

BERLIN TOWNSHIP TRUSTEES

7:00 p.m. Trustee Meeting January 13, 2020

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

CALL TO ORDER: Tom D’Amico, Trustee Chairman

PLEDGE OF ALLEGIANCE: Ken O’Brien led the Pledge of Allegiance

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

ATTENDANCE: Barbara Sherman, James Brenza, Doug Buchanan, Bruce Runyon, Joe Thomas, Christina Littleton, Joe Pichert, Craig Hall, Dana Ray, Nick Ray, Scott Belcastro, Jeff Gordon, Mark Raiff and Chris Paykoff

D’Amico requested a moment of silence for the recent passing of former township trustee, Robert Ford.

RESOLUTION 20-01-33 APPROVE THE 12/23/2019 END OF THE YEAR MEETING MINUTES AND DISPENSE WITH THE READING

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

RESOLUTION 20-01-34 APPROVE THE 12/23/2019 2020 ORGANIZATIONAL MEETING MINUTES AND DISPENSE WITH THE READING

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

RESOLUTION 20-01-35 APPROVE THE 12/31/2019 EMERGENCY MEETING MINUTES AND DISPENSE WITH THE READING

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

Old Business – Employee Handbook Updates – Nothing new.

Fairview Cemetery Updates – O’Brien said the 5th district court of appeals did make a ruling and our attorney will be here at 9:30 to discuss.

Mowing RFP – Smith will advertise it.

Natural Gas Agreement – Bullard said he was given authorization to sign a fixed rate contract but then recommendation was to not go with a fixed rate. Scott Belcastro with Trebel said we’ve been keeping an eye on rates and believe the variable rate should be retained at this time. So far we have seen little indication rates will rise in the next 9-months to a level that supports paying a premium to enter into a fixed rate agreement. This winter has been very mild and the forecast is calling for continued warm weather (as high as 65 degrees). This is a big change from previous years where it was cold for a period of time and would drive natural gas prices upwards. The fixed rate is \$.37 ccf and he feels we should go with the variable rate as at any time we can switch this rate to a fixed rate and he’s comfortable with entering into the variable rate agreement at this time. He stated natural gas rates were historically low currently. O’Brien said there is a risk to go with the variable and he would rather go with a fixed rate. Belcastro said there is very little risk that rates are going to go up in the next nine months. O’Brien asked if it was Belcastro’s intent to come back in nine months. Belcastro said he watches the rates daily and would notify us if he saw that they were going up. O’Brien said he would be okay with it if we revisit it in August or September. O’Brien asked that it be on the agenda for the first meeting in September.

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RESOLUTION 20-01-36 APPOINT RON BULLARD TO EXECUTE ANY PAPERWORK NECESSARY TO LOCK IN THE VARIABLE RATE FOR NATURAL GAS WITH VOLUNTEER ENERGY WITH A REVIEW OF THE PRICES IN SEPTEMBER 2020

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

O'Brien recused himself at 7:32 p.m.

*******7:30 P.M. TIME CERTAIN*****BZC 19-001 & 19-002, PEACHBLOW LAND II LCC, KENNEY ASSET MANAGEMENT LLC, BERLIN MEADOWS*******

Todd Faris with Faris Planning and Design presented the plans for Berlin Meadows, which is located between Shanahan and Peachblow Roads west of the railroad tracks and consists of 336 lots, which is the lowest density in the township being proposed or that has been approved. He gave a history of the plan that started in 2017 and went through many changes required by the Delaware County Regional Planning Commission. The plan before the trustees has an elementary school, 6.9 miles of sidewalks and 3 miles of bike paths, dog park, pavilion, open recreation area with bocce ball, pickle ball, a tot lot, pool and clubhouse and a commercial area with an extension of North Road to Peachblow Road. He reviewed the divergences that they were requesting. Joe Thomas with Metro Development gave an update on the work that is being done to get sewer to the area which is set to begin?????. He stated that construction on the elementary school is set to begin in April 2020.

Bullard stated his concerns regarding snout garages and asked that they state a specific percentage that would be in the development. He also asked them how they were going to handle mailboxes as the post office wants community mailboxes but they need to be off the street. Thomas said they could be located in the green spaces. Bullard asked about trees in the right-of-way and Faris said they were on the homeowner's property and they are responsible for them. Bullard asked if they would have deed restrictions regarding small animals as the state is working on passing a law that would allow small animals and the cities, towns and township have no say on that. He asked when the development would be turned over to the homeowner's association. Thomas said usually it is done when 75% of the homes are occupied. Bullard asked that all his concerns be addressed in writing.

