

Liberty Township Trustees

December 4, 2006

Liberty Township Trustees met in regular session December 4, 2006 at 7:30 P.M. at the Liberty Township Complex. All Board members were present. Also present were Holly Foust, Erica Morgan, Thom Ries, Dimo Kuzmanovski, Tom Rainey, Doug & Janie Vogt, Jim Cirigliano, Jennifer Noblit, Kelley Youman, Karen Carter, Rob Meyer, Frank Semetho, Teresa Doodan, Chief Bernans, Craig Paynter and others that did not sign-in. Chairman Cape called the meeting to order with the Pledge of Allegiance. He stated the meeting is being recorded in aiding the Fiscal Officer in transcribing the minutes. The official minutes are on file with the Fiscal *Officer*. The tapes will be erased for reuse or destroyed within 24 hours after the official approval of said minutes as per Resolution 99186. Mr. Cape asked that all cellular phones be turned off, no food or drink is allowed in the meeting room and to please sign the clipboard circulating the room. Mrs. Guzzo said she is also recording the meeting.

Thom Ries was before the Board asking about allowing an eyebrow (with no island proposed but is willing to look at an island) in Woodland Hall, Section 2 and Conditional Use Approval (location of dry detention basins). He said that Delaware County Engineer commented that a connection from Woodland Hall to Carriage would be too direct and there needed to be two additional turning movements (suggested cul-de-sac with a T-intersection). Both DCRPC and the Delaware County Engineer commented that the proposed cul-de-sac should be connected to the existing Riverstone Drive (this gives the illusion of a dead end street). Mrs. Guzzo said she had no problem with the eyebrow and would like to see the Engineers' impute to present *traffic* calming to help deter cut through. Mr. Cape said he would like to see plantings in the center of the eyebrow and have the Homeowners Association maintain it. He stated these are big lots with beautiful homes. Mr. Ries needs to make sure the turning radius will accommodate our fire trucks and get the approval from Chief Bernans.

Mrs. Guzzo moved and Mr. Cape seconded to approve Woodland Hall Section 2 with an eyebrow configuration, contingent upon the Fire Chiefs approval and plantings to be maintained by the Homeowners Association.

Mr. Sybert said the planting would mess the whole thing up and the Delaware County Engineer wants a certain look and not plantings.

Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-304)

Dimo Kuzmanovski was before the Board asking for an informal meeting with the Zoning Commission President, Walter Threlfall, another member of the Zoning Commission and Trustee Curt Sybert for rezoning 3296 Home Road (NE corner of Home Road and Sawmill Parkway). Mr. Sybert asked that Mr. Kuzmanovski set up the meeting with Walter Threlfall.

Citizen Comments. Tom Rainey was before the Board asking about the November 8 letter from the employees of Liberty Township. He wanted to know what the Board plans to do about the letter. Mrs. Guzzo said her reaction; Mr. *Rainey* did not want her reaction. Mrs. Guzzo said she is one of the Trustees and since it was about her, the letter was unsigned. If it were signed, there were exaggerations and falsifications and would have looked for disciplinary issues. She asked how are we to work in an environment with that type of unprofessionalism. Mr. Rainey said that is exactly the problem. She stated that he was assuming had some validity. He would like to have an independent study done on what is actually going on and get this resolved. Morale problems are not in the best interest of the trustees, township or residents. Mr. Cape said if there is a problem the Trustees will solve it with the Department heads and the employees and outside investigation is not the thing to do. The Trustees do a majority vote; not one Trustee has more power over the other. Any Trustee can ask questions and we do have the liaison system. If the letter were signed, that would be a different ball game. Mr. Rainey stated then the Board is not going to do anything about the letter. Mr. Cape does not want to pursue this any further. , He has not talked with the department heads and does not know what truth is in the letter as he has better things to do. Mr. Cape said we have very fine department heads and !employees and have good harmony through the years and cannot remember someone coming off the street and saying they did not like what the departments were doing. Mr. Sybert said he has not been happy with the events that have come up in the last two weeks and he will not allow him to take away his focus

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of the Township. He said we have a fabulous staff, dedicated wonderful people and he will not tolerate the abuse of the staff. If the Trustees have issues with each other, they need to speak with each other. He will not allow people with personal agendas and not say good things about people to take away the focus of what we are here to do. It is unfair to the other board members. If this continues, there needs to be some sort of investigation and he will not take any abuse of the staff.

Mrs. Guzzo said she knew that transition would be *difficult* for a few and the voters voted for a change. What she has done is not going to change. What is there to hide? She feels the letter is nit picking. She feels the writer of the letter does not understand that she can go to any public meeting and it is her right. The Delaware County Prosecutor did not say she could not go (could she yes, should she no). She said she would voice her concerns. She had the staff make copies that she requested for the WalMart hearing. She is doing the job she was elected to do and maybe take a recorder everywhere. Mrs. Guzzo said she was not done, Mr. Sybert asked the Chairman to move on with people business. Mr. Cape asked if there were any other issues to be brought before the Board.

