

**IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO**

State of Ohio ex rel.  
BRIAN M. AMES  
2632 Ranfield Rd, Mogadore, OH 44260

Relator,

and

BRIAN M. AMES  
2632 Ranfield Rd, Mogadore, OH 44260

Plaintiff,

v.

CONCORD TOWNSHIP BOARD OF TRUSTEES  
7229 RAVENNA RD, PAINESVILLE, OH 44077

Respondent/Defendant

**CASE NO.:**

**JUDGE:**

**VERIFIED COMPLAINT IN MANDAMUS  
FOR PREPARATION OF FULL AND  
ACCURATE MEETING MINUTES AND  
DECLARATORY JUDGMENT AND  
INJUNCTION FOR ENFORCEMENT OF  
R.C. 121.22**

**JURISDICTION**

1. This Court has original jurisdiction of this action.

**VENUE**

2. The activity that gave rise to this claim for relief was conducted in Lake County. Therefore, venue is proper in Lake County pursuant to Civ.R. 3(C)(3).

**STANDING**

3. Relator/Plaintiff Brian M. Ames ("Mr. Ames") has statutory standing under R.C. 2731.04 and R.C. 121.22(I)(1) to bring this action.

**PARTIES**

4. Mr. Ames is a citizen and taxpayer who resides in Randolph Township, Portage County, Ohio.

5. Respondent/Defendant Concord Township Board of Trustees (the “Board”) is the board of township trustees consisting of three members established by R.C. Section 505.01 for Concord Township.

#### **STATEMENT OF FACTS**

6. The Board is currently comprised of three members: Amy L. Lucci, Carl H. Dondorfer, and Morgan R. McIntosh.
7. During the period of time relevant to this Complaint, the Board was comprised of three members: Amy L. Lucci, Carl H. Dondorfer, and Morgan R. McIntosh.
8. The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session. R.C. 121.22(G).
9. Members of a public body may adjourn into executive session only after a majority of a quorum of the public body approves the motion by a roll call vote.
10. The vote on the motion to hold an executive session may not be by a show of hands, and the public body should record the vote in its minutes.
11. A public body may hold an executive session only for one or more of the approved matters or purposes listed in R.C. 121.22(G) for which the executive session is to be held.
12. R.C. 121.22(G) imposes a duty on the public body to inform the public of the approved purpose(s) or matter(s) for which the executive session is to be held:

If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (8) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be

considered at the executive session.

13. Before a public body may hold an executive session, it must state in a motion one or more of the approved matters or purposes listed in R.C. 121.22(G).
14. A public body may hold an executive session to discuss pending litigation but only with an attorney for the public body and only for disputes involving the public body that are the subject of pending or imminent court action.
15. A public body may not hold an executive session to discuss pending litigation solely amongst themselves.
16. A public body may not hold an executive session to discuss litigation pending somewhere other than a court such as the Public Utilities Commission or a county board of revision.
17. A public body may hold an executive session only at a regular or special meeting. R.C. 121.22(G).
18. A public body must keep full and accurate minutes of its meetings. *White v. Clinton Cty. Bd. of Commrs.*, 76 Ohio St.3d 416, 420 (1996); *State ex rel. Patrick Bros. v. Putnam Cty. Bd. of Commrs.*, 3d Dist. Putnam No. 12-13-05, 2014-Ohio-2717; *State ex rel. Ames v. Portage Cty. Board of Commrs.*, 165 Ohio St.3d 292, 2021-Ohio-2374.
19. A public body's minutes are not required to be a verbatim transcript of the proceedings, but they must include enough facts and information to permit the public to understand and appreciate the rationale behind the public body's decisions.
20. The Supreme Court of Ohio held that minutes must include more than a record of roll call votes, and that minutes are inadequate when they contain inaccuracies that are not corrected. *White v.*

*Clinton Cty. Bd. of Commrs.*, 76 Ohio St.3d 416, 419 (1996); *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54,58 (2001).

