

**BERLIN TOWNSHIP TRUSTEES**

**7:00 p.m.**

**Regular Meeting**

**May 12,**

**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 Ray Armstrong

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

**ATTENDANCE:** Janice Hitzeman, Ray Armstrong, Darin Hilt, Mike Stewart

**Public Comment:** Panzarella reviewed the adopted rules for public comment, Resolution 05-07-44. He asked if anyone wished to make public comment. Hearing no request he moved on to the next agenda item.

**Approval of Minutes**

**RESOLUTION  
08-05-04**

**MOVE TO APPROVE THE REGULAR MEETING MINUTES  
FROM April 28, 2008 AND TO DISPENSE WITH THE  
READING**

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

Panzarella said on May 9<sup>th</sup> we had a special meeting with outside legal counsel present. He said the matter had to do with a case between Berlin Township and the City of Delaware dealing with annexation proposed by the City which included lands in the township. He said a court action was filed as a result of the meeting. Panzarella read Resolution 08-05-02; Move to authorize Christopher A. Rinehart, of the firm Rinehart & Fishel, LTD., to execute a judgment entry of dismissal according to the terms of agreement reached with the City of Delaware in regard to case no. 07 CVH 03 0341. Panzarella said the City recognized they could not exercise zoning. He said the judgment was filed with prejudice. Panzarella said the township retained sovereignty of lands and will retain zoning of the 125 feet north and south of Cheshire Road.

**RESOLUTION  
08-05-05**

**MOVE TO APPROVE THE SPECIAL MEETING MINUTES  
FROM MAY 9, 2008 AND TO DISPENSE WITH THE  
READING**

Motion: Bullard  
Second: Panzarella  
Vote: Panzarella yes and Bullard yes

**CEMETERY**

Panzarella said the next item on the agenda is zoning. He said Mike Stewart is here and he would like to review the mowing contract. He said foundation cost is the listed first and asked D'Amico if he had information to report. D'Amico said he would like to discuss that later.

Panzarella said there is some question as to the contract with regards to the number of times we mow on a weekly basis. He said we have a contract and pay by the number of cuts. Panzarella acknowledged that it varies with the weather. He said he believes there was a misunderstanding that we only want it cut once a week. He said we do not want it looking unkempt on key dates. He said to mow as often as needed. He said we need to keep the cemetery looking good. Stewart said he has no problem with that. He said he has had the contract for the mowing in Berlin for 15 years. He added the cemetery has changed over the years and we are now fertilizing regularly. Stewart said he has a copy of the contract. Panzarella reviewed some key parts, number of dollars per cut, includes grass cutting, trimming and clean-up. Panzarella asked if the trimming was getting done. Stewart said yes it is. He said that is half the job. The board and Stewart said that Memorial Day is the only major holiday. Stewart said he recently heard that mother's day was also a major holiday. He said with the amount of rain we have received and this being the growing season we are playing the weather game. Bullard suggested mowing later in the week. Stewart said we are going to try and do that for Memorial weekend. He said it

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will be a short week and need to mow every 5 days. Panzarella commented the Stewart was a professional and several people working for him live in the township. He said we are trying to keep the cemetery looking good.

**RESOLUTION  
08-05-06**

**MOVE TO GO INTO EXECUTIVE SESSION FOR  
DISCUSSION OF PENDING/THREATENED LEGAL ISSUES-  
COUNTY PROSECUTOR, FISCAL OFFICER AND ZONING  
INSPECTOR ARE INVITED**

