

**BERLIN TOWNSHIP TRUSTEES**

**7:00 p.m. Regular Meeting May 8, 17**

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

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

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Larry Buell

**ROLL CALL:** Steve Flaherty, Adam Fleischer, Ron Bullard and Theresa Cannon, Fiscal Officer Assistant.

**ATTENDANCE:** Larry Buell, Toni and Joe Korleski, Graeme Quinn, Craig Hall, Chet Heid, Chris Paykoff, Chris Betts, Mark Fowler, Steve Hearst, Frank Hennebert

**PUBLIC COMMENT:** Bullard asked if there was anyone wanting to make public comment. He stated there were some rules that we followed and asked that comments be kept short. Anyone wishing to speak should state their name and address. Graeme Quinn wanted to let the Trustees know he appreciates the continued support of the clean-up day. He said he has taken advantage of it since moving into the Township. Bullard commented that we are receiving less trash brought to the Township Hall and more waivers being requested. Mr. Quinn also questioned what was being done with regards to a noise ordinance. Flaherty commented that it was on the agenda tonight. Joe Korleski commented that Fairview Cemetery on 23 had been mowed. Flaherty said that some "Good Samaritans" set out to clean up the Cemetery for Mother's Day and Memorial Day. He said they put out a challenge and Two Brothers Landscaping picked up the challenge and helped out. Flaherty said that Betts and Fowler will be here to talk about Fairview Cemetery later.

**RESOLUTION 17-05-01 APPROVE THE 4/24/2017 MEETING MINUTES AND DISPENSE WITH THE READING**

Motion: Flaherty  
Second: Bullard  
Vote: Bullard yes and Fleischer abstain, Flaherty yes

**FISCAL OFFICE:**  
April bank statement was signed.

**OLD BUSINESS:**

**Cemetery Updates/Columbarium's**

Flaherty reported that the company creating the design is a little backed up with spring but they will get the plans to us eventually and we will go from there.

**Noise Ordinance**

Fleischer said he talked with Mark Fowler regarding the noise ordinance and collection of fees. He said we should not specify any fine amounts. Heid asked about generator noise. Flaherty said it was up to the County Sheriff but if it's because of a storm situation that would be different. Quinn asked about safety warning devices and back-up beepers on trucks. Flaherty said that should be under the level of noise within 100 feet. Flaherty also commented that a government vehicle would be exempt. Quinn said that safety has to come first. Flaherty said the enforcement really comes under common sense. He said this was brought about because of the construction of the new high school. Subcontractors were starting work at 4:00 a.m. He said we don't want to prohibit business but starting at 6:00 a.m. makes more sense. Trustees said this was true with trash collection, which led to the contract.

**RESOLUTION 17-05-02 IN THE MATTER OF REPEALING RESOLUTION 04-01 AND ADOPTING A NEW RESOLUTION TO REGULATE NOISE WITHIN THE UNINCORPORATED TERRITORY OF BERLIN TOWNSHIP THE TRUSTEES MOVE TO APPROVE THE FOLLOWING NOISE ORDINANCE:**

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PREAMBLE

WHEREAS, R.C. § 505.172 authorizes a board of township trustees to adopt regulations and orders that are necessary to control noise within the unincorporated territory of the township that is generated at any premises to which a D permit has been issued by the Ohio Division of Liquor Control or that is generated within any areas zoned for residential use; and,

WHEREAS, the Board previously adopted such regulations and orders in Resolution 04-01 adopted on January 19, 2004; and,

WHEREAS; the Board desires to repeal Resolution 04-01 and approve new noise regulations consistent with R.C. § 505.172 and the amendments thereto and to supersede any prior noise regulations.

RESOLUTION

NOW THEREFORE BE IT RESOLVED:

A. DEFINITIONS

**Plainly Audible.** As used in this Resolution, Plainly Audible means any noise or sound produced by any source that can be clearly heard by a person using normal hearing faculties or ordinary auditory senses not enhanced by any mechanical device, such as a hearing amplification device or hearing aid.

