

BERLIN TOWNSHIP TRUSTEES

7:00 p.m.

Regular Meeting

January 14,

2008

HELD AT: Berlin Township House, 3271 Cheshire Rd., Delaware, OH

CALL TO ORDER: Phil Panzarella , Trustee Chairman

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Tom D'Amico.

ROLL CALL: Phil Panzarella, Ron Bullard and Tom D'Amico.

ATTENDANCE:

Public Comment: Panzarella reviewed the rules for public comment. Hearing no request for public comment the board moved on to the next agenda item.

Approval of Minutes

**RESOLUTION
08-01-37**

MOVE TO APPROVE THE YEAR END MEETING MINUTES FROM DECEMBER 28, 2007 AND TO DISPENSE WITH THE READING

Motion: Panzarella

Second:

Minutes will be posted to the web site. Bullard and D'Amico were either not trustees at the time of the December 28, 2007 meeting or did not attend meeting.

**RESOLUTION
08-01-38**

MOVE TO APPROVE THE ORGANIZATIONAL MEETING MINUTES FROM JANUARY 1, 2008 AND TO DISPENSE WITH THE READING

Motion: Bullard

Second: Panzarella

Vote: D'Amico yes, Bullard yes and Panzarella yes.

OLD BUSINESS:

Video Service Provider- Panzarella said there has been a slight change in the law regarding franchise fees. He said there is a resolution submitted by the Prosecutor's Office to be adopted by the board. Panzarella said the Fiscal Officer will post the resolution in the Record of Proceedings.

**RESOLUTION
08-01-39**

DETERMINE VIDEO SERVICE PROVIDER FEE TO BE PAID BY A VIDEO SERVICE PROVIDER OFFERING VIDEO SERVICE IN THE TOWNSHIP PURSUANT TO A STATE AUTHORIZATION; AND AUTHORIZING THE TOWNSHIP FISCAL OFFICER TO GIVE NOTICE TO THE VIDEO SERVICE PROVIDER OF THE PROVIDER FEE

PREAMBLE

WHEREAS, the Ohio General Assembly enacted Sections 1332.21 through 1332.34 of the Ohio Revised Code, to be effective September 24, 2007, to provide a statewide "uniform regulatory framework" for the provision of cable television and/or other video service, which will substantially reduce Berlin Township's traditional franchising authority to regulate cable and/or video service offered in the Township using facilities located along the public roadways in the Township; and

WHEREAS, the Township has a cable television franchise agreement with Insight Communications, Inc. (hereinafter "Insight Communications") pursuant to which Insight Communications pays franchise fees in the amount of three percent (3%) of gross revenues; and

WHEREAS, pursuant to R.C. Section 1332.23, any new video service provider intending to provide video service to subscribers in the Township must apply for and obtain a video service authorization from the Director of the Ohio Department of Commerce; and

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WHEREAS, R.C. Section 1332.23 also permits a cable operator with an effective franchise agreement to terminate its franchise with the Township, at its option, by applying for a State-issued video service authorization when a competitive video service provider either gives notice that it will begin providing service to subscribers in the Township or actually begins providing service to subscribers in the Township, or if the FCC determines that the cable operator is subject to "effective competition" in the Township pursuant to 47 CFR 76.907; and

WHEREAS, under R.C. Section 1332.23, a video service provider that is providing service to subscribers in the Township pursuant to a State-issued video service authorization can be required to pay the Township a video service provider fee ("VSP Fee") based on a percentage of the provider's "gross revenues" derived from providing video service in the Township, not to exceed five percent (5%) of such revenues; and

WHEREAS, R.C. Section 1332.32 requires that the percentage of gross revenues on which VSP Fees are paid in a given calendar quarter must be the same as the percentage of gross revenues that a cable operator pays pursuant to a franchise agreement that is in effect during that same calendar quarter, or if there is more than one such franchise of a cable operator in effect, the lowest such percentage shall be used; and

