

**BERLIN TOWNSHIP TRUSTEES**

**7:00 p.m. Trustee Meeting March 26, 18**

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

**CALL TO ORDER:** Ron Bullard, Trustee Chairman

**PLEDGE OF ALLEGIANCE:** Barbara Sherman led the Pledge of Allegiance

**ROLL CALL:** Ron Bullard, Ken O'Brien, Tom D'Amico, Claudia Smith, Fiscal Officer and Amy Arnold, Assistant to Fiscal Officer

**ATTENDANCE:** Sheila Hiddleson, Barbara Sherman, Joe & Toni Korleski, Bob Arnold, Chris Paykoff and Fotios Dardamanis

**PUBLIC COMMENT:** Fotios Dardamanis asked about the work that was being done on Curve Road and Old State Road. Bullard explained what they were doing there. Dardamanis also asked about development on 36/37 and the concrete plant and Bullard explained what the county had planned for the 36/37 corridor. The Savko concrete referendum was discussed and Bullard stated that it would be on the ballot in May. Joe Korleski asked if the referendum is voted down where do we go from there. Bullard said it would be dead and the zoning reverts back to what it was.

**Approval of Minutes –**

**RESOLUTION 18-03-24 APPROVE THE 3/8/2018 EMERGENCY MEETING MINUTES AND DISPENSE WITH THE READING**

Motion: O'Brien  
Second: Bullard  
Vote: Bullard yes, O'Brien yes and D'Amico yes

**RESOLUTION 18-03-25 APPROVE THE 3/12/18 REGULAR MEETING MINUTES AND DISPENSE WITH THE READING**

Motion: O'Brien  
Second: Bullard  
Vote: Bullard yes, O'Brien yes and D'Amico yes

**RESOLUTION 18-03-26 APPROVE THE 3/13/18 EMERGENCY MEETING MINUTES AND DISPENSE WITH THE READING**

Motion: O'Brien  
Second: Bullard  
Vote: O'Brien yes, D'Amico yes and Bullard yes

**FISCAL OFFICER ITEMS –**

**Hall Rental Refund –** Smith asked if the trustees read the email received today from the girl scouts. She said it indicated that they did do the damages on the wall but it was done years ago and we kept \$35 to fix it then but it was never fixed. Smith said at that time we were not giving full refunds back so what she got back was her refund and the \$35 was payment for use of the hall. No money was kept for damages. O'Brien said everyone knows what his opinion is and D'Amico said he is leaning that way too. He said she was never charged for the initial damages that were done and our rule is that the \$50 deposit is not refunded if the room is not cleaned or there are damages. Arnold said she has started checking the hall after every rental because of issues in the past. Bullard suggested that moving forward we do not allow non-profits to rent the hall free, as we need to be fair to the other residents. O'Brien believes everyone should have to pay except if there is a funeral and they purchased a cemetery plot.

**RESOLUTION 18-03-27 APPROVE REFUNDING GIRL SCOUT TROOP 1205 ENTIRE DEPOSIT BALANCE OF \$290 FOR HALL RENTAL IN THE**

Motion: O'Brien  
Second: Bullard  
Vote: O'Brien yes, D'Amico yes and Bullard yes

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**RESOLUTION  
18-03-28**

**APPROVE ALL EMPLOYEES PAY THE EMPLOYEE RATE AND ALL RESIDENTS PAY THE RESIDENT RATE FOR USE OF TOWNSHIP HALL, BOTH WITH \$50 DEPOSIT TO BE REFUNDED AS LONG AS HALL IS IN GOOD ORDER**

Motion: O'Brien  
Second: Bullard  
Vote: D'Amico yes, Bullard yes and O'Brien yes

**\*\*\*\*\*7:15 P.M. TIME CERTAIN\*\*\*\*\*HEALTH DEPARTMENT\*\*\*\*\***

Sheila Hiddleson, Delaware County Health Commissioner gave an update on the happenings in the district. She told us that Dustin Kent would be our new Delaware General Health District Representative and he will be coming to our meetings regularly. She stated that they had three deaths in Delaware County due to the flu but none where pediatric, that flu season was winding down, and they are working on a universal flu shot. Mosquito traps will be installed in May. She explained the rules about septic systems and said as long as they operational they would not need to be tied into sew if sewer is accessible.