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

Chairman Panzarella called the meeting back into regular session. Panzarella said in executive session we discussed legal issues and no conclusion was reached as to a future outcome. D’Amico said he met with Larry Buell and discussed various issues related to the cemetery. He said he agrees with Buell on the .40 square inch charge for foundations. D’Amico said he has based the cost on what other areas charge. He said he also agrees with the foundation pours being in May and September and plans to make a resolution eliminating out of season pours. Panzarella said there are a lot of factors that play into what others charge. He said we should charge what it costs us to do including overhead, material and future maintenance. He said if we don’t know the constituent values we can not make a rational conclusion. He said when he joined the board it was .35 cents and have added a few cents every year for different rising costs. Panzarella said he wanted to know exactly what the cost is. He said we have just been taking advice without any substantiation. He said he is uncomfortable with the .40 cent charge even with future costs of maintenance. Panzarella asked how the price is based and what is the valuation? Panzarella said out of season pours is another topic. Bullard commented that there was \$43,000 in the cemetery fund. Panzarella said there is money even after paying \$10,000 to \$12,000 for repairs. He questioned why someone else’s cemetery should drive our costs. Bullard said he did not think a motion would be necessary if we stay at .40 cents. D’Amico said he thought we should go with Buell’s experience and stay at .40 cents. Panzarella referred to page 4689 of the 2008 organizational meeting minutes. He said the minimum charge of \$125 for a foundation 1ft. 3in. X 2ft. 3 in. comes to roughly .30 cents square inch. He said it then jumps to .40 cents a square inch. He said he did not know why this is and said there may be an explanation. Panzarella said that is why I want an explanation. Cannon asked the board if they have received and read the Ohio Township News for May. She said there was an article “A Township’s Responsibility with Respect to Cemeteries”. She said the article states the there are three important things a township should do prior to handling any cemetery issues, the first and foremost, please have your legal counsel review all resolutions to ensure they are legally sound and will hold up in court. She suggested the trustees send any future resolutions to the Prosecutor in order to avoid confusion and rescinding of resolutions. D’Amico said in light of that he will not make any motions. Bullard said he thought the rules also needed beefed up. He said the rules should state the laws. D’Amico said that Buell has stated he needs some storage room to keep equipment. He questioned if we should appropriate for a shed. Bullard said to figure out the cost, size and security of the shed. He said it should also be moveable.

**RESOLUTION  
08-05-07**

**MOVE TO APPROPRIATE \$1000 FOR THE EXCAVATING OF  
FOUNDATIONS**

Motion: Bullard  
Second: D’Amico  
Discussion: Cannon verified that this was for Bruce Miley and or Glen Excavating.  
Vote: Panzarella yes, D’Amico yes and Bullard yes

D’Amico asked the board if they were familiar with the different lot rates for township resident, county resident and out of county resident. He said he is bothered by people buying lots at township resident rates and selling them to non township or county residents. Bullard said that happens all the time. Panzarella said there are a number of items to be covered. He said you can draft a letter to the prosecutor and add this as an item. Panzarella noted that we did increase the transfer fee of lots.

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**FIRE DEPARTMENT**

**RESOLUTION**

**08-05-08**

**APPROVE PAYMENT OF \$120 TO DELAWARE AREA  
RESPONSE TEAM FOR ANNUAL DUES**

Motion: Bullard

Second: Panzarella

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

Panzarella said there has been a leave request with comp time being used by a firefighter. He said there will be coverage for his shift.

Rescue Boat- Panzarella read a portion of 505.37 Fire protection services- "When the estimated cost to purchase fire apparatus, mechanical resuscitators, other equipment, appliances, materials, fire hydrants, buildings, or fire-alarm communications equipment or services exceeds fifty thousand dollars, the contract shall be let by competitive bidding." Panzarella said this amount is less than \$50,000.00. Panzarella reviewed an email from Brad Copeland, Law Enforcement Manager over Alum Creek, dated 3/13/2008. He said the letter states because of budget reductions they will be taking the rescue boat off the lake for 2008, 2009 and 2010. He said they had to get rid of 10% of budget and this is how they did it. Panzarella said according to the Ohio Township handbook we are responsible and if we don't do anything we may be subject to a lawsuit. He said precedent was set in 1980 when we tried to bill the park for services and was only reimbursed once. He asked the board what they wished to do. He said we currently have a zodiac that is capable of rescuing one person. He said this is not adequate. He said the zodiac also deflates when it is cold. Bullard asked if they were looking at \$40,000. Panzarella said a little less. He said the chief has talked with others who have ordered the boat and the extra 20% is not necessary. Panzarella said he is only looking at the \$35,000 for the boat tonight. He said the other items will be discussed at another meeting.

