

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting

November 15,

20

HELD AT: This meeting was held virtually by Zoom, Delaware, OH

CALL TO ORDER: Tom D’Amico, Trustee Chairman

PLEDGE OF ALLEGIANCE: Joe Pichert led the Pledge of Allegiance

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

ATTENDANCE: Joe Pichert

Covid Money- Bullard stated that he had received two quotes for two different computers, one of them being of higher quality with a faster processor. O’Brien feels we should go with the higher quality computer. Smith addressed a previous concern of O’Brien’s, being that the zoning boards can download and look at the zoning maps on the computer. Smith stated that the books with the zoning maps are made for all zoning members and are not loaded into their current computers. D’Amico confirmed that since the maps are not downloaded onto their computers this would alleviate another of O’Brien’s concerns, that being of a future board member being able to retrieve information from the previous board member. O’Brien stated that a great concern of his is, when revisions are being made, he does not feel there is an easily retrievable copy of the map/information that was revised. He feels there should be an electronic copy of every copy that has been made. D’Amico stated that he feels like that is a good idea, but it may be to late for that to be done. Smith stated that whenever an update is made Rippel puts the update into the books. O’Brien agreed but asked what happens to the old copy. Smith stated that they stay in the books so that people can see the flow of what is happening. O’Brien does not know if that is always happening. Smith stated that she does not need a new computer because all she does with the one that was previously bought is Zoom meetings. The count for the computers is 14 zoning board members, 1 zoning clerk, 3 trustees, 1 assistant fiscal officer and Irwin totaling 20 with 1 for a reserve computer. The 4 computers that were previously purchased will go to the 2-cemetery sextons, Rippel and Loveless. Bullard asked which quote to go with. O’Brien stated he feels we should go with the higher quality one and should get the same one for all for continuity reasons. Bullard stated there will be a reoccurring monthly fee of \$490 for the computers to have 365 Microsoft Business and 365 Business Standard on them. Smith stated for the record that the zoning board members do not want or will not use these computers. O’Brien stated that he feels they will when they are told to.

RESOLUTION 20-11-15 MOTION TO PURCHASE 21-DELL LATITUDE 3510 COMPUTERS THAT INCLUDES SETUP AND 1-YEAR OF ONSITE WARRANTY FOR THE ZONING COMMISSION, THE BOARD OF ZONING APPEALS, THE ZONING CLERK, THE ROADS SUPERINTENDENT, THE THREE TRUSTEES AND THE ASSISTANT FISCAL OFFICER FOR THE ABILITY TO HANDLE ZOOM MEETINGS DURING THE COVID CRISIS IN THE AMOUNT NOT TO EXCEED \$35,000 TO RDI CORPORATION QUOTE #1330 VERSION 2, DATED NOVEMBER 13TH, 2020

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

RESOLUTION 20-11-16 MOTION TO APPROPRIATE \$20,000 TO FOUST PLUMBING AND HEATING FOR THE PURCHASE OF 12-TOUCHLESS TOILETS, FAUCETS, AND ANY ADDITIONAL SUPPLIES NEEDED FOR INSTALLATION

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

RESOLUTION 20-11-17 MOTION TO APPROPRIATE \$2,000 TO LOEB ELECTRIC FOR THE HARDWARE FOR TOUCHLESS LIGHT SWITCHES

Motion: Bullard

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting

November 15,

20

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

Bullard stated that Irwin spent a good amount of time in researching and getting quotes for items and he believes those hours will be able to be reimbursable under the CARES act. Smith stated that he needs to keep track of those specific hours. Bullard told Irwin to note those hours on his timesheet. Bullard stated the road department will be installing the electrical stuff themselves and helping in any other installation of items that they can. O'Brien stated that hours should be established ahead of time so that an appropriation of funds can be made.

