

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting April 13,**

**20**

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

**CALL TO ORDER:** Tom D’Amico, Trustee Chairman

**PLEDGE OF ALLEGIANCE:** Ron Bullard led the Pledge of Allegiance

**ROLL CALL:** Ken O’Brien, Tom D’Amico, Ron Bullard, Claudia Smith, Fiscal Officer and Theresa Taylor, Assistant Fiscal Officer

**Public Comment:** There were no comments as there was no one in attendance.

**Approval of Minutes-  
RESOLUTION 20-04-04 APPROVAL OF 04/06/20 SPECIAL MEETING MINUTES AND  
DISPENSE WITH THE READING**

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

**Old Business –**

**Piatt Road Expansion Project-** D’Amico stated thus far we have two bids, one being from ORC and the other being from Trans Systems. D’Amico spoke with Doug Riedel and he said that they need to be qualification bids. D’Amico would like to get one more bid on the table before a decision is made. Bullard also spoke with Riedel and both believe that there also needs to be a public meeting with the owners before a decision is made. O’Brien also believes the township needs to know the cost of the project. Bullard feels we need to follow the lead of the county to make sure the OPWC grant is given to the township for the project.

**Adoption of Covid-19 Policies-** O’Brien explained that under the Temporary Emergency Paid Sick Leave Act (FFCRA) Policy all full-timers get 2 weeks (80 hours) of Covid sick leave. Under this policy, emergency responders are exempt from using these 80 hours for childcare purposes (categories 4-6) under the section of Use Of Leave. After the first two weeks of paid leave then the Temporary Emergency Family Medical Leave Act (FFCRA) Policy will go into effect for all employees. Under this policy, the employee will get paid 2/3 of their regular pay for a total of 10 more weeks. The employee can choose to use any of their accumulated sick or vacation leave for the remaining 1/3 of their pay. For part-time employees the 2-week period under the Temporary Emergency Paid Sick Leave Act (FFCRA) Policy will be calculated based on an average number of hours worked in the previous six months. All employees will need a doctor’s excuse to return to work.

**RESOLUTION 20-04-05 MOTION TO ADOPT THE TEMPORARY EMERGENCY FAMILY  
MEDICAL LEAVE ACT (FFCRA) POLICY**

**A. Statement of Policy.**

Under the Families First Coronavirus Response Act (FFCRA), eligible employees may request up to twelve (12) weeks of emergency family and/or medical leave (“EFMLA”) for qualifying reasons related to COVID-19 with job protection and no loss of accumulated service provided the employee meets the conditions outlined in this policy. This policy is temporary and is in effect between April 1, 2020 and December 31, 2020.

The expanded FMLA leave provided by this policy is not in addition to FMLA leave available for other FMLA qualifying conditions, such as an employee’s serious health condition, a serious health condition of an employee’s immediate family member (spouse, child or parent), upon the birth, adoption or foster placement of a child or for certain military leave related reasons. The period applicable for traditional FMLA leave is applicable to the leave requested by employees under this policy.

**B. Definitions.**

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting April 13,**

**20**

As used in this policy, the following terms and phrases shall be defined as follows:

1. “Eligible employee”: An eligible employee is one who meets the eligibility criteria defined in section “C” of this Policy.
2. “Emergency responder”: An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to police officers, fire fighters, emergency medical services personnel, emergency medical technicians, paramedics, emergency management personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. For the purpose of this policy, the following are “emergency responders” for the Township: full-time and part-time employees in the following positions: Fire Chief, Assistant Fire Chief, Fire Captain, Fire Lieutenant, Fire Safety Inspector, Firefighter, Road Superintendent, Road Laborer I and II, and Building Services/Custodian, and such other persons or positions as the State of Ohio or Township may designate consistent with this definition.
3. “Qualifying reasons”: Qualifying reasons include that the employee is needed to care for, and is actually caring for, their child under 18 years old due to the unavailability of school or childcare for COVID-19 reasons, or to care for an adult son or daughter, who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability, due to the unavailability of school or childcare for COVID-19 reasons. .

**C. Eligibility.**

To be eligible for leave under this policy, an employee must meet all of the following conditions:

1. The Employee has worked for the Township for at least thirty (30) days prior to the commencement of the leave.
2. Spouses who are both employed by the Township are jointly entitled to a combined leave total of twelve (12) weeks (rather than twelve (12) weeks each) for childcare purposes. Employees who are both employed by the Township may not take leave under this policy at the same time.
3. Emergency responders are excluded from the application of this policy

**D. Use of Leave.**

Leave under this policy is limited to circumstances where an employee is unable to work (including telework) due to the need to care for the employee’s son or daughter because the child’s school or place of childcare has been closed or the child care provider of the child is unavailable due to COVID-19.