**OLD BUSINESS –**

**Alpha Dog Invoice** – O'Brien said the rate was \$95 an hour if we don't sign the contract or \$75 an hour is we do and he would rather pay the \$95 when we need it. Bullard said he understands what he is saying but the people with a contract go ahead of the people do not. O'Brien asked if he tells us how many hours he actually does when he bills us. Smith said she has not received a bill from him yet but he indicated that a "call and fix" invoice for will be emailed for March hours. Bullard suggested that they check with the zoning department and fire department who are the users of the website to see how many hours are needed to keep it up and running. D'Amico will check.

**Cemetery Updates** – D'Amico said he contacted Straight Up and was given the name of a company to get a crane.

**Fairview Cemetery** – Nothing

**Multi-Family Zoning Fees** –D'Amico said he and Heid are still working on this.

**Township Hall Updates** – D'Amico said Rippel was getting lighting quotes but they were not available for tonight's meeting. Bullard asked that we explore carpeting at the same time they are exploring lights. Arnold asked if it was ok to put tape over the runs so they don't keep running. Bullard said whatever works and he would like to see it replaced with carpet tiles.

**CEMETERY** – Nothing

**FIRE DEPARTMENT** – O'Brien said he spoke with Chief Hall and he said the flat bottom boat had been taken out of service in 2017, as it was only rated to 250 pounds. He asked if they could sell it on GovDeals. No one had a problem with that. Bullard said there was a problem with the generator today when they tested it and Ohio Cat was called to check it out.

**ROAD DEPARTMENT –  
Requisitions –**

**RESOLUTION  
18-03-29**

**APPROVE \$8,640 TO GLENN EXCAVATING FOR CULVERT PIPE REPLACEMENT ON CURVE ROAD**

Motion: Bullard  
Second: O'Brien  
Vote: D'Amico yes, Bullard yes and O'Brien yes

Dardamanis asked if any consideration could be given to making the speed limit 40mph on Curve Road as he sees people drive faster than 55mph. Bullard explained the process in doing this, which requires a speed study. They discussed speed bumps and rumble strips.

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O'Brien said there have been no crashes on Curve Road. Bullard suggested that he call the sheriff's office to patrol the area.

**RESOLUTION 18-03-30 APPROVE \$20,584.62 TO PAVEMENT TECHNOLOGY INC FOR RECLAMITE ASPHALT REJUVENATOR FOR CURVE ROAD**

Motion: Bullard  
Second: O'Brien  
Vote: Bullard yes, O'Brien yes and D'Amico yes

**RESOLUTION 18-03-31 APPROVE \$21,542.40 TO J & A CONSTRUCTION INC FOR MASTIC SEALING ON VARIOUS ROADWAYS**

Motion: Bullard  
Second: O'Brien  
Vote: Bullard yes, O'Brien yes and D'Amico yes

**RESOLUTION 18-03-32 APPROVE \$26,723.20 TO J & A CONSTRUCTION INC FOR CRACK SEALING ON VARIOUS TOWNSHIP ROADWAYS APPROVE**

Motion: Bullard  
Second: O'Brien  
Discussion: O'Brien asked if they need to do more can they do more. Bullard said this has a 20% add one that can be extended if need be. O'Brien said he is more concerned that they don't do enough than that they do too much.  
Vote: O'Brien yes, D'Amico yes and Bullard yes

**RESOLUTION 18-03-33 APPROVE RON BULLARD TO BE ABLE TO EXECUTE ANY DOCUMENTS NECESSARY FOR THE ABOVE FOUR REQUISITIONS**

Motion: Bullard  
Second: O'Brien  
Vote: O'Brien yes, D'Amico yes and Bullard yes

**General Policy** – Bullard said they received an email from a resident in the Meadows of Cheshire requesting we put speed bumps in, as people are driving too fast in the area. He said the noise and maintenance associated with speed bumps is not justified and he is against putting them in the township. O'Brien agreed, as the snowplows have a horrific time with them and they tear up the road. He said the sheriff has the speed trackers and maybe we could ask to have them put one up. D'Amico asked if rumble strips that are cut into the pavement are hard on the plows as well. O'Brien said he was not in favor of those either as over the years they crack the road from freezing and thawing. Bullard will contact the resident that sent the email.

