 in, for anybody else who might go in for good or bad
19 reasons.

20 **MRS. FAGAN:** Mm-hmm.

21 **MR. MADDEN:** We cannot have that
22 sitting any longer than is absolutely necessary.

23 **MRS. FAGAN:** Oh, absolutely. I
24 understand.

25 **MR. MADDEN:** So when it comes to

1 actually selling the land, we don't have any reason
2 to push you to get that done quickly. That's your
3 money. You go get it as fast or as slowly as you
4 want.

5 **MRS. FAGAN:** Mm-hmm.

6 **MR. MADDEN:** It's just that we have to
7 get the structure down.

8 **MRS. FAGAN:** Yeah.

9 **MR. MADDEN:** So that's why July 7 has
10 to be --

11 **MRS. FAGAN:** Yeah. No, I understand.

12 **MR. MADDEN:** -- the day or sometime
13 close in proximity. I'm not going to be able to
14 allow extra time for possible demolition bids to come
15 in because they might, you know, chop a couple of
16 bucks off.

17 **MRS. FAGAN:** Yeah.

18 **MR. MADDEN:** July 7, if we have
19 somebody lined up and ready to go and you don't --

20 **MRS. FAGAN:** Right.

21 **MR. MADDEN:** -- we're going to put our
22 people -- we're going to put that contractor on there
23 and it's coming down.

24 **MRS. FAGAN:** Okay.

25 **MR. MADDEN:** You're okay with that?

1 **MRS. FAGAN:** Yeah.

2 **MR. MADDEN:** Do you want to talk to
3 counsel about that before you commit to that on the
4 record?

5 **MRS. FAGAN:** No.

6 **MR. SMITH:** You understand?

7 **MR. MADDEN:** Okay. Counsel, we're
8 okay?

9 **MR. SMITH:** It makes sense, it really
10 does. The thing that I think is hanging out here is
11 that these contractors, they're not committing to you
12 to do the demolition. You pay whenever it's sold. I
13 don't think you can pay them up front anyway, so it's
14 kind of moot.

15 **MRS. FAGAN:** No, they're talking about
16 buying the property as a teardown.

17 (Mr. Butters entered the hearing.)

18 **FEMALE SPEAKER:** It's public.

19 **MR. MADDEN:** It's fine. There's no
20 seats here.

21 **FEMALE SPEAKER:** Sure.

22 **MR. SMITH:** I guess, frankly, they
23 would just have to move very quickly within the
24 timeline that the Trustees are giving you.

25 **MRS. FAGAN:** Yeah.

1 **MR. SMITH:** If they understand that,
2 then I guess they would have an opportunity to buy
3 it.

4 **MRS. FAGAN:** I would be up front with
5 them.

6 **MR. SMITH:** I appreciate your
7 position about the health and safety and we agree.

8 **MR. MADDEN:** Very good. Okay.
9 Counsel for the Township, Kate Jacob, anything that's
10 been agreed to or said or discussed that you need to
11 correct on behalf of the Township?

12 **MS. JACOB:** No. I would -- since I
13 see Chief Frazier, the chief of the Russell Fire
14 Department, since he is here, if we can get it
15 acknowledge that he submitted a report on May 25th,
16 it included a letter from himself and one of the
17 other members of the Russell Fire Department who
18 specializes in building inspection, as well as some
19 reports from Russell PD regarding the structure; and
20 he recommended that the Trustees take action, I
21 believe that was accepted and discussed at a Trustee
22 meeting I believe on June 1st, and if we can just
23 acknowledge and get a copy to the record. I know it
24 wasn't submitted into the record at that meeting, but
25 just so it's in the record for this hearing.

1 **MR. MADDEN:** Any objection?

2 **MR. SMITH:** No objection at all.

3 **MR. MADDEN:** Chief Frazier, would you
4 go under oath, please?

5 CHIEF JOHN FRAZIER,
6 of lawful age, having been first duly sworn, as
7 hereinafter certified, testified and said as follows:

8 (Thereupon, Fagan Exhibits 1 and 2 were
9 marked for purposes of identification.)

10 **MR. MADDEN:** Chief Frazier, in what
11 capacity do you serve Russell Township?

12 **CHIEF FRAZIER:** Fire chief.