B. CERTAIN NOISE PROHIBITED

No person in the unincorporated territory of Berlin Township, Delaware County, Ohio (“Township”) shall make and no landowner or lawful occupant of land shall permit at any premises to which a D permit has been issued by the Ohio Division of Liquor Control or that is zoned for residential use, the making of any noise or sound, which by reason of volume, pitch, frequency, intensity, duration, or nature annoys or disturbs the comfort, peace, or health of a person of ordinary sensibilities and not a resident of the property from which the noise or sound emanates. The noise or sound must be Plainly Audible at a distance of one hundred (100) feet or more from the property from which the noise emanates.

There shall be in the Township observed quiet hours between the hours of 10:00 P.M. and 6:00 A.M. every day of the week. During this quiet hour period there shall be no making of any noise or sound, which by reason of volume, pitch, frequency, intensity, duration, or nature annoys or disturbs the comfort, peace, or health of a person of ordinary sensibilities and not a resident of the property from which the noise or sound emanates. The noise or sound must be Plainly Audible at a distance of one hundred (100) feet or more from the property from which the noise emanates.

C. EXAMPLES OF NOISES

The following noises or sounds, which constitute a non-exclusive list, may be considered a violation of this Resolution if they violate division (B) of this Resolution:

1. **Horns or Signaling Devices.** The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle; a creation by means of any such sounding or signaling unreasonably loud or harsh sound; and the sounding of any such device

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for any unnecessary and unreasonable length of time. This shall not apply to the use of any such sounding or signaling device as a call for help or warning of danger.

2. **Reproduction and/or Amplification of Sound.** The use or operation of any radio, phonograph, television, tape player, speaker, loudspeaker, cassette, compact disc player, MP3 player, computer, synthesizer, or any other machine or device for the producing or reproducing of sound or amplifying sound with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or on the property in which such machine or device is operated and who are voluntary listeners thereto.
3. **Vocalizations.** Yelling, shouting, hooting, whistling, or singing.
4. **Musical Instruments.** The use of any drum or other musical instrument or device with or without electronic amplification.
5. **Internal Combustion Engines or Other Power Equipment.** The operation of any internal combustion engine or other piece of power equipment, excluding power mowers, trimmers, chain saws, or tillers.
6. **Gunfire.** Repeated discharging of firearms for an unreasonably long period of time under the circumstances then existing.

**D. EVIDENCE**

It shall be a *prima facie* violation of division (B) of this Resolution when the noise can be heard at a distance of one hundred (100) feet or more from the property where the noise or sound emanates.

**E. NOISE FROM MOTOR VEHICLES**

No person while operating or occupying a motor vehicle within the unincorporated territory of the Township within any area zoned for residential use or at any premises to which a D permit has been issued by the Ohio Division of Liquor Control shall operate or amplify the noise or sound produced by a radio, tape player, speaker, cassette, compact disc player, MP3 player, computer, synthesizer, instrument, or any other machine or device for the producing or reproducing of sound or amplifying sound from within the motor vehicle so that the noise or sound is Plainly Audible at a distance of one hundred (100) feet or more from the motor vehicle.

**F. OFFICIAL USE EXEMPTIONS**

The regulations contained in this Resolution shall not apply in the following circumstances:

1. To any law enforcement motor vehicle equipped with any communication device necessary to the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary to the performance of any emergency procedures.
2. To the noise or sound made by a horn, siren, or other warning device required or permitted by state law, when used in accordance with state law.

