

BERLIN TOWNSHIP TRUSTEES

6:00 p.m.

Trustee Meeting

December 14,

20

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

CALL TO ORDER: Tom D’Amico, Trustee Chairman

PLEDGE OF ALLEGIANCE: Ken O’Brien 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

ATTENDANCE: Meghan Raehll, Joe Pichert, Tim Foor, Christina Littleton, Rob Platte, James Brenza, Joe Miller, Angela Brown, Scott Cubberly, Holly Mattei, Bob Lamb, Chris Ballard, Jim Yorke, David Ruma, Bob Wheaton and John Albers

**Approval of Minutes-
RESOLUTION 20-12-08 APPROVE THE 11/18/20 EMERGENCY MEETING MINUTES AND DISPENSE WITH THE READING**

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

RESOLUTION 20-12-09 APPROVE THE 11/18/20 SPECIAL MEETING MINUTES AND DISPENSE WITH THE READING

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

RESOLUTION 20-12-10 APPROVE THE 11/23/20 REGULAR MEETING MINUTES AND DISPENSE WITH THE READING

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

Old Business-

Fairview Cemetery Imaging Quotes- D’Amico stated that a decision needs to be made on whether to get the imaging done for Fairview Cemetery. D’Amico asked the other trustees for their thoughts about the ground penetrating radar. Bullard stated that he feels like it makes sense to have it done. His only concern about it is, that the information that is retrieved, is the information that is needed, being that of knowing what is where. O’Brien agrees but stated that he would like Foor to put in writing exactly what it is that we need. D’Amico stated that he will ask Foor to do an analysis as to what it is that we need to make the future placement of vaults workable in the spaces that we have.

Disaster Plan, Password Policy & Upgrade Computers- Bullard stated that he will have something on this for the next trustee meeting. Smith stated that she had sent the trustees the recommendations that were given to them and that the trustees need to decide if they want to approve it.

Piatt Road Widening Updates- This was discussed in executive session.

Pony Landscaping Quote- Bullard stated that Pony was also mowing the part of Fairview Cemetery that does not belong to the township. D’Amico stated that when he spoke with Pony about the number of weed control applications, they stated that it is combined with the fertilizing treatments. With that being said, D’Amico asked how many applications should be done. O’Brien answered with two. Bullard suggested asking them to have the ability to have an option for three applications if the weeds would get out of control. D’Amico will ask for the quote to state the price for two applications with the option for three, along with talking to Pony about not mowing the area of Fairview that is not the townships.

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**RESOLUTION
20-12-11**

MOTION TO ACCEPT THE SERVICE PROPOSAL FROM PONY LAWN CARE AND LANDSCAPING FOR 2021, FOR ALL OF THE TOWNSHIPS MOWING AND FERTILIZING NEEDS WITH THE CAVEAT THAT WE ARE GOING TO CONTRACT FOR TWO APPLICATIONS OF FERTILIZER AND WEED CONTROL WITH THE OPTION FOR THREE UPON THE TOWNSHIPS REQUEST AND APPROPRIATE \$80,000 FOR THE SERVICE

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

Design Review Board- Bullard stated that the Design Review Board now has all its members, which are Angela Brown, Christina Littleton, Meghan Raehll, Kristin Yorke (engineer) and himself as the township liaison. O’Brien asked Bullard to work on their term dates for the organizational end-of-the year meeting.

Fiscal Officer Items-

November Bank Statement and Electronic Payments- The November bank statement and electronic payments balanced.

Additional Covid Money- Smith stated that an additional \$29,837.93 of Covid Funds were received and need to be appropriated.

**RESOLUTION
20-12-12**

MOTION TO APPROPRIATE \$29,837.93 FOR THE USE OF PAYROLL BECAUSE OF COVID NEEDS

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

Payroll Companies- Smith stated that she has come up with two different payroll companies that she feels are good prospects with one of them also having an HR department included. O’Brien asked if she had talked with a township that has used either of the companies. Smith stated that she had spoken with one but only talked about the fiscal part of it, and would give the trustees the telephone number of that township so that they are able to ask the trustees their thoughts on the HR part.

D’Amico left the meeting at 6:31 P.M.