**TRUSTEE ITEMS –  
Bed Tax –**

**RESOLUTION 18-03-34 APPROVE RESOLUTION NO: 18-03-34  
PURSUANT TO SECTION 505.56 OF THE OHIO REVISED CODE,  
TO LEVY AN EXCISE TAX IN THE UNINCORPORATED AREA OF  
BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO, ON TRANSACTIONS  
BY WHICH LODGING BY A HOTEL IS OR IS TO BE FURNISHED TO  
TRANSIENT GUESTS**

**WHEREAS**, Berlin Township is authorized by R.C. § 505.56 to levy an excise tax in the unincorporated area of the township on transactions by which lodging by a hotel is or is to be furnished to transient guests; and,

**WHEREAS**, the Board of Township Trustees of Berlin Township, upon due consideration, has determined that it is necessary to levy such an excise tax; and

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**WHEREAS**, the levy of this excise tax is deemed necessary in order to supplement the township treasury so that additional and efficient services may be rendered to the residents, businesses, and industries of the township;

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

- Section 1. There hereby is and shall be levied on all transactions by which lodging by a hotel is or is to be furnished to transient guests within the unincorporated area of Berlin Township, Delaware County, Ohio, an excise tax in the amount of three percent (3%) on each transaction.
- Section 2. The excise tax levied by Section 1 herein shall be paid to Berlin Township on a monthly basis. Payment for each calendar month shall be due and payable as of 12:01 a.m. on the first day of the following month, and payment shall be made to the Township by the last day of that following month.
- Section 3. Payment of the excise tax shall be submitted to Berlin Township in care of the Berlin Township Fiscal Officer. Payment shall be accompanied by the submission of a completed Excise Tax Return form furnished by the Township, which shall be signed by the owner, the duly authorized manager, innkeeper, or other agent of the hotel taxpayer.
- Section 4. Each hotel taxpayer shall maintain and keep books and records of the receipts of its transient guests and the Berlin Township Fiscal Officer shall conduct audits as follows:
- A. Each hotel taxpayer shall maintain and keep books and records of the receipts of its transient guests for a period of not less than two (2) years from the date the lodging excise tax was due. Such Books and records shall be made available for examination by the Berlin Township Board of Trustees, the Berlin Township Fiscal Officer, or other authorized agents and/or employees of Berlin Township during regular business hours. Not less than twenty-four (24) hours advance written notice of the date, time, and place of such examination of hotel taxpayer books and records shall be provided to the hotel taxpayer.
  - B. The Berlin Township Fiscal Officer shall audit each Excise Tax Return and may conduct or cause to be conducted an audit of the books and records of a hotel taxpayer. The Berlin Township Fiscal Officer shall give the hotel taxpayer advance written notice of the date, time, and place of an audit of the hotel taxpayer's books and records as provided in Section 4(A).
  - C. Based on any audit conducted by the Berlin Township Fiscal Officer pursuant to Section 4(B), the Berlin Township Fiscal Officer may determine that there has been an underpayment or overpayment of the excise tax. In the event the Berlin Township Fiscal Officer determines that there has been an overpayment of the excise tax, the amount of the overpayment shall be refunded to the hotel taxpayer within thirty (30) days of such determination. In the event the Berlin Township Fiscal Officer determines that there has been an underpayment of the excise tax, the Fiscal Officer shall proceed as set forth in Section 4(D).
  - D. The Berlin Township Fiscal Officer shall send written notice to the hotel taxpayer notifying the hotel taxpayer of the audit, the determination that there has been an underpayment of the excise tax, and the amount due as a result of the underpayment. Unless the determination of the Berlin Township Fiscal Officer is appealed to the Board of Township

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Trustees of Berlin Township as provided in Section 4(E), any additional excise tax determined by the Berlin Township Fiscal Officer to be due as the result of an audit, shall be paid within thirty (30) days following the date the written notice, as required by this Section 4(D), is sent to the hotel taxpayer.

- E. A taxpayer may appeal the Berlin Township Fiscal Officer's determination of excise tax due to the Board of Township Trustees of Berlin Township by filing with the Berlin Township Fiscal Officer a written notice of appeal within thirty (30) days after the date of the written notice required by Section 4(D). The appeal shall be heard by the Board of Township Trustees of Berlin Township at the next regular meeting of the Board.