**G. LAW ENFORCEMENT DETERMINATION OF SOURCE**

Any law enforcement personnel who hears a noise or sound that is Plainly Audible, shall measure the noise or sound according to the following standards:

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- 1. The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a hearing amplification device or hearing aid.**
- 2. Regarding division (E) of this Resolution, the officer must have a direct line of sight to the motor vehicle producing the noise or sound so that the officer can readily identify the offending motor vehicle and the distance involved.**
- 3. The officer need not determine any particular words or phrases being produced or the name of any song or artist. The detection of a noise, sound, or rhythmic bass reverberating type sound is sufficient to constitute a Plainly Audible sound.**
- 4. Any motor vehicle from which sound is produced must be located (stopped, standing, or moving) within the unincorporated area of the Township in an area zoned for residential use or on any premises to which a D permit has been issued by the Ohio Division of Liquor Control. Parking lots and driveways are included.**

**H. EXEMPTIONS**

**The regulations contained in this Resolution shall not apply in the following circumstances:**

- 1. Any person engaged in activities described in R.C. § 1.61 (Titled: "Agriculture Defined") is exempt from the provisions of this Resolution if the noise is attributed to an activity described in R.C. § 1.61.**
- 2. Any person engaged in coal mining and reclamation operations, as defined in R.C. 1513.01(B), or surface mining, as defined in R.C. § 1514.01(A), is exempt from the provisions of this Resolution if the noise is attributed to coal mining and reclamation or surface mining activities.**
- 3. Noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas wells or pipelines or any appurtenances to those wells or pipelines or from the distribution, transportation, gathering, or storage of crude oil or natural gas is exempt from the provisions of this Resolution.**
- 4. Nothing in this Resolution shall be deemed to prohibit noise that is made by construction, repair, or maintenance of structures or yards between the hours of 6:00 a.m. and 10:00 p.m.**
- 5. Refuse collection operations conducted between the hours of 7:00 a.m. and 9:00 p.m. shall be exempted from the provisions of this Resolution provided that all equipment used in such operations is operated in accordance with the manufacturer's specifications and/or with all standard manufacturers' mufflers and/or other noise reducing equipment in use and in proper operating condition. Refuse collection personnel are to avoid loud voices and noises generated by striking cans or dumpsters against hard surfaces, including, but not limited to, the ground, vehicles, or other cans or dumpsters.**

**I. PENALTY**

**Whosoever violates divisions (B) or (E) of this Resolution shall be guilty of the level of offense as provided in the most current version of R.C. § 505.172 for violating any regulation or order, such as this Resolution, adopted pursuant to R.C. § 505.172. Fines levied and collected pursuant to this Resolution shall be paid into the Township general revenue fund.**

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**J. PRIVATE CIVIL ACTION**

**Pursuant to R.C. § 505.172, any person allegedly aggrieved by another person’s violation of this Resolution may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person for committing an act or practice that violates this Resolution.**

**K. REPEAL OF PRIOR RESOLUTIONS ADOPTED PURSUANT TO R.C. § 505.172**

**Resolution 04-01 adopted on January 19, 2004 is hereby repealed and is null and void. This Resolution shall supersede and take precedence over any and all other resolutions approved by this Board adopted pursuant to R.C. § 505.172 and all such resolutions are hereby repealed and are null and void.**

**L. ADOPTION**

**All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of the Board, and all deliberations of this Board and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. § 121.22.**

**This Resolution shall be in full force and effect immediately upon adoption.**

**Voted on and signed this 8th day of May, 2017 in Berlin Township, Delaware County, Ohio.**

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

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

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**Steve Flaherty, Trustee**

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**Adam Fleischer, Trustee**

Motion: Bullard  
Second: Fleischer  
Discussion: Fleischer said he thinks this will give the residents some recourse. Resolution will be provided on the website.  
Vote: Fleischer yes, Bullard yes and Flaherty yes

**Road Department Job Descriptions Updates and Rules for 4 10’s**

Bullard said he does not have the job description completed but he does have 8 points that will need to be approved.