*******6:30 P.M. BZC 19-005 AS THE BERLIN BUSINESS PARK COMMERCIAL OVERLAY*******

O’Brien stated that he did not feel the legal argument that was given for the Hondros family property (Thistle Gate LLC) being removed from the BCO was very persuasive. He stated that there was a memorandum of understanding that the Hondros family is wishing to exercise and feels that the township should allow it and let their property be removed from the BCO.

With that, Bullard asked Platte if there was anything he would like to add. Platte stated that there were two text changes that had come out of the last meeting along with the new map showing the Hondros property (Thistle Gate LLC) being taken out of the BCO. There was language added stating that trees will not be allowed in the right-of-way and that MUP’s and sidewalks will be maintained by the property owner. O’Brien asked Ballard if he was okay with the language that had been added. Ballard stated that he was okay with it. Platte stated that this would be the final version dated December 14, 2020.

Bullard opened up the conversation to public comment.

Meghan Raehll read the following:

I would like to begin my remarks this evening with a special thanks to Rob and his team and especially to both trustees for the truly great work in meeting with the residents for hours and hours on this BCO proposal specifically. I know me and a number of residents are grateful that anyone who

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wanted to have a seat at the table was welcome and that much of the neighborhood feedback has been thoughtfully integrated.

And that’s why, Mr. Chair, it’s unfortunate and frankly a little disheartening that one major land own would outright reject a pro-growth optional zoning amendment that is well planned and supported by the residents as well as the two of you hopefully this evening with your kind approval.

That said, the owners of Thistle Gate LLC properties are very well respected and both them and the farm manager have a good reputation among the residents. In fact, residents here have gone out of their way a number of times be neighborly and kind. For example, as recent as last year, some of the neighbors did everything in their power to prevent the cattle from their property that had gotten loose from migrating beyond our own properties and ending up in the middle of 36/37. Now, grant you none of us seem to possess the requisite herding skills quite needed to get them back except one remarkable Sheriff, but we really understand those good neighbors make for a good community.

And so, in the spirit of fairness, kindness, and respectfulness of everyone’s family, home, and community, it is the sincere hope that all land owners will utilize this optional zoning and engage in collaboration and conversation with the residents of this community who, of course, have rights too but also who simply ask for fair and balanced responsible growth in our community where our kids will grow up going to some of the finest schools in the state with Olentangy.

Of course, there is a very rational basis that informed this zoning as there was no stone left unturned, no code unanalyzed, and certainly no arbitrary or discriminatory treatment. Rather, this plan establishes a cohesive and connected growth option for our community with fair standards in the interest of promoting health, safety, morals, the general public welfare of the community.

In sum, Mr. Chair, there is no constitutionally protected property interest in the development of any specific land within this overlay and as a result I will simply conclude by saying that I hope no party pursues the undoing of any of the collective hard work that was done by the residents or seeks to subvert the interests of the people who live in this community whether that be by decreasing buffers or increasing heights and densities, or going against the will of the Berlin Township electorate

Angela Brown agreed with Raehll and expressed gratitude to the trustees for working with all the residents and feels the product that has been agreed upon is one that everyone should be able to comply with and utilize it.

RESOLUTION 20-12-13 MOTION TO TAKE THE CLEAN-LINED VERSION DATED DECEMBER 14, 2020 OF THE BERLIN COMMERCIAL OVERLAY AND MAKE IT EXHIBIT #27

Motion: Bullard
Second: O’Brien
Vote: O’Brien yes and Bullard yes

RESOLUTION 20-12-14 MOTION TO ACCEPT ALL EXHIBITS #1-27 WITH THE LATTER EXHIBITS TAKING PRECEDENCE OVER FORMER EXHIBITS

Motion: O’Brien
Second: Bullard
Vote: O’Brien yes and Bullard yes

RESOLUTION 20-12-15 MOTION TO ACCEPT AND CREATE BZC #19-005 BERLIN COMMERCIAL OVERLAY

Motion: O’Brien
Second: Bullard
Vote: Bullard yes and O’Brien yes

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

**RESOLUTION NO. 20-12-15: OF THE BOARD OF TOWNSHIP TRUSTEES
ADOPTING WITH MODIFICATIONS RECOMMENDATION 19-005 OF THE BERLIN**