13 **MR. MADDEN:** As fire chief for Russell
14 Township, were you asked to perform an investigation
15 or analysis of Mrs. Fagan's property located at 14601
16 Caves Road in Russell Township?

17 **CHIEF FRAZIER:** I was and I did.

18 **MR. MADDEN:** Did you prepare reports
19 and submit them to the Trustees to discuss the
20 condition of the property as well as your
21 recommendation?

22 **CHIEF FRAZIER:** I did.

23 **MR. MADDEN:** Was it your opinion in
24 those documents that the property posed a danger to
25 both the resident, potential first responders or

1 other members of the community?

2 **CHIEF FRAZIER:** Yes.

3 **MR. MADDEN:** Did you recommend that it
4 be torn down?

5 **CHIEF FRAZIER:** Yes.

6 **MR. MADDEN:** Okay. Handing you Fagan
7 Exhibit 1 with today's date, June 30, 2017, can you
8 identify that for the record, please?

9 **CHIEF FRAZIER:** As far as my written
10 report?

11 **MR. MADDEN:** Yes.

12 **CHIEF FRAZIER:** Yes.

13 **MR. MADDEN:** Is there a resolution by
14 the Trustees in conjunction with the written report
15 that you submitted in your capacity as chief of the
16 Russell Township Fire Department?

17 **CHIEF FRAZIER:** Yes, there is.

18 **MR. MADDEN:** Handing you Fagan Exhibit
19 2, today's date, June 30, 2017, is that a report of
20 yours with attached exhibits dated May 25, 2017?

21 **CHIEF FRAZIER:** It is.

22 **MR. MADDEN:** Is that a true and
23 accurate copy of your report in this matter?

24 **CHIEF FRAZIER:** It is.

25 **MR. MADDEN:** Is there anything you

1 wish to change, edit, correct or clarify?

2 **CHIEF FRAZIER:** No, there is not.

3 **MR. MADDEN:** Counsel, do you have
4 anything?

5 **MR. SMITH:** No.

6 **MR. MADDEN:** Kate, on behalf of the
7 Township, do you have anything?

8 **MS. JACOB:** No.

9 **MR. MADDEN:** We'll move that those two
10 exhibits be made part of the record. Any objection?

11 **MR. SMITH:** No objection.

12 **MR. MADDEN:** Okay. Does anybody else
13 wish to be heard on the record in this matter before
14 we conclude the hearing?

15 Very well. Okay. I am, A, very, very
16 sorry that, you know, your dog has now passed, but at
17 the same time I cannot thank you enough for your
18 professional conduct in this matter. We're all
19 trying to make this as painless as we can and also
20 make sure that nobody gets hurt in the process.

21 All right. With that we'll go ahead and
22 close the hearing. You're okay with that?

23 **MR. SMITH:** Absolutely, yes.

24 **MR. MADDEN:** Kate, we'll adjourn the
25 hearing?

1 **MS. JACOB:** Yes.

2 **MR. MADDEN:** So we are adjourned at
3 2:02 p.m.

4 At this time we are in a meeting, we've
5 already established quorum, I will ask for a motion
6 that the demolition date for the property in question
7 that was the subject of this hearing be set for July
8 7, 2017.

9 **MR. GABRAM:** So moved.

10 **MR. MUELLER:** 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.

17 Is there a motion to adjourn from this
18 particular special meeting?

19 **MR. MUELLER:** So moved.

20 **MR. GABRAM:** Second.

21 **MS. DORKA:** Mr. Mueller?

22 **MR. MUELLER:** Yes.

23 **MS. DORKA:** Mr. Gabram?

24 **MR. GABRAM:** Yes.

25 **MS. DORKA:** Mr. Madden?

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MR. MADDEN: Yes.
So we're adjourned 2:02 p.m.
(Thereupon, the proceedings were concluded
at 2:02 p.m.)

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C E R T I F I C A T E

STATE OF OHIO,)
) SS:
SUMMIT COUNTY.)

I, Carina C. Meszaros, a Registered Merit Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that these proceedings were taken by me and reduced to Stenotypy, afterwards prepared and produced by means of Computer-Aided Transcription and that the foregoing is a true and correct transcription of the proceedings so taken as aforesaid.

I do further certify that these proceedings were taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio, 13th day of July, 2017.



Carina C. Meszaros

Carina C. Meszaros, RMR

My commission expires March 11, 2019.

- - -

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