

BERLIN TOWNSHIP TRUSTEES

7:00 p.m.

Regular Meeting

April 11, 11

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, Tom D'Amico, Ron Bullard, Claudia Smith, Fiscal Officer.

ATTENDANCE: Joe Korleski, Katrina and Peter McMurtrie, Chris Paykoff

PUBLIC COMMENT: Panzarella said the Trustees were still adhering to Resolution 05-07-44 regarding public comment at the meetings. He asked if anyone wished to make public comment. Hearing none the Trustees moved on the next agenda item.

Approval of Minutes:

**RESOLUTION
11-04-01**

**APPROVE THE 03/28/2011 REGULAR MEETING MINUTES
AND DISPENSE WITH THE READING**

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

FISCAL OFFICE:

Bank Statement - Trustees signed the balanced March bank statement.

Smith "I received a call from Aspen Energy who works with different utility companies and would like to review our gas and electric bill to see if they could possibly save us some money. There is no cost to the township as the utility companies pay them for the business. They are approved thru the Public Utilities Commission of Ohio. I wanted to see if this was something that we may want to do. If we do there is a form that needs to be completed and sent to them with a copy of our bills."

D'Amico "So they just want to compare to see if they can save us some money? I don't have a problem if you want to do it and I don't have a problem if you don't want to do it."

Smith "Yes."

Bullard "In the past I have talked to Suburban Natural Gas and they do not work with these types of companies. We either got our gas from Suburban or we didn't get gas and that they are small enough that they don't need to do that. The transmission charge and lines are all overhead that will go to Suburban but the amount of electricity that we use could maybe go thru someone else at a lower rate."

Panzarella "I you want to see if they can save us some money that's fine however they may give you a quote and then as the market adjusts, they adjust, so would there be a protection to the township that any rate that they give us is good for at least a year. I want to make sure there is no market factor here."

Bullard "I think one of the trustees should look into it and you may save sometime if you ask Suburban if they work with this company."

Panzarella "If you will give me the contact information I will look into it being as I am the building liaison."

Bullard asked Smith if she received the signed audit sheets back from all the trustees and she stated she had.

Panzarella reminded everyone that the budgets be submitted to the fiscal office by April 18th.

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CEMETERY:

**RESOLUTION
11-04-02**

APPROVE STEWCARE, DELAWARE, OHIO TO TRIM AND REMOVE BRUSH AND WEEDS IN THE WOVEN FENCELINE AND APPLY HERBICIDE TO THE AREA UNDER CEMETERY FENCELINE. COST NOT TO EXCEED \$485.00. ALL WORK TO BE DONE BY MOTHER’S DAY.

Motion: Panzarella
Second: Bullard
Discussion: Panzarella stated that StewCare would also cut down the cut tails when they mow the firehouse at no cost to the township.
Vote: D’Amico yes, Panzarella yes and Bullard yes

FIRE DEPARTMENT:

Bullard “There is a meeting tomorrow night to discuss replacing the Durango and they will come to the next meeting with specifications.”

Panzarella “I thought it wasn’t a replacement of the Durango but it was a request for a vehicle to do what the Durango did and other things. Our request was for them to tell us what they need it for. The Durango was a utility vehicle but apparently they have needs for more than a utility vehicle.”

Bullard “That’s correct they will get the requirement documents to us and then we can take a look at it.”

Panzarella “I think it’s worthwhile since they seem to be doing okay without it.”

Bullard “It’s just that they are putting miles on the fire truck.”

Panzarella “Ok, I don’t understand that because we have a brand new chief’s vehicle. The Durango was used as a chief’s vehicle before we got the new one. So now we have the chief’s vehicle that was equipped with more utility than the Durango. So we should be able to use the chief’s vehicle and not one of the big fire trucks to pull a boat or something.”

Bullard “We can use the chief’s vehicle as much as possible but the Durango did some things at fire inspections that was time consuming so the grass truck got miles on it.”

Panzarella “When you said fire truck I thought you were talking about the big fire trucks not the grass truck.”

**RESOLUTION
11-04-03**

APPROVE \$679.38 TO PHOENIX FIRE SERVICE SYSTEMS INC FOR UNIFORMS FOR FIREFIGHTER SEAN WORLEY AND JODY FORTNEY

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

ROADS:

**RESOLUTION
11-04-04**

APPROVE \$763.50 TO DEXTER COMPANY FOR 20 MOWER KNIVES AND BOLT KIT

Motion: D’Amico
Second: Bullard
Discussion: Panzarella stated that this requisition was dated today and it was not in his box at 3:00 when I left today. He would like to get these sooner than at the meeting because that is what we said we would do.