Mr. Sybert moved and Mrs. Guzzo seconded to hire Zachary Reeder as full-time park personnel at \$12.56 per hour effective January 1, 2007, subject to our terms and conditions of employment. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-305)

Mrs. Guzzo moved and Mr. Sybert seconded authorizing Fiscal Officer Rush to call the three reporters and advertise in the Delaware Gazette that two Board members will be in attendance at the ribbon cutting ceremony at Giant Eagle on December 7; December 18' meeting to start at 7 P.M. as Jim Penning, State Auditors' Office, to give a presentation on Performance Audit with Department Heads attending the meeting (per Mrs. Guzzo's request); Tues. December 19 at 7 P.M. there will be a Fire Department Ceremony for promotions of William Piwtorak, John Brooks and Dan Mercer (no Board meeting, but Trustees will be in attendance). Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-306)

Reminder, Jerry Borin, Columbus Zoo will be here on December 18, 8 P.M. to discuss the Glick Road extension and other matters.

Traffic Calming Committee will be meeting December 11, 7 P.M., here at the Complex and Fiscal Officer Rush will notify the Delaware Gazette, Civic Calendar.

December 13th, here at the Complex, 5-8 P.M., Delaware County Engineer will hold an open house for residents to view the proposed Orange Road Bridge project.

Chief Bernans will be on vacation from December 26 through 29.

Chief Bernans gave the bid packet for the refurbishing of E-One Fire Truck to the Delaware County Prosecutor. The Board received the bid packets. Fiscal Officer Rush will advertise in the Delaware Gazette on Friday, December 8, Thursday, December 14 & 21.

Mrs. Guzzo spoke with other area Townships and no one has a backup ladder truck and she does not feel we should refurbish the E-One Fire Truck

Chief Bernans was shocked at what Mrs. Guzzo said as they spoke earlier today. Chief Bernans explained to the audience that the Township bought this fire truck in 1991 as a demo. Olentangy Liberty High School was being built and we needed this ladder fire truck to accommodate the height and width of the school. We have had one of the newer fire trucks be out of commission for about a month and this (not primary) truck was brought back into regular service (it is inspected everyday, the same as the other trucks), We promised our taxpayers that they would be covered 24/7 when the last fire levy was passed and respond within 5 minutes of a call and we have done that. The original cost of this E-One Fire Truck was \$540000.00 and it does need some work \$120000. to 140000.00 and this is not a waste of money to have this truck refurbished and a lot of research has been done on this and it is not a truck that will just be sitting, it is being used. Genoa Township does not have a ladder, their business.

Mrs. Guzzo stated what she said was not personal and glad to have this backup truck. Chief Bernans said this is not a backup truck, it provides as both a ladder and an engine truck.

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Mr. Sybert said about a month ago Assistant Chief Jensen was before the Board explaining that it has taken the Fire Safety Committee over one year to research for the new fire truck. We have the finest fire department in the area and he wants to keep it that way.

Mr. Sybert moved and Mr. Cape seconded to approve the advertisement to refurbish the 1991 E-One Fire Truck and have it in the Delaware Gazette on December 8, 14 & 21, legal section. Discussion; Craig Paynter said when this E-One Fire Truck was purchased as a demo; the township saved about \$200000.00. Mr. Cape said we have an excellent fire department and does not care if another township does or does not have. Mrs. Guzzo echoes we have the finest fire department in Central Ohio, but if Westerville, Delaware and other fire departments can not justify a backup truck, then she can't and that is why she is voting no. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, no. (06307)

Holly Foust read the following advertisement. #DP 06-03. The purpose of this meeting is to consider an Application for Development Plan Approval submitted by Mark Ebner and Ron Stone on behalf of SSA, Ltd., Owner, and Mark Yates on behalf of P&P Real Estate, LLC, Developer, requesting approval of the proposed Gold's Gym at 3474 Sawmill Parkway, Powell. The vacant 6.94-acre Planned Commercial site is located in Seldom Seen Acres Subdivision, Section 2, Lots 4497 & 4498 (re-subdivision of Lots 3418, 3419 & 3420), and is located in Range 19 west, Township 3 north and Farm Lots 10 & 36 in Liberty Township, Delaware County, Ohio.

Fiscal Officer Rush advertised in the Delaware Gazette, posted at the Liberty Township Complex, mailed to 10 adjacent property owners, applicant, owner, Zoning Commission chairman, Zoning Department on November 2e. This advertisement was put on the Web page on November 27th.

On October 25, 2006, the Zoning Commission approved this plan with amendments/stipulations; Eliminate TAB 11 from the Plan in its entirety.

Eliminate, all references to mounding/landscaping of Lot #3414 within the plan.

Amend the Development Text to require the two existing sanitary easement, as shown on the Seldom Seen Acres Section 2 Resubdivision Plat, be vacated and the new sanitary easement dedicated as proposed, and a copy of the recorded documents be submitted to the Liberty Township Zoning Office prior to the issuance of any Zoning Permit.

Replace all maps in TAB 4 dated 10/18/06 with the maps submitted at this meeting dated 10/25/06.

Amend all references to 386 parking spaces to 373 parking spaces. Passed 5-yes and 0-no.