**RESOLUTION  
17-05-03**

**APPROVE THE FOLLOWING POINTS FOR THE  
4-10 HOUR DAY WORK WEEK:**

- 1. This is being authorized to improve the results for our work schedule.**
- 2. This is being done on a trial basis for 2017, with a review in early 2018.**
- 3. Normal worktime begins no earlier than 6:30 a.m.**
- 4. The Road Supervisor determines when a 10 hour work day is appropriate.**
- 5. Vacation, holiday and sick days are normal 8 hour or less days. Example: If a holiday is taken on Monday and 3-10**

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**Hour additional days are worked that week then 2 additional hours must be worked or taken as paid time off, to achieve the normal 40 hour work week.**

- 6. This does not affect emergency situations or work schedule.**
- 7. A sign should be posted on the entrance door and a message put on the phone to direct people to contact Cathy Ripple when the office is not staffed.**
- 8. There is no requirement that the Road Supervisor be in the office during work hours. Messages should be responded to as quickly as possible.**

Motion: Bullard

Second: Flaherty

Discussion: Buell questioned if there was a funeral on a Friday if the road crew would be paid overtime. Bullard said yes, but it was at the discretion of the superintendent and they would figure it out. Buell asked why they didn't have one of the workers come in Monday-Thursday and the other Tuesday-Friday. Bullard said they reviewed that option but it really wasn't going to work. He said the longer day will be more productive especially when working with Glenn and Miley. Cannon said she had a list of concerns/comments from Smith. If an employee calls in sick they must make up the time in the same pay period. Should also asked if it should be a 10.5 hour work week with a lunch? Bullard and Paykoff both said that they do not take a lunch.

Vote: Flaherty yes, Bullard yes and Fleischer yes

### **Update Website/Hall Rental Calendar**

Flaherty said that they would like to set a time for training on the google calendar with Cathy.

### **7:30 Time Certain Accent Cloud Discussion**

Fleischer thanked Steve Hearst for attending the meeting and the quotes. Fleischer reviewed the quotes:

1. A total monthly recurring charge of \$400.71 for cloud file server and cloud vpn (Windows Server OS, 4 CPU's, 16GB RAM, 9TBHD and Cloud VPN appliance).
2. A non-recurring charge of \$1,530 for cloud infrastructure as a service set up and configuration.

Hearst reviewed the service quotes. Flaherty said this was enough for now but asked if there was an amount for additional gigs as the Township grows. Hearst said he would check on the cost. Flaherty stated .9 TB was plenty for now. Buell asked about the Pontem Software and backup. Hearst said we would talk with Pontem with regards to up-dates or any other problems with regards to the cloud. Heid asked about backing up to "real time". Fleischer asked Hearst what he thought about connecting to "optic fiber". Hearst said he would recommend it. Fleischer asked about the cost difference between the County at \$750 and Time Warner at \$250 for connection and \$399 monthly charge. Hearst said you can keep broadband as it is and elect to switch to fiber in the future. He said the choice is yours. Flaherty said we are rolling over our existing website to WordPress. Hearst said they do not do web design but he would recommend that. Flaherty said that he wants to talk to him regarding google calendar. Hearst said that would be good, he said it is part of your existing google account. He said he would like to get us started on it. Bullard asked about the existing hardware. Flaherty said they would no longer need the NAS. Bullard asked about computers. Flaherty said we will still have local computers but the information will be saved to the cloud instead of the server. Bullard questioned if the computer hardware would still be handled by Computer Smith. Hearst said yes they do not furnish or work on computers. Hearst said he is right down the street and to let him know if they have any other questions.

### **7:50 Time Certain ComputerSmith Cloud Discussion**

Frank Hennebert from ComputerSmith/ Virtual Office Systems (VOS) reviewed the monthly estimate of \$481.84 for Microsoft Office Standard, Pontem Software, Microsoft Expression and storage of 16GB. Flaherty asked about a setup fee. Hennebert said there probably wouldn't be one since they were already a client. Fleischer asked about the fiber connection on Cheshire. Flaherty said he thought it was with consolidated.

