

RECORD OF PROCEEDINGS

Minutes of the Vermilion Township Board of Trustees' Special Meeting

Held Monday, August 10th, 2026

The Pledge of Allegiance was given.

The meeting was called to order by Chairman Kenneth Baughman at 5:00pm.

The roll call resulted as follows: Mr. Kenn Baughman, Mr. Don Rowe & Mr. Keith Sexton were present.

Erie County Assistant Prosecutor Jason Hinnners began by saying section 5589.06 of the Ohio Revised Code addresses obstructions to ditches, drains, water courses, and also diversion of water from adjacent lands to and on a public highway. And so, the first line of that statutory section is that no person shall wrongfully obstruct and divert water. And then from that point forward in that statute, it has whenever the township highway superintendent learns of an obstruction and it sets forth this process and procedure for what can be done in that situation. So, when the township highway superintendent learns of it, they notify the board of trustees. The board of trustees then sends out a written notice to the property owner. It's personally served in this case by the county sheriff's office. The property owner has five days to remove the obstruction or what is causing this diversion of water. If they fail to commence that within five days and/or complete it within a reasonable time, then the township trustees can go in and do that work to remove the diversion and/or remove the obstruction or what's causing the diversion. The costs of that work can then be billed back to the property owner. Doesn't provide for an assessment of that. It can be charged, then you can take some action to collect that amount. So that's the procedure. That first line that I kind of read, no person shall wrongfully obstruct is actually a criminal violation. It's a minor misdemeanor. The rest of it is the township's resolution to what the township can do in this situation. So, as it relates to Cherry Road, clearly based on photographs I've received, and I think the information that you've received from the highway superintendent is that Cherry Road is flooded. There's water on the road to points where last week from the pictures I saw that were to the middle of the road, to the double-yellow line. And from all of the evidence and information that we have and what we've been going through for the past few years, there's a reason for that. And it's because of what's been done on the property at 12089 Cherry Road. A filling in, which is a natural waterway through culvert V212. And then also from fill that's been placed in the public right of way that has caused that water to back up onto the properties to the south and then pond and flood the road on Cherry Road. So, this statutory section applies to the situation that the township has been dealing with and provides a means for resolution. So what you have is a resolution that basically walks through this process in 5589.06. It reflects the information you've received. It also then sets forth the next steps in that process. And one of those is the written notice, which is attached to the resolution that if passed, that notice can be served by the sheriff's office. Then your crew, the deputy with the sheriff's office could do that on behalf of the township, the personal service. And then from that point forward when it's served, then that five-day period starts and then see if any actions taken by the owners of that property. I'll make just a couple of more points. From the perspective of what needs to be done, my recommendation would be to work and contact and work with the Erie County engineer's office from an engineering perspective and plan on how to address this. And I think they are willing and able to help in

that regard. So that would be one recommendation to do that and then to coordinate that work with them. But the work's done by the township, but it's working with their resources to assist.

Baughman said all the roads are the (Erie County) Engineer's responsibility whether they are Township, State or County roads. He's final say. I did call him to say that we were having this meeting, what it was about. He was invited if he wanted to show up. The only questions I have before I move into the other questions is Kurt, did you contact all three trustees over the weekend about the Cherry Road flooding?

Vermilion Township Administrator and Zoning Inspector Kurt Johnson stated the Erie County Sheriff's Office initiated the call to Vermilion Township Road Foreman Steve Young who was in communication with Johnson, who then contacted all three trustees.

Rowe asked where the right-of-way on Cherry Road. Hinnners replied that the Erie County Engineer's Office has that mapped out. Rowe continued: I have no problem whatsoever doing work in the right of way. I will have a problem doing work on Mr. Dunn's private property. We can work in the right of way. That's our job. If there's a problem, we need to take care of it. So, one of the questions I want to ask is in the letter here that's requested to send out to Mr. Dunn, it says "the Vermilion Township Highway Superintendent notified the board of trustees of Vermilion Township that conditions of the property located at 12089 Cherry Road, Vermilion, Ohio are obstructing the ditch, drain or water course along Cherry Road and causing the water to be diverted upon Cherry Road and the adjacent roadway and the public right of way." This question will be for my road highway superintendent, Steve Young. Steve, have you identified an obstruction in the right of way on Cherry Road?

Young replied: Not at this time. Probably when that was out was when he did have it. When the county got involved in all that, they opened it up the right of way. But he started behind the right of way and just started piling.