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Bullard stated that Brodi told him he priced the knives with the mower people in Plain City and the Dexter Co and the Dexter Co was a couple dollars cheaper per blade than the place in Plain City that sells them for state contract. So he did a good job at keeping the cost down.

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

Aramark Uniforms -

D'Amico "Brodi told me that Aramark did not deliver his shirts so he would be without shirts for a week. This is the type of thing that we need to keep track off to get out of our contract. I don't know how difficult these contracts are to get out off so we need a legal opinion."

Bullard "The last conversation I had with Brodi was that they were doing well."

Panzarella "If we are not getting service by the contractor have we notified the contractor because to get out of the contract you have to show that they are not performing to the contract. He could have ordered them Friday and they were not here on Monday so I would like to have more information."

Bullard "My understanding of the contract is that we can give them a 30 day notice and then the contract can be cancelled."

D'Amico "Some things can be over looked but a week's supply of shirts for one of our main people in the department. I think it may be the route driver. He is the person responsible to see that he has the items that he is supposed to deliver and if not he should go back to the shop and get them."

RESOLUTION

11-04-05

APPROVE D'AMICO INVESTIGATE AND WRITE A LETTER TO ARAMARK TO BEGIN THE CANCELLATION PROCESS IF HE FEELS IT'S NECESSARY

Motion: Bullard

Second: D'Amico

Discussion: Panzarella "We have to notify in writing the organization that we have an instance of nonconformance. And if they don't come back we make sure the contract is clear and then we proceed on to terminate the contract in a legally enforceable manor. I thought everything was going fine."

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

Trees in Right of Way Policy -

D'Amico "I asked Brodi to put a copy of the policy in everyone's mailbox so I didn't know if you got it."

Bullard "I've seen it, I've read it but I didn't get a copy of it this time around."

D'Amico "This is a copy of a 1996 resolution dealing with trees in the right of way and who's responsibility it is. It states that the lowest limb overhanging the road shall not be less than 12 feet and over the sidewalk 7 feet in height. It also states that for the correction and removal of these hazard items it is the duty of the property owner or tenant. And if it is not corrected in 48 hours the road supervisor shall act appropriately to remove or correct the hazard. All removal and/or correction costs shall be the responsibility of the property owner."

Panzarella "I did not receive a copy of it. It was not in my box as of 3:00 this afternoon and the meeting started at 7:00. I'd like to take a minute to read it."

Bullard "We all three need to review that because there are some pretty significant implications here. We have a lot of trees that need to be taken down and whether they are the homeowner's responsibility or the township's responsibility it's something we need to make a decision on. We can say it's the homeowner's responsibility but there are a lot of people that just don't have the ability to do that. The other side of the argument which is the trees are out there and they don't want you to touch it till it dies. Then when it dies it's

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your tree and we want you to take care of it. I think we need to have a tree removal budget where we remove the trees that are dangerous on an annual basis. We have hundreds of trees in the township that have the potential of becoming problem trees.”

Smith “Residents need to be taking care of the their own trees as the township will not have the money to take care of the roads and take care of everyone’s trees. We need to tell them that they need to take care of the trees and give them a time limit and if they do not have them done we could remove them and send them the bill.”

Bullard “That’s correct, we need to take a look at the previous resolution and then be very clear about what we are going to be doing.”

D’Amico “I don’t know how we use our time and labor and then assess the residents. We try to be fair but then we try to get things done properly.”

Bullard “In some of the subdivisions the homeowners have right away but in some they don’t. The township owns where the trees are, so those are the townships trees. We need to make sure we are clear on that too.”

D’Amico “There are a lot of large trees that would be costly to take down. I think we should have Brodi tell us which trees are dead or dying and then send the homeowner a letter stating that they need to remove them at their expense. And then see how it goes, I don’t see 100% success rate.”

Panzarella “This resolution was done in 1996 and there are some interesting characteristics. Trees overhanging the road should be trimmed up to 12 feet but I’d like to know what subsequent board allowed planting trees next to the road. I don’t know if that was before or after this resolution. But Harbor Point was put in after so the zoning process essentially allowed it but it wasn’t allowed under the township so now we have a problem with the legal community.”