WHEREAS, R.C. Section 1332.32 further provides that if there is no effective franchise agreement under which franchise fees are payable for a given calendar quarter, the VSP Fee shall be zero percent (0%) of gross revenues, unless the Township determines by resolution that the VSP Fee will be a percentage of gross revenues not to exceed five percent (5%) of gross revenues; and

WHEREAS, R.C. Section 1332.32(C)(2) further requires the Township to provide all video service providers offering service in the Township with notice of the VSP Fee requirements within ten (10) days of receiving notice from the video service provider that it will begin offering service in the Township, or the video service provider is not required to pay the VSP Fee to the Township; and

WHEREAS, R.C. Section 1332.32(B)(2)(g) provides that the VSP Fee is paid on a base of gross revenues consisting of revenues received from subscribers only, unless the Township specifically determines, by resolution uniformly applicable to all video service providers, that advertising revenues also be included in the base of gross revenues on which the VSP Fee is paid; and

WHEREAS, R.C. Section 1332.32(B)(2)(g) requires the Township to promptly notify affected video service providers of the resolution determining to include advertising revenues in the base of gross revenues on which the VSP Fee is paid, but provides that the requirement to include advertising revenues in the base of gross revenues does not take effect until the first day of the first calendar quarter that begins more than thirty (30) days after giving such notice; and

WHEREAS, in order to minimize the negative financial impact on the Township it is the intent of this Board of Township Trustees that the Video Service Provider Fee shall be as equivalent as possible to the franchise fees required by the Township's current franchise; and

WHEREAS, in order to provide timely notice to a video service provider of the VSP Fee, it is necessary for this Board of Township Trustees to determine now that the percentage of gross revenues on which the VSP Fee will be paid is Three percent (3%) and that advertising revenues shall be included in the base of gross revenues on which the VSP Fee is paid, and to authorize the Township Fiscal Officer to provide notice of the VSP Fee to a video service provider within ten (10) days of the Township receiving notice that video service provider will begin providing service in the Township;

NOW THEREFORE, upon motion of Panzarella, seconded by Bullard, BE IT RESOLVED BY THE BOARD OF TOWNSHIP TRUSTEES OF BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO, (HEREINAFTER THE "BOARD") THAT THE FOLLOWING RESOLUTION BE AND IT HEREBY IS ADOPTED:

Section 1. Subject to Ohio Revised Code Section 1332.23 taking legal effect, in accordance with the requirements of said R.C. 1332.32 enacted thereby, all video service providers providing video service in the township pursuant to a video service authorization obtained from the Director of the Ohio Department of Commerce shall pay Video Service Provider Fees ("VSP Fees") in the amount of Three percent (3%) of gross revenues received from providing video service in the Township, which gross revenue base shall include advertising revenues. The VSP Fee shall be paid quarterly, not sooner than forty-five (45) days nor later than sixty (60) days after the end of each calendar quarter.

Section 2. No later than ten (10) days from receipt of notice from a video service provider that it will begin providing video service in the Township pursuant to a State-issued video service authorization, the Township Fiscal Officer is authorized and directed to provide such video service provider with notice of the VSP Fee as determined by this Board of Township Trustees above, which

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notice shall be delivered in a manner that provides for proof of timely delivery or such other manner as may be practicable.

Section 3. The Board finds and determines that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall take effect and be in force from and after the earliest time provided by law.

ADOPTED: January 14, 2008

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BOARD OF TRUSTEES

Motion: Panzarella

Second: Bullard

Vote: D'Amico yes, O'Brien yes and Panzarella yes.

CEMETERY:

Bullard said he will be working with Hart and Buell in the next couple of weeks to see if there is a way to do the foundations less expensively. Panzarella said he has talked with Stewcare and asked them to be careful with the chipping of the foundations. Panzarella said we would like to be notified if they crack a foundation. D'Amico will notify Stewcare regarding signed contract for 2008.