D'Amico asked what percentage of lots had 6-foot setbacks and 10-foot setbacks. Thomas said it all depends on the lot that a purchaser picks and the type of home they are purchasing. D'Amico asked what the rear yard setbacks were. Faris said they were 25 feet. D'Amico asked about the lots with side load garages and they said there would be 66% side load garages mostly on the corner lots.

D'Amico asked if there was any public comment and Mark Raiff, Olentangy Schools Superintendent stated that they own five sites in the district for future schools and the district continues to grow. He stated that none of the sites have sewer to them and their facilities team started working with Kenney and Metro Development to look at what was out there to potentially for them to donate a school site where someone else would pay for the sewer. It would cost them a couple million dollars to get sewer to any of their sites. He asked Mr. Kenny if they would be interested in partnering with them to make this happen. He stated all elementary schools in the vicinity are over capacity and this site would help with that. He said he appreciates the work the trustees do to hold builders and developers to such a high standard so they get quality products in Berlin Township.

Faris reviewed the Planned Commercial Development portion of the project and stated that 16.29 acres locate off Peachblow Road would consist of seven lots. He stated they committed to certain architectural standards and they would be one-story buildings. He said the NAICS codes that are in the text are what they agreed to with the BZC. Bullard asked about the buffering on the outside of the property on the east and west side as he is concerned that a two foot buffer is not adequate because there will be beeping trucks and midnight deliveries for the businesses and there will be residents right behind it. Faris said he does not know how to address them, as they do not know what type of tenants they will get. Bullard asked if they could cut down some of the NAICS codes that would eliminate 18-wheelers. Bullard said most businesses get their deliveries in the evening and he does not want to have residents call them and complain about the lights and noise. Thomas said they

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could put restrictions in place. He said garden stores, small hardware stores; boutiques, childcare centers, stores and restaurants, dentist or doctors’ offices make sense in this area. D’Amico said he agrees with Bullard that they will hold fast on the neighboring buffer. He asked if there was a way they could restrict the hours of the business operations. Faris and Thomas said they could. D’Amico asked if there was any public comment on this zoning application and hearing none, he requested that the items they had concerns with be addressed in writing, and bring it to the next meeting.

RESOLUTION 20-01-37 APPROVE TABLING BZC 19-001 & 19-002 BERLIN MEADOWS TO JANUARY 27, 2020 AT 8:00 P.M. TIME CERTAIN, THE PER APPLICANTS REQUEST

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

O’Brien returned to the meeting at 9:32 p.m. D’Amico said our legal counsel is hear.

RESOLUTION 20-01-38 RECESS TO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION, COMPENSATION OF A PUBLIC EMPLOYEE, AND CONFERENCES WITH AN ATTORNEY FOR THE PUBLIC BODY CONCERNING DISPUTES INVOLVING THE PUBLIC BODY THAT ARE THE SUBJECT OF PENDING OR IMMINENT COURT ACTION—THREE TRUSTEES, CHRIS RINEHARDT AND FISCAL OFFICER TO ATTEND-9:34 P.M.

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

RESOLUTION 20-01-39 MOTION TO RETURN TO REGULAR SESSION AT 10:22 P.M.

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

D’Amico “We met in executive session and no decisions were made no actions were taken.”

Fiscal Officer Items – Trustees signed the December 2019 bank statement and electronic payment list.

2020 Health District Assessment –

RESOLUTION 20-01-40 APPROVE 2020 GENERAL HEALTH DISTRICT ASSESSMENT \$11,068.03-DELAWARE COUNTY HEALTH DISTRICT

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

2020 EMA Apportionment –

RESOLUTION 20-01-41 APPROVE \$3,743.78 TO DELAWARE COUNTY OFFICE OF HOMELAND SECURITY FOR 2020 EMERGENCY MANAGEMENT APPORTIONMENT

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

2020 Regional Planning Dues –

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RESOLUTION 20-01-42 AUTHORIZE PAYMENT OF UP TO \$5,850.00 DELAWARE COUNTY REGIONAL PLANNING MEMBERSHIP DUES @ 1.04 PER CAPITA ESTIMATED POPULATION OF 8,138 - DELAWARE COUNTY REGIONAL PLANNING

