Ohio Township Association

Easements, Drainage & Rights-of-way

Chris Bauserman, PE, PS
Delaware County Engineer
Introduction

Topics
- Road Right-of-Way
- Road Maintenance
- Drainage
- Road Signs
- Pavement Markings
Authority

- Ohio Revised Code
  - Permissive
  - Enabling
- OMUTCD
  - Signs
  - Pavement Markings
- Shall, Should and May
Road Right of Way

Types of Right of Way

- Easement
  - Most Common
  - The right to use land owned by others for a specific purpose
- **Fee Simple Ownership**
  - By deed
  - By plat
Road Right of Way

- Unrecorded Rights of Way
  - no existing records
  - original records are lost or destroyed
  - original records do not specify dimensions

- Remedies for unrecorded rights of way
  - Statutory Hearing/Declaration Process
  - By donation
  - By Court proceedings
  - By Historical context
Road Right of Way

- Public Utilities
  - Permits Required
    - County Commissioners shall approve permits on county and township roads
    - Township may approve permits on Township roads
    - Differences between Easements and Fee Simple right of way is important
    - Fees?
Road Right of Way

Utility permits can specify:

- Horizontal Location
  - Offset from pavement,
  - Ditches
  - Structures

- Vertical Location
  - Depth - underground
  - Overhead clearance
  - Impact on subsurface drainage
Road Right of Way

- Utility Relocation
  - Can be required due to
    - a. Safety
    - b. Construction
    - c. Maintenance
  - Relocation at the cost of the Utility Company, for those located in the road right of way
  - Relocation at the public agency cost, for those located outside of the road right of way
Road Right of Way

- Driveway Culvert Permits
  - ORC 5571.16 *The board of township trustees, by resolution, may require any person to obtain a permit before installing a driveway culvert or making any excavation in a township highway...*

- Permits usually consider:
  - Pipe size and Material
  - Construction Specifications
  - Location – Sight Distance, Safety
Obstructions in the Road Right of Way

- **ORC 5571.14** grants specific authority for removing obstructions
  - *A board of township trustees or township highway superintendent may determine that an object bounding any township road and located wholly or in part on the land belonging to the road interferes with snow or ice removal from, the maintenance of, or the proper grading, draining, or dragging of the road, causes the drifting of snow on the road, or in any other manner obstructs or endangers the public travel of the road.*
  - *The board or superintendent then may declare the object to be a public nuisance and order the owner, agent, or occupant of the land on or bordering upon which the object is maintained to remove it within thirty days.*
Obstructions in the Road Right of Way

If that person refuses or neglects to comply with the order, the board or superintendent shall have the object removed.

The expense incurred in that removal shall be certified to the county auditor and entered on the tax duplicate against that land, to be collected in the same manner as other taxes.
Obstructions in the Road Right of Way

Examples cited in this section include:

- fence,
- post,
- pole,
- athletic or recreational apparatus,
- rock, or berm,
- any vegetation,
- or any other object … interfering with or obstructing the township road
Obstructions in the Road Right of Way

- Mailboxes
  - Monument Mailboxes
  - Damage to Mailboxes
  - Policy for replacement
Obstructions in the Road Right of Way

- Trees and Brush
  - proximity to pavement - safety
  - blocks sight distance
  - blocks signage
  - interferes with maintenance
  - interferes with construction
Obstructions in the Road Right of Way

- 5543.14 grants specific authority for removing trees and brush
- … the board of township trustees may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the township roads of its township, as is necessary in the engineer's or board's judgment to facilitate the right of the public to improvement and maintenance of, and uninterrupted travel on, county and township roads.
- … board is not required to compensate the abutting landowner for trimming or removing such trees, shrubs, and other vegetation as is necessary to facilitate these rights.
Tree and Brush Cutting

Methods and Procedure
- By hand
- Mower or brush hog
- Boom Mower
- Advanced Notification
- Schedule / Deadline
- Disposition of Wood can depend on type of right of way
Obstructions in the Road Right of Way

- Blocked Culverts or Drainage Obstructions
  - Can be removed under ORC 5571.14
  - Must be for a public necessity
  - Not for an isolated private drainage problem
Road Construction and Maintenance

- **ORC 5571.01** A board of township trustees may construct, reconstruct, resurface, or improve any public road or part thereof under its jurisdiction...

