

## BERLIN TOWNSHIP TRUSTEES

7:00 p.m.

Trustee Meeting

August 13,

18

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

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

**PLEDGE OF ALLEGIANCE:** Ray Armstrong led the Pledge of Allegiance

**ROLL CALL:** Ron Bullard, O'Brien, Tom D'Amico and Claudia Smith, Fiscal Officer.

**ATTENDANCE:** Carol Hribar, George & Janice McCabe, Ray Armstrong, Vic Citro, Jennifer Privara, Matt Schlab, Joe Korleski, Rosemarie Weler, Kim trackler, Mike Hasson, Mr. & Mrs. Bill Shephard, Dr. Meghan Raehill, Wendy Malcolm, Larry Buell, Ginny, Haller, Matt Plummer, John Balot, Aubree Lucas, David Stephens, Joe & Diane Valentino, Chris Paykoff and Craig Hall

Bullard said before we do public comment he would like to state that at 9:00 we are going to have a discussion regarding a zoning cloud for the north area of the township, it is a discussion item not an action item.

**PUBLIC COMMENT:** Bullard said he is going to defer the public comments because he assumes that most people are here to discuss the trash contract with Republic.

**Republic Trash Contract** – Bullard stated that Vic Citro from Republic is here to answer questions. He said that the trustees are not happy with the service that we have been getting, they have been trying to improve it since May, and it has not gone well. He said they have talked to the prosecutor and they have information to share.

Carol Hribar asked why the trash company was changed without resident input. Bullard explained the reason that the trustee decided to go with one trash hauler and that only one company submitted a bid. Matt Schlab suggested that we hear from the Republic representative first. Vic Citro gave a brief history of what has transpired since May. They had four drivers quit and due to record low unemployment rates, they had trouble getting new drivers that have their CDL license. In addition, there have been changes to the DOT regulations that have worked against them, which limits the number of hours a driver can work for public safety. They have hired more drivers but they are not fully trained on the routes. He stated that he had a couple solutions that would help the situation and wanted to discuss them with the trustees. The first one is that they put a hold on the recycling pickup for sixty (60) days and place recycle bins somewhere in the township at no cost. This would allow the drivers to focus on learning the routes and give them three (3) extra trucks on the routes. He said this is the fastest and easiest option. The second option is a longer-term option that would be going from a single day pickup to spread out throughout the week in sections. The problem with that is the drivers are still learning their routes, as they will have different routes than they currently have. It will take time to reroute the current schedule and will take time.

O'Brien said he has concerns about placing recycling bins as it causes damages to the blacktop and it is hard to get someone that will allow them to be placed on their property. He also stated it would be a learning curve for the residents to know where to take the recycling when plans change. O'Brien said he has had it and that Republic needs to do something to fix this to fulfill their obligations of the contract. D'Amico asked if the same trucks are used for trash as they are used for recycling. He asked about people just putting their recycling in with the trash for sixty (60) days. Citro said it would fix the problem quicker. A resident suggested that they implement both options. Wendy Malcolmson asked how much recycling is actually being recycled. Citro said much of what people think is recyclable is actually not recyclable so only 70% of the items place in recycling is recycled. He has seen vacuum cleaners in the recycling. Paykoff asked where the rejected recyclables go and Citro said they are taken to the transfer station in Delaware.

Aubry Lucas said Republic is lacking on their services and the residents are paying their bills every month so Republic is pocketing that money without services being rendered. She said when they call the 1-800 number they don't even know about the missed pickups. From their standpoint, we have given Republic every opportunity to correct the problems and need to find another opportunity. Joe Korleski said everyone here is unhappy that their

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trash is not being picked-up and told the trustees to do something about it. John Barlot said he has not heard Republic say that they will bring more people from Mt Vernon in to the township to help with picking up the trash. He stated there have been several times that there has been no communication. He asked the trustees what Republic has done for them to fix the problem. Bullard said they have had numerous discussions but have not seen a lot of progress. Citro said they have brought drivers in from Michigan and Indiana to help with the routes. Although it feels good that they are doing something about it the results are not there, as they need someone that is local and someone that knows the routes. David Stephens thanked Citro for coming in and talking to everyone and the trustees for negotiating on behalf of the township as he appreciates the savings that he has experienced by having a contract with one company. He asked if the trustees were currently in negotiations with any other companies that want to compete. Bullard said we cannot negotiate another contract while we are in this contract but this contract ends at the end of the year so we can go out for bids for another contract.