FIRE DEPARTMENT:

Panzarella said the fire department submitted a requisition to have the front and rear brake pads, rotors and rear seals replaced on the grass truck.

RESOLUTION

08-01-40

MOVE TO APPROVE PAYMENT OF \$1,225.00 TO GRAHAM FORD FOR THE REPLACEMENT OF FRONT AND REAR BRAKE PADS, ROTORS AND REAR SEALS ON THE GRASS TRUCK

Motion: Bullard

Second: Panzarella

Vote: Panzarella yes, D'Amico yes and Bullard yes.

Job Descriptions- Panzarella said this has been discussed with a previous board. He said fire department have made their job descriptions as part of their SOGs until a township employee handbook is adopted. Bullard said computer skills are is not mentioned in the descriptions. Panzarella said he would add it as a modification.

RESOLUTION

08-01-41

MOVE TO ADOPT SUBMITTED FIRE DEPARTMENT JOB DESCRIPTIONS FOR FIRE CHIEF, ASSISTANT CHIEF, LIEUTENANTS AND FIREFIGHTERS DATED 1/14/2008 WITH ADDITION OF THE PHRASE REQUIRED COMPUTER SKILLS

Motion: Panzarella

Second: Bullard

Vote: D'Amico yes, Bullard yes and Panzarella yes

FISCAL OFFICE

Inventory- Cannon said the inventory was approximately 90% completed. In preparing for the 2008 inventory, I sent lists of both active and inactive items to each department. I requested items be accounted for by physical count. Using both lists department heads were to note items accounted for and the accuracy of information I had, items stored by intended to be used at another time and items to be removed and the method of disposal. I am presenting the updated list of items to be removed and request a resolution for said disposal approval. Cannon said the items to be removed are lost, broken, worn out and out of date or no longer in the township's possession. The Trustees reviewed the 10 page report. Panzarella noted that in the Chief's SOG he is held accountable for lost items. He also commented on the practice the fire department has had of not turning in broken items to the insurance company. Bullard said he is concerned if the items are taken out of

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inventory and show up later the items are free game to be taken. Panzarella said there is a procedure to get the items back onto an active list. D'Amico said the items should be removed to make the inventory more accurate. Cannon said the active inventory will be submitted to OTARMA.

**RESOLUTION
08-01-42**

MOVE TO ACCEPT THE DISPOSAL INACTIVE LIST FROM THE FISCAL OFFICE DATED 1/11/2008- ALL LISTED ITEMS TO BE REMOVED FROM INVENTORY

Motion: Panzarella
Second: Bullard
Vote: D'Amico yes, Panzarella yes and Bullard yes

Delaware County Bicentennial Foundation Day- Bullard reported on the events of the Delaware County Founders Day. He said the County was formed in 2008 and a kick off celebration will be February 10th at the Delaware Area Career Center. Bullard made the following resolution in support of the Delaware County Bicentennial Celebration.

**RESOLUTION
08-01-43**

WHEREAS, ON FEBRUARY 10, 1808 THE GENERAL ASSEMBLY OF THE STATE OF OHIO CREATED FROM WITHIN THE THEN BOUNDARIES OF FRANKLIN COUNTY, THE COUNTY OF DELAWRE; AND

WHEREAS, THE YEAR 2008 IS THE 200TH ANNIVERSARY OF THE CREATION OF DELAWARE COUNTY;

THEREFORE, BE IT RESOLVED THAT THE YEAR 2008 BE RECOGNIZED WITHIN BERLIN TOWNSHIP AS A BI-CENTENNIAL YEAR WITHIN THE TOWNSHIP;

FURTHERMORE, BERLIN TOWNSHIP ENCOURAGES ALL OF ITS CITIZENS TO PARTICIPATE IN THE MANY CELEBRATIONS THAT WILL OCCUR WITHIN DELAWARE COUNTY THROUGHOUT THIS YEAR.