Motion: Bullard
Second: O'Brien
Discussion: O'Brien asked if this was the discounted rate and Smith said it was.
Vote: Bullard yes, O'Brien yes and D'Amico yes

Meeting Resolution - O'Brien said he did not love it as it states you have to put it on the website and he does not have the ability to do it. Smith said Rippel was the only one that does. O'Brien suggested changing the wording to "the board may post notice of the meeting on the townships website, under 7E and 8D "

RESOLUTION 20-01-43 APPROVE IN THE MATTER OF ESTABLISHING A REASONABLE METHOD WHEREBY THE PUBLIC MAY DETERMINE THE TIME AND PLACE OF ALL REGULARLY SCHEDULED MEETINGS OF THE BOARD AND THE TIME, PLACE, AND PURPOSE OF ALL SPECIAL AND EMERGENCY MEETINGS OF THE BOARD

The Board of Trustees of Berlin Township, Delaware County, Ohio ("Board") met in open for the regular meeting on the 13th day of January 2020.

Ken O'Brien Moved the adoption of the following Resolution.

PREAMBLE

WHEREAS, pursuant to R.C. § 121.22(F), the Board is required, by rule, to establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings of the Board and the time, place, and purpose of all special meetings of the Board; and,

WHEREAS, the Board also desires, consistent with R.C. § 121.22(F), to establish a reasonable method whereby any person may determine the time, place, and purpose of all emergency meetings of the Board.

RESOLUTION

NOW THEREFORE BE IT RESOLVED:

Pursuant to R.C. § 121.22(F), the Board establishes and provides notice of the following schedule for all regular meetings of the Board held in 2020 and sets the following rules for providing notice of all special and emergency meetings of the Board held in 2020 :

1. All regularly scheduled meetings of the Board held in 2020 shall be held in accordance with the following schedule:

Time: 7:00 P.M.

Days/Dates: The 2nd and 4th Monday of each month with the following exceptions: February, June, July and August meetings will be 2nd Monday at 7:00 p.m. HOLIDAY EXCEPTIONS: 2nd meeting in May will be May 26, 2020. ROAD INVENTORY MEETING: Spring – Saturday, April 18, 2020 beginning at 9:00 a.m. The 2020 END OF YEAR MEETING: December 28, 2020 at 4:30 p.m.. The 2020 ORGANIZATIONAL MEETING: immediately following the end of the Year meeting.

Place: Berlin Township Hall 3271 Cheshire Rd Delaware, Oh 43015.

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2. The Fiscal Officer shall immediately publish the above time, days/dates, and place of all regularly scheduled meetings one (1) time in the Delaware Gazette, a newspaper of general circulation in the Township.
3. The Fiscal Officer shall also continually post the above time, days/dates, and place of all regularly scheduled meetings in at least one (1) prominent public location in the township hall, in at least one (1) prominent public location at any other location where the Board regularly holds meetings and/or conducts business (if any), and, if the Board maintains a Township website or subsequently establishes a Township website, on the Township's website.
4. Any person, upon request made to the Fiscal Officer, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Advance notification shall be provided in any reasonably requested manner to include, but not limited to, providing notice and the agenda by email sent to an email address provided by the requestor or physically mailing the notice and agenda to the requestor and/or all subscribers on a mailing list provided by the requestor. If physical mailing of the notice and agenda are requested, the requestor shall provide the Fiscal Officer a sufficient quantity of self-addressed, stamped envelopes bearing sufficient postage to mail the requested notice(s) and agenda(s). The Fiscal Officer shall maintain a list of all persons requesting such notification.
5. The Fiscal Officer shall maintain a separate list of news media requesting notification of meetings.
6. Where the purpose of a regular meeting is of a type for which a person(s) or the news media has requested notification, the Fiscal Officer shall provide advance notice to such requesting person(s) in the manner requested and to the news media in writing.
7. The Fiscal Officer shall provide notice of the time, place, and purpose of all special meetings of the Board as follows:
 - A. Provide at least twenty-four (24) hours' advance notice in writing to the news media that have requested notification; and,
 - B. Where the purpose of the meeting is of a type for which a person(s) has requested notification, provide advance notice to such requesting person(s) in the manner requested.
 - C. Prominently post advance notice of the meeting on the door of the township hall or other location where the meeting is to be held.
 - D. If the Board specifically requests notice be published, publish notification as directed by the Board.
 - E. If the Board maintains a Township website or subsequently establishes a Township website, they may post notice of the meeting on the Township's website. (Except when electric or internet interruption makes it impractical to notice on the website.)
8. Any member or members of the Board calling an emergency meeting of the Board shall immediately provide notice of the time, place, and purpose of the emergency meeting as follows:
 - A. Provide notice in writing to the news media that have requested notification; and,
 - B. Where the purpose of the meeting is of a type for which a person(s) has requested notification, provide notice to such requesting person(s) in the manner requested.
 - C. Prominently post notice of the meeting on the door of the township hall or other location where the meeting is to be held.
 - D. If the Board maintains a Township website or subsequently establishes a Township website, they may post notice of the meeting on the Township's

