

**COURT OF COMMON PLEAS  
HANCOCK COUNTY, OHIO**

<b>ONE ENERGY ENTERPRISES INC.,</b>	:	
<b>12385 Township Road 215</b>	:	
<b>Findlay, OH 45840,</b>	:	<b>Case No.</b> _____
	:	
<b>vs.</b>	:	
	:	<b>Judge</b> _____
<b>BOARD OF ALLEN TOWNSHIP</b>	:	
<b>TRUSTEES OF HANCOCK</b>	:	
<b>COUNTY, OHIO</b>	:	
<b>PO Box 247</b>	:	
<b>12829 St. Route 613</b>	:	
<b>Van Buren, Ohio 45889,</b>	:	
	:	
<b>Defendant.</b>	:	

**COMPLAINT FOR DECLARATORY JUDGMENT, MONETARY FINE,  
ATTORNEYS' FEES AND INJUNCTIVE RELIEF**

Plaintiff One Energy Enterprises, Inc. (“One Energy”) for its Complaint against Defendant Board of Allen Township Trustees of Hancock County, Ohio (“Allen Township Board”), avers as follows:

**THE PARTIES**

1. Plaintiff One Energy Enterprises Inc. is a Delaware corporation with its principal place of business in Hancock County, Ohio.
2. Allen Township Board is a “public body” within the meaning of Section 121.22(B)(1) of the Ohio Revised Code and is, therefore, subject to the Ohio Open Meetings Act.

**JURISDICTION AND VENUE**

3. The Hancock County, Ohio, Court of Common Pleas has jurisdiction over this action for declaratory and injunctive relief pursuant to R.C. § 121.22(I).

4. Venue is proper in Hancock County pursuant to Rule 3(B) of the Ohio Rules of Civil Procedure and R.C. § 121.22(I)(1).

**FACTUAL BACKGROUND**

**A. Allen Township Trustees’ Mandatory Obligations Under the Open Meetings Act.**

5. The Open Meetings Act is to be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law. R.C. § 121.22.

6. Section 121.22(B)(1)(2) of the Ohio Revised Code defines a “meeting” as any prearranged discussion of the public business of a public body by a majority of its members.

7. The Ohio Supreme Court has made clear that a “meeting” can occur where the discussion is face-to-face, telephonic, by video conference, or electronically by e-mail, text, tweet, or by other forms of communication.

8. A public body may not circumvent the mandatory command of the Open Meetings Act by polling members or organizing serial inquiries and discussions.

9. Allen Township Board is required to hold all meetings open to the public, and it is required to conduct all deliberations as part of a public session, with limited exceptions that are inapplicable here.

10. Allen Township Board is required under R.C § 121.22 to “provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.”

11. As to regular meetings, Allen Township Board is statutorily required under R.C. § 121.22 to establish, by rule, a reasonable method that informs the public of the time and place of each regular meeting.

12. As to special meetings, Allen Township Board is statutorily required under R.C. § 121.22 to establish, by rule, a reasonable method that informs the public of the time, place, and purpose of each special meeting.

13. The purpose of a special meeting must be specifically stated in the notice. The affirmative notice requirements imposed by the Ohio Open Meeting Act are not satisfied by general statements.

14. A public body is only entitled to discuss at a special meeting those matters specifically noticed.

15. Pursuant to R.C. § 121.22, Allen Township Board is further obligated to promptly prepare, file and maintain minutes of all of its public meetings, which minutes are to be open to the public for inspection.

16. Any action taken by a “public body” that fails to comply with the mandatory requirements of the Open Meetings Act, including engaging in non-public deliberations and discussing matters at a special meeting not disclosed in the notice, is “invalid” as a matter of law. R.C. § 121.22(H).

17. “Any person may bring an action to enforce” the mandatory requirements of the Ohio Open Meetings Act “within two years after the date of the alleged violation. . . .” R.C. § 121.22(I)(1).

18. “Upon proof of a violation or threatened violation of [the Open Meetings Act] in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.”

**B. Allen Township Board's Adoption Of A Resolution To Proceed With Zoning Under Sections 519.02 To 519.25 Inclusive Of The Ohio Revised Code.**

19. On December 18, 2023, Allen Township Board noticed a special meeting to be held on December 20, 2023 (the "December 20 Special Meeting"). Exhibit A is a true and accurate copy of the notice that appeared in the *Courier*.