Rowe continued: That's not our issue. That's a county issue. The question is, this states that you've identified an obstruction. So, are you saying this is not the current letter that they're requesting to go out? Because you and I had a conversation today. And I asked Steve specifically, Steve, have you identified any obstructions, any issues in the right of way? The answer is no. We had a lengthy discussion about the pipe that you and Justin installed. So, in the body of this resolution in this letter, there's a description in the front of Dunn's property. I'm assuming that the ditch that you guys filled in was in the right of way. The discussion I had with my road superintendent today was there's some issues here that is directed towards the location of the property. There's a driveway. So, I asked Steve, not knowing this, they installed a drainage tile, which I asked Steve if he kind of remembered the diameter of that and he thought it was about 15 inches. That's not important. But there is a drainage tile installed there, installed by our road crew several years ago. My understanding, you correct me, Steve, if I'm not correct, that tile goes down to the culvert, right? **Correct.** Which is on the north side of the road. So that tile then dumps out in the right of way, right where the culvert comes out as well too, right? **Yep.** So, my question is going to be the same kind of question we talked about today. Is there an obstruction in the right of way that you have identified that the township needs to take care of?

Young replied: Not that I can see right now, but that water's a little mucky. I can see the pipe down from the road, they're not that far apart. Rowe continued: you said if the water wasn't really muddy, you can see that drainage pipe right there. My question is if the only obstructions that could be there, to

my knowledge, unless someone corrects me, is that particular pipe that's in the ground or the culvert. And it would have, for our responsibility, would have to be in the right of way.

Hinners stated that was not true. 5589.06 does not say within the right of way.

Rowe continues: And Jason, you can talk in a second. I'm talking about the absolute right of way. And I started by, I have no problem with correcting anything that's in the right of way. What I will say is the Dunn property is still under litigation. There's an appeal. The question of, has there been a watercourse there on his property, not in a right of way or a ditch or anything like that? In my opinion, the case is already in litigation. The judge has made a ruling on it. There's been some appeals. The Attorney General's office is involved now and the EPA. I personally have no problem handling any issues in the right of way. On Mr. Dunn's personal property, I don't want to do anything that would put the township at risk whatsoever, doing that on his personal property. In the letter here, there's some gray area as far as what it's actually asking us to state. And I don't feel comfortable stating that currently. And I'll repeat that. The Vermilion Township Highway Superintendent notified the Board of Trustees of Vermilion Township that conditions of the property located at 12089 Cherry Road, Vermilion, Ohio are obstructing the ditch, drain or water course along Cherry Road and causing the water to be diverted upon Cherry Road and the adjacent roadway and the public right of way. I can't say that.

Baughman interjected: Steve, before say, January 1st, 2023, did Cherry Road flood at this frequency, at this level? Young answered "No". Baughman continued: Why do you, in your estimation as a 25-plus-year employee of the road department, believe that the road is now flooding on a regular basis?

Young answered: because behind the right of way, he built all that dirt. Same filled the ditch in, behind the right of way.

Baughman asked: It's your professional and qualified opinion that the property owners created an obstruction on private property that impacts the road. Is that accurate? Young answered "Yes".

Rowe said there is some gray areas, as far as the water course. There's been long discussions with the Erie County Engineer, whether there's actually been a ditch there or not. I'm not an engineer, so I just know what's been said.

Baughman stated: My concern is the road and you yourself have preached over and over that the road safety comes first. That's all we care about. And I agree with that. And the obstruction on private property is an ongoing problem for the road safety. I think that, as Jason's going to point out here in a second, that we have not only a right, but a legal obligation to make sure that the road is maintained safely. And if that means going onto somebody's property to clear an obstruction that impacts the road, then that's what we should be doing. I'll turn it over to Jason for the rebuttal to your question. About not going onto the property, that we don't have a right.

Rowe said: It's not so much a question. It's just a statement that if the issue is in the right of way, I have no problem clearing the right of way, taking care of what we need to. But the case is already in litigation. And the litigation is somewhat on the property and the dirt that's been on the property. And it's already in litigation. The attorney general's office is already involved with the EPA. I don't want to muddy the situation by making something, no pun intended, about the rain, mud. We got it. I don't want to make an error. And again, if it's in a right of way, we'll take care of it. And that's why I've asked our road superintendent, if you've identified an obstruction in a right of way, let's take care of it.

Hinners stated: So, your position is that if there's not an obstruction in the right of way, then you'll allow the road to continue to be flooded?

Rowe said: No, I don't want the road to flood at all. And as you know from the mediation meeting that we've had, there are things that the engineering department is supposed to be looking at. Case in point, a potential ditch on the south side of the road. Eric Dodrill assured us that he would give an estimate for that to see if a ditch can be installed on the south side of Cherry Road going down to Risdan Road, to where the catch basins are. Yes, there's an elevation problem there, that some of the elevation could potentially be piped.

Hinners commented: I'm not going to address that further out of attorney-client privilege, but you know for wherever that discussion has gone. I guess my point would be is if the work can be done within the right-of-way to address the flooding of the water, then that would be my preference is that it's done within the right of way. The statute doesn't restrict you within the right-of-way, but my preference would be that it's done within the right-of-way.

