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Bedford Twp. won't appeal Whitman rezoning case Board, attorney cite cost of further action

TEMPERANCE -- Bedford Township officials decided Tuesday night not to appeal the Monroe County Circuit Court decision in the Whitman Ford rezoning lawsuit.

After a closed-door meeting with township attorney Philip Goldsmith, the township board voted 7-0 to give up the legal battle with Jon Whitman, president and owner of the car dealership, over the zoning of property he owns at Lewis Avenue and Sterns Road.

Judge Joseph Costello, Jr., last month overturned results of a May, 2009, referendum that reversed the board's zoning changes enacted in December, 2008, on five parcels of the Whitman auto dealership.

The judge's decision, reached after a four-day trial, also allowed for the commercial zoning that Mr. Whitman sought on another parcel just west of the dealership.

The township board denied the rezoning request on the eight-acre parcel and subsequently took steps to change the zoning from residential to professional office building use. The board dropped the modification after the referendum vote.

Mr. Goldsmith, who represented the township at trial, Tuesday night advised the board against pursuing the appeal, in part because the appellate panel would have to find Judge Costello's decision was clearly erroneous in applying trial testimony and exhibits to the law. "I don't believe the township would be successful," he said. "I have given the opinion to the township board ... that it would be unfruitful for them to claim an appeal."

Clerk Bob Schockman said it would not be in the best financial interests of the township to continue the legal battle.

"I wish I could vote to appeal this case. I make no bones about it. I would like to see it appealed," he said. "An appeal is unlikely to go anywhere and it will cost us money that we simply haven't got."

The township has incurred about \$48,000 in legal bills to defend itself.

"We've gone as far as we can with this for now on this lawsuit. We can't win an appeal," Supervisor Walt Wilburn said.

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