RESOLVED BY THE BOARD OF TRUSTEES OF BERLIN TOWNSHIP THIS 14TH DAY OF JANUARY, 2008

Motion: Bullard
Second: D'Amico
Vote: Panzarella yes, Bullard yes and D'Amico yes.

Bullard suggested printing this on parchment paper with calligraphy writing. Bullard also suggested contributing \$500 to the Delaware County Bicentennial to aid in the year long cause to celebrate.

**RESOLUTION
08-01-44**

MOVE TO DONATE \$500 AS A TOWNSHIP IN DELAWARE COUNTY TO THE DELAWARE COUNTY BICENTENNIAL COMMISSION

Motion: Bullard
Second: D'Amico
Vote: D'Amico yes, Panzarella yes and Bullard yes.

Liquor Hearing for Waters Edge Pizza & Café- Cannon said she has received notice from the Ohio Division of Liquor Control regarding Waters Edge Pizza & Café. She asked the board members if they wished to request a hearing regarding their liquor license.

**RESOLUTION
08-01-45**

MOVE TO MARK WE DO NOT REQUEST A HEARING BOX FOR WATERS EDGE PIZZA & CAFÉ REGARDING THEIR LIQUOR LICENSE

Motion: Bullard
Second: D'Amico

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Vote: D'Amico yes, Bullard yes and Panzarella yes

Rapid Communications- Cannon said she has received a refund request from Rapid Communications with regards to franchise fees in the amount of \$6,643.67 sent to Berlin Township in error. The fees should have been sent to Berlin Center, Ohio. Cannon said she and Judy had been in contact with Rapid Communications over the last several months determining what the fees were for and if a contract was signed by previous board members. She said in Rapid Communications letter they thanked Judy and me for contacting them and our honesty. Cannon said the amount of the refund is \$6,643.67.

RESOLUTION

08-01-46

MOVE TO PAY RAPID COMMUNICATIONS \$6,643.67 FOR MONEY RECEIVED IN ERROR

Motion: Bullard

Second: D'Amico

Vote: Panzarella yes, D'Amico yes and Bullard yes

JD Partnership Files- Cannon said she has received notice from The Prosecutor's Office that they will dispose of JD Partnership v. Berlin Township Board of Trustees files in the next 60 days. She said if the board wished to have the records they need to contact the office and make arrangements to pick them up. Bullard questioned how much stuff there was. Panzarella said approximately 10 boxes. He said the case was settled out of court. Bullard suggested Panzarella contact them and pick the records up at his earliest convenience. Panzarella asked who would go through it. D'Amico said all three trustees should review the contents within the next 30 days.

ROAD DEPARTMENT

Glenn Parkway- Bullard said he will be attending a meeting on February 8th regarding Glenn Parkway Phase 1A and the US 23 traffic impact study. He said the County is concerned with Winter Peachblow Roads. Bullard said he has asked Jim Hahn and Ray Armstrong to attend. Bullard noted that Hahn is familiar with MOU.

Roloson Road- Cannon said a response to the REA sent asking whether a guardrail is warranted on Roloson Road at the Sackett Ditch location, or whether another viable solution exists. Cannon said Ryan Mraz from the Delaware County Engineer's office said a guardrail is not recommended and the culvert is not eligible for county contributions. Panzarella asked the trustees what they thought. He stated extending the culvert was an option. He said the township would be paying for the entire process. Bullard said he would make a recommendation at the next meeting.

Bullard asked for a one minute recess. Panzarella called for a recess.

Panzarella called the meeting back to order.

Bullard said he received a booklet from Eldon Johnson that deals with the County Engineer. He said they have listed schedules for OPWC and stated this is something we need to be working on now. Panzarella said all of the trustees and fiscal officer should have a copy. He questioned when we would hear about our OPWC grant application. Bullard suggested Cathy could make copies.