RESOLUTION 20-11-18 MOTION TO APPROPRIATE \$4,200 OF ROAD DEPARTMENT LABOR AND BENEFITS FOR INSTALLATION OF ELECTRICAL AND ANY OTHER COVID RELATED ITEMS

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

Regarding air duct cleaning, Pichert stated that for the firehouse the cost was \$1,450 and could be used as an estimate for what it will cost to get the township hall's air ducts cleaned.

RESOLUTION 20-11-19 MOTION TO APPROPRIATE \$2,500 TO ATLAS BUTLER OR ANY OTHER APPROVED VENDOR FOR AIR DUCT CLEANING FOR COVID RELATED PURPOSES

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

RESOLUTION 20-11-20 MOTION TO APPROPRIATE \$5,000 TO ENZO'S FOR 2-PORTABLE SPRAYERS AND DISINFECTANT DUE TO COVID

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

Smith stated the cleaning lady asked her about getting a stripper to do the bathrooms and the kitchen. Bullard stated he didn't feel like that could be charged under the CARES act. Pichert stated that the fire station has one that she could use.

RESOLUTION 20-11-21 MOTION TO APPROPRIATE \$360 TO SIGNATURE CARPET FOR THE PURPOSE OF CLEANING CARPETS AT THE TOWNSHIP HALL DUE TO COVID

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

RESOLUTION 20-11-22 APPROVE TO REIMBURSE THE FIRE DEPARTMENT FOR THE PURCHASE OF COVID ITEMS SUCH AS FACE SHIELDS, AIR DUCT CLEANING AND A DRYER WITH A SANITIZING CYCLE IN THE AMOUNT OF \$2,430.50

Motion: O'Brien
Second: Bullard
Vote: O'Brien yes, D'Amico yes and Bullard yes
Discussion: O'Brien asked Pichert if he checked with Bullard regarding the dryer. Pichert stated that he did question Bullard about the dryer and about hazard pay and wage reimbursement due to COVID for the fire fighters. Pichert stated that Bullard was not 100% sure but sent him the below email:

Asst. Chief Pichert:

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting

November 15,

20

I've cc'd Claudia on my response, as I wrote her about this last Friday, and on further review I was too conservative in my initial advice to her about this area.

Per US Treasury (UST) and Ohio Office of Budget and Management (OBM) guidance the full amount of payroll and benefits for "public safety...and similar employees" whose services are "substantially dedicated to mitigating or responding to the COVID 19 public health emergency are acceptable uses of Coronavirus Relief Funds (CRF). The UST has not defined what "substantially dedicated" means and requires each jurisdiction to maintain documentation of the "substantially dedicated" conclusion with respect to employees. OBM generally defines a benchmark for identifying "substantial dedication" to be a contribution of 50% or more of time.

The UST has also said that for "administrative convenience," public safety personnel (which includes firefighters) are "presumed" to be substantially dedicated unless the chief executive (in Berlin's case, the Board of Trustees) determine that specific circumstances indicate they are not substantially dedicated to mitigating or responding to COVID 19.

If the firefighters are "substantially dedicated" to mitigating COVID 19, then their entire payroll and benefit expenses from March 1, 2020 to December 30, 2020, can be paid from CRF. Personnel who are not "substantially dedicated" can still have the portion of their time that is spent mitigating or responding to COVID 19 paid out of CRF, you just need to carefully document this time and how it is related to COVID response.

I've broken down your questions separately below:

COVID-19 Pay- This would be a one time payment to eligible employees based upon the hours they actually worked similar to hazard pay compensation. It is based on what Delaware County Commissioners did for the paramedics that work for Delaware County EMS. It would not be classified as a bonus

As you've noted, the CRF can't be used for bonuses. Also, from my understanding the County simply is paying the EMS payroll out of CRF, I don't believe they have instituted any sort of hazard pay. The UST guidance defines hazard pay as "additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID 19." The OBM guidance says that the Township "must determine the rate of hazard pay to be provided and the rate should be set forth in a policy." OBM also notes that since hazard pay is a payroll expense it can only be used to cover individuals that meet the other requirements for eligible CAREs act payroll expenses, so the policy cannot apply to all Township employees.