Rowe said: Mine as well. I stated that from the beginning. The problem that I don't want to see is if we're talking about this, what's the solution? What would the solution be? Digging a ditch on his property to create a waterway? I don't know. And how far will it go? I don't know.

Hinners replied: I think that's part of the discussion of why it said, "recommended contacting the Erie County Engineer's Office to find what that can be done". In my discussions with them, there's a belief that they can address the flooding on the roadway within the right of way. As to what that is, I don't know, but they need to consider it. But we know the cause of this.

Rowe asked: You're saying that Erie County Engineering Department seems to think that they know how to fix the flooding concern within the right of way?

Hinners continued: This immediate concern. This isn't like a long-term solution, but if they're going to be bound within the right of way, then there's some steps they believe they can take, if they were to dig into this, that potentially they could resolve it by staying within the right of way. It's not going to address the long-term issue.

Rowe said he's had conversations with Johnson and Young about the possibility of pumping the water out of the south side of the road, if possible, to try to direct it down the road to the catch basins at the base of Risdan Road. Some of the problem is the water has saturated in the ground. So, when it does rain, the dissipation of the water is slower. If the water was able to be pumped out from the south side of the road in somewhat of a controlled fashion for now, it would dissipate the water if possible. And from this time of the year, generally, if that water was pumped out, I don't think it would flood the road again until we figure out what's going on.

Hinners replied: I'm not an engineer. There's a statutory resolution to this. It's up to the board if you want to do it or not. It's not my call. I'm presenting it to you because I was notified of an issue of flooding on the road. And so that's your statutory resolution. If you choose to go otherwise, that's fine. If you have other alternatives to what you want to do, it's fine with me. You got a road half flooded.

Baughman asked Hinners: you drafted the resolution and the letter, in your opinion, are they both legally sound?

Hinners replied: Based off the factual information I had, if there's other information that needs to be corrected, then it can be modified.

Sexton asked: If we're working in the right of way, why the resolution? If we reach out to the Engineer's department and we say, we need a temporary solution to this problem. We know it's not going to be permanent, but we're working in the right of way. Why the resolution?

Hinners answered: It is still somebody's property. Their property would still go to the middle of the road. By going through this, it's providing the authority. Plus, it allows you to, if he's caused the obstruction, the case here is this applies to any drainage ditch. There wouldn't be a need for resolution because your drainage ditches are generally going to fall within the right of way of the property. It allows the Township to go in and do that work within the right of way or even outside of the right of way. And then those costs can be certified back against the property owner.

Sexton asked: So you're saying every time that we go into the right-of-way and there's an obstruction, that we have to remove something, we need a resolution?

Hinners replied: No, I'm not saying that's the case. There's a process to what's being done here. But yes, this statute applies to obstructing a ditch. The reason I feel that it's necessary to do a resolution here is just based on the circumstances of this property.

Sexton said: But we're working in the right of way. Hinners replied yes.

Baughman commented: to Young: If we dig out the right-of-way in the ditch, is that going to solve the water problem as you see it? Young answered: "No, it's already dug out". Baughman continued: How do we unplug the road? Do we want to put pipes and hoses all over everybody's yards and driveways or do we want to address the problem? Rowe said: Jason's already stated that the Erie County Engineers may have some ideas that we can do something within the right of way. I'm all for it.

Rowe moved to table the letter and the resolution. Sexton seconded the motion. Sexton said: I just need more information on what route that we can go and what the engineer's solution is to this. Baughman asked if they should try to get Erie County Engineer Eric Dodrill to attend and get his opinion. Sexton replied: I have no problem with that at all. I just need to know what the plan of attack is. If you have a question on why are you not ready to vote, to know exactly where we're at and how does this affect other litigation? I can ask Jason that. If it does, that it's currently in and what the engineers, if we are working in the right-of-way as stated, what their plan is, is all I need to know. You're asking me to vote on something that I don't have all the information. Baughman made a motion to adopt the resolution. Rowe and Sexton voted no. Baughman abstained. **20260810-01**

Johnson has been working with Knite Development on The Chardonnay Circle West Planned Unit Development (PUD) The proper steps to take were discussed. Rowe made a motion to table the discussion. Sexton seconded the motion. Rowe and Sexton voted to accept the motion to table. Baughman abstained. **20260710-02**

Baughman stated the Erie County Engineer and Knite Development would be asked to attend tomorrow.

Baughman recessed the meeting at 5:44pm.

Baughman called the meeting back to order on Tuesday, August 11th, 2026 at 5:00pm.

The roll call resulted as follows: Mr. Kenn Baughman was present.

Mr. Don Rowe & Mr. Keith Sexton were absent.

With no quorum present, Baughman adjourned the meeting at 5:01pm.