20. The notice issued to the public of this December 20 Special Meeting identified the purpose as: "***two*** resolutions (zoning and marijuana), a sportsplex lease renewal, 2024 road program and approval of current invoices." (Emphasis added.)

21. Allen Township Board posted a notice disclosing this same limited purpose on the Allen Township website. A true and accurate copy of the website posting is attached as Exhibit B.

22. Allen Township Board did not post an agenda on its website for the December 20 Special Meeting before conducting the meeting.

23. Upon information and belief, Allen Township Board did not otherwise publish or disseminate to the public an agenda by any other means prior to conducting the December 20 Special Meeting.

24. At the December 20 Special Meeting, Allen Township Board unanimously passed a resolution to proceed with township zoning under Sections 519.02 to 519.25 inclusive of the Ohio Revised Code (the "Zoning Resolution"). A true and accurate copy of the Zoning Resolution is attached as Exhibit C.

25. The Allen Township Board did not receive or entertain any public comment at the December 20 Special Meeting before passing the Zoning Resolution.

26. In fact, Chairman Flanagan expressly prohibited comments from the public at the special meeting.

27. The Allen Township Board did not conduct any deliberation during the December 20 Special Meeting before passing the Zoning Resolution.

28. Among other issues, the Zoning Resolution purports that the “Board of Allen Township Trustees has been requested to initiate the process to proceed with Township zoning,” but the Allen Township Board did not disclose, or discuss who had made such a request at the December 20 Special Meeting.

29. Further, the Zoning Resolution also purported that Allen Township Board “wish[ed] to avail itself of the powers conferred by Sections 510.02 to 519.25 inclusive of the Ohio Revised Code,” but the Allen Township Board offered no explanation why at the December 20 Special Meeting.

30. Following the adoption of the Zoning Resolution, Allen Township Board unanimously passed without comment a second resolution prohibiting the commercial growing and sale of marijuana.

**C. Allen Township Board’s Adoption of A Resolution Forming A Zoning Commission.**

31. The notice for the December 20 Special Meeting only identified two resolutions being considered: zoning and marijuana.

32. However, Allen Township Board unanimously passed another non-noticed resolution at the December 20 Special Meeting: a resolution to establish an Allen Township Zoning Commission Under Sections 519.02 to 519.25 Inclusive of the Ohio Revised Code (the “Zoning Commission Resolution”). A true and accurate copy of the Zoning Commission Resolution is attached as Exhibit D.

33. The Allen Township Board did not receive or entertain any public comment at the December 20 Special Meeting before passing the Zoning Commission Resolution.

34. The Allen Township Board did not conduct any deliberation during the December 20 Special Meeting before passing the Zoning Commission Resolution. Among other issues, the Zoning Commission Resolution purports that the “Board of Allen Township Trustees must establish a Township Zoning Commission for Allen Township comprised of five (5) members who reside in the unincorporated area of the township.”

35. Following the passage of the three resolutions detailed above, Allen Township Board advised the public that it could leave as the trustees would be working on “general business matters.”

36. In response to and reliance on this statement, members of the public left the meeting.

37. As it would turn out, however, Allen Township Board then conducted a non-noticed meeting with a majority of the newly appointed Zoning Commissioners.

38. Allen Township Board did not record, digitally or via tape, the December 20 Special Meeting or the non-noticed meeting that followed thereafter with the Zoning Commission.

### **COUNT I**

#### **(Open Meetings Act Violation—Failure to Provide Proper Notice of The December 20, 2023 Special Meeting)**

39. One Energy adopts and incorporates its previous allegations as if set forth herein.

40. Allen Township Board violated the Ohio Meetings Act by conducting public meetings without providing the requisite notice required under R.C. § 121.22(F).

41. Allen Township Board failed to provide adequate notice of the purpose of the December 20 Special Meeting. The general description provided did not sufficiently and reasonably inform the public of the purpose of the December 20 Special Meeting, including that

(a) there would be two resolutions as to “zoning”; (b) the purpose or intent of the “zoning resolutions”; (c) that zoning commission members would be selected; and (d) there would be an additional meeting with the zoning commission members following the December 20 Special Meeting.

