

## XENIA TOWNSHIP ZONING COMMISSION

### PUBLIC HEARING

September 6, 2014

9:05 AM

THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE MEETING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.

The Xenia Township Zoning Commission held a Public Hearing on September 6, 2014, at 9:05 a.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH. 45385 with the following members present: Vice Chair, Jeffrey Zweber, Virgil Ferguson, Kent Harbison, Willie Washington, Alt. Harold Snyder, and Alt. Donna Randall. Alan King, Chair, was absent.

The meeting was called to order at 9:05 a.m. by Mr. Zweber. Mr. Zweber read the zoning district change to be considered: To rezone from Agricultural to M3 (Mineral Extraction and Storage) for the three following parcels: M36000100010000100, 55 Hyde Rd. being 146.16 Acres; M360001000100002000, 3053 Enon Rd. being 137.242 Acres; and M38000100010000600,3238 SR 235 being 6.3 Acres. All parcels are owned by CEMEX, Inc.

Opening remarks were made by Mr. Zweber. He gave a history of this rezone request. A request was made by Cemex in 2011 to rezone these three parcels. The Zoning Commission held a public hearing. The Zoning Commission recommended that the parcels be rezoned with the following recommendations: There must be a reclamation plan, there must be a periodic review of the reclamation bond to be sure it is adequate and Cemex must establish a bond to cover property owners. The Township held public hearings. The rezone was not approved at that time. The current resolution from the Xenia Township Trustees is a new legislative rezoning. Cemex did not apply for this change. This is a new action.

Mr. Alan Stock, Township Administrator/Zoning Inspector, stated that the purpose of this hearing was for the Zoning Commission to seek the opinion of residents. He stated that Cemex had several options after they were denied the rezone in 2011. They have chosen annexation. Cemex has a pre-annexation agreement with the City of Fairborn. Mr. Stock explained the Annexation Phase I, Phase II, and Future Annexation.

Phase I – Cemex desires to mine the three named parcels.

Phase II – The future annexation plan is for over 798 acres. The annexation amount must be divided into 500 acres or less at one time. This cannot happen until Phase I is completed. Once Phase II begins, it is extremely difficult to stop.

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Future Annexation – The City of Fairborn plans to take a large area of Bath Township for annexation. There is some area south in Xenia Township that could be annexed.

Mr. Stock explained the three ways to request annexation according to the Ohio Revised Code.

1. A land owner or lessee may request a rezone
2. Board of Trustees may request a rezone
3. Zoning Commission can request a rezone

Mr. Stock explained that the Xenia Township Board of Trustees asked for the rezone. He explained that there are three Trustees. Two Trustees must agree before an issue is brought forward. Scott Miller brought this issue forward in Executive Session. Mrs. Amy Lewis stated she is neither for nor against this rezone, but asked to hear from the people before she made a decision. Susan Spradlin voted against the rezone. Trustees are looking for the best way to protect residents.

The Board of Trustees is the first line in seeking public opinion. The Zoning Commission holds Public Hearings to clarify information and gather public opinion. If the Zoning Commission does not agree on the matter, it dies for a period of one year. If a matter is agreed upon, it goes to the Board of Trustees which is a legislative body. However, the opposition has the right to appeal.

Mr. Stock stated that the Trustees desire to protect residents from the effects of mining. Mr. Stock stated that Phase I of the rezone could be finished by October 22, 2014. Technically, Phase II could begin the next day.

Mr. Zweber stated that this request was sent to Greene County Regional Planning to be considered. Greene County Regional Planning recommended that the rezone be approved. This is only a recommendation.

Mr. Zweber asked for comments in favor of the Zoning District change from residents of Xenia Township. Two letters in favor of the rezone were read. The first letter in favor was from John Faulkner, Hilltop Rd. The second letter in favor of the rezone was from Emma Dixon, Snively Rd.

No other Xenia Township residents spoke in favor of the Zoning District change.

Mr. Zweber asked for comments in favor of the Zoning District change from non-residents of Xenia Township. No one spoke in favor of the rezone.

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Mr. Zweber asked for comments against the Zoning District change from residents of Xenia Township.

Al Wish, of Bath Township stated he lives in Byron. He spoke about problems he has with cement hardened on his home and on his plants. Animals are dying because of the exhaust and pollution in the area. His health has been negatively affected. There have been several deaths from cancer in his area. He has had problems for years. He contacted Bath Township but the problems have never been addressed. He has spoken to a representative from Cemex. They have not contacted him to resolve the problem.