The Board has the revised plan before them tonight.

Rob Meyer was here on behalf of the Applicant. This application is on 6.94-acre Planned Commercial site (Zoned in 1999). Has frontage on Seldom Seen and Sawmill Parkway as well as two internal streets (which has been completed). There were three hearings before the Liberty Township Zoning Commission (August through October). There was a great deal of work & discussion. The landscape mounding will be a separate application (on lot 3414) and will be coming before the Zoning Commission this Wednesday. Will be happy to answer any concerns this Board may have on the revised plan.

Theresa Doodan was here on behalf of the Zoning Commission, There were a lot of people attending the three Zoning Commission meetings. Walter Threlfall encouraged the developer to talk with the neighbors and work together. By the time the final plan came in, everyone was pleased.

Frank Semetho said there was a difficult situation but it was worked out. Primary concern is the second story running track (about 900' from their residence) and it will be illuminated until late at night. The developer worked with them and there will be mounding 5' high with about 80 evergreen trees and the residents are satisfied with this solution. Traffic is another concern.

Rob Meyer said they have not established an easement to the back of the site but there is a Zoning Application that will establish an easement and trying the best that they can.

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Mr. Cape said we have had trouble in the past with certain developers promising and asked Frank Semetko if he got the agreement in writing from Mr. Stone. Mr. Semetko as of now, no.

Rob Meyer said this Wednesday, it was determined the application would be a minor and will go no further and will bind the applicant to do just that. It states that Lot 3414 "J" that the berm and landscape to be provided for accelerate the screening of adjacent residential, uses to the south on other portions of Seldom Seen Acres. It will be installed during construction of Gold's Gym and completed before final occupancy of that facility.

Mrs. Guzzo asked Theresa Doodan that the Zoning Commission would not approve anything else unless it was applied for and done in good faith.

Mr. Cape asked if there were any Architectural Design restrictions on the property. Holly Foust said only as they are approved in new plans, yes there are for this building, but not necessarily the same for the rest of Seldom Seen development.

Karen Carter has an issue with light pollution. With all the light coming from outside and inside the building, we may have the same issues as with Drug Mart. How does footcandles compare and fall off.

Rob Meyer said the glass is tinted and the internal design level is 35' foot-candles. CVS is 55 candle-feet, BP is 80 candle-feet, Drug Mart is 72 candle-feet, and Kroger is 60 candle-feet. Mrs. Doodan asked what is the outside foot-candles. Mr. Meyer said it is hard to get a reading and is downward at about the lowest/average level you can get to 1.1 foot-candle with a maximum of 5.5 foot-candle (right underneath the light fixture).

Mrs. Guzzo said this is a beautiful building but is in the wrong place. The two-story glass building is visible from Seldom Seen Road. This whole development has expired. Since this is done piece meal, she does not know what is office, commercial, green space, and there is no master plan. PUD has standards and is this for the entire development. In the PC code when the language was drafted, the intent was to make sure that 30% is open space and does not see plan for active/passive uses. She is not in support and needs to see the whole development plan. Maybe there is somewhere else in the township for this.

Rob Meyer said there is not a distinct character along Sawmill Parkway but hope to have a quality theme. There was a code change during the interment. They are not trying to get back to the old code as this plan meets the requirements under the new code.

Mrs. Guzzo asked Holly Foust for the open space verbage "land shall not be built upon and may be classified as either common open space or natural green space or a combination of both. It does not include the areas of individual fee simple lots conveyed to homeowners. Open space land may be owned by an individual, a homeowner's association, or may be owned by a third party if protected by an open space easement which permanently and irrevocably transfers the development rights from the open space land to the owner's association". Natural green space verbage "any lot or parcel of land set aside by its legal owner by deed, plat, deed restriction or other legal means using a permanent public record wherein said lot or parcel is permanently and perpetually set aside, not for the purposes of recreation, but for the purpose of protecting and preserving the natural, scenic, open or wooded condition of land, water or wetlands against modification or encroachment".

Mrs. Guzzo said she is trying to make sure that the land set aside, with maximum lot coverage of 70% and does meet criteria.

Rob Meyer said he was traveling during the beginning of this and does not have his code wit him. Mrs. Guzzo said PC is our PUD and he is only presenting one view. Rob Meyer is only trying to do the 6.9-acres on the North side and not as a new plan from the ground up. Mrs. Guzzo wants to know how much of what. She said she has said enough.

Theresa Doodan said the strip center is still on the table. The overall plan has expired. The bike path is along Seldom Seen Road and added green space in the parking lot. Mrs. Guzzo asked Theresa Doodan if she felt comfortable adding this 6.9-acre parcel back into the formula. She does not know but is sensitive to the issue and this site speaks for its. self. Mr. Sybert said the developer is to do what is in the specification. Mrs. Doodan said this is one of the finest pieces of architecture for its uniqueness. Mr. Sybert said the church set the precedence for uniqueness. Mrs. Doodan said they have brought to the township an expensive building and has a good business representation.

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Rob Meyer said this site is oddly shaped, has roads on four sides and a small site commercially. If you look at the plan calculations, the open space has significant set backs, has a bike path in it and it amounts to 32% of the site.