**RESOLUTION**

**08-05-09**

**MOVE TO PURCHASE A 23 FOOT CAROLINA SKIFF  
RESCUE BOAT FROM DUTCH HARBOR INC., NORTH  
BENTON, OHIO – COST NOT TO EXCEED \$35,000**

Motion: Panzarella

Second: Bullard

Discussion: Bullard asked if the chief has shopped around for other boats. Panzarella said he has. He said he did an analysis that he can share with the board. He said he went with this because of the free board and being lower to the water. Bullard asked if the price included sirens, lights and etc. Panzarella said that is separate in the amount that is not to exceed \$3,000. Bullard questioned what we were really getting for the price. Panzarella said we could take a five minute recess or delay final action. Bullard said he was in favor of purchasing the boat but did not want to be nickled and dimed. D'Amico asked about the delivery time, stating that if it is going to be 7 weeks that will put us to the fourth of July. He questioned what we would do Memorial Weekend. Panzarella said we will have to use what we have. D'Amico said it is boat season and we should be able to get something in 3 to 4 weeks.

Panzarella called for a 5 minute recess. Panzarella called the meeting back into session. He said after talking with the chief he was told that the emergency lights come out of the \$3,000 and that the 7 weeks was a maximum time. Bullard asked if the boat would address any of the trails along the east side of the lake. Panzarella said he did not know. Bullard said \$3,000 is totally inadequate for what they have listed. Panzarella said we are just purchasing the boat tonight. Bullard asked if there were any specifications. Panzarella said yes but he did not have them with him. Panzarella said the chief has done quite a job on comparing boats.

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

Panzarella said when he asked the chief to put things together he did. Bullard asked if the \$3,000 include training. Panzarella said we would do it ourselves. He said it will be in an SOG and there would be a certification process. Bullard questioned if it was just a rescue boat and not a search boat. Panzarella said it was a 911 dispatch rescue boat. Panzarella said we have not discussed access to the lake. He said there may be a possibility of using old Cheshire Road. He said the road is bad so we may need to put gravel down. Panzarella said he has talked with Copeland who told him the park would approve the fire dept. using the road. Bullard said we may want staffing for the holiday weekend. Panzarella said we

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will make note of that. D’Amico said that access point may only work for some points. Bullard commented that the park has a covered dock that we may be able to use. Panzarella said he will have the chief check it out. He said he did not know about insurance or the possibility of theft if it was docked. He also said he did not want to split the fire force. Bullard said he assumed the \$3,000 would also cover any modifications the grass truck may need to pull the boat. Panzarella said that we would address boat equipment costs with the fire chief at a future township meeting.

Replacement part-time firefighters- Panzarella said two firefighters have resigned and we never replaced them. He said the chief was notified that another won’t be able to put in time. He said the numbers show we are not generating hours.

**RESOLUTION  
08-05-10**

**MOVE TO HIRE THREE (3) REPLACEMENT PART-TIME  
FIREFIGHTERS**

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

Panzarella said the chief has noted that having the fire department pick out the people has not worked out well and talked about them coming to us first. Bullard said it should be covered in SOG’s. Panzarella said if we need SOG’s for a condition of new hire he will get one. He questioned if we wanted to see them first. Bullard said the fire department needs to be able to work with them. He said he can’t choose who would meet their requirements. Panzarella said they have interviewed first in the past. D’Amico said to keep it the way they have been doing it. Panzarella asked if it should be advertised. Bullard said yes, He said it should also be posted on the web page and bulletin boards. Fire Trustee will provide advertisement to Cannon.

**FISCAL OFFICER**

Cannon said she would need authorization to transfer money from the general fund to the park fund.