Employees taking leave under this policy must be present with the child during regular work hours and otherwise act in a manner consistent with the need for such leave.

**E. Procedures for Requesting Emergency FMLA**

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting April 13,**

**20**

Employee requests for leave must be submitted as soon as practicable after the first workday or portion of a workday for which an employee receives paid sick leave. The employee must request leave on a form provided by the Township and provide the requested documentation of the need for leave and follow the Township’s policies and regular reporting procedures for each absence.

**F. Compensation.**

Eligible employees who take leave to care for the employee’s minor child as outlined in Paragraph D, above, shall be eligible for to up to twelve (12) weeks of paid expanded family and medical leave The first 10 days of EFMLA leave are unpaid, but the employee may substitute two weeks of available emergency paid sick leave as set forth by Section B.5 of the Township’s Temporary Emergency Paid Sick Leave Act (FFCRA) Policy, or their Township accrued vacation leave, personal leave, or medical or sick leave, for unpaid leave during this time.

The remaining EFMLA days after 10 days will be paid at two-thirds the employee’s regular rate of pay or two-third of minimum wage, whichever is greater (with a maximum payment of \$200 per day and \$12,000 total for the twelve (12) total weeks of total leave when combined with Section B.5. leave), which shall not be deducted from the employee’s accrued leave balances. Employees may supplement paid EFMLA leave with other accrued leave to receive their full regular-rate of pay during the EFMLA.

**G. Intermittent/Reduced Schedule Leave.**

An employee may take EFMLA leave on an intermittent or reduced work schedule basis only with the employer’s approval. Requests for intermittent or reduced schedule EFMLA leave must be submitted in writing as soon as practicable.

**H. Reinstatement.**

Employees who take leave under this policy will be reinstated to the same or an equivalent position upon return from leave except that if the position that the employee occupied prior to taking EFMLA leave is not available, the employee may be placed in a vacant position which entails substantially equivalent levels of skill, effort, responsibility, and authority and which carries equivalent status, pay, benefits, and other terms and conditions of employment as the position the employee occupied prior to taking EFMLA leave. The determination as to whether a position is an "equivalent position" will be made by the Township.

**I. Retaliation.**

An employee will not be retaliated against for exercising their rights to leave in accordance with this policy.

**J. Expiration.**

This policy is temporary and will be effective April 1, 2020 and expire on December 31, 2020.

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

**RESOLUTION 20-04-06 MOTION TO ADOPT THE TEMPORARY EMERGENCY PAID SICK LEAVE ACT (FFCRA) POLICY**

All eligible employees shall be entitled to emergency paid sick leave for qualifying reasons in compliance with the 2020 Families First Coronavirus Response

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting April 13,**

**20**

Act as follows:

**A. Definitions**

1. "Eligible employee": All full-time and part-time employees of the Township are eligible for leave under this Policy, except as stated in this policy.
2. "Emergency responder": An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to police officers, fire fighters, emergency medical services personnel, emergency medical technicians, paramedics, emergency management personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. For the purpose of this policy, the following are "emergency responders" for the Township: full-time and part-time employees in the following positions: Fire Chief, Assistant Fire Chief, Fire Captain, Fire Lieutenant, Fire Safety Inspector, Firefighter, Road Superintendent, Road Laborer I and II, and Building Services/Custodian, and such other persons or positions as the State of Ohio or Township may designate consistent this this definition.
3. "Qualifying reason": A qualifying reason for the use of emergency paid sick leave means that the employee is unable to work (or telework) for a reason defined in Section B, Use of Leave, in this Policy.

**B. Use of Leave.**

All eligible full-time and part-time employees may use emergency paid sick leave if they are unable to work (or telework) before using other accrued paid leave for the following reasons:

1. The employee is subject to a federal, state, or local quarantine, or isolation order related to COVID-19;
2. The employee has been advised by a health-care professional to self-quarantine because of COVID-19;
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. The employee has a bona fide need to care for an individual with whom the employee has a personal relationship, and for whom the employee would be expected to provide care, who has been ordered or advised to quarantine or isolate;
5. The employee is needed to care for, and is actually caring for, their child under 18 years old due the unavailability of school or childcare for COVID-19 reasons, or to care for an adult son or daughter, who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability, due the unavailability of school or childcare for COVID-19 reasons; or
6. For similar conditions as determined by the Secretary of Health and Human Services.

Emergency responders are eligible only for emergency paid sick leave in categories 1-3 in this section, to the extent provided in this Policy.