Mr. Sybert moved and Mr. Cape seconded to approve Application #DP06-03 pursuant to the Zoning Commission 5-0 vote. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo (said she is only objecting to where it is located and not to the whole development plan), no. (06-308)

Craig Paynter said last time he was here he brought to the Board the added easement of Columbia Gas. He has tried to satisfy the acquisition and the Bargar fence extension. He is suggesting that the Township take the money from Columbia Gas and pay for the fencing and shrubs. The easement language is reflected in all the contracts with Columbia Gas with respect to our satisfaction and not theirs. Craig Paynter has asked for maps and figures on where the new easement is to go; not to disclose at this time as it is subject to change. Craig Paynter will come back before the Board and it may be cheaper to have the Road Department do the planting and fencing. Mr. Cape is against giving in to the Bargars and wants assurance that they will not be coming back with more requests. Mr. Sybert said get the money and we do it ourselves.

Havener Park is scheduled for closing December 7th and hopes to report at the next meeting.

Mrs. Guzzo is looking into objects and things in the road right-of-way

Mr. Paynter spoke with Ken Molnar today and is receptive to our suggested changes to the tunnel contract. Liberty Township will not be responsible for the replacement of the underpass. They will take care of the insurances, the egress and ingress and we need to see the final agreement before anything is official.

The Strawser paving issues seems to be more cosmetic than anything. Mr. Walkup does not feel comfortable with what they have said and wants to hold more than what they have asked for payment. Craig Paynter suggested paying a certain percentage. Mrs. Guzzo said no, as Mr. Walkup needs to be here and discuss with the Board. Mr. Paynter said if it were the Boards' direction, he would speak with Mr. Walkup and get back with the Board.

Mr. Cape showed the Master Plan for the Havener Park. Preservation Parks have paid for the Master Plan and Liberty Township have paid for the surveys and title works. Mr. Paynter wants to get started early this next year. Some legal fees can be encumbered in the report to the City of Powell. Chief Bernans will get copies tomorrow of the Master Plan.

Mr. Sybert said he has talked with Chief Bernans about the Township Administrative position. Mr. Sybert said he is over taxed (attending meetings three times a week) and maybe it is time to look into having a full-time administrator so they could help with the staff and the Boards' workload. This is one of the largest townships in the state and looked at to set standards as there are a number of issues that need to be resolved. Mr. Paynter said we have had the best bargain in the state, in Chief Bernans as he probably has saved the township a half a million dollars. When Chief Bernans took this Administrative job, along with being Fire Chief, we were still small, but now it is more than one man should have to do.

Mr. Cape also talked with Chief Bernans this last week. He contacted the Ohio Township Association and asked if they would help with the review process. They do not do this and had no recommendations on a company to help with our search. For \$20.00 or \$25.00, they would send out e-mails about this vacancy being open to all existing Administrators and they would need something in writing authorizing OTA to do this. He does not feel this should be a rapid process, as we need someone in Township or public Administration with a masters degree and have the ability to deal with personnel, the Board and also able to do grant applications. Mrs. Guzzo her position has always been to have a full-time administrator with someone having a law background and government affairs would be a great benefit. Craig Paynter suggested asking Chief Bernans to come up with more information as to the qualifications, salary, (possible support staff) and education and bring back to the Board. Mrs. Guzzo will give him what requirements that Genoa and Orange Townships have for their Administrator. Chief

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Bernans said he would be willing to help in the transition period. Once he gets the job description and etc., may need to hold a work session. Craig Paynter will get the Chief started and help with the work agreement, as there are a lot of unknowns. Chief Bernans said it is time to give this administrative job up.

Jim Cirigliano suggested giving a 'Thank You' gift for Havener Park. Craig Paynter said we could do a plaque.

Mr. Sybert met with Thompson Hine this last Friday and was very impress with what they are going to be bringing but he does not want to go forward without Bill Loveland. This is the right time to bring them on. They talked more on how they will be dealing with the case. They want to appoint one person to talk with the Trustees and want Bill to be that communicator. Mr. Sybert wants to keep the legal fees as low as possible and they agreed to that. The Boards questions need to go through Bill Loveland, then to Thompson Hine. Mrs. Guzzo suggested inviting either Jud or Mike to come to the Board and be introduced. Mr. Cape does not want to meet the lawyers face to face, as it will cost the township money.

Mr. Cape signed the minor work contract with Delaware County Regional Planning Commission on the Liberty/Powell Bikeway Planning as Mrs. Guzzo said there was a motion at the last meeting. It was suggested maybe needing only 15 hours or so to get this done.

The Board signed the November 8^l corrected minutes that was previously approved.

Communications, proof of Delaware Gazette publications. BMV, Oct. report. Del-Co Water to raise their rates 3% for water used after January 1, 2007. Waste Management to increase in Delaware County, January 1, 2007. Council for Older Adults, 12-7 meeting. Received from the Board of Elections, November 7 election the results for Liberty Township, sale of wine & mixed drinks at 4000 Powell Road. Copied Grassroots Clippings for the Board and Chief Bernans on 12-4. Delaware County Health District newsletter.