If the Board of Trustees wishes to implement a hazard pay policy for public safety personnel, they can do so based on the above criteria. I would simply caution against using it to only provide a backdated lump sum of hazard pay, since that could appear to an auditor like the Township is trying to circumvent the prohibition on bonuses.

Would funds from the Cares Act be used to compensate employees that had additional duties such as specific cleaning and decon added to their job functions during COVID-19?

Yes, you would just need to document the time spent on these additional duties to mitigate / respond to COVID 19. Cleaning and decontamination would qualify. This can also include non-firefighters who wouldn't normally fit the "public safety" definition, if they have to take on new job duties to respond to / mitigate COVID 19.

Would these funds be used to compensate employees that were on duty at the fire station and had the potential to respond to COVID-19 emergencies and did respond to COVID-19 emergencies? This would not include those members that were on earned time off, fire prevention, and other certain administrative functions. It would also only be for the hours worked in the time period outlined in the Cares Act funding

With regards to employees who did respond to a COVID 19 emergency, that time would qualify. As for those on "standby" it would depend on whether or not they are overall "substantially dedicated" to responding to COVID 19 as described above.

Would this payment have any effect on the previous wages earned, such as overtime hours worked during this time period?

Since the wages have already been paid this would be more the Township being reimbursed rather than any change to the previous wages earned. Overtime pay is included as a permissible expenditure. Please let me know if you have any other specific concerns in this area.

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting

November 15,

20

Are there any guidelines for calculating or recommendations for a local, state, or Federal publication for hazard pay?

As noted above, The UST guidance defines hazard pay as “additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID 19.” The OBM guidance says that the Township “must determine the rate of hazard pay to be provided and the rate should be set forth in a policy.” OBM also notes that since hazard pay is a payroll expense it can only be used to cover individuals that meet the other requirements for eligible CAREs act payroll expenses, so the policy cannot apply to all Township employees.

Can the CARES Act funds be used to reimburse the Fire Department Fund, the fund which receives the property tax funds, for salaries of emergency responders during this time period?

Yes, assuming the Fire Department Fund is what their salaries were paid out of. The eligible period is March 1 – December 30, so the guidance anticipates that you’re going to be reimbursing for expenses that have already been paid.

Besides purchase and reimbursement of supplies and equipment that are purchased as a result of COVID-19 what other items can this CARES Act funding be used for in the Fire Department?

Other than equipment, and PPE, these examples jump to mind:

- Increased worker’s compensation coverage due to the COVID 19 emergency incurred between March 1, 2020, and December 30, 2020, is an eligible expense.
- Cleaning that is necessary due to COVID 19

In addition, I recommend the following:

1. The Board of Trustees should state a finding and determination on if Berlin FD employees are “substantially dedicated to mitigating or responding to the COVID 19 public health emergency” and if their work is “substantially different than what was accounted for in your approved budget and that the allocation will be expended in this manner.
2. Copies of your 2019 and 2020 budgets and detailed accounting of all payroll and benefit expenses paid with Coronavirus Relief Fund payments should be compiled and maintained for internal or external review.

Please let me know if you have further questions.

Respectfully,

Christopher E. Ballard

Assistant Prosecuting Attorney
Delaware County Prosecuting Attorney’s Office

Pichert stated that Ballard did not have a definite answer regarding his questions which is why he then contacted Riepenhoff about possible COVID related purchases and how to address the labor part of hours worked during the COVID-19 pandemic. O’Brien stated the trustees had not approved Riepenhoff’s firm to be contacted regarding COVID.

Smith asked Pichert if the whole purchase for the furnace, in the township hall, could be included under the CARES act funding. Pichert stated he believes that if there is a function on it that will help in the air purification process, that then in turn would help with the spread of the COVID-19 virus, it can be included per Marc Fishel’s e-mail dated November 12th, 2020 as seen below. Bullard stated he feels it should be appropriated for and is a legitimate expense.