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting April 13,**

**20**

**C. Length of Leave and Compensation.**

1. Employees taking leave for reasons 1-3 as set forth above are entitled to two weeks of emergency sick leave at full pay. Part-time employees are entitled to the equivalent of the hours they work on average in a two-week period. This sick leave will not be deducted from an employee's accrued sick leave balance.
2. Employees taking leave for reasons 4-6 as set forth above will receive two-thirds of their regular rate of pay or two-thirds of minimum wage, whichever is greater. Part-time employees are entitled to the equivalent of hours they work on average in a two-week period.
3. For part-time employees who do not work a regular schedule, the two-week equivalent will be based on an average number of hours worked in the previous six months.
4. Eligible full-time employees are entitled to eighty (80) hours of pay at their regular rate (up to \$511 per day and \$5,110 in total) for leave taken for reasons 1, 2, and 3 as described above and two-thirds of their regular rate of pay if emergency sick leave is used for reasons 4, 5, and 6 as described above (up to \$200 per day and \$2,000 in total). Emergency responders are entitled to pay at their regular rate for the number of hours they were scheduled to work during the leave period, up to eighty (80) in the two-week period, (up to \$511 per day and \$5,110 in total), and may apply for accrued paid sick leave or other accrued leave thereafter.
5. Employees who exhaust their two weeks of leave under this policy for reasons 1-3 as set forth in section A and are unable to return to work due to that reason may apply for other available leave under Township policy or applicable collective bargaining agreement, including Family Medical Leave, provided the employee is otherwise eligible. Employees who have a zero balance in their accrued paid leaves, but are still in need of leave for reasons under this Policy, may apply to the Board of Trustees for advanced paid leave. If approved, employees may only use advanced paid leave to the amount of hours and in the leave categories determined by the Board. Advanced paid leave will be deducted from the employee's future accrued paid leave balances. The advancement of paid leave would be for purposes of this Policy only, will be determined on a case-by-case basis, and will not set precedent.
6. Employees taking emergency sick leave for reason number 5 in Section A and are unable to return to work after this period due to the unavailability of school or childcare for COVID-19 reasons stated in this Policy may apply for FMLA leave provided by Township Temporary Emergency Family Medical Leave Act (FFCRA) Policy.
7. Employees are entitled to a maximum of two weeks of emergency sick leave under this policy regardless of the reason(s) for the leave.

**D. Employee Notification.**

Employee requests for leave must be submitted as soon as practicable after the first workday or portion of a workday for which an employee receives paid sick leave. The employee must request leave on a form provided by the Township and provide the requested documentation of the need for leave and follow the Township's policies and regular reporting procedures for each absence. An employee must continue such notification each succeeding day of absence except in cases of prolonged illness or absences where the employee has been granted a set period of leave.

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting April 13,**

**20**

Employees taking leave under this policy are expected to engage in conduct consistent with their need for such leave. If circumstances change, employees must notify their supervisor of the new facts so a determination can be made concerning the appropriate leave, if any, that is available to the employee.

**E. Medical Information.**

The Township maintains the right to require a medical certification of the need for leave under this Policy. The Township will maintain employee medical information in a separate medical file and will treat the information in a confidential manner. Employees who are concerned that their medical information is not being treated in a confidential manner should report such concerns to the Township or Department Head.

**F. Retaliation.**

An employee will not be retaliated against for exercising her right to emergency sick leave in accordance with this policy.

**G. Expiration.**

This policy is temporary and is in effect from April 1, 2020 until December 31, 2020. Emergency paid sick leave accrued under this policy may not be carried over past December 31, 2020. Any unused emergency sick leave will not be paid out under any circumstances.

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

**Variance for Piatt Road extension at Berlin Station-** D'Amico stated that this has been sent back to the zoning commission.

**Future Meetings-** D'Amico would like any future meetings to be held virtually. He wants to do a test run on April 15<sup>th</sup>, 2020 at 6:00 p.m. If all goes well the hope is to have the trustee meeting on April 27<sup>th</sup> at 6:00 p.m. virtually. Smith asked about the security of using Zoom. O'Brien suggested that all trustees, the fiscal officer and the assistant fiscal officer get something similar to a Chrome Book so there would be no security issues. Smith will look into it.

**RESOLUTION 20-04-07 MOTION TO APPROPRIATE \$7,500 FOR TECHNOLOGY TO HOST VIRTUAL MEETINGS**

Motion: O'Brien  
Second: D'Amico  
Vote: D'Amico yes, Bullard yes and O'Brien yes  
Discussion: Bullard would like to use ComputerSmith to put any software on the computers that they may need.

**Miller Landscaping Quote-** The trustees do not want the spring clean up done. D'Amico will check with the lighting contractor that worked on the township hall for a quote.