TRUSTEE ITEMS

OTA- Panzarella said the Ohio Township Association Winter Conference and Trade Show is January 30th to February 2nd. He said there is a special rate if you pre-register by January 17th. He said we have already authorized mileage, food and parking reimbursements. Panzerella said he found the conference useful and suggested the other members to consider going. He said he would be going again this year. Bullard said he would probably attend.

Berkshire Township- Panzarella said he sent a letter to Berkshire Township regarding the course of action that should be discussed for 3B's & K Road. He suggested a member from each board meet to discuss what possibilities may exist to address this issue.

District 17, Integrating Committee- Panzarella said he notified Chris Savage, district liaison, that he is the newly elected chair and will assume duties of CEO of the Berlin Township OPWC grant.

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Beacon Data- Panzarella said at the Organizational Meeting a purchase order was made on 2007 expenses. He said the trustees have since received a quote for 2008 from Jack Arnett. He said the hourly rate has increased as well as licenses for the 10 systems we currently have. Panzarella said Jack is our current system administrator. He said he has been doing okay. Panzarella said we may want to think of what way we want to go in the future. He said we could possibly bid it out. Panzarella told D’Amico that he would be turning this over to him since he is the administrator liaison.

**RESOLUTION
08-01-47**

**MOVE TO RESCIND RESOLUTION 08-01-35 MADE AT THE
1/1/2008 ORGANIZATIONAL MEETING**

Motion: Panzarella
Second: Bullard
Vote: D’Amico yes, Panzarella yes and Bullard yes

**RESOLUTION
08-01-48**

**MOVE TO APPROVE PROPOSAL FROM BEACON DATA
SYSTEMS FOR 12 MONTHS OF SERVICE, APPLICABLE
SOFTWARE LICENSES AND EQUIPMENT FOR \$8400 AS
PER PROPOSAL- THIS TASK SERVICES ALL TOWNSHIP
DEPARTMENTS INCLUDING ONE DESKTOP SYSTEM
EFFECTIVE 1/14/2008**

Motion: Panzarella
Second: Bullard
Discussion: Bullard asked who the contact would be. Panzarella said that D’Amico would be. Bullard asked about the new systems. He said the price seems inflated. Panzarella said sometimes systems break. He said that the money can be appropriated but if it is not spent it stays in the account.
Vote: Bullard yes, D’Amico yes and Panzarella yes

Representative for Court Status Conference- Panzarella said that he was notified by Chris Rinehart that Judge Duncan Whitney has requested that someone with settlement authority from the Township attend a status Conference on January 24th. Panzarella suggested that we request green space with a walking/bike path, mounding and trees. He said it would be a nice place for a “Welcome to Berlin Township” sign as well. He said he would also suggest they have their HOA maintain this so we don’t have to pay for it. D’Amico said he thought Panzarella’s suggestion sounds good. Bullard said a walk/bike path is great. He suggested it be at least 6 feet wide. He commented this is very close to where the school will be located off of Cheshire. He said the school issue should be addressed.

**RESOLUTION
08-01-49**

**NAME PANZARELLA TO REPRESENT BERLIN TOWNSHIP
AT COURT STATUS CONFERENCE JANUARY 24, 2008 AT 4
PM REGARDING CASE #07-CV-H-03-0341 AND
AUTHORIZE PANZARELLA WITH SETTLEMENT
AUTHORITY IN SAID CASE**

Motion: Bullard
Second: D’Amico
Vote: D’Amico yes, Panzarella yes and Bullard yes

ZONING DEPARTMENT

The December monthly report has been received.

P&D Buildings CRA status report- Panzarella said he was in a meeting last week regarding the CRA and said the money is not an incidental amount of tax money. The amount of tax money over 10 years is \$72,000. He said Grief indicated that they would put in a traffic light. Panzarella said he suggested fair and equitable treatment and suggested 50/50 though no one agreed. Panzarella said he then thought a N/S would be appropriate. He said the south may be developed first. Panzarella said the tax base is significant even with abatement. He said Liberty will work with the County Auditor. Panzarella pointed out that we do provide fire service to the area. He said he has asked for a legal opinion but was given an audit opinion.