21. A public body cannot rely on sources other than their approved minutes to argue that their minutes contain a full and accurate record of their proceedings. *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 58 (2001); *State ex rel. Patrick Bros. v. Putnam Cty. Bd. of Commrs.*, 3d Dist. Putnam No. 12-13-05, 2014-Ohio-2717.
22. The Board's meeting minutes are a permanent record of its proceedings.
23. Trustee Amy L. Lucci has not personally received Open Meetings Act training.
24. Trustee Carl H. Dondorfer has not personally received Open Meetings Act training.
25. Trustee Morgan R. McIntosh has not personally received Open Meetings Act training.
26. Administrator Andrew Rose has not personally received Open Meetings Act training.
27. Zoning Director Heather Freeman has not personally received Open Meetings Act training.
28. Fiscal Officer John Patriarca has not personally received Open Meetings Act training.
29. Legal Counsel Mary Brigid "Bridey" Matheney has not personally received Open Meetings Act training.
30. Service Director Tim Brown has not personally received Open Meetings Act training.

#### **COUNT 1**

##### **Holding An Executive Session Outside A Regular Or Special Meeting**

31. Relator incorporates the above paragraphs as if fully rewritten herein.
32. On April 2, 2025, the Board held its customary "Office Hours" at 5:00pm.
33. The Board's next regularly scheduled meeting was to be held at 6:00pm that same day. (Exhibit 1.)
34. Trustees Morgan R. McIntosh and Amy L. Lucci were present that day. (Exhibit 1.)

35. Trustee Carl H. Dondorfer was absent that day. (Exhibit 1.)
36. During said “Office Hours”, the Board held an executive session at 5:08pm, to wit: “the Trustees entered into Executive Session during Office Hours”. (Exhibit 1.)
37. Trustee McIntosh made a motion to enter into Executive Session to discuss imminent litigation pursuant to Ohio Revised Code 121.22 (G) (3). (Exhibit 1.)
38. Trustee Lucci seconded said motion.
39. Zoning Director Heather Freeman, Fiscal Officer John Patriarca, Administrator Andrew Rose, Legal Counsel Mary Brigid “Bridey” Matheney, and Service Director Tim Brown were invited to join the Executive Session. (Exhibit 1.)
40. Legal Counsel Bridey Matheney did not advise Trustees McIntosh and Lucci that they could not legally hold an executive session during office hours.
41. Administrator Andrew Rose did not advise Trustees McIntosh and Lucci that they could not legally hold an executive session during office hours.
42. Service Director Tim Brown did not advise Trustees McIntosh and Lucci that they could not legally hold an executive session during office hours.
43. Fiscal Officer John Patriarca did not advise Trustees McIntosh and Lucci that they could not legally hold an executive session during office hours.
44. Zoning Director Heather Freeman did not advise Trustees McIntosh and Lucci that they could not legally hold an executive session during office hours.
45. A roll call vote was taken: Lucci— yes; Mr. McIntosh — yes. (Exhibit 1.)
46. At 5:35 pm, Trustee McIntosh made a motion to exit out of Executive Session. (Exhibit 1.)
47. Trustee Lucci seconded. Vote 2 ayes. (Exhibit 1.)

48. The Board has violated and threatens to continue violating R.C. 121.22 by holding executive sessions outside a regular or special meeting in violation of R.C. 121.22(G).
49. All resolutions, rules, and formal actions adopted in an open meeting that result from deliberations in executive sessions held outside a regular or special meeting are invalid by the operation of R.C. 121.22(H).

**COUNT 2**  
**Holding A Meeting Without Notice To The Public**

50. Relator incorporates the above paragraphs as if fully rewritten herein.
51. On April 2, 2025 at about 5:00pm the Board held a meeting (the “Unnoticed Meeting”) as defined by R.C. 121.22(B)(2).
52. Said meeting was not a regularly scheduled meeting.
53. Said meeting was not a special meeting.
54. The Board provided no notice to the public of said meeting.
55. The Board has violated and threatens to continue violating R.C. 121.22 by holding meetings in violation of R.C. 121.22.