Diane Valentino asked what do the other trash companies do that Republic doesn't, how are they getting it done. She said there is a price cut so obviously there is a service cut, what is missing? Citro said he will not say anything bad about the competition but they have heard from Rumpke customers that asked what they can do for them. He said they had four people walk out due to an incentive program that was not companywide and was not condoned. Stephens said that Rumpke is also having issues in Orange Township. Bill Shepherd asked how spreading out more days of the week would help. Citro said most routes run on Fridays so if they spread them out it would be easier and is more sustainable as you are not maxing out your fleet of trucks. Shepherd asked if they could get a credit township wide for the weeks where their trash was not picked up. Citro said he could not do it township wide. Joe Valentino said Republic has no incentive to address our issues since the township did not get any other companies to place a bid.

**RESOLUTION 18-08-04 APPROVE SECTION 1 FOR A SPECIFIC OCCURRENCE TO WAIVE ATTORNEY CLIENT PRIVILEGE FOR COMMUNICATION DATED THURSDAY AUGUST 9, 2018 AT 12:10 P.M. FROM THE PROSECUTORS OFFICE. SECTION 2 THAT THIS RESOLUTION DOES NOT WAIVE ATTORNEY CLIENT PRIVILEGE FOR ANY OTHER COMMUNICATION NOT AUTHORIZED BY RESOLUTION**

Motion: O'Brien

Second: Bullard

Discussion: O'Brien said he knows the prosecutor does not like us to waive attorney client privilege because they get more political in their answers as opposed to being straightforward. In this case, it would be beneficial for the residents to hear with they had to say and some of the things they will like and some they will not like.

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

O'Brien read an email they received from the Delaware County Prosecutor:

Trustees, Yesterday I spoke with Trustee O'Brien regarding issues with the Township's waste hauling contract with Republic. As I understand it, many Township residents are not having their waste collected as is required under the terms of the contract. Trustee O'Brien asked this office to review the contract and advise what remedies, if any, are available to the Board of Trustees to help ameliorate the situation. Trustee O'Brien also asked that the advice be shared with all three Trustees.

I have thoroughly reviewed the contract, and it contains several clauses that the Board may use here, at its discretion. They are as follows:

- **Clause 6.5.B, Cancellation** – The Board may cancel the contract. Cancellation may be done at any time, with or without cause, provided that the Board gives Republic prior written notice of their intent to cancel at least thirty (30) days before cancellation.
- **Clause 6.47.A, Complaints (Restitution)** – This clause requires Republic to respond to resident's complaints. It also allows for restitution to residents in certain situations. For example, if collections are not made within 24 hours (or the next workday) after a complaint, Republic must give the resident a credit for that week's collection on their bill. I hope the residents are already receiving credits for no-show weeks, but if not, Republic can be forced to do so through the contract.

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Additionally, the contract allows for restitution "in the event of a justifiable repetitive complaint." In the case of repetitive complaints, the Board may request restitution by Republic, to the resident, "for a specified amount deemed appropriate by the Boards." This clause is fairly ambiguous, but it does appear to give the Board the ability to determine what the value of the disruption to the affected resident is and "request" Republic to pay that amount. The contract is not clear what happens if Republic refuses the "request." This clause may not be easy to enforce.

· **Clause 6.47.B, Liquidated Damages** – The contract requires Republic to pay liquidated damages (these are automatic payments, similar to fines) to the Township when certain requirements are met. If Republic misses or fails to make a collection on the regularly scheduled day from any Subscriber on the same street 3 or more times in any 90-day period, even if corrected within 24 hours, then the Board may determine that a service violation has occurred and assess liquidated damages in an amount equal to the lesser of Twenty-five Dollars (\$25.00) per Subscriber household or Two Hundred Fifty Dollars (\$250.00) per street (no more than one (1) mile in length).

If the facts here allow it, then proceeding under this clause might be the most effective tool the Board can use. The payments should be automatic.

Hopefully this information will be helpful to you your efforts to fix this problem. Please let me know if you have any questions or concerns.

Mark W. Fowler  
Assistant Prosecuting Attorney  
Delaware County Prosecutor's Office

O'Brien said people want to make money and when you cause financial pain, they tend to respond to it. Assessing \$250 per street could cause some pain as we have many streets but we need documentation of the days trash was missed. O'Brien said the problem is that for the residents to get the money they have to go through the steps which is an individual thing but this is what the township can do which does not help the residents financially cause the money goes into the general fund and that is the way the statute is written. Stephens said Citro is here offering up a solution and for us as a township he feels it will come back to bite us since they are the only ones that submitted a bid. He also said we need to take the sixty days to educate people on the recycling do's and don'ts. O'Brien said we need to find a solution. Bullard suggested that they look at spreading it out over more days of the week and asked the audience what they preferred. Most of the residents in attendance were in favor of implementing both options. Citro said he would like to see doing both options but it will take two months to get the people trained. We would see immediate results if they do not have to pick up the recycling and take sixty days to get the routes rerouted and notices out. O'Brien said we would have to amend the contract so we will need to talk to the prosecutors. Robert Yaptango arrived and Bullard asked him if we could modify the contract and he said he would have to look at it. Bullard said we could have him look at it and meet again later this week to make a decision.