Bullard “That one was done under the old liability laws in Ohio. The liability laws changed about 3 or 4 years ago. I’m not a lawyer so we may need to get a lawyer involved. What I was told is that the trees are not our responsibility unless it’s a tree that has been identified as a problem and we don’t do anything about it, such as a tree lying in the road.”

Panzarella “I think we should get a legal opinion. The first thing I heard was do we have the ability to access and collect fees for violations to our zoning resolution? Then what happens if the tree represents a safety issue? We had a mirror broken by being hit by a limb. So the branches are a safety issue to vehicles and they could fall into the roadway. We may need to take this to a lawyer that could get an answer for us quicker than the county prosecutor. If not we will just have to wait for them to respond. On the road trip I did see some trees that were very large and looked like they could do some damage if they fell. It could cost hundreds to thousands to take these trees down. And like Smith stated do we have the money to pay for these? I will draft a letter to the county prosecutor.”

Bullard “I don’t think we should have our employees taking down trees because of the liability I think we should hire a tree company.”

Panzarella “If the roads supervisor identifies a tree that will be a safety issue he should bring it to the board for us to do something as an emergency request.”

Salt Purchase –

Previous discussion was that we wanted to have the salt bins filled with the salt that we had requested but not used. Bullard stated that the county was not purchasing salt any more this season and will not until fall. This may be too late as there are only a few salt suppliers so other states may purchase the salt supplies and we may not get salt for next year. We cannot have the bins filled because it would have to be blown in and they will only blow in a minimum of 200 tons. We already have 70-80 tons in the bins so we cannot take 200 tons more, but we need to get as much as we can. Bullard will check with John Link to see what our options are.

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Time & Attendance/Time Clock -

Panzarella stated that he is waiting on a response from the attorney.

Work Log/Forms -

D'Amico "I talked to Brodi about tracking work that has been done; work that needs to be done and work that is planned on being done. I'm not sure how much work log is needed. Some forms take awhile to be completed and I'm satisfied with a plan of action and the results of the action."

Panzarella "We previously handed out three forms, a daily event log, a weekly road inspection log and an ODOT work order which shows what was accomplished so we know what materials were used. We get requisitions for berm materials, cold patch etc and this is a way of putting it all together. The forms were very specific. We discussed the functionality of these forms and discussed that it could take a half hour a day to complete these forms. Because of the amount of money we are doing a year in the roads department, \$300,000 we should address what forms we are going to use and it should be a format equal to these forms."

D'Amico "I will forward the forms that Brodi submitted but I think what you're looking for Phil, is an hour by hour breakdown to hold employees accountable for their time and these forms will not do that at this time. I'd rather he do the work that's necessary."

Panzarella "How do we show the taxpayers that they are getting a value for their money?"

D'Amico "Same as we have been since I have been a trustee, we rely on the roads superintendent to do the job and rely on the results of what he does. I have not heard any complaints about the performance of the roads department. I know we need some accountability but what you're looking for is more than I am hoping to get."

Panzarella "I'm not overly comfortable with it so I'm asking you to come to the board and make us comfortable or say you are perfectly comfortable with it."

TRUSTEE ITEMS:

D'Amico stated that he will not be at the 4/25/11 trustee meeting

Computer System Support Status -

Panzarella stated that a quote was received from ComputerSmith and was being reviewed by the lawyers as it's a commercial contract and there are items that do not apply to the township and need to be rewritten. If we have an emergency Smith has the ability to have someone come in on an hour to hour basis to fix the problem.

Employee Handbook Status -

Panzarella stated that all trustee comments were in and the fiscal office was working on comments.

Emergency Generator Repair/Replacement Status (3271 Cheshire Rd) -

Panzarella stated that the power transfer module was replaced on 4/5/11.

9-1-1- Levy Renewal -

Panzarella stated this is a renewal at the same rate that it was .45 mils. If it does not renew we do not have 9-1-1 functionality and it could be a per fee basis that could get expensive. Each township would have to pay it directly.

Late Item Definition -

Panzarella stated that we need a definition of a late item. His definition is an immediate need, not something that can wait two weeks for the next meeting and not an emergency

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because we can have an emergency meeting. He doesn't want 10-12 items packed into late items because items were not in by 12:00 on Thursday. Bullard stated that his definition would be an item that is for information purposes only and will be discussed at future meetings and an emergency item that cannot wait for the next meeting. All trustees agreed.