**No Parking Sign Resolution-** Smith found the old resolution from April 1996 stating that the no parking signs were to go up in all cul-de-sacs. Smith stated that residents are upset now because they do not understand why the signs are just now being put up after all these years. Bullard is going to talk with Riedel on how they should handle the situation.

**Schedule Permissive Tax Hearing-** O'Brien stated that there are two different hearings. D'Amico will check with Chris Ballard to make sure the board is following the guidelines in regards to it being held virtually. The dates will be May 4<sup>th</sup> and May 11<sup>th</sup>, 2020.

**RESOLUTION 20-04-08 MOTION TO SCHEDULE PERMISSIVE TAX HEARINGS ON MAY 4<sup>TH</sup>, 2020 AND MAY 11<sup>TH</sup>, 2020 BOTH TO BE HELD AT 6:00 P.M. AT THE TOWNSHIP HALL**

**BERLIN TOWNSHIP TRUSTEES**

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**Trustee Meeting**

**April 13,**

**20**

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

**Fiscal Officer Items-  
March Bank Reconciliation and Electronic Payments were signed by the trustees.**

**Cemetery-** D'Amico stated the lawn was cut but thought the trustees had wanted it to be cut on Thursdays. D'Amico will talk with Pony Landscape and confirm it will be cut on Thursdays. Smith stated in regards to the fall cutting, Pony did not want it left up to their employees to decide if it needed cut. They want one of the trustees to let them know one way or another.

**Fire Department-**

**Donation Acceptance-  
RESOLUTION APPROVAL TO ACCEPT A DONATION OF A FACE MASK TO THE  
20-04-09 FIRE DEPARTMENT FROM TOM BENSON**

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

**Road Department-** D'Amico asked Bullard about the repair on the fire truck that we are doing along with Orange Township. Bullard said it is going well. O'Brien would like a record of all the culverts as they are being worked on, when and if they are being fixed and what the condition of them may be. O'Brien also stated we need to have records of all the driveway permits. Bullard agreed and said he would speak with Irwin because that is not being done very well.

**Trustee Items-**

**Executive Session-  
RESOLUTION RECESS TO EXECUTIVE SESSION FOR CONSIDERATION  
20-04-10 OF APPOINTMENT, EMPLOYMENT, DISMISSAL,  
DISCIPLINE, PROMOTION, DEMOTION, COMPENSATION  
OF A PUBLIC EMPLOYEE – THREE TRUSTEES, FISCAL  
OFFICER AND ASSISTANT FISCAL OFFICER TO  
ATTEND – 7:49 P.M.**

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

**RESOLUTION MOTION TO RETURN TO REGULAR SESSION AT 7:55 P.M.  
20-04-11**

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 and no actions were taken".

**Zoning Department-**

**Villas of Olde Harbor West Zoning-** Bullard talked with John Wicks who stated he was coming back to answer questions/conditions that the board of trustees had asked to be done. Bullard will contact Wicks and object to #13 (that the HOA needs to be turned over at 75% to residents NOT 100%) and the rest will be up to the zoning board.

**Monthly Zoning Report-** There have been 9 houses built in March and the YTD total is 26.

D'Amico stated that he feels we need to look in the preservation of trees and see if there is any policy about it. D'Amico will look into it.

**BERLIN TOWNSHIP TRUSTEES**

**6:00 p.m.**

**Trustee Meeting**

**April 13,**

**20**

**Future Meetings -**

04/27/20 Trustee Meeting  
05/04/20 Special Meeting  
05/11/20 Trustee Meeting  
05/25/20 Trustee Meeting

**Late Items** – O'Brien stated concern that the fire department is calling the prosecutor about Covid-19 issues without approval.

**RESOLUTION 20-04-12 APPROVE \$3,000 TO FISHEL DOWNEY ALBRECHT & RIEPENHOFF LLP FOR HUMAN RESOURCE DISCUSSIONS**

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

**RESOLUTION 20-04-13 APPROVE \$10,000 TO FISHEL DOWNEY ALBRECHT & RIEPENHOFF LLP FOR HUMAN RESOURCE DISCUSSIONS INCLUDING BUT NOT LIMITED TO COLLECTIVE BARGAINING FOR THE FIRE DEPARTMENT**

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

The trustees discussed when the next newsletter will be done. O'Brien will do the next newsletter in late September 2020.

**RESOLUTION 20-04-14 MOTION TO ADJOURN**

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

Meeting adjourned by Chairman D'Amico at 8:26 P.M.

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

ATTEST:

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

\_\_\_\_\_  
Theresa Taylor, Assistant Fiscal Officer

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