42. Accordingly, Allen Township Board’s actions and omissions violated the Ohio Meetings Act and its decisions approving the Zoning Resolution and Zoning Commission Resolution are invalid and unenforceable.

**COUNT II**

**(Open Meetings Act Violation—Failure To Conduct All Deliberations In An Open Meeting)**

43. One Energy adopts and incorporates its previous allegations as if set forth herein.

44. Upon information and belief, Allen Township Board violated the Open Meetings Act by failing to conduct all deliberations on the Zoning Resolution and Zoning Commission Resolutions in open meetings and, further, conducting a non-public meeting with the newly-appointed members of the Zoning Commission.

45. Accordingly, Allen Township Board’s actions violated the Ohio Meetings Act and its decisions approving the Zoning Resolution and Zoning Commission Resolution are invalid and unenforceable.

**COUNT III**

**(Open Meetings Act Violation—Failure To Prepare Minutes In A Reasonable Time Period)**

46. One Energy adopts and incorporates its previous allegations as if set forth herein.

47. Allen Township Board conducted a regular board meeting on December 5, 2020 (the “December 5 Meeting”), but the minutes for such meeting were not completed or made available before the December 20 Special Meeting, even though the belatedly-produced minutes

of the December 5 Meeting reflect discussion of zoning issues. The timing of the two meetings would have reasonably required production of the December 5 Meeting minutes prior to the December 20 Special Meeting.

48. Allen Township Board violated the Open Meetings Act when it failed to promptly prepare, file or maintain minutes disclosing the contents of the December 5, 2020 meeting, which failure further compounded the inadequacy of the general notice issued for the December 20 Special Meeting.

### **COUNT III**

#### **(Open Meetings Act Violation—Failure To Adopt Rules Regarding Notices)**

49. One Energy adopts and incorporates its previous allegations as if set forth herein.

50. As required by R.C. § 121.22, Allen Township Board has not adopted a rule laying out the method that informs the public of the time and place of each regular meeting.

51. As required by R.C. § 121.22, Allen Township Board has not adopted a rule laying out the method that informs the public of the time and place of each special meeting.

52. As required by R.C. § 121.22, Allen Township Board has not adopted a rule allowing any person, including One Energy, to request and obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.

53. For any or all of the above-stated reasons, One Energy is entitled to a declaration that: (a) Allen Township Board has violated the Ohio Open Meetings Act by engaging in non-public deliberations, by failing to provide proper notice, failing to adopt a rule establishing the notice process(es), and failing to timely prepare minutes; and (b) as a result, the Allen Township Board's adoption of the Zoning Resolution and Zoning Commission Resolution



at its December 20 Special Meeting, and the resulting Resolutions themselves, are invalid, unenforceable, and void

54. One Energy is further entitled to temporary, preliminary, and permanent injunctive relief in the form of an order enjoining any attempt by Allen Township Board and/or anyone else in active concert or participation with it who receives notice thereof, from taking any steps to enforce and/or implement the invalid and void Zoning Resolution and Zoning Commission Resolution and compelling Allen Township Board's compliance with the Ohio Open Meetings Act.

WHEREFORE, One Energy prays for the following relief:

A. That the Court issue declaratory judgment declaring that that: (1) Allen Township Board has violated the Ohio Open Meetings Act by engaging in non-public deliberations, by failing to provide proper notice, failing to adopt rules governing notice, and failing to timely prepare minutes; and (2) as a result, Allen Township Board's adoption of the Zoning Resolution, Zoning Commission Resolution, and all other resolutions adopted at the December 20 Special Meeting are invalid, unenforceable, and void;

B. That the Court issue a temporary, preliminary, and/or permanent injunction enjoining any attempt by Allen Township Board and/or anyone else in active concert or participation with it who receives notice thereof, from taking any steps to enforce and/or implement the invalid and void Zoning Resolution and Zoning Commission Resolution, and compelling Allen Township Board compliance with the Ohio Open Meetings Act;

C. That One Energy recover the sum of \$500 from Allen Township Board as a civil forfeiture for each violation of the Ohio Open Meetings Act;

D. That One Energy recover its reasonable attorney's fees and court costs from the the Allen Township Board; and

E. Such other and further relief as this Court deems appropriate.

Respectfully submitted,

/s/ Marion H. Little, Jr.