The Board wanted to wait in approving the November 2e minutes.

The Board did not sign the warrant for Max Holzer as there needs to be an explanation from Mr. Loveland and will have the answer by our next meeting.

Holly Foust does have a question on what was in the draft minutes of November 20, page 8 last sentence of the first paragraph. "She said the weakness over the last few years has been in the zoning department." Holly Foust wants an explanation and if that is the way the Board feels, than changes need to be done in her department. Mrs. Guzzo feels this was taken out of context and she will be looking at her recording. Zoning has been an issue with the residents of Liberty Township. Holly Foust said she is doing this as respectfully as she can. In the same paragraph Mrs. Guzzo said, "She would love to sit down and have a meeting with the staff and Mr. Sybert and see if this is legitimate and see if there is something she can do". Today Mrs. Foust was approached by Mrs. Guzzo and said she would like to have a meeting with her about this letter, Mrs. Guzzo requested the meeting twice and Mrs. Foust strongly objected to that and refused to have that type of discussion, unless there are at least two trustees present and or township administrator. She does not want to be singled out. Mrs. Foust then walked away and went to lunch, She did hear the comment earlier tonight about disciplinary action and is gravely concerned after reading the newspaper articles and quoted that Mrs. Guzzo said, no employee had a reason to worry about their positions with the township. Mrs. Foust read from Webster's Dictionary definition of bogus; counterfeit, not genuine, sham. No matter who wrote this letter, on behalf of the employees, please do not call the letter bogus because it is a real letter with real issues that a number of employees have. She did get a copy of the letter and read it. It does say not every employee has every concern in that letter. Only that some have those issues, some of them were aware of those issues and this was a grief that needed to be addressed. The hope of the letter was for everyone to work together without feeling they were under a microscope and being micromanaged. No one that works for Liberty Township has anything to hide. Her office is open if anyone wants to look through her desk or on her computer. There was a concern by Mrs. Guzzo about employees talking amongst them and for God sakes stop talking to the press. Mrs. Guzzo was told someone gave the letter to the press, Mrs. Foust said that is

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not what she is talking about; it's Mrs. Guzzo continually talking to reports to try to make herself look better, but not addressing any of the problems. Mrs. Foust said since Mrs. Guzzo kept interrupting her, it was late; she would now say good night and turned to leave when Mrs. Guzzo said she wanted to talk with Holly in the next day or two please. Mr. Sybert said that does not seem necessary. Mrs. Guzzo said she could also include the Chief, as she cannot do her job without speaking with her, Mrs. Guzzo said she is a professional and need to find out what the issues are or does Mr. Sybert want her to go public. Mr. Sybert said only if both the Chief and Holly want to meet with her than it is fine. Mrs. Guzzo said if she doesn't, then she will file a formal complaint against a staff member. Mr. Sybert said Mrs. Guzzo has a right to go into executive session to talk about it. Mr. Cape said Holly Foust has his support. Mr. Sybert said he is going to support the staff, as he does not see any major problems. Mrs. Guzzo said she has spent a lot of time on this township. Mr. Sybert said she should use all her hard work on progress, not tearing down everything she does. Mrs. Guzzo said about Mr. Sybert interfering with the productive and genuine business of this township.

Mrs. Guzzo said Chief Bernans wrote the letter and if he didn't, then she said Curt Sybert wrote it. Mrs. Foust said neither of them had anything to do with it.

Mrs. Guzzo asked if Holly Foust was the author of the unsigned letter and Mrs. Foust said she would not even answer that question as she is responding to the whole thing as to issues the employees are asking for help with. Mr. Sybert said that Mrs. Guzzo does not want to get this staff anymore riled up as they already are. Mrs. Guzzo said she has a great relationship with the staff and there were two or three that she knew she would have some problem. She is just coming in and asking questions and getting copies and she is not going to change. Holly Foust did confess to writing one issue in the letter and whenever she has a conversation with Mrs. Guzzo, she insists that Holly gives her an opinion even if it is not her place to do so. Example; don't you think the green space around Gold's Gym ought to be something different. It is not Holly's place to give that opinion. Mrs. Guzzo thought it was the Zoning Inspector's job to bring it to the Zoning Commissions attention of the open green space. Holly Foust said if that is true, then maybe her job description needs to be rewritten. The reports the Zoning Commission gets from her are things that they never had before she started to do it voluntarily. Mrs. Guzzo feels that it is unfair for the Zoning Commission to rely on Holly's comments, Mrs. Foust said the Zoning Commission is better than that. They do read the application very thoroughly and have had Board members in the past that did not read the information.

Chairman Cape adjourned the meeting at 10:30 P.M. but Mrs. Guzzo would not turn off her recorder.