**RESOLUTION  
08-05-11**

**AUTHORIZE THE FISCAL OFFICER TO MOVE \$24,800  
FROM THE GENERAL FUND (1000) TO THE CAPITAL  
PROJECT PARK FUND (4303). WHEN SURPLUS MONEY  
BECOMES AVAILABLE IN THE PARK FUND THEN \$24,800  
WILL BE RETURNED TO THE GENERAL FUND VIA  
TRANSFER AND ANY RESIDUAL MONEY IN THE PARK  
FUND AND ANY REIDUAL MONEY IN THE PARK GRANT  
FUND WILL ALSO BE TRANSFERRED TO THE GENERAL  
FUND FOLLOWING COMPLETION OF THE PARK  
CONSTRUCTION**

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

Cannon asked for vendor change. She said \$2350 was left on a purchase order for the old vendor. She said it should be opened under new vendor to pay any remaining bills.

**RESOLUTION  
08-05-12**

**APPROVE THE VENDOR CHANGE FROM RINEHART LEGAL  
SERVICES LTD. TO RINEHART & RISHEL, LTD AND TO  
APPROPRIATE REMAINING FUNDS OF \$2350 WITH NEW  
VENDOR**

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

**ROAD DEPARTMENT**

**RESOLUTION  
08-05-13**

**APPROVE THE PURCHASE OF \$500 FOR GRAVEL IN  
GRADING IN SUMMERWOOD TO HELP WITH DRAINAGE**

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

Panzarella said he went to a FEMA Grant meeting to get money back. He said we are working on getting money back. Panzarella said he listed Theresa Cannon as point of contract.

**RESOLUTION  
08-05-14**

**APPROVE SUBMITTING APPLICATION FOR SNOW  
REMOVAL FEDERAL EMERGENCY MANAGEMENT AGENCY  
(FEMA) GRANT TO BE SUBMITTED FOR 48 HOUR TIME  
PERIOD DURING WEEKEND OF MARCH 7, 8 & 9, 2008**

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

**RESOLUTION  
08-05-15**

**NAME FISCAL OFFICER THERESA CANNON AS  
AUTHORIZED AGENT AND PRIMARY CONTACT FOR SNOW  
REMOVAL PUBLIC ASSISTANCE GRANT REQUEST FROM  
FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)  
AND ASSISTANT TO THE FISCAL OFFICER JUCY  
SHUMWAY AS ALTERNATE CONTACT**

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

EMS Contract- Panzarella said we received a draft agreement for 10 years paying \$14,000 per year and it includes a 5% unforeseen substantial increase with regards to utilities. He said they were currently paying \$10,400 a year. He said there are a couple of minor adjustments. In Article 4 they only list gas and electric. Panzarella said he thought water, waste refuse, sewer and internet should be included. Panzarella noted wireless internet is not available at the fire station. He said that should be taken out of Article 6. He said this has been to the County Prosecutor for his review. Panzarella said they follow their own SOG's and the chief does inspections. Bullard asked if this was similar to what others have received. Panzarella said no one else has signed a long term agreement. He said it sets precedent. He also said Berlin benefits with 24/7 EMS coverage.

**TRUSTEE**

TINC- Panzarella attended a Berlin Township/Delaware County Tax Incentive Negotiating Committee April 30<sup>th</sup>. The meeting was attended by Andy Kerr, OLSD, Dave Cannon, County Administrator, Ray Armstrong, Berlin Zoning Inspector, Dottie Brown, Delaware County Economic Development Specialist II, and Mac Roberts, P&D Builders. The item of business was P&D builders had filed an application with the Delaware County Economic Development Department seeking tax abatement under the Community Reinvestment Area program for a new 16,000 sq. ft. facility that will be constructed at 59 Greif Parkway at the end of the year. P&D will be relocating from Powell also located in Delaware County. The project will result in the retention of 15 jobs and approximately \$736,648 in payroll. P&D will use approximately 4000 sq. ft. and will lease the other to different businesses. P&D did not receive any tax incentives at its previous site. They will pay a one time amount to Olentangy Local Schools for \$10,000. They will also have a representative to be on DACC Construction Advisory Committee and have a senior student do an internship with P&D. The CRA tax incentive for P&D Builders was passed unanimously.