- **ORC 5571.02** The board of township trustees shall have control of the township roads of its township ... and shall keep them in good repair.
Road Construction and Maintenance

- 5571.08 Snow Removal
  - ...the board of township trustees shall cause all the township roads within the township to be kept free from obstruction by snow.
Road Construction and Maintenance

- Force Account
  - Maintenance and Repair
    - Estimate/Assessment Form Required by County Engineer
    - Labor, Equipment and Materials
    - Cannot exceed $45,000
    - Estimate/Assessment Form not required under $15,000
Road Construction and Maintenance

- Force Account
  - Construction or Re-construction
    - Estimate/Assessment Form required by County Engineer
    - Labor, Equipment and Materials
    - Cannot exceed $15,000 per mile
    - Estimate/Assessment Form not required under $5000 per mile
Road Construction and Maintenance

- **Contract**
  - Competitive Bidding must be used if Force Account Estimates are exceeded
  - Competitive Bidding may be used for projects not exceeding Force Account Limits
  - Contracts may be awarded **without** competitive bids for
    - Road Maintenance and Repair Contracts for $45,000 or less
    - Road Construction or Re-Construction Contracts for $15,000 per mile or less
Road Drainage

- Road ditches are considered part to the road and subject to the various road improvement statutes
- ORC 5571.15 Authorizes the board to “improve the drainage of water from the surface of the road”
Road Drainage

- Roadway Drainage
  - Surface Drainage – Ditches
  - Subsurface Drainage – Storm Sewers and tile
Road Drainage

Why is Drainage Important?
Road Drainage

- Enclosing ditches

NOTES:
1. Pipe shall be a minimum of 12” diameter and shall in no case be smaller than existing driveway pipes in the ditch line.
2. Pipe material shall be corrugated polyethylene smooth lined pipes (perforated).
3. Pipe shall be bedded and backfilled as shown with #8 or #57 aggregate.
4. A ditch of 12” minimum depth shall be graded over the pipe with 18” of cover. If the existing ditch is not deep enough to provide for the proposed installation, then the ditch enlargement will not be approved.
5. The owner shall notify the County or Township 24 hours prior to commencing work and shall not cover the pipe until inspection and approval by the County/Township.
No authorization to:

- Improve drainage from private property adjacent to the road
- Make drainage improvements beyond those related to a public road
- Intervene in private property drainage problems or disputes
Road Drainage

- Drainage Structures on Township Roads
  - Bridges – Span or diameter greater than 10 feet (County)
  - Culverts – Span or Diameter of less than 10 feet (Township)
Road Signs and Pavement Markings

- Shall be installed in accordance with the Ohio Uniform Manual of Traffic Control Devices (OMUTCD)
  - Shall – required
  - Should - recommended
  - May - permitted or allowed

- Available at: www.dot.state.oh.us
Road Signs and Pavement Markings

- **Required Signs - Shall**
  - Regulatory Signs
    - Stop
    - Speed Limits (when reduced)
  - Warning Signs
    - Stop Ahead (with exception)
    - Curve w/ recommended speed plaques (sometimes)
Road Signs and Pavement Markings

- Retroreflectivity
  - Nighttime visibility
  - Required for Regulatory and Warning Signs
- June 2014 Implementation
  - Plan for Compliance
    - Night inspections
    - Reflectometer
  - Record Keeping
Road Signs and Pavement Markings

- Sign Inventory
  - Regular Inspection
    - condition
    - mounting
    - location
  - Record Keeping
Road Signs and Pavement Markings

- Pavement Markings
  - UMTCD addresses
    - Centerlines
    - Edge lines
    - Stop Bars
  - Material
  - Location
Road Signs and Pavement Markings

- Center lines **shall** be used on:
  - All urban arterial and collector roads having a 20 foot or more traveled width **and** ADT greater than 6,000
  - Any paved street with 3 or more lanes
Road Signs and Pavement Markings

- Center lines **should** be used on:
  - All urban arterial and collector roads having a 20 foot or more traveled width and ADT greater than 4,000
  - All rural arterial and collector roads having a 18 foot or more traveled width and ADT greater than 3,000
  - Any other road where engineering study determines the need

- Center lines **may** be used on:
  - Any road over 16 feet traveled width
Road Signs and Pavement Markings

- Stop Bars **should** be used at Stop Signs

- *placed not more than 30 feet or less than 4 feet from the nearest edge of the intersecting traveled way*
Stop Signs and Speeding

- Stop signs **should not** be used to control speed
- Studies show they are ineffective
- Create more safety problems
Railroads and Stop Signs

- New Ohio Law requires Stop signs at all passive crossings
  - without actuated Lights or Lights and Gates
- ORDC and railroads are responsible for the installation of the stop signs
- Local Governments are responsible for installation of “Stop Ahead” signs and Stop Bars (should)
- Effective 2014
Questions?

Chris Bauserman
Delaware County Engineer
740-833-2400
cbbauserman@co.delaware.oh.us