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**-TOWNSHIP ZONING COMMISSION REGARDING AMENDMENTS TO THE
BERLIN TOWNSHIP ZONING RESOLUTION TO CREATE THE BERLIN
COMMERCIAL OVERLAY**

The Board of Trustees of Berlin Township, Delaware County, Ohio (“Board”) met in regular session on the 14th day of December 14, 2020 with the following members present:

Ron Bullard

Ken O’Brien

O’Brien Moved the adoption of the following Resolution:

PREAMBLE

WHEREAS, the Berlin Township Zoning Commission has conducted public hearings, and on October 29, 2019, made recommendation to the Board of Trustees regarding the amendment of the Berlin Township Zoning Resolution to create Article 15, the Berlin Commercial Overlay; and,

WHEREAS, the Berlin Township Trustees have held public hearings on the Berlin Township Zoning Commission’s recommendation and submitted the Board of Trustee’s proposed modifications to the Delaware County Regional Planning Commission for additional administrative review; and,

WHEREAS, the Berlin Township Trustees have, pursuant to R.C. 519.12(H), modified the recommendation of the Berlin Township Zoning Commission to address concerns, including density, permitted uses, and design standards.

NOW THEREFORE, be it resolved that the Board of Trustees adopts the recommendation of the Berlin Township Zoning Commission and approves the amendments to the Berlin Township Zoning Resolution as recommended in the motion of the Zoning Commission with those modifications.

BE IT FURTHER RESOLVED, that those sections of the Zoning Resolution affected by this resolution are amended to create as Article 15, the Berlin Commercial Overlay, to read as indicated in Attachment “1” attached hereto and incorporated by reference herein.

Adopted on:

Bullard seconded the motion.

Voted on and signed this 14th of December, 2020 in Berlin Township, Delaware County, Ohio.

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

Recused _____
Tom D’Amico
Trustee

_____ Date

Ken O’Brien
Trustee

_____ Date

—

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Ron Bullard
Trustee

Date

ATTEST:

Claudia Smith
Berlin Township Fiscal Officer

Date

D'Amico returned to meeting at 6:59 P.M.

******7:00 P.M. ECONOMIC DEVELOPMENT *******

**RESOLUTION
20-12-16**

MOTION TO RECESS TO EXECUTIVE SESSION PURSUANT TO ORC 121.22 (G)(1)(2)(4)(8) TO CONSIDER THE APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF AN EMPLOYEE; TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; PREPARING FOR, CONDUCTING, OR REVIEWING NEGOTIATIONS OR BARGAINING SESSIONS WITH PUBLIC EMPLOYEES CONCERNING THEIR COMPENSATION OR OTHER TERMS AND CONDITIONS OF THEIR EMPLOYMENT; AND FOR ECONOMIC DEVELOPMENT PURPOSES UNDER R.C. 121.22

O'Brien moved to adjourn into executive session, pursuant to Ohio Revised Code 121.22(G)(8), for the purpose of considering confidential information:

- 1 Related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statement of an applicant for economic development assistance, or
- 2. For the purpose of considering confidential information related to negotiations with a political subdivision, said subdivision Delaware County Finance Authority respecting their request for economic development assistance, and
- 3. In either event, the information is.
 - 3.1 . Directly related to a request for economic development assistance that is to be provided or administered under Ohio Revised Code Chapter 715, or other permissible Code Section (Identify the applicable code section if other than RC Chapter 715), or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project; and

3.2 The Board hereby determines that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

Seconded by Bullard

The Resolution must be approved by unanimous vote of the quorum present, by roll call vote.

THREE TRUSTEES, FISCAL OFFICER, ASSISTANT FISCAL OFFICER, MR. ALBERS, ROB PLATTE AND BALLARD TO ATTEND- 7:07 P.M.

Motion: O'Brien

Second: Bullard

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

**RESOLUTION
20-12-17**

MOTION TO RETURN TO REGULAR SESSION- 9:27 P.M.

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Motion: D’Amico
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”.