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Frank Hennebert gave a history of why he started ComputerSmith 24 years ago and VOS 12 years ago. He said with the cloud your software is available from anywhere as long as you can get on the internet. Hennebert said they are in 8 countries and every state. He questioned who uses the cloud and said that if you use Netflix, Amazon Prime or any online banking you use the cloud. He talked about Data Centers, purpose built facilities and urged the Trustees to come look at one. He discussed cloud computing and Citrix-the ability to access your files on the go. Flaherty questioned the use of excel, word, power point, publisher and expression web. Hennebert stated your programs and data is available when you need it wherever you are from any device as long as you have internet. Flaherty said that he had been in contact with Dave Harris of Alpha Dog Inc. regarding WordPress and setting up new web design. Flaherty said that Cathy will be maintaining the site. He said he was given a quote around \$3000 and there would not be much after. Flaherty said Harris suggested buying a few hours a month for support. Hennebert again extended offer to tour data center. He said they have two centers. Hennebert said that word would save real time and they have nightly and weekly backups. He said ComputerSmiths work on computers, printers or hardware is not included in this estimate. Buell questioned Pontem updates. Hennebert said that you have to tell us about updates and we will get together with their customer service. Heid said he is worried about everything they do being available for public record. He also said that we have a retention schedule we have to follow. Hennebert said everything is backed. He said they delete nothing. He suggested that we may want to keep a small external drive and keep a yearly backup off site. He commented places like "Iron Mountain" retain backups. Fleischer said he would like to tour the data facility.

Flaherty said he can move on with Dave from Alpha Dog Inc. He said Dave would be able to work with either vendor. Flaherty said he would like a calendar post set up on the website. Bullard said they should be cautious about listing who is renting the hall. Hall asked about combining the Township and Fire Department Facebook pages. Flaherty said he tries to capture theirs and share it. Hall said Chelsea does the Fire Department page. Flaherty suggested Chelsea email them when she posts something so he can share it. Hall commented there was not much going on their FB. Flaherty said they have about 500 likes.

**CEMETERY**

**Fairview Memorial**

**RESOLUTION 17-05-04 MOTION TO MOVE INTO EXECUTIVE SESSION AT 8:30 PER ORC 121.22 G3 (CONFERENCES WITH AN ATTORNEY FOR THE PUBLIC BODY CONCERNING DISPUTES INVOLVING THE PUBLIC BODY THAT ARE THE SUBJECT OF PENDING OR IMMINENT COURT ACTION)- TRUSTEES, ATTORNEYS, FISCAL OFFICER AND LARRY BUELL INCLUDED**

Motion: Bullard  
Second: Fleischer  
Vote: Fleischer yes, Bullard yes and Flaherty yes

**RESOLUTION 17-05-05 MOTION TO RETURN TO REGULAR SESSION AT 9:30**

Motion: Bullard  
Second: Flaherty  
Vote: Flaherty yes, Fleischer yes and Bullard yes

Bullard stated that in executive session legal matters were discussed and no decisions or actions were taken.

**FIRE DEPARTMENT**

**RESOLUTION 17-05-06 APPROVE HIRING JACOB SHAW AS A PART-TIME FIREFIGHTER AT THE PROBATIONARY RATE WITH A HIRING DATE TO BE SET AT THE CHIEF'S DISCRETION**

Motion: Flaherty  
Second: Fleischer  
Discussion Hall said Shaw would be working 24 hour shift every 6 days. He said Shaw currently works as a firefighter at Radnor and is an EMT-B with Morrow County EMS.

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Vote: Bullard yes, Flaherty yes and Fleischer yes

Hall said they recently had a fire extinguisher class for about 90 employees of the new high school. They also had an auto excavation class and have forwarded pictures to the Trustees. Hall said they have boating and active shooting courses in the near future. He said they always let the County know of classes. Hall reported they have a Captain coming off probation in June and said they are both doing great jobs.

**ROAD DEPARTMENT**

**OPWC**

Bullard said that they will have to ask for an REA from the Engineers office for the Curve Rd. OPWC application.