ATTEST:

Marcia Rush Fiscal Officer

Curtis
1/2/07

Robert E. Crane 1-2-07

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Liberty Township Trustees met in regular session December 18, 2006, 7:00 P.M. at the Liberty Township Complex. All Board members were present with Mr. Sybert arriving at 7:04 P.M. Also present were James Penning, Dana Wisecarver, Euca Morgan, Margie & Max Holzer, Susan McCabe, Tom Ranch, Craig Paynter, Andy Curmode, John Walkup, Holly Foust, Jim Bresnahan, Kelley Youman, Debbie Price, Tom Jones, Joanne & Dave Roberts, Guy Cartwright, Trish Morton, Carl & Karlene Coyan, Robert Polisenio, John Schuette, Milichelie, Jennifer Noblit, Karen Carter, Jim Cirigliano, Tracy & Dave Mullenhour, Tracy A (unreadable), Chief Bernans and others that did not sign-in.

Chairman Cape called the meeting to order with the Pledge of Allegiance. He stated the meeting is being recorded in aiding the Fiscal Officer in transcribing the minutes.

The official minutes are on file with the Fiscal Officer. The tapes will be erased for reuse or destroyed within 24 hours after the official approval of said minutes as per Resolution 99-186. Mr. Cape asked that all cellular phones be turned off, no food or drink is allowed in the meeting room and to please sign the clipboard circulating the room. Mrs. Guzzo said she was also recording the meeting.

James Penning, Chief Auditor of the Performance Audit Division for Auditor of State Betty Montgomery, stated their commitment is to promote and preserve the confidence of Ohioans in their state and local governments through the development of resourceful and practical solutions designed to enhance the efficiency, effectiveness and accountability of government services. Most audits take about 16 to 32 weeks and consist of series of distinct stages:

1. Preliminary Planning
2. Field Work (compared to other townships by size, budget, demographics)
3. Report (once collected can save or cost the township; added personnel, etc)
4. Post audit meeting (gets reviewed every three years by other auditors, as things change)

Once they issue the report, then the report becomes public record and posted on the Web site. Mr. Penning will send an outline of how to proceed with cost estimate to see if this would be a benefit for Liberty Township. There are four areas and can range from \$10,000. to 15,000.00 (approximately \$30.-35. hourly) and more if we want an expanded scope. They will be working with all departments and the elected officials. The Board seemed to be in agreement and will discuss further. Mr. Sybert stated a performance audit was done for Olentangy School District and Mrs. Guzzo wanted to know the scope of work and make sure of the cost. Mr. Cape asked if another township, similar to ours, had a performance audit and Mr. Penning said he could not recall. He said there are no perfect matches; collect data, get the townships' feed back so that the township could run as efficient as possible.

Mrs. Guzzo said the Board received a letter from the Delaware County Prosecutor's Office, dated December 6, 2006 in regard to the Canterbury subdivision walking/bike path that remains incomplete since 1992. In the letter, Benjamin Collins, Assistant Prosecuting Attorney, stated that he would advise the Board of Trustees to seek the cooperation of the developer in complying with the Development Plan as approved in 1992. Mrs. Guzzo spoke with Ben Collins and he is willing to draft a letter to Dominion Homes asking them to sit down with the Board to remedy this situation. Both Mr. Cape and Mr. Sybert were confused about the December 6th letter, as there was not a clear message.

Mrs. Guzzo moved and Mr. Sybert seconded to request the Delaware County Prosecutor *Office* to draft a letter to Dominion Homes asking them to sit down with the Canterbury Homeowners Association and Liberty Township Board of Trustees to help remedy this situation. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-309)

Mr. Sybert received an engagement letter from Thompson Hine (hourly rate and conditions). He would like to have the Township Administrator sign the Thompson Hine Contract on behalf of Liberty Township. Mrs. Guzzo said she spoke with Ben Coffins, DCP, and there are two questions; that they are representing all of Liberty Township. Mr. Sybert said this includes all employees of the township. Craig Paynter suggested talking with Thompson Hine about the language of the letter. To prevent conflict,

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Thompson Hine needs to terminate immediately any connection with The Foundation. Max Holzer said once the Township was engaged with Thompson Hine, termination would be immediate from The Foundation. Mr. Sybert said there was no conflict here because they are fighting the same issue.

Mrs. Guzzo moved to accept the agreement contingent upon the client requesting a full party and secondly that their relationship with The Foundation, a non-party group, would terminate so there is no conflict. Mrs. Guzzo asked for a second. Mr. Cape seconded the motion. Discussion, Mr. Schuette wanted to present a point of order on Parliamentary Procedure, it is highly improper for an individual to make the motion and call for a second, as that is reserved for the Chairman. Mr. Cape asked for any other discussion. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-310)

Mrs. Guzzo moved and Mr. Cape seconded that once corrections are made, authorizing Chief Bernans to sign the contract with Thompson Hine. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-311)

Mrs. Guzzo moved and Mr. Sybert seconded to request an engineering assistance for a speed study of Perry Road for the reduction from 45 mph to 35 mph or so from the Delaware County Engineer to address the residents concerns. Discussion, Mr. Walkup said this was done within the last five years and we need to be cautious, as some speed studies have actually increased the speed limit, like Ford Road. Roll call vote; Mr. Cape, yes, Mr. Sybert, yes and Mrs. Guzzo, yes. (06-312)