Repair Parking Lot Update -

Panzarella stated that 2 quotes were received for the parking lot repair. One is for crack sealing only for \$2480 the other is for cleaning, repairing, filling cracks 1/4 inch or wider, treating oil spots, applying 2 coats of master pavement seal and stripe pavement for \$38 difference. The board decided to go with the company that was doing a more intense job for the same money and that D'Amico would direct Brodi to come to the next meeting with a purchase requisition.

**RESOLUTION
11-04-06**

**RECESS TO EXECUTIVE SESSION FOR
CONSIDERATION OF APPOINTMENT,
EMPLOYMENT, DISMISSAL, DISCIPLINE,
PROMOTION, DEMOTION, COMPENSATION OF A
PUBLIC EMPLOYEE – THREE TRUSTEES AND THE
FISCAL OFFICER TO ATTEND – 8:34 P.M.**

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

**RESOLUTION
11-04-07**

**RECONVENE TO REGULAR SESSION-9:01
P.M.**

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

Panzarella announced that no decisions were made and no actions were taken.

9:00 Time Certain – Summerwood Extension Signage

Peter McMurtrie "I live at 5535 Foxchase Trail Galena, and I'm here on behalf of the Summerwood Extension homeowners association. We are in the process of putting signage out front of the existing wall in front of the development. There are existing signs for the contractors and they are paying a fee to have those signs up but when they build the development they put the walls up but did not add any signs for the development similar to what there is in place today for the original Summerwood development area. So we are looking into putting the signs up and in researching the fees we noticed that they were \$300 per sign. The signs we're looking at are 2 x 6 feet signs on the existing walls that simply state Summerwood. The \$300 fee is comparable to fees for a new home and we feel they are excessive for what we are looking to do and assume the fees are more targeted to commercial signage and the simplicity of the sign and that it is going on an existing structure we are looking for an exception being made to pay for one signage fee to cover the cost of putting two signs up for the development and take into consideration that our builders are refusing to pay the contractors signage fee."

D'Amico "Wasn't the sign part of the development plan?"

Bullard "There was no development plan as it was an FR1. The way normal subdivisions are planned is the developer brings in his plan and that starts the subdivision process and they end up with small lots and you end up with planned development subdivision. In your case they took the FR1 zoning similar to lot splits up and down the road. He put in the roads and sewers; there never was a zoning process. The zoning fee could be \$20,000 to \$30,000 on a development like yours which allows the ability to put in signs. What happened to your development was a platting of land and getting through the county subdivision standards."

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Panzarella "I checked with Regional Planning Commission and was told that there is no signage requirement in the county. All they are concerned about is that the lots are a certain size. I asked them when they do an FR1 if they refer people to the zoning office for fees for various things and the answer was "No, it's not their responsibility, they may mention that there is a zoning office and a fee schedule but they have no way of enforcing it." "So you are requesting from the board if there is a possibility to alleviate the \$600 fee. Have you taken the development over from the developer yet?"

McMurtrie "We have not fully transferred authority over to the association but we do have an active association in place that is collecting dues. Part of the deed restrictions was that the developers had the ability at anytime to start to collect the fees, which was enacted a year ago."

Panzarella "So why doesn't he pay the fees since he's making money?"

McMurtrie "There are multiple developers, one filed bankruptcy, one has two lots left and the other five lots left. They are paying association dues and there is no requirement for them to do that. I'm looking for what the intent is on the signage fees to put a small Summerwood sign up. I understand that \$300 to provide fees for the township is a reasonable thing but to charge it for two similar signs seem excessive."

Bullard "The object of the fees is not to provide money to the township but for the township to review the sign and be reimbursed for the time involved and not pass the cost on to other taxpayers. The zoning process checks to make sure that the sign looks good and is not too close to the road to cause problems. The sooner you can get the homeowners association in your hands the better off you will be."

McMurtrie "I appreciate the explanation but the two signs are mirror images so if the work involved is to evaluate the signage they are exactly the same."

Panzarella "So I hear you asking for any form of relief of the \$600 fee. I don't know if the association can take out the permit if they are not in control. I thought 75% of the lots had to be sold."

Bullard "It's in the homeowner's association agreement."

Katrina McMurtrie "There is nothing in our contract that says a certain percentage of lots have to be sold and then at the time it would be turned over to the homeowners. We asked the builders when they plan on turning it over to the homeowners and they said not till our last one is sold."