Tim Spradlin, Hilltop Rd. spoke about his frustration regarding this issue. He believes that John Faulkner and Scott Miler benefit financially from Cemex. He is strongly against the zoning change. He urges residents to participate in meetings, request public records, come to meeting and get involved to find out what is happening.

Jim Turner, W. Enon Rd. has sustained damages from Cemex operations. He believes his wells as well as the wells of others have been damaged and collapsed due to the blasting that Cemex does. He is against the zoning change.

Dan O'Callahan spoke about the Xenia Township Land Use Plan. When he was working on this plan, every comment with the exception of one was against Cemex rezoning. He is strongly against the rezoning. He urges everyone to write to their State Representatives urging them to change the annexation law.

Steve Gray, W. Enon. Rd. stated that Cemex has a negative impact on real estate values. He is concerned what will happen if the parcels are not rezoned. What will Fairborn do and how do residents fight the City of Fairborn?

Mary Beth Smolinski, W. Enon Rd. believes that this rezone would be a financial gain for the Xenia Township Trustees. She states she was told when she purchased her property that the parcels in question would not be mined but were meant to be a buffer for property owners. She is against the rezone.

Jan Smolinski, W. Enon Rd. spoke about declining property values. He knows three property owners who plan to leave the area if the annexation is approved. He spoke about the danger of the gas line on Cemex property. There is a danger of a natural gas line rupture with the blasting that occurs. He is against the zoning district change.

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Albert Gangle, Sutton Rd. will be putting his home on the market soon. This sale is not related to Cemex. He is downsizing. However it is an expensive property that has been hard to sell. He believes this is mainly due to its proximity to Cemex. He cannot afford to take a loss on the property. He is against the zoning change. He will fight and urges others to join him.

Janis James stated that she believes that information presented so far should convince the Zoning Commission to deny the zoning change. She also stated her concern about knowing when meetings are going to be held. It is her desire to be informed. She finds it very hard to find this information.

Richard Stockton, W. Hyde Rd. stated that there is a limited supply of farm land and water. Agriculture is the future for our children. There is no shortage of concrete. He spoke about the quarry park. This is land that is no longer useful for any purpose. Nothing grows in that area. This is what is left when Cemex is done mining the land.

Mr. Smolinski stated that land determines our future. Cemex owns just under \$4,000 acres of land in Greene County. The average tax they pay per acre is \$66.00. Land is a commodity. The law states that when a mining company is done with the land, it must be reclaimed. Mining companies get out of this by selling the land back to the city for a small amount. Often the city will receive a grant to make a park on this land. This results in Cemex never having to reclaim the land and the city never collecting tax money on that land.

Tim Spradlin urged a no vote on the rezone.

Emma Malone, W. Hyde Rd. who is 13 years old, spoke about her desire to live in the area when she has grown up. She is worried about pollution and the health of her family.

Robin Malone, W. Hyde Rd. feels that this is all just politics. She states that the blasting at Cemex shakes her house. She lives a half mile from the blasting zone now. She is terrified of what it will be like if there is blasting directly across the street. She is strongly against the rezone and urges everyone to keep fighting.

John Purdin, W. Enon Road stated that he believes flyrock will be able to hit his house. He is against the rezone.

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Tim Spradlin, Hilltop Road, spoke about flyrock also. He stated that Susan Spradlin had asked for a 600 foot blast buffer to protect residents from flyrock approximately one year ago. There has been no action on this request at the present time. Fairborn City has a 2000 foot buffer.

Al Wish spoke about the damage done to his property by cement dust. He spoke about his health issues. He urged residents to come to Byron to see the damage caused by Cemex in person.

Mr. Zweber read an email from Mark Weinstein of Bath Township. He stated that he also believes that the proximity of Cemex has negatively affected home values. He is against the rezone.

Tim Spradlin made a public records request for all records related to Cemex from the 2011 rezone request.

An audience member asked if Xenia Township had attempted to work with any other Township to try and resolve the issue of annexation. Mr. Stock replied that Bath Township and Sugarcreek Township have been invited to meeting to discuss this issue.

Motion to close the Public Hearing was made by Mr. Harbison, seconded by Mr. Ferguson. All voted AYE. Public meeting closed at 11:21 a.m.

Motion to continue Public Meeting till September 23 at 6:00 p.m. was made by Mr. Harbison, seconded by Mr. Washington. All Voted AYE. Public meeting adjourned at 11:24 a.m.

ATTEST:

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Alan D. Stock, Zoning Clerk