Marion H. Little, Jr. (0042679)

Christopher J. Hogan (0079829)

ZEIGER, TIGGES & LITTLE LLP

3500 Huntington Center

41 South High Street

Columbus, Ohio 43215

(614) 365-9900

(614) 365-7900

little@litohio.com

zeiger@litohio.com

hogan@litohio.com

Attorneys for Plaintiff

1018575v.2

Notice in the Courier on December 18, 2023

Trustees, 7

hip trust-  
building,

ouncil, 7

Schools  
7:30 a.m.,

ip trust-  
office.

y Board  
:30 a.m.,  
m, com-

Budget  
11 a.m.,  
County

committee,  
lding.  
tee, 4:30  
nference

**Wednesday**

Bluffton Finance Commit-  
tee, noon, town hall.

Hancock County Educa-  
tional Services Center, 6:30  
p.m., ESC conference room.

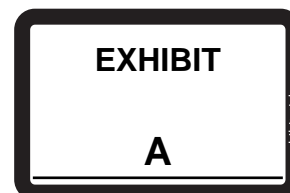
Board of Allen Township  
Trustees special meeting  
for two resolutions (zoning  
and marijuana), a sportsplex  
lease renewal, 2024 road pro-  
gram and approval of current  
invoices for payment, 7 p.m.,  
Allen Township Center.

Liberty-Benton Board of  
Education regular meeting, 7  
p.m., Liberty-Benton Board of  
Education Office.

**Thursday**


Hancock County Board  
of Commissioners, 9:30 a.m.,  
first-floor hearing room, com-  
missioners' office

its pe  
ing a  
a USI  
wild  
T  
held  
ing e  
Colu  
repre  
coun  
adop  
porti  
relea  
recre  
swing  
"V  
sure  
hold  
Jack  
of pu  
Ohio  
eratio  
Wi  
mals t  
tive, g



https://allentownship.com

Allen Township  
Hancock County  
Ohio



Home Officials Contact Us Minutes Facilities Policies Fire Dept. History Links Calendar

PO Box 247  
12829 St. Route 613  
Van Buren, Ohio 45689  
419-299-8828

Allen Township is located in North Central Hancock County in Northwest Ohio. Township government consists of three elected Trustees and an elected Fiscal Officer.

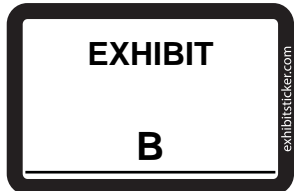
The Township is home to the Village of Van Buren, Van Buren State Park, three major distribution centers, the World's largest dishwasher manufacturing plant, and many other businesses, large and small.

**The Board of Allen Township Trustees will hold a Special meeting on Wednesday 12/20/23 at The Allen Township Center, 12829 SR 613, Van Buren, OH 45889, beginning at 7:00 p.m. The Trustees will be considering 2 resolutions (zoning and marijuana), a sportsplex lease renewal, 2024 road program and approval of current invoices for payment.**

How Townships Work

Other Information and Statistics

3:07 AM  
12/21/2023



RESOLUTION

December 20, 2023  
Resolution No. 122023

RE: THE INTENTION OF THE BOARD OF ALLEN TOWNSHIP TRUSTEES TO PROCEED WITH ZONING UNDER SECTIONS 519.02 TO 519.25 INCLUSIVE OF THE OHIO REVISED CODE.

-The Board of Allen Township Trustees, Hancock County, Ohio met in special session on the 20<sup>th</sup> day of December, 2023, with the following Trustees present:

Kevin Flanagan, Milford Smith, and Mike Stacy.

The Fiscal Officer advised that the Board followed the notice requirements of Section 121.22 of the Revised Code and the implementing rules adopted by the Board pursuant thereto for the meeting.