Mrs. Guzzo attended the open house on the Sawmill Parkway extension and the Orange Road proposal. She does not want the Parkway to extend to Rte. 42 and asked if the Board would do a resolution to the Delaware County Commissioners. She would like to keep the Orange Road Bridge (historic and remain staggered but repair to make it safe) and does appreciate the round a bouts. Mr. Sybert said he spoke with Chris Bauserman and Chris is not going to change his mind about keeping the old bridge. Mr. Cape said to Mr. Bauserman that he needs to get rid of the old, unsafe Orange Road Bridge. And as for the Sawmill Parkway extension, if not built by the County, the City of Delaware will and would annex into Liberty Township. Mr. Schuette said what the City of Delaware does not get, the City of Powell will. Mr. Sybert is in hopes that the Commissioners would reevaluate the Sawmill Parkway extension and get away from the quarry. Mrs. Guzzo said if the extension does go through, the round a bouts will discourage truck traffic. Mr. Sybert said the City of Delaware has made it harder to get to SR 23 because they are rerouting the trucks into our township and not through their city. We cannot sit idly by and watch this happen.

Received a letter from Kathy Tschofen, Heathrow Drive, about the Zoo traffic blocking the entrance to her subdivision. A copy of this letter was given to Jerry Borin, Columbus Zoo Director at tonight's meeting. Mr. Borin said he would look into this matter as soon as possible.

Mr. Borin brought in a couple animals (one endangered Cloud Leopard cat and two Black Footed penguins also called Jackass Penguins). On December 16th they had a record attendance of almost ,23000 for the life of the Zoo, Powell Road will be relocated, with construction started and hope to reopen in August 2007. There will be four lanes of traffic to take you around the Zoo. There will be a traffic signal at the New Hope Church. The new Safari Golf Course will reopen 2007 golf season. The water park will be closed for 2007 and will reopen in the summer of 2008. Wyandotte Inn was bought by ODOT and in the process of doing a land swap with the City of Columbus. The Zoo has asked ODOT to give the building to the City of Columbus and then the City of Columbus would lease it back to the Zoo for offices of the water park. The Asian Quest opened this year. The Polar Frontier is in the process of finishing up. ODOT will eventually put in bike paths than will connect to Dublin and Liberty Township.

John Walkup was before the Board about the micro, surfacing that was installed by Strawser this season and did not turn out as we had hoped. Have had numerous meetings with Strawser and was told the color of the resurfacing would change and even out (not like the resurfacing project on Hyatts Road that was done by the County). The project was completed after the deadline (due to weather). Mr. Walkup said he did a lot of research this last spring on micro surfacing and feels that we have not received what was

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anticipated and is requesting holding 50% of the project until it is completed to his satisfaction next spring.

Tony, operations manager from Shelly Company said the micro surfacing was done as per specifications. He said they could provide warranty for the two roadways that Mr. Walkup is not satisfied with (Cardigan Ridge and Wingate Place) and no other issues to the rest of the roads. Mr. Walkup said he has been 100% dissatisfied with the whole project. The Road Department did crack sealing before the project and there was a smooth surface and sound to accept the micro surfacing which is now wash boarding and showing the crack sealing material (which we were not to see). The streets were deemed structurally sound to accept this micro surfacing. Mr. Walkup asked how Strawser would do the cul-de-sac and were told they would back into them and then pull out (like what you would do with an overlay). But everything was done by hand in the cul-de-sacs and you can imagine what that looks like. There was a \$10000.00 overage on the project and does not know when or where the overage occurred and have not received anything on that (awarded bid was \$222523.00 and it came in at \$232126.00 with liquidated damages of \$3700.00, now \$228,398.00 we have been billed). Tony said the overages could have been areas that were not calculated in the first place. The quantities go through Delaware County who facilitates the contract and everything was agreed as far as quantities. Jerry Ungashick said everything was put in as per specifications under this contract. There is always variations from applications of micro surfacing and does not know what we are displeased with. They want to work with us. Mr. Sybert asked if we should be seeing the washboard effect and the consistency that was appropriate, looks like a water downed product. Tony said they would have to look at it. It was discussed that a field visit with Mr. Sybert, John Walkup, Robert Cape, The Shelly Company; some one from the County and Strawser would be on site and to be scheduled the first week of January. Mr. Walkup said there was never a representative from the Delaware County Engineers Office that was on site during the surfacing and some of the work was done on Saturday. Mr. Cape is troubled with Jerry Ungashick's comments, as he is not an engineer. Tony said he was not aware of any issue until about two weeks ago for this entire contract. He said they did not meet certain deadlines (because of rain this fall) and they did pay for liquidated damages and were responsible for that. Mr. Cape said we were sold on the DVD that this would be uniform application and then told that Strawser was doing the cul-de-sacs by hand and how can you get a uniform application? He said color does not bother him, just the application. Tim from the Shelly Company said Hyatts Road was put down with a different application, due to the Township Roads being smaller. Mr. Walkup said we were not told about this at the beginning of this project. Mike Buckingham from Strawser there are a few roads that need to be redone as to satisfy Liberty Township. About a month ago wrote Liberty Township but have never heard back. Legal Counsel, Craig Paynter, said he met with Mr. Walkup late last week and is in the process of responding to their letter. It was discussed to give The Shelly Company some money and 50% was discussed but to hold back enough money so the project would be completed. Mr. Walkup is highly dissatisfied with the product and is not what was represented to him. Craig Paynter said to his knowledge there was no County inspection. Randy Leib from the Road Department was there everyday for the whole project. Tony said a representative from the County was to be there as they were to inspect their performance. Mr. Walkup said there was never a County Inspector on the job. Tony said he does not know why they have to hold an \$114199.00 retainer when the job has been completed. They are not going to walk on this project and they have a bond. There are only two roads that will be redone at a cost of about \$14000.00. Mr. Paynter said there is little comfort for him in chasing a bond vs withholding money. Mr. Sybert suggested holding \$25000.00 instead of the 50%. Tony will schedule the meeting. Mr. Paynter maybe since we are so dissatisfied, maybe we should not use this process (micro surfacing) and going through Delaware County process again and that is the bottom line.