Joe,

I have been working with clients on this issue, so I am responding to your e-mail that you sent to Dave about CARES Act funding for the fire department. I have attached a publication from the Ohio Office of Budget and Management that provides some guidance on how the money can be spent. At page 4 of this document, OBM states that public safety employees are presumed to be substantially dedicated to COVID-19 related work unless the chief executive officer makes a determination to the contrary. This includes firefighters and

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting November 15,

20

EMS personnel. In my opinion, this interpretation allows the Township to use CARES Act funding for personnel costs relating to firefighters for the period of March through December. I have no problem if you decide to give employees some type of hazard duty pay but I would prefer to see the CARES Act money attributed to the personnel costs that already have been expended. Of course, it will come out the same.

CARES Act funds can be used for other items that are designed to reduce the spread of COVID-19. For example, I know of a Township that is replacing carpet with another type of flooring that is easier to clean and won't be as likely to retain the molecules containing COVID. Similarly, you can purchase furniture if it is needed to spread out employees to keep them better socially distanced. It even appears a new HVAC system could qualify if the current system doesn't purify or circulate the air as well.

I have attached the OBM document. Please let me know if you have any questions.

Marc A. Fishel, Partner

As mentioned above, page 4 of the Ohio Office of Budget and Management:

COVID-19 public health emergency are allowable. The U.S. Treasury has indicated that the full amount of payroll and benefits for substantially dedicated employees may be covered using the funds. In addition, the U.S. Treasury has not defined what "substantially dedicated" means and requires each jurisdiction to maintain documentation of the "substantially dedicated" conclusion with respect to employees. For our state-level purposes, we are sharing that OBM generally defines a benchmark for identifying substantial dedication to be a contribution of 50% or more of time. Jurisdictions are welcome to follow this benchmark or not; it is up to each jurisdiction to define its own thresholds of substantial dedication and to document the justification for that decision.

Public safety and public health personnel are "presumed" for administrative convenience to be substantially dedicated unless the chief executive determines that specific circumstances indicate otherwise. Treasury has provided an administrative accommodation for "presumed" public safety and public health employees indicating these employees which meet the substantially dedicated test are considered substantially different use, thus allowing for previously budgeted personnel to be eligible to be charged to the CRF. The U.S. Treasury defined the "presumed" public safety and public positions that are eligible for the accommodation as follows:

- Public Safety positions include:
 - ~ Police officers, sheriffs, and deputy sheriffs; firefighters; emergency medical responders; correctional and detention officers; and those who directly support such employees such as dispatchers and supervisory personnel.
- Public Health positions include:
 - ~ Employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g. laboratory technicians) as well as employees of public health departments directly engaged in matters related to public health and related supervisory

personnel.

Public safety, public health, health care, human services, and similar employees that are not substantially dedicated but have some time dedicated to mitigating or responding to COVID-19 may allocate specific time spent to the funds as tracked. Health care, human services, and similar employees who are substantially dedicated to mitigating or responding to the public health emergency are not granted a presumption by the U.S. Treasury. These employees can qualify for 100% of their payroll but are required to have documentation such as timesheets demonstrating substantial dedication through activities related to specifically to the response or mitigation of COVID-19. In addition, personnel that that were diverted to a substantially different use due entirely to the COVID-19 public health emergency and are supporting the response to COVID-19 are allowable.

Pichert stated that per the above document and email from Fishel, and Ballard's email, that the way to handle the hazard pay is to make it a one-time check that would have a separate hourly rate and be subject to taxes and OPN&F. The hazard pay would be from March 1st, 2020 until December 30th, 2020. Pichert was told any funds that were left over could be

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting

November 15,

20

dedicated to the fire department for wages. O'Brien stated that he is ok to appropriate money so that it is possible but is not comfortable approving it without getting specific clarification from the attorney.