Kevin P. Flanagan moved for adoption of the following resolution:

**WHEREAS**, the Board of Allen Township Trustees have been requested to initiate the process to proceed with Township zoning under Ohio Revised Code, Chapter 519; and

**WHEREAS**, Before availing itself of the powers conferred by section 519.02 of the Revised Code, the board of township trustees shall pass a resolution declaring its intention to proceed under sections 519.02 to 519.25 of the Revised Code; and

**WHEREAS**, the Board may adopt such a resolution upon its own initiative; and

**WHEREAS**, the Board of Allen Township Trustees of Hancock County, Ohio wishes to avail itself of the power conferred by Sections 519.02 to 519.25 inclusive of the Ohio Revised Code.

**NOW BE IT THEREFORE RESOLVED**, that this Board of Trustees of Allen Township, Hancock County, Ohio declares its intention to proceed with township zoning under Ohio Revised Code, Chapter 519.

Mike Stacy seconded the Resolution and the roll being called upon its adoption, the vote resulted as follows:

Board of Allen Township Trustees

Kevin P. Flanagan yes  
Kevin Flanagan, Trustee

Milford Smith yes  
Milford Smith, Trustee

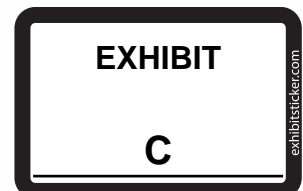
Michael Stacy yes  
Michael Stacy, Trustee

ATTEST:

[Signature]

Mark Schimmoeller, Fiscal Officer  
Board of Allen Township Trustees  
Hancock County, Ohio

DATE: 12/20/23



RESOLUTION

December 20, 2023  
Resolution No. 122023A

RE: THE ESTABLISHMENT OF AN ALLEN TOWNSHIP ZONING COMMISSION UNDER SECTIONS 519.02 TO 519.25 INCLUSIVE OF THE OHIO REVISED CODE.

The Board of Allen Township Trustees, Hancock County, Ohio met in special session on the 20<sup>th</sup> day of December, 2023, with the following Trustees present:

Kevin Flanagan, Milford Smith, and Mike Stacy.

The Fiscal Officer advised that the Board followed the notice requirements of Section 121.22 of the Revised Code and the implementing rules adopted by the Board pursuant thereto for the meeting.

Flanagan moved for adoption of the following resolution:

WHEREAS, the Board of Allen Township Trustees, upon its own resolution, has passed a resolution declaring its intention to proceed under sections 519.02 to 519.25 of the Revised Code; and

WHEREAS, the Board of Allen Township Trustees must establish a Township Zoning Commission for Allen Township comprised of five (5) members who reside in the unincorporated area of the township; and

WHEREAS, the members of the Allen Township Zoning Commission must be appointed by the Board of Allen Township Trustees with their terms arranged so that the term of one (1) member will expire each year over the next five years; and

WHEREAS, the Board of Allen Township Trustees has selected the five members of the Allen Township Zoning Commission.

NOW BE IT THEREFORE RESOLVED, that a Township Zoning Commission for <sup>Allen</sup>~~Delaware~~ Township is hereby established composed of five (5) members who reside in the unincorporated area of the Township. The members shall be appointed by the Board of Township Trustees and their terms shall be of such length and so arranged so that the term of one member will expire each year over the next five years; and

BE IT FURTHER RESOLVED, that the following residents of the unincorporated area of Allen Township be appointed as members of the Allen Township Zoning Commission:

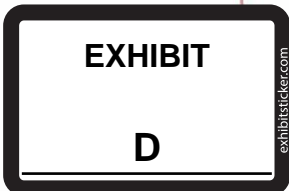
Heather Schlaeppi for term ending December 31, 2024

Nikki Goodwin for term ending December 31, 2025

Denise Timmerman for term ending December 31, 2026

Dallas Sterling for term ending December 31, 2027

Mark Maas for term ending December 31, 2028.



Milford Smith seconded the Resolution and the roll being called upon its adoption, the vote resulted as follows:

**Board of Allen Township Trustees**

Kevin P. Flanagan per  
Kevin Flanagan, Trustee

Milford Smith yes  
Milford Smith, Trustee

Michael Stacy YES  
Michael Stacy, Trustee

ATTEST:

[Signature]  
Mark Schimmoeller, Fiscal Officer  
Board of Allen Township Trustees  
Hancock County, Ohio

DATE: 12/20/23