**RESOLUTION 17-05-07 APPROVE REQUESTING THE DELAWARE COUNTY ENGINEERS DEPARTMENT FOR ENGINEERING ASSISTANCE (REA) FOR 1.89 MILES OF CURVE ROAD BETWEEN DALE FORD ROAD AND GLENN ROAD FOR OPWC FUNDING APPLICATION: REA TO INCLUDE BASE STABILIZATION, REPAVE AND WIDENING OF ROAD**

Motion: Bullard  
Second: Fleischer  
Vote: Fleischer yes, Flaherty yes and Bullard yes

**TRUSTEE DEPARTMENT**

**EMS Lease Agreement Renewal**

Trustees reviewed the lease agreement 6/25/2007 and addendum 5/22/2008. Bullard said that he thinks this has worked wonderfully and it behooves us to do whatever we need to renew it. Flaherty questioned raising the price. Bullard said he feels we receive more than we give from the EMS folks. He said it is worth it for the residents. Flaherty questioned a possible 10 lease with an increase after 5 years. Hall commented that he has never seen the agreement and asked what it covers. Bullard said that we provide all furniture and appliances and upkeep. They have been providing cleaning and medical supplies. Flaherty said that the lease goes to 12/31/2017. Flaherty said "new facility" wording should be taken out of new lease. Bullard said over the years they have donated things to us like the dodge. Hall agreed that things have gone very well. He said they are all very conscientious employees. Flaherty suggested letting the two Chiefs work it out. He suggested a possible 8% increase for utilities and upkeep. Flaherty said that would be \$16,200 for the first five years and \$18,500 the remaining five years. Flaherty said this is still negotiable. Fleischer said we want to keep them. Flaherty agreed saying their service to our residents is awesome. Bullard asked Hall to bring feedback to the next meeting. He said make it loud and clear that we want them here.

**ZONING DEPARTMENT**

Heid reported that Brookview Manor is not responding to him or Steve Arnold regarding fire hydrants. He said he will no longer issue permits until the issue is resolved. Heid said he has left a phone message as well as sent a couple emails. Hall said they are required every 300 feet. Bullard asked if he had sent a letter and forwarding a copy to the Prosecutor. Heid said he talked with Mark today. Flaherty questioned the location and builder. Heid said it was at Acadia and Cliffview and Pulte was the builder. Heid said he would send out a letter and that he is not approving any permits. Heid said he needed an ID badge and that Joe was helping him make one. Heid asked for approval to remove signs on the weekend. Bullard said to report time and mileage. Heid commented that it would not be every weekend. Heid questioned the zoning responsibility with regards to Fairview Cemetery. He said if it becomes a nuisance and he has to write a letter he is not sure who to send it to.

**RESOLUTION 17-05-08 MOVE TO GO INTO EXECUTIVE SESSION TO DISCUSS TOWNSHIP LEGAL ISSUES**

Motion: Bullard  
Second:

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Vote:  
Bullard withdrew motion for lack of a second.

Flaherty commented that it looked like another good month in the zoning department according to the monthly report. Heid said there was a problem a couple months ago with the columns adding up but it has been fixed.

**FUTURE MEETINGS**

- 5/22/2017- Trustee Meeting
- 5/11/15- MORPC
- 5/10/15- Concord Township discussion on TIF's and Community Authorities

**LATE ITEMS**

Flaherty reported that Rob Van Gorder from Red Robin Way has informed him that they will be having a graduation party on June 21<sup>st</sup> and would like to use the "parking policy" and requested that the Sheriff be notified.

**RESOLUTION MOTION TO ADJOURN  
17-05-09**

Motion: Fleischer  
Second: Flaherty  
Vote: Bullard yes, Fleischer yes, Flaherty yes

Meeting adjourned by Chairman Bullard at 10:05 p.m.

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Steve Flaherty, Trustee

ATTEST:

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Adam Fleischer, Trustee

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Theresa Cannon, F.O. Assistant

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Ronald W. Bullard, Trustee