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LATE ITEMS

ZRC- Panzarella said now that the ZRC has finished he would like to recognize them in some manner. He said a possible resolution to the BZC thanking; Rick Sedlacek, Barb Sherman, Jerry Valentine, Jim Brehm, Ray Armstrong and Scott Sanders for getting the task completed was in order. He said he would like to have standard certificates thanking them. D'Amico asked about recognizing past members of the ZRC. Panzarella said we can prepare a township certificate of appreciation. Bullard said that was a good thing to do.

Digitizing zoning files- Bullard said we will begin working on digitizing the zoning files and said at some point he would have to ask for \$1,000 to get this done. Panzarella asked what the money would be for. Bullard said they are fees charged by the Recorders Office. Panzarella questioned if we would get rid of the files once it was on microfiche. Bullard said we would maintain the paper files for a long time. Panzarella questioned if we would be transferring the files to another type of media why we would have to keep the paper. He said he would like to get rid of some of the filing cabinets. Bullard said the micro-fiche would be maintained at the Recorders office and we would maintain the paper records.

RESOLUTION

08-01-50

MOVE TO APPROVE \$1,000 TO THE DELAWARE COUNTY RECORDER'S OFFICE FOR THE DIGITIZING OF ZONING OFFICE RECORDS

Motion: Bullard
Second: Panzarella
Discussion: D'Amico asked what records. Bullard said the minutes and exhibits.
Vote: Panzarella yes, D'Amico and Bullard yes.

Newsletter- Bullard questioned if they should start working on the next newsletter. Panzarella said it should go out in March. Bullard to head up the 1st newsletter of 2008.

Internet- Panzarella said at the 12/28/08 meeting there was discussion about inappropriate material coming into systems. He said he has been working with Beacon Data to see what we can do. He asked the board members to look over estimates.

Audit Committee- Panzarella said Mike Dickey, CPA, has agreed to chair the audit committee. He suggested all board members to suggest Judy Shumway join the committee. He has asked Dickey to find another person for committee. He said since this is an administrative item he will be turning it over to Tom D'Amico.

Township Employment- D'Amico questioned employment opportunities in the township.

RESOLUTION

08-01-51

MOVE TO GO INTO EXECUTIVE SESSION FOR THE DISCUSSION OF POSSIBLE TOWNSHIP EMPLOYMENT

Motion: Panzarella
Second: D'Amico
Vote: Bullard yes, Panzarella yes and D'Amico yes

RESOLUTION

08-01-52

MOVE TO RETURN TO REGULAR SESSION

Motion: Bullard
Second: D'Amico
Vote: D'Amico yes, Bullard yes and Panzarella yes
Panzarella said in executive session we discussed personnel matters, no decision was made. He said discussion will be forth coming at the 1/28/08 meeting.

Bullard said Mike Hart will not be available the middle of March for a couple of months. He said we do have a substitute maintenance worker that will be filling in.

Future Meetings: The Trustees will hear BZC case #07-004 February 11, 2008 at 8:00 p.m. D'Amico questioned which case that was. Cannon said it was Manos. D'Amico was under the assumption that he would not be able to vote on it since he heard the original case while on the BZC. Panzarella will follow up with the Prosecutor's Office regarding this matter. It was mentioned that the only way to over turn the BZC decision was by a unanimous vote.

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RESOLUTION

08-01-53

MOTION TO ADJOURN

Motion: Bullard

Second: Panzarella

Vote: D'Amico yes, Bullard yes, Panzarella yes

Meeting adjourned by Panzarella at 8:55 p.m.

Phil Panzarella, trustee

ATTEST:

Ron Bullard, Trustee

Theresa Cannon
Fiscal Officer

Tom D'Amico, Trustee