**COUNT 3**  
**Failure To Prepare And Maintain Full And Accurate Minutes**

56. Relator incorporates the above paragraphs as if fully rewritten herein.
57. The Board has not prepared minutes for the Unnoticed Meeting.
58. The Board has violated and threatens to continue violating R.C. 121.22 by failing to prepare full and accurate minutes of its meetings.

**PRAYER FOR RELIEF**

WHEREFORE, Relator Brian M. Ames prays for judgment against Respondent Concord Township

Board of Trustees and that this Court:

- (a) Issue a declaratory judgment finding that Respondent Concord Township Board of Trustees has violated the provisions of R.C. 121.22.
- (b) For the violations set forth in Count 1, as mandated by R.C. 121.22(I)(1), issue a statutory injunction enjoining the Concord Township Board of Trustees and its members from holding an executive session outside a regular or special meeting.
- (c) For the violations set forth in Count 2, as mandated by R.C. 121.22(I)(1), issue a statutory injunction enjoining the Concord Township Board of Trustees and its members from holding a meeting without providing notice to the public.
- (d) For the violations set forth in Count 3, as mandated by R.C. 121.22(I)(1), issue a statutory injunction enjoining the Concord Township Board of Trustees and its members to maintain full and accurate minutes of all meetings.
- (e) Issue a writ of mandamus ordering the Concord Township Board of Trustees to prepare full and accurate minutes for the meeting it held during “office hours” on April 2, 2025.
- (f) Order Respondent Concord Township Board of Trustees to pay to Relator a five hundred dollar civil forfeiture for each violation as mandated by R.C. 121.22(I)(2)(a).
- (g) Award to Relator Brian M. Ames, under R.C. 121.22(I)(2)(a), all his court costs and any reasonable attorney's fees he may incur.
- (h) Any other relief which this Court deems just and equitable.

Respectfully Submitted,



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Brian M. Ames  
Relator *pro se*


**AFFIDAVIT OF VERIFICATION**

State of Ohio            )  
                                  )SS  
County of Portage        )

Now comes Brian M. Ames, who, having first been duly cautioned and sworn deposes and says  
as follows:

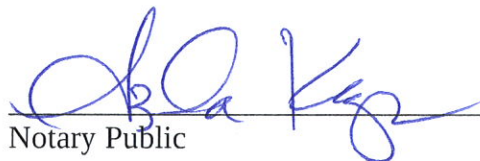
1. I am, and have been during all time periods relevant to the foregoing Complaint, a citizen and taxpayer residing in Portage County, Ohio.
2. I have read the foregoing Complaint and swear that I have personal knowledge of the facts stated therein and that the facts stated therein are true and accurate to the best of my information, knowledge, and belief.
3. Exhibit 1 is the minutes for the April 2, 2025 regularly scheduled meeting of the Concord Township Board of Trustees.
4. Exhibit 1 attached hereto is a true and accurate copy of the original.

Further, Affiant sayeth naught.

  
Brian M. Ames

Before me, a Notary Public in and for said county and state, personally appeared Brian M. Ames who swore to the truth of the foregoing Verification and subscribed same in my presence at Rootstown, Ohio on this 24<sup>th</sup> day of May, 2025.



  
Notary Public



**RECORD OF PROCEEDINGS****Minutes of Concord Township Board of Trustees Meeting****Held on April 2, 2025**

This meeting was held via YouTube Live Streaming.

The Concord Township Board of Trustees met for a Regular meeting on April 2, 2025, at 6:00 pm, in Town Hall, located at 7229 Ravenna Road. Chairperson Amy L. Lucci called the meeting to order and led in the Pledge of Allegiance. Trustees present were Amy L. Lucci and Morgan R. McIntosh. Carl H. Dondorfer was absent

**APPROVAL OF MINUTES:**

March 19, 2025 Regular Trustees Meeting Minutes. Mr. McIntosh moved to approve the March 19, 2025 Regular Trustees Meeting Minutes. Mrs. Lucci seconded. Vote 2 ayes.

**ELECTED OFFICIALS REPORT:****A. FISCAL OFFICER – John Patriarca**

Mr. Patriarca reviewed the state of Concord Township finances since the last meeting.