Bullard "This is all the stuff that is done during the zoning process and you ask the developer to put the homeowners association together."

Panzarella "The builders turned the roads over to us very, very early. They put one house on every street and said "we don't have to take care of these roads, you all do."

Bullard "I don't think you have the ability to put the sign up."

McMurtrie "The builders are a part of the homeowners association which is run by three trustees, two builders and myself and the association owns the property and I am the representative of the association."

Bullard "We have emails from the zoning inspector and the chairman of the zoning commission stating that they don't think we should reduce the fees."

D'Amico "I would not be in favor of lower the fees as they were put in place for a reason and you should talk to the developers and see if they will pay the fees."

Smith "How many houses are in the development?"

McMurtrie "65."

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Smith "So you can't get \$50.00 from everyone to help pay for this? We talking \$500,000 to \$1,000,000 homes and people can't afford to help out."

McMurtrie "If we had to raise the fees, raise the homeowner's association dues for a brand new development, we could certainly do that, but the point is that the intent of the fees and to double them to put the exact same sign up seems to be excessive when compared to other fees such as \$50 to add a garage on."

**RESOLUTION
11-04-08**

APPROVE SUMMERWOOD EXTENSION ASSOCIATION TO PAY FOR TWO SIMPLE SIGNAGE FEES ONE ON EITHER SIDE OF THE ENTRANCE AND AN INTERMEDIATE FEE SCHEDULE OF \$450. BE ACCESSED

Motion: Panzarella

Second: Bullard

Discussion: Bullard asked how Panzarella came up with \$450. Panzarella stated that it wouldn't take any more effort to look at an additional sign than the first sign. If he was to put one sign there it would be \$300, the second sign is a mirror image of that sign. Both walls were approved by someone in the RPC. So the level of complexity for the second was not equal to that of the first sign. Bullard stated that by doing this anyone can come to the board and ask to have fees reduced for a second sign. Panzarella said he is not speculating on the future, he's dealing with this specific one and that we do not have any guidance from the RPC that says if you are going to do FR1 subdivisions without PRD then they don't have to consult us and direct people to us for signage fees. We need to discuss this as this was allowed and the builder did what was allowed. The builder bares no responsibility on doing anything on the signage. I hope the developer is requested to help with the cost.

Vote: Bullard no, D'Amico no and Panzarella yes.

MOTION DENIED

**RESOLUTION
11-04-09**

APPROVE REQUEST ZONING COMMISSION REVIEW THESE SIGNS AT THEIR NEXT MEETING AND MAKE A RECOMMENDATION TO THE BOARD AS TO WHETHER OR NOT THERE SHOULD BE A FEE REDUCTION FOR DUPLICATE SIGNS

Motion: Bullard

Second: Panzarella

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

ZONING DEPARTMENT:

Window was replaced in the door

FUTURE MEETINGS:

None

LATE ITEMS:

Bullard "I gave you a copy of the resolution regarding the Big Walnut Watershed Agreement and I would like you to review it so we can vote on it at the next meeting whether we want to participate in it or not. I also received a letter from Tom Slack regarding the light at 23 & Peachblow Rd.

"Thank you for your recent correspondence dated March 16, 2011, requesting a traffic light for the Peachblow/Winter Road/US23 intersection. During design of this recently constructed intersection signal warrants were analyzed. In accordance with Federal Highway Administration guidelines, the analysis showed that a signal was not warranted with the current traffic levels. It was recognized that the potential for a large growth in traffic existed, and the roadway was designed to support this, with the realization that a traffic signal may be warranted in the future. The Ohio Department of Transportation, in conjunction with the City of Delaware, will continue to monitor this intersection. The Ohio Department of Transportation is committed to maintaining Ohio's roadways in a manner

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conducive to a safe commute for all those who travel them. Please don't hesitate to contact this office in the future with any concerns you may have."

Panzarella "We did have a public meeting and there were some actions taken so can we notify all the people that attended the meeting of this."

Bullard "I will do that. We also sent a Request for Engineering Assistance to the county engineer to help us with culvert inspections and received a response back that the county does not have the man power to help us with that."

**RESOLUTION
11-04-10**

MOTION TO ADJOURN

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

Meeting adjourned by Chairman Panzarella at 9:35 p.m.

Philip P. Panzarella, Trustee

ATTEST:

Thomas A. D'Amico, Trustee

Claudia Smith,
Fiscal Officer

Ronald W. Bullard, Trustee