Section 5. The Excise Tax Return shall set forth the gross receipts for the monthly period, the exempt receipts and the net taxable receipts. Tax liability is to be determined by multiplying the net taxable receipts by three percent (3%) to arrive at the tax or be paid with the lodging Excise Tax Return. The Excise Tax Return shall also allow for inclusion of penalties, where applicable, on late payments. An itemized listing of all claimed exempt transactions for the monthly period, by guest and with copies of any Exemption Certificates, shall be attached to the Excise Tax Return.

Section 6. Said Excise Tax shall not apply to telephone or food service rendered to transient guests.

Section 7. The following definitions shall apply to the Excise Tax provided for herewith:

A. "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five (5) or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures. "Hotel" also means establishments in which fewer than five (5) rooms are used for the accommodation of guests and establishments at which rooms are used for the accommodation of guests regardless of whether each room is accessible through its own keyed entry or several rooms are accessible through the same keyed entry; and, in determining the number of rooms, all rooms are included regardless of the number of structures in which the rooms are situated or the number of parcels of land on which the structures are located if the structures are under the same ownership and the structures are not identified in advertisements of the accommodations as distinct establishments. For the purposes of this definition, two (2) or more structures are under the same ownership if they are owned by the same person, or if they are owned by two (2) or more persons the majority of the ownership interests of which are owned by the same person.

B. "Transient Guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

Section 8. The Berlin Township Fiscal Officer shall receive the Excise Tax and forms prescribed by these regulations and shall deposit the monies so received in the appropriate depository of the Township.

Section 9. All late payments not paid in accordance with Section 2 herein shall be assessed a penalty at the rate of one and one-half percent (1 ½%) per month or eighteen percent (18%) per annum. Upon written application and for good cause shown the Board of Township Trustees of Berlin Township may remit the penalty provided for in this Section.

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Section 10. This Resolution shall be in full force and effect as of the 26th day of March, 2018, at 12:01 a.m. and the Berlin Township Fiscal Officer be and is hereby authorized and directed to send a certified copy of this Resolution to all hotels as defined in this Resolution.

Section 11. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 12. If any section, sub-section, sentence, clause, or phrase of this Resolution is for any reason held to be unconstitutional or contrary to law, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Township

Trustees of Berlin Township, Delaware County, Ohio, hereby declares that it would have passed this Resolution and each section, sub-section, clause, or phrase hereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, and phrases might be declared unconstitutional or contrary to law.

This Resolution shall be in force and become effective immediately upon execution. The motion made by Trustee Ken O'Brien seconded by Trustee Ron Bullard

**BOARD OF TRUSTEES  
BERLIN TOWNSHIP  
DELAWARE COUNTY, OHIO**

Motion: Bullard  
Second: D'Amico

Discussion: Bullard said for discussion purposes he would read a portion of it "Pursuant to Section 505.56 of the Ohio Revised Code to levy an excise tax in the unincorporated area of Berlin Township, Delaware County, Ohio, on transactions by which lodging by a hotel is or is to be furnished to transient guests. **WHEREAS**, Berlin Township is authorized by R.C. § 505.56 to levy an excise tax in the unincorporated area of the township on transactions by which lodging by a hotel is or is to be furnished to transient guests; and, **WHEREAS**, the Board of Township Trustees of Berlin Township, upon due consideration, has determined that it is necessary to levy such an excise tax; and **WHEREAS**, the levy of this excise tax is deemed necessary in order to supplement the township treasury so that additional and efficient services may be rendered to the residents, businesses, and industries of the township; **NOW THEREFORE BE IT RESOLVED** by the Board of Township Trustees of Berlin Township, Delaware, Ohio, as follows". He stated that it talks about the 3% and the key thing is the definition of hotels and transient guests.