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website. (Except when electric or internet interruption makes it impractical to notice on the website.)

- 9. If a meeting is cancelled, the Fiscal Officer shall provide notice of the cancellation by prominently posting a notice of the cancellation on the door of the township hall or other location where the meeting is to be held and, if the Board maintains a Township website or subsequently establishes a Township website, posting notice of the cancellation on the Township’s website.
- 10. 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.
- 11. This Resolution shall be in full force and effect immediately upon adoption.

Tom D’Amico Seconded the motion.

Voted on and signed this 13th day of January 2020 in Berlin Township, Delaware County, Ohio.

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

Cemetery – Nothing

Fire Department – Resignation –

RESOLUTION 20-01-44 RECESS TO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION, COMPENSATION OF A PUBLIC EMPLOYEE OR OFFICIAL AND PREPARING FOR, CONDUCTING, OR REVIEWING NEGOTIATIONS OR BARGAINING SESSIONS WITH PUBLIC EMPLOYEES CONCERNING THEIR COMPENSATION OR OTHER TERMS AND CONDITIONS OF THEIR EMPLOYMENT –THREE TRUSTEES, FIRE CHIEF HALL, ASSISTANT FIRE CHIEF PICHERT AND FISCAL OFFICER ATTEND-10:33 P.M.

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

RESOLUTION 20-01-45 MOTION TO RETURN TO REGULAR SESSION AT 10:53 P.M.

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

D’Amico “We met in executive session and no decisions were made no actions were taken.”

RESOLUTION 20-01-46 ACCEPT RESIGNATION FROM FIRE FIGHTER NICK ARNOLD EFFECTIVE JANUARY 1, 2020

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

Road Department –

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2020 Road Improvement Contract – Bullard said they received the list of road improvements and O’Brien questioned that they want to redo Piatt Road already. Bullard said it is putting Reclamite on it, which is a sealer and it is recommended to be done the 2nd year the road. O’Brien also asked about 3 B’s & K Road as it is \$60,000. Bullard said it is because the road is narrow and the school buses go off the berm, so they have to do in-depth repairs to it. O’Brien said it does not help that it is built on a swamp.

RESOLUTION 20-01-47 APPROVE \$506,990 TO DELAWARE COUNTY ENGINEER FOR 2020 ROAD IMPROVEMENT PROGRAM

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

RESOLUTION 20-01-48 AUTHORIZE RON BULLARD EXECUTE ANY PAPERWORK TO ACCOMPLISH THE 2020 ROAD IMPROVEMENT CONTRACT OR TOM D’AMICO IF BULLARD IS NOT AVAILABLE

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

Trustee Items – Bullard said Riedel asked what they want to name the Piatt Road extension that goes north of Berlin Station Road. Suggestions were Piatt Road, Roloson Road or Piatt Roloson Road. O’Brien said he has a strong recommendation because people will be coming from the north not the south and as long as it is touching Roloson, it should be Roloson. If it goes past Roloson to Route 36\37, it should be Piatt. O’Brien said he would be okay with Roloson-Piatt Road.

RESOLUTION 20-01-49 RECOMMEND TO THE COUNTY THAT THE CONNECTOR ROAD BETWEEN ROLOSON AND PIATT ROAD BE NAMED ROLOSON-PIATT ROAD

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

Bullard said he talked to Mark Raiff about the memo they got from the Montrose Group and he stated that the new student numbers that they use would be closer to 2,000 rather than 5,300 students, which is on the report.

Zoning Department – December Zoning Report – Bullard said we had 116 houses for the year.

Public Comment - D’Amico asked if there were any public comments.

Christine Littleton asked the following:
Tonight I was hoping you could answer some questions regarding the agenda for the upcoming Berlin Business Park hearings.