RESOLUTION 20-11-23 MOTION TO CLARIFY RESOLUTION # 20-11-10 TO INCLUDE THE FURNACE FOR THE TOWNSHIP HALL AND THAT IT IS A COVID RELATED EXPENSE FOR \$2,800

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

Pichert stated that the fire departments current mattresses are unable to be sanitized properly. The mattresses they are looking to purchase are made of a gel-like material and the mattress cover can be taken off and can be sprayed with a sanitizer. There are 9 mattresses and 9 covers.

RESOLUTION 20-11-24 MOTION TO APPROPRIATE \$14,353.20 TO PURPLE MATTRESS FOR THE PURPOSE OF REPLACING NINE MATTRESSES TO MAKE THEM COVID RESISTANT

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

The current iPads are taking longer due to their age, to upload communications from Delcom to responding crews about COVID positive patients or people that are being quarantined due to COVID.

RESOLUTION 20-11-25 MOTION TO APPROPRIATE \$4,824 TO APPLE FOR THE PURCHASE OF IPADS TO RESPOND TO AND TO MAKE MEETINGS AVAILABLE FOR THOSE THAT WOULD NEED TO USE THEM REMOTELY

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

O'Brien asked Pichert about turn-out gear. Pichert stated that Ballard had told him since they were not worn during COVID runs he did not think they could be reimbursed or appropriated for. O'Brien questioned if legal expenses could be covered out of COVID funds. Smith stated that she is reimbursing legal fees that were paid to Riepenhoff from the beginning of the pandemic.

RESOLUTION 20-11-26 MOTION TO REIMBURSE LAPTOPS, LAPTOP SETUP, THE ACCESS FOR ZOOM MEETINGS AND LEGAL FEES FROM FISHEL, DOWNEY, ALBRECHT & RIEPENHOFF IN THE AMOUNT OF \$3,850.69 TO BERLIN TOWNSHIP

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

O'Brien questioned if there should be money appropriated for future legal fees regarding COVID-19.

RESOLUTION 20-11-27 MOTION TO APPROPRIATE \$2,500 FOR FUTURE LEGAL FEES REGARDING COVID COMPLIANCE ISSUES TO FISHEL, DOWNEY, ALBRECHT & RIEPENHOFF LLP

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

RESOLUTION MOTION TO APPROPRIATE \$5,000 TO BE DONE THROUGH A

BERLIN TOWNSHIP TRUSTEES

1:00 p.m.

Special Meeting

November 15,

20

20-11-28 SUPER BLANKET CERTIFICATE FOR THE PURPOSE OF PPE MATERIALS

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

RESOLUTION 20-11-29 MOTION TO APPROPRIATE \$184,000 FOR COVID ALLOWED PERSONNEL EXPENSES INCLUDING BENEFITS, THAT ENTAILS THE ENTIRE TOWNSHIP INCLUDING BUT NOT LIMITED TO THE FIRE DEPARTMENT, FOR HAZARD PAY AND EXPENSES REGARDING COVID AS ALLOWED BY LAW

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

Collective Bargaining/Possible Contract- O'Brien stated that he spoke with Riepenhoff who suggested not rushing the contract to the table and allowing the member's time to review the documents completely. Riepenhoff stated that the contract would be effective upon the execution of the contract, which entails the actual signatures on the document.

Smith stated that she is looking into different companies about getting electronic timesheets. Her goal is to have all employees go into the program and sign in their timesheet which will then go to the trustees for signatures and then finally back to her. Smith stated that this will help if there is ever a reason; she is unable to be in the office on payroll day.

RESOLUTION 20-11-30 MOTION TO ADJOURN

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

Meeting adjourned by Chairman D'Amico at 2:31 P.M.

Tom D'Amico, Trustee

ATTEST:

Ron Bullard, Trustee

Theresa Taylor, Assistant Fiscal Officer

Ken O'Brien, Trustee