**RESOLUTION APPROVE TAKING A FIVE (5) MINUTE RECESS AT 8:52 P.M.  
18-08-05**

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

**RESOLUTION RETURN TO REGULAR MEETING AT 9:00 P.M.  
18-08-06**

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

**Zoning Department –**

**Canine Companions** – George McCabe was there representing nine neighbors that border Canine Companions stating that there are four problems that they have with them and gave the following letter to the trustees.

To: Berlin Township Trustees, Delaware, Ohio  
Re: Canine Companions Business and Land Parcel

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Please note the below matters of concern, from the property owners of Big Run Subdivisions I and II. These properties lay boundary to the East, West and North of the afore mentioned business and land parcel.

**SEWAGE:** It appears the septic system was damaged at Canine Companions when an added exercise arena, for the dogs, was added. Assumption is that the leach bed seems inadequate for the high volume of usage. The unsanitary excess overflow has created numerous, fertile and wet areas around the premises of Canine Companions and drainage culverts in Big Run I. These wet areas prohibit mowing and maintenance of grass, in both sections.

**OUT BUILDING:** Situated on lot 645 – This property is owned by Canine Companions. This structure has been left unattended for years. Canine Companions has been asked repeatedly to repair the building and bring it to a presentable appearance. We have asked that weeds, fallen trees and debris be removed, to no avail. This deplorable sight is viewed by property owner's front and back.

**GRASS MAINTENANCE-A:** Upon purchase of the property, Canine Companions was issued Deed Restrictions and Restrictive Covenants. This legal document, clearly states, that the grass on either side, of access driveway to Big Run II, which borders their lot line, was to be maintained on a regular basis. These documents also state that they are responsible for a shared portion of road maintenance. These mentioned issues need to be adhered to and enforced.

**GRASS MAINTENANCE-B:** this pertains to lot 645. In past years, Canine Companions mowed the open field area on a regular basis. Currently, this is ignored until field grass exceeds unsightly growth of four (4) feet. It is then cut, baled and sold as a cash crop. See Covenant Restrictions in Delaware County Courthouse Book #0591, page 224, listed number 15. Clearly, this legal document states that this property is to be MOWED on a regular basis. All property owners abide by this mandate. We work hard to keep our lots groomed and presentable and feel Canine Companions should not be exempt from this responsibility.

**CONSTRUCTION TRAILER:** We, as residents of Big Run I and II were informed by a Delaware Zoning Commissioner, that the trailer positioned next to the business of Canine Companions was a temporary (three-month permit) structure. To be used while said business, remodeled the interior of the existing building. After a six month period, a second visit and conversation with Berlin Zoning Commissioner, regarding this same issue, seemed to fall on deaf ears. There was no explanation given as to why this matter had not been addressed. Another request on the status of the trailer was made by phone. We were told that it should have been removed some time ago. Still approximately eighteen (18) months later, this temporary trailer exists. Again, another violation of restrictions.

Since much time has elapsed in correction of these violations, we would appreciate an immediate response. Please notify us in writing. Any further information that is needed, please contact: George McCabe.

Bullard asked if these are covered by deed restrictions, as the township does not have a standing regarding deed restrictions. They are amongst the people that are included in the restrictions. McCabe showed the trustees photos of raw sewage and O'Brien asked if they talked to health department as that is who would handle this. McCabe said this is the beginning and the trustees need to know what is going on. He showed pictures of uncut grass, sewage and structures left unattended. He asked that he trustees call the health department on their behalf. O'Brien said we told them that the trailer needed to go. Bullard asked if it was at least a five (5) acre partial as that is deemed a farm and follows different rules and stated they need to check into that. He said he will call the health department and let them know there is a sewer problem there. He asked D'Amico to check into the permit for the trailer. Bullard said the failure to follow deed restrictions is a civil matter.

**Cloud Discussion** – Robert Yaptangco and Mark Fowler with the county prosecutor's office arrived at 9:00 p.m. to discuss placing a Cloud over the commercial area of 36/37. They had a copy of Berkshire Townships to use as a model. Fowler said Bob Lamb was to give him some design standards. D'Amico asked what the benefit was to the property owner. Armstrong said they do not have to go through zoning, he can already get the zoning through this plan. O'Brien said you could keep the zoning that you have and if you do not

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like coming from the Cloud you want to rezone you have the right to go through the whole process. If they do not meet every one of the conditions, the trustees do not have to give the rezoning. Armstrong said if you go through the zoning process then it is referenable, pulling from the Cloud is not. Bullard said nothing this does takes away from anything in the zoning book, it is just an additional zoning district. Fowler said this will be an easier step for developers and they will not want to annex. Trustees are to review the document and see what they want to change.