Generally: 1.) What can we expect?

Specifically: 2.) About the public comment portion

- A. Will we allowed to speak only once?
- B. Will we be limited to 3 minutes or any other duration?
- C. Will you, the trustees, respond immediately or wait until all comments are made?
- D. Will a dialogue be permitted?

3 If turnout exceeds capacity

- A. Will residents that are shut out be able to sign in in order to show their interest and support in this endeavor and also indicate that they were unable to participate fully?
- B. The "Sunshine" and "Open Meeting" laws indicate that these residents will still have the right to hear (but not necessarily comment on) the

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proceedings. Do you have anything in place so that they will be able to hear the presentations? Or can you recommend how to accomplish this?

- C. If a large turnout is anticipated at the continuation dates for these hearings, would you consider holding them in a larger venue and asking Bob Lamb to return to repeat his presentation for those that were not able to fit into the Township Hall?

James Brenza said he has worked with the Montrose group in the past and O'Brien is dead on, don't trust their numbers. He said they are hired by county planning who has paid them \$57,000 in the past two years. He suggested the trustees mitigate it by getting your own slice of data. He asked that they find a better way to work with the public at your meetings, as the approach they used for the gas rates by mitigating the contract risk does nothing but mitigate the contract risk. You are not just looking at the weather impact, it is geopolitical and it is going to scale quickly if more democrats get wind in the presidential election. He said waiting until September is not wise and he was trying to offer them an option that would mitigate risks further. When you have somebody that truly understands futures contracts. He has written risk mitigation policies on those and financial models that assess how to look at futures contracts. By shutting him down tonight, they did the township a disservice.

In response to Littleton's comments Bullard said they do not want to hear ten people repeat the same thing. He said most people are concerned with how it affects them not how it affects everybody else, and how does it affect my property values not how does it affect everybody else's. He does not have a problem having it a bigger venue but it takes time to schedule this. O'Brien said he has concerns with the dialog as there will be no dialog as all the questions that they had should have be addressed already and we should just be hearing a presentation of their views and evidence. Those for will speak and then those against will speak and then the for can rebuttal against the for. Brenza suggested that by encouraging people to bring very specific changes to the wording, if you respond to them and accept those requests it will probably move along very quickly and put an end to a lot of rebuttal and repeats. It will also build faith with the residents. If any suggestions brought forth simple get deeper and deeper deferred, with no acknowledgment of a change necessary, it is not going to go well. D'Amico said he does not want it to be a free for all and that is why he wants it in the township hall so he can keep control. He said he hopes that they can help get the word out of the process.

D'Amico said he is confused as to how they got the recommendation from the zoning commission without an architectural review board. D'Amico said Lamb and Riley told him that they hired NBBJ to do the architectural design and could take two to three months. Then they need to put together a five-member team to make up the architectural review board. Brenza said they already have a civil engineer for us. Bullard said this plan is no more than a piece of paper and what we need to do is sell this plan to the landowners that this plan is good for them. If they exercise some of their options, it takes us totally out of it. We need to come up with something that is economically viable for everybody. If the landowners do not like it, they will go for where the most money is. There are cities on both sides that are hungry for the money. If they go to the city, we are out of it and we do not even get a notice.

D'Amico said he will be chairing the meeting Wednesday, but was told that he needed to recuse himself from the Thursday meeting. He plans on the meeting be a two-hour meeting and then be tabled to another night.

Future Meetings –

- 1/15/2020 Special Meeting
- 1/16/2020 Special Meeting
- 1/27/2020 Trustee Meeting
- 2/10/2020 Trustee Meeting
- 3/9/2020 Trustee Meeting

Late Items – D'Amico said he received a policy on public comments at a township meeting and had the prosecutor go over it. They reviewed it O'Brien said he did not think it would work for the meetings this week as it says it is for township meetings not hearings. D'Amico said he thought it could be for both. The prosecutor will be at the special meetings so they

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will check with him. Brenza said there is a group of people that have been meeting and they are trying to get everyone's feedback incorporated into revisions that would make it acceptable and significantly reduce the risk of referendum yet still maximize tax dollars.

**RESOLUTION MOTION TO ADJOURN
20-01-50**

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

Meeting adjourned by Chairman D'Amico at 12:14 a.m.

Tom D'Amico, Trustee

ATTEST:

Ron Bullard, Trustee

Claudia Smith, Fiscal Officer

Ken O'Brien, Trustee