Cemetery-

Rinehart Legal Fees- O’Brien stated that he asked Rinehart if there were any implications of our rules, concerning religion, based on how the court transferred Fairview Cemetery to the township. Rinehart is looking into it along with the recovery of his legal fees. Smith stated that \$49,477.25 has been spent on legal fees over the last three years for ascertaining Fairview Cemetery. O’Brien will ask Rinehart what his thoughts are over the likeliness of winning a court case to recover his legal fees. O’Brien asked the other trustees to think about how much they wanted to pursue Liberty Township paying for their portion of land in Fairview Cemetery. Bullard stated that he would like O’Brien to also ask Rinehart about the fees that were charged by Strip versus what income he actually received as he feels this should also be recovered by the township. O’Brien stated that Rinehart is also looking into the penalties and interest that the township is being charged over the ditch assessments, since the township’s responsibility should begin with the date that the cemetery was turned over to the township.

D’Amico stated that additional money will need to be spent for Tim Foor to help with things he may need when working at Fairview Cemetery. For example, special boots and clothing.

Fire Department-

Transfer \$325,000 to Capital Improvement- Pichert stated that the capital improvement fund is used for equipment, fire trucks and bigger ticket items that are not purchased every year. The breakdown is \$245,000 fire truck, \$65,000 SCBA and \$15,000 for equipment.

RESOLUTION 20-12-18 MOTION TO TRANSFER \$325,000 FROM THE FIRE FUND TO THE CAPITAL IMPROVEMENT FUND FOR JANUARY 2021

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

Full-Time Firefighter- Pichert stated that due to staffing levels, he feels it is an appropriate time to appoint some more full-time firefighters. With the levy that was passed, there should be a total of nine full-time firefighters. Due to Covid, some of the part-time employees are being mandated to work at their full-time jobs and there are some employees that are being quarantined/isolated because of Covid. Pichert stated he wants to move forward with getting a process put together to expedite the hiring of these full-time firefighters. O’Brien agreed. Smith asked if with the hiring of more full-time employees, will as many part-time employees be needed. Pichert answered that there would not need to be as many part-time employees. O’Brien stated that he would like to hire from within first and then back fill some of the part-time positions.

Road Department- Bullard stated that they have been working on installing the new equipment in the bathrooms and should be done by the end of the year. O’Brien stated that in Howard Farms there is aa bunch of junk that needs to be removed. Bullard agreed and is going to try to get the developer to remove it.

Trustee Items-

Cell Phones- D’Amico stated that Foor had asked about being supplied with a cell phone. O’Brien stated it would only be able to be used for township purposes. Bullard stated that in the past they looked at paying for minutes of use on personal phones but it is hard to keep track of and people did not want to carry two phones. D’Amico will address it with Foor.

Email Addresses- Smith asked if Foor needs to be provided a township email. O’Brien answered yes. He feels anyone that is provided with a township computer needs a township email address.

JEDD Discussions- This was discussed in executive session.

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Zoning Department-

November Zoning Report- There have been 15 new house permits in the month of November and the YTD is 125.

Zoning Pay from Zoning Fund- Bullard stated that he would like to pay the Zoning department out of the zoning fund. O'Brien agreed. Bullard asked about finding an area for Foor to work at. Smith stated that the trustee's office can be rearranged so he can have somewhere to work.

**RESOLUTION
20-12-19**

**MOTION TO APPROVE \$4,250 TO PAY FOR PARCEL #19
ON PIATT ROAD FOR THE WIDENING OF IT**

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

Public Comment- James Brenza asked the trustees to speak about the JEDD's intended base and the tax type. O'Brien stated that the tax type is an income tax. It would not affect the current residents that are here now that don't work in the new area. The amount that will come in will be dependent on how much is built, it will pay for what is coming in.

Late Items- Bullard asked about voting for members for the OTARMA board. It will be addressed at the organizational meeting.

D'Amico asked that all trustees look at the documents for the 2021 organizational meeting.

**Future Meetings-
12/28/20 End of Year and 2021 Organizational Meeting**

**Adjourn-
RESOLUTION
20-12-20**

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 10:12 P.M.

Tom D'Amico, Trustee

ATTEST:

Ron Bullard, Trustee

Theresa Taylor, Assistant Fiscal Officer

Ken O'Brien, Trustee