**RESOLUTION  
08-05-16**

**A RESOLUTION AUTHORIZING EXECUTION OF A COMMUNITY REINVESTMENT AREA  
AGREEMENT WITH P & D BUILDERS LTD FOR THE PROPOSED PROJECT:**

**WHEREAS, the Delaware County Commissioners, with the consent of the Berlin Township Board of Trustees, have designated an area in Berlin Township as a Community Reinvestment Area (CRA), pursuant to Ohio Revised Code 3735, and have encouraged the development of real property and investment in personal property therein; and**

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WHEREAS, the purpose of the Delaware County CRA in Berlin Township is to provide the community with an effective tool for managing and guiding economic development by enhancing the tax base, by encouraging and sustaining long term investment in the community, by enhancing the quality of life, and by preserving existing and attracting new business investment within said Area; and

WHEREAS, the duly appointed Delaware County / Berlin Township CRA Tax Incentive Negotiating Committee has reviewed and recommends approval of a proposed CRA application submitted by an enterprise which desires to expand within said CRA, and has determined that the Enterprise meets the CRA Guidelines adopted by the Delaware County Board of Commissioners by Resolution Number 06-350 on March 16, 2006; and

WHEREAS, the Board of Trustees of Berlin Township has agreed to review such applications, to approve applications which meet the guidelines, and to forward all approved proposals to the Delaware County Board of Commissioners for final approval; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Berlin Township, County of Delaware, State of Ohio as follows:

SECTION 1. That the CRA Application submitted by P & D Builders on September 17, 2007, as subsequently modified by the Agreement noted in SECTION 2 below is hereby approved.

SECTION 2. That the Board of Trustees of Berlin Township hereby authorizes the execution of an agreement by Berlin Township and the Board of Commissioners of Delaware County to implement the CRA Tax Exemption Program for P & D Builders Project.

SECTION 3. The Fiscal Officer of the Board of Trustees of Berlin Township is directed to submit a certified copy of this Resolution to the Board of County Commissioners of Delaware County.

SECTION 4. That this Resolution shall take effect and be in force immediately after its passage.

Motion: Panzarella  
Second: Bullard  
Discussion: Panzarella said this is equivalent to a 40% reduction of taxes for 10 years. Bullard questioned who would get 911 calls. Panzarella said both with mutual aid. Bullard asked who manages the CRA. Panzarella said the Economic Development office will be responsible. He said Ray Armstrong will submit paperwork. Panzarella added that there would be a yearly TINC meeting and they would report how many additional jobs were added.  
Vote: D’Amico yes, Panzarella yes and Bullard yes

Pest Extermination- Panzarella said this was done last year at the fire station and suggests that it be done again. He questioned how we would get it done with a yearly contract. He said it may be cheaper with a contract and to have it done inside and out. He suggested \$500 for the fire station. Bullard questioned if it should be done at the township hall. Cannon said with the hall rental and a lot of food being served it would be a good idea. Bullard said \$300 for the Township Hall.

**RESOLUTION  
08-05-17**

**APPROVE \$800 TO PAUL’S EXTERMINATING FOR  
INTERIOR EXTERMINATING AT THE FIRE STATION  
(\$500) AND THE TOWNSHIP HALL (\$300)**

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

Flood Control – Panzarella reported that he attended a flood control meeting since Chief Bechstein was on fire duty and unavailable. The meeting discussed Dam failures and disaster teams in charge. Bob Lavender with the Delaware County EMA said the state is contacted for pumps, equipment and stockpiled sand bags.  
Flood Risk- Armstrong attended a flood zoning meeting and said he took exception to the meeting because of a deficient model. We have asked FEMA to clarify.