**Zoning Inspector Position -**

**RESOLUTION 18-08-07 APPROVE AUTHORIZING TRUSTEE D’AMICO TO JOB EXTEND OFFER TO THE CANDIATE OF ZONING INSPECTOR**

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

**BZA Alternate** – Still looking for someone.

**Old Business – Fairview Cemetery Update** – Will discuss Thursday.

**Cemetery Rules Update & Ossuarium Pricing** – Will discuss Thursday.

**VOS Hosting Agreement** - Bullard said that Yaptango was reviewing it with the ComputerSmith attorneys and when it is ready he will sign it.

**Employee Handbook Update** – Will discuss Thursday.

**Fall Newsletter** – Will discuss Thursday.

**Fire Department –**

**RESOLUTION 18-08-08 APPROVE \$8,400 TO ALL AMERICAN FIRE EQUIPMENT INC FOR REPAIRS TO PUMP E/392**

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

**RESOLUTION 18-08-09 APPROVE \$7,200 TO EMBROIERY WAREHOUSE FOR YEARLY UNIFORM REPLACEMENT AND FOR NEW HIRES**

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

**RESOLUTION 18-08-10 APPROVE \$3,600 TO SUNBURY PLUMBING AND HEATING FOR REPLACEMENT OF HEAT EXHANGER IN TRAINING ROOM AND REPAIR TRAINING ROOM TRANSFORMER AND YEARLY MAINTENANCE**

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

Chief Hall said they had the Touch-A-Truck event last Saturday and had over 1,000 people attend. They attended the West Berlin Presbyterian Church’s 1<sup>st</sup> ice cream social and received the following note:

7/29/18 Berlin Township Fire Department

Thank you so much for being a part of our first ever “Ice Cream & Trucks” event at West Berlin Presbyterian Church. The fire truck was the highlight of the event. We are so thankful for the time and kindness your firefighters shared with the children at the event.

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Please know how much we appreciated your support. We shared your upcoming "Touch a Truck" event on our Facebook page and on Delaware County Metro Group. We hope you have a great turnout. Thank you again, The West Berlin Presbyterian Church

Chief Hall said they also attended the open house of the Olenyangy Berlin High School where there were approximately 3,500 to 4,000 people in attendance. He said they completed their yearly auto extrication class and are researching new extrication tools which are battery operated.

**RESOLUTION 18-08-11 APPROVE RESIGNATION FROM FIREFIGHTER JOHN TYLER MCFARLAND EFFECTIVE AUGUST 3, 2018**

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

**Road Department – Contracting for Snow Plowing** – Will discuss Thursday.

**Trustee Items – Health Insurance** – Will discuss Thursday.

**Facebook** – Bullard said we agreed to suspend it until further notice and said the Health Department is used for information only and no one can put comments so he would like ours to be that way also.

**RESOLUTION 18-08-12 APPROVE FACEBOOK TO BE IN LOCKED DOWN CONDITION SO IT IS NOT AVAILABLE FOR COMMENTS BUT AVAILABLE FOR US TO PUT INFORMATION ON THERE**

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

**RESOLUTION 18-08-13 APPROVE THE 7/9/2018 REGULAR MEETING MINUTES AND DISPENSE WITH THE READING**

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

**RESOLUTION 18-08-14 APPROVE THE 7/25/2018 SPECIAL AND EMERGENCY MEETING MINUTES AND DISPENSE WITH THE READING**

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

**Fiscal Officer Items –**  
Trustees signed the July bank statement and electronic payment list.

**2018 Budget –**  
Smith said she completed the budget and would be taking it to the auditor Tuesday.

**Future Meetings –**  
9/10/18 Trustee Meeting  
9/24/18 Trustee Meeting  
10/8/18 Trustee meeting  
10/22/18 Trustee Meeting

**Late Items - RESOLUTION 18-08-15 ACCEPT DONATION OF CLOCK FROM BARB SHERMAN AND THANK HER FOR IT**

Motion: O'Brien

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

**RESOLUTION RECESS AND SUSPEND MEETING UNTIL THURSDAY  
18-08-16 AUGUST 16, 2018 AT 7:00 P.M.**

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

Meeting recessed by Chairman Bullard at 11:01 P.M.