Vote: D'Amico yes, Bullard yes and O'Brien yes

**Database for Resolutions** – O'Brien said he would Rippel to work on this in her spare time. Bullard asked if we could have one PDF file for all meeting minutes for a year. Then you could search for things. Smith said you could just copy the minutes and paste them in one file. O'Brien said if he wanted to research all the resolutions on OPWC he would like an index that had all the resolutions listed. He said we do not need to know everything but we need to know the major things, the large dollar amount resolutions. Smith said she has a binder of the large resolutions that the prosecutor has put together for us but that we do not have a database. Smith said she has folders of the larger purchases such as the sign, chairs etc. but O'Brien said he would not want to bother her for these things all the time. He said the county did it and he thinks it was done in an excel spreadsheet. D'Amico asked what if we did it by department. O'Brien said it is not so much the dollar amount he is interested in but the vendor to make sure they did what they said they would do. Smith said it is impossible to look up resolutions that were done years ago. Bullard said O'Brien should explain to Rippel what he is looking for. D'Amico said Rippel asked how long they want to keep the minutes on the website and they decided no more than three years. Smith said they don't need old agenda's on there either.

**Placing Notices on Township Website** – Bullard said we can put notices on our website as a service, it is not a requirement and it does not satisfy any legal needs.

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**Name Plates Quote –**

**RESOLUTION 18-03-35 APPROVE NOT TO EXCEED \$130 TO BARSTOW ENTERPRISES FOR NAME PLATES FOR THREE TRUSTEES AND FISCAL OFFICER**

Motion: Bullard  
Second: D’Amico  
Vote: D’Amico yes, Bullard yes and O’Brien yes

**ZONING DEPARTMENT – Nothing**

**FUTURE MEETINGS -**

4/2/18 RFP Bids Open and Spring Roads Meeting  
4/9/18 Trustee Meeting  
4/18/18 MORPC State of the Central Ohio Region  
4/23/18 Trustee Meeting  
5/5/18 Township Clean Up Day

**LATE ITEMS –**

Smith said the post office does not allow the use of credit cards for the bulk mailings so she used her personal debit card so the newsletters would be received on time.

**RESOLUTION 18-03-36 APPROVE \$862.27 TO SMITH FOR REIMBURSEMENT OF PAYMENT SHE MADE TO UNITED STATES POST OFFICE FOR MAILING OF SPRING NEWSLETTER**

Motion: O’Brien  
Second: Bullard  
Vote: Bullard yes, O’Brien yes and D’Amico yes

Smith asked if Bullard would respond to the resident that asked about the plans for the work to be done on Piatt Road. He explained to the new trustees what they discussed last year and O’Brien said he would contact the resident.

Smith said she received the paperwork for the 2019 OPWC grant and Bullard said we would not be applying for one in 2019.

O’Brien said we received a new route plan for the triathlon and he is not happy with it as it has them going on both sides of the road on Hollenback and turning around at Piatt which he does not like either. Bullard said the sheriff did not want them turning around on the road either.

Smith said she has the harassment training scheduled for May 14<sup>th</sup> and would like to know if they want it mandatory for employees to attend. D’Amico said he thinks it should be for all employees and O’Brien did not have a problem with it. He said he talked to Hall and he said he wants at least all the full-time fire fighters doing it but it might be hard to get all the part-time fire fighters here. Bullard said we will close the zoning office and road department for the hour.

**RESOLUTION 18-03-37 APPROVE RECESSING TO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSION OF HIRING, COMPENSATION, DISCIPLINE AND THE PURCHASE OF PROPERTY–THREE TRUSTEES AND FISCAL OFFICER ATTEND-9:48 P.M.**

Motion: O’Brien  
Second: Bullard  
Vote: Bullard yes, O’Brien yes and D’Amico yes

**RESOLUTION 18-03-38 MOTION TO RETURN TO REGULAR SESSION AT 10:53 P.M.**

Motion: Bullard  
Second: D’Amico  
Vote: O’Brien yes, D’Amico yes and Bullard yes

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Bullard said we met in executive session, no decisions were made, and no actions were taken.

O'Brien asked if we received any bids for the mowing and Smith said no and it looked like only one company came in and took a packet.

**RESOLUTION            MOTION TO ADJOURN  
18-03-39**

Motion:            D'Amico  
Second:           O'Brien  
Vote:                O'Brien yes, D'Amico yes and Bullard yes

Meeting recessed by Chairman Bullard at 10:55 P.M.

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

ATTEST:

\_\_\_\_\_  
Ken O'Brien, Trustee

\_\_\_\_\_  
Claudia Smith, Fiscal Officer

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