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Glen Rd.- Bullard attended a Glen Road 3A meeting. He said Ray Armstrong is the main contact. Bullard also said he informed them that the County Engineer would have to be contacted for road closures.

**ZONING-**

Panzarella said the monthly zoning report has been submitted. He said he still has an open question with regards to zoning job descriptions. He said we need to know what they are working on and who pays them. He suggested a Trustee or designate someone to write job descriptions for the employee handbook. Bullard commented that he would provide modifications for the road maintenance descriptions.

Speed control- Panzarella said he was asked by D’Amico to contact the sheriff with questions related to speeding in subdivisions. Panzarella said he talked with Sgt. Shelly Pfan and Captain Vance. He said we can look at what Orange Township and others have done. He said they have used a portable sign for a week. He said that would tell them what time speeders are out. For a limited time they can have patrolman out to give tickets. Panzarella said the county sheriff’s office is stretched for personnel. There is also a county enforcement agency for \$50 an hour with a 4 hour minimum. Panzarella said subdivision associations can also pay for this. D’Amico said he likes the idea of Home Owners Association paying for the services.

**Future Meetings-**

Panzarella said there is a proposed meeting on May 28<sup>th</sup> for sports field post award meeting with the architect. Bullard said he had a meeting scheduled Friday, May 16<sup>th</sup> with Scott Sanders about Parks. He said Ray Armstrong and Rick Sedlacek will be attending the meeting with me. He said he was also in a meeting with MORPC. He said they were told that they have some money for parks. Panzarella said he has worked with Sedlacek and said he would go to the kick off meeting for key lay outs. He said he does not mind doing phase 1 for the design and specifications. He said someone else should take charge after it goes out to bid. Panzarella said he thought citizens should be involved as well. OTA summer conference will be held July 30<sup>th</sup> to August 2<sup>nd</sup>. Panzarella suggested someone attend. He said he would not mind going. He said there will be two important discussions regarding HB 458 and HB 521. D’Amico and Bullard both stated they would not be available.

**RESOLUTION  
08-05-18**

**APPROVE THE REIMBURSEMENT OF MILEAGE, MEALS  
AND REGISTRATION FOR PHIL PANZARELLA AT THE  
SUMMER OTA HELD IN CINCINATTI, OHIO**

Motion: Bullard

Second: Panzarella

Vote: D’Amico yes, Panzarella yes and Bullard yes CRA – P&D Builders- Panzarella said they asked have to have a TIRC. Panzarella said he to inform the zoning office of hours.

Panzarella said there was a Tornado meeting May 15<sup>th</sup> at 9:30 with the Commissioners. Bullard said you may want to come up with what you want as an out come. Panzarella said reverse 911 is not the best way to go. Bullard said a study and goal needs to be completed. Bullard said he talked with Ray regarding the reverse 911 system and said it could work well if the system was updated. Panzarella said with the lake we need to impress the urgency of sirens. He said the project needs to be prioritized and implemented. Bullard suggested Panzarella and other non Berlin Township Trustees get their heads together. Panzarella sent a letter to OLDS regarding the Regional Counsel of Government questioning what happened to it. He said he was told they never met and wasn’t effective there forth they will have to decide if they have any interest.

D’Amico gave special mention to Chris Paykoff, Sam Reda and Brodi Irwin for their assistance with the Clean up day.

**RESOLUTION  
08-05-19**

**MOTION TO ADJOURN**

Motion: Bullard

Second: Panzarella

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

**BERLIN TOWNSHIP TRUSTEES**

**7:00 p.m.**

**Regular Meeting**

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Meeting adjourned by Chairman Panzarella at 9:55 p.m.

\_\_\_\_\_  
Phil Panzarella, trustee

ATTEST:

\_\_\_\_\_  
Ron Bullard, Trustee

\_\_\_\_\_  
Theresa Cannon  
Fiscal Officer

\_\_\_\_\_  
Tom D'Amico, Trustee