**B. TRUSTEES**

Mr. McIntosh and Mrs. Lucci discussed Concord Township business since the last meeting.

**DEPARTMENT REPORTS:****A. ADMINISTRATION DEPT. – Andy Rose, Administrator**

Andy Rose, Administrator, noted, "To capture events for the record, the Trustees entered into Executive Session during Office Hours." At 5:08 pm, Mr. McIntosh made a motion to enter into Executive Session to discuss imminent litigation pursuant to Ohio Revised Code 121.22 (G) (3) and to have Ms. Freeman, Mr. Patriarca, Mr. Rose, Ms. Matheney and Mr. Brown to join the Executive Session. Roll Call Vote: Mrs. Lucci – yes; Mr. McIntosh – yes. Vote 2 ayes. At 5:35 pm, Mr. McIntosh made a motion to exit out of Executive Session. Mrs. Lucci seconded. Vote 2 ayes.

Mr. Rose also covered issues pertaining to the general business of the Township as well as reviewed the Service Department Asphaltic Cement Products bid opening on March 25, 2025. Bids were received from: Osborne Concrete and Stone, Cuyahoga Asphalt Materials, Kokosing Materials Inc., Osborne Inc., and Grand River Asphalt Company. All submitted bids were reviewed / approved by the Service Dept. Director and Administrator.

**B. FIRE DEPT. – Chief Sabo**

Chief Sabo reviewed the Fire Department's March activity.

**C. SERVICE DEPT. – Tim Brown, Service Director**

Tim Brown, Service Director, reviewed the Service Department's March activity in Concord Township.

**D. ZONING DEPT. – Heather Freeman, Zoning Director**

Heather Freeman, Zoning Director, reviewed the Zoning Department's March activity in Concord Township.

**E. RECREATION DEPT. – Sean Supler, Recreation Director**

Sean Supler, Recreation Director, reviewed current and upcoming programs in Concord Township.

**F. LAKE COUNTY SHERIFF'S OFFICE – Sheriff's Office**

Lt. Musleh read the Sheriff Department's March activity report in Concord Township.

**AUDIENCE:**

None

**OLD BUSINESS:**

None

**RECORD OF PROCEEDINGS****Minutes of Concord Township Board of Trustees Meeting****Held on April 2, 2025****NEW BUSINESS:**

- A. AUTHORIZE TOWNSHIP ADMINISTRATOR TO SIGN A SETTLEMENT AGREEMENT AND RELEASE BETWEEN FGMA ARCHITECTS INC. AND CONCORD TOWNSHIP. Mr. McIntosh moved to authorize the Township Administrator to sign a settlement agreement and release between FGMA Architects Inc. and Concord Township. Mrs. Lucci seconded. Vote 2 ayes.
- B. SERVICE DEPT. ACCEPT ALL BIDS FOR STONE, ASPHALT, CONCRETE & LIMESTONE PRODUCTS. Mr. McIntosh moved to accept all bids for the Service Dept., Stone, Asphalt, Concrete and Limestone products. Mrs. Lucci seconded. Vote 2 ayes.
- C. APPROVE PO IN THE AMOUNT OF \$23,250.00 TO SHEPP ELECTRIC FOR A NEW GENERATOR AT TOWN HALL. Mr. McIntosh moved to approve PO in the amount of \$23,250.00 to Shepp Electric for a new generator at Town Hall. Mrs. Lucci seconded. Vote 2 ayes.
- D. READ LAKE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES PROCLAMATION. Mr. Rose read the Lake County Department of Job and Family Services Proclamation.
- E. FUTURE MEETINGS & ANNOUNCEMENTS:

4/9 7:00 PM BZA / Town Hall

4/16 5:00-6:00 PM TRUSTEE OFFICE HOURS / Conference Room

6:00 PM TRUSTEE MEETING / Town Hall

Upon proper motion the meeting was adjourned at 6:33 pm.

For financial information go to: [checkbook.ohio.gov](http://checkbook.ohio.gov)



Amy L. Lucci, Chairperson



John M. Patriarca, Fiscal Officer