Mr. Sybert moved and Mr. Cape seconded to release all but \$25000.00 to The Shelly Company pending the review (meeting to be scheduled the first week of January) and it is obvious Mr. Walkup is not satisfied. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-313). Another check of \$89199.12 will be sent yet this week.

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Dana Wisecarver asked if there would be any physical testing (core samples) of the micro surfacing material, as the Township needs to get more than just the specifications. There were no citizen comments.

Tom Jones, Chairman of the Police/Safety subcommittee sent a letter to Mr. Cape about the draft copies of Introduction to the Residents survey and crime data for review, comment and approval to proceed. The subcommittee would like the Board's comments by no later than January 15th % Melanie Frost. A meeting with the subcommittee to discuss the Board's comments and then a meeting with the Trustees to receive approval to precede, submission of the survey to the residents, tallies the results and final recommendation to the Trustees as a public meeting. The survey will be sent out to the unincorporated areas of the township. Mr. Sybert questioned the use of Police Protection and not Law Enforcement. City v Sheriff is the difference. It was stated that the Sheriff would be cheaper as would be paying a salary and the City of Powell did not give Chief Bernans any figures (Chief Vest will be in next Thursday and Mr. Lutz has not asked City Council about the cost of providing police protection to Liberty Township).

Emma (inaudible) said why could we not formally ask in a letter, as we do formally need to get the numbers. Mr. Sybert said Chief Vest did not want to give us a number but gave an explanation that seemed to him, to suggest that he had a \$2m budget per year for police and if he expanded his territory to twice the size, and would deserve half the expense (he basically priced himself out at that point), Tom Jones stated Chief Vest did not give them a cost figure but would have to charge for the cost of the salaries, benefits, insurance and a car (where the Sheriff does not have too). Chief Bernans will ask Chief Vest on Thursday or Friday, when he gets back on some sort of figure or state they are not interested.

There is a farewell open house on December 20 from 4-6 P.M. at the Delaware County Commissioners hearing room for Tim Boland who is going to the City of Pataskala as their new City Administrator.

Chief Bernans authorized the expenditure of \$2425.00 for a new furnace at the old Park office, as it would have cost \$1800.00 just to fix the old furnace. Received a check from Grange Insurance for \$5700.00 for the accident of Dick Kuhn's Road Department vehicle (the other vehicle crossed over the center line on Seldom Seen Road).

Reminder about the swearing in ceremony of the newly promoted firefighters tomorrow night at 7 P.M., here at the Complex.

Craig Paynter said the Township has received a corrected copy of the Maintenance Agreement for Rutherford Road Pedestrian Tunnel Agreement between the City of Powell and Liberty Township, Will enter into this agreement at the next meeting.

Chief Bernans said there was a budget hearing scheduled this last Wednesday for Department Heads (Zoning Inspector, Road and Park) that was called by Mrs. Guzzo to review the budget needs and wants of each department. The meeting went into areas that was not to be discussed and the questions by Mrs. Guzzo turned into personal opinions and what we should or should not be doing and Chief Bernans tried to put a stop to that as he instructed the Department Heads that the meeting was only for budget review and then all of a sudden it went to employee review, which was inappropriate. Mr. Sybert asked if there was any feedback from the staff. Chief Bernans said no not really. The Park Department wanted direction on the additional 94-acre park (staff, equipment, may have to run two shifts). The Road Department discussed the additional salt shed and the need for another building, etc. Mr. Sybert said the trustees can ask , individually questions but must have a board resolution for personal one on one reviews, in his mind and was glad that Chief Bernans put a stop to the meeting. The Zoning Inspector was not comfortable with the personal review since it was supposed to be a budget meeting. Mr. Cape said we have never discussed employee performance and reviews and for one Trustee to begin that process, and not the other Trustees knowing about it, was unfair to the employees. Mr. Cape told Chief Bernans that if any time a Trustee comes to speak with any employee and the employee feels uncomfortable, they have the right to include Chief Bernans in on the conversation.

Tom Rainy said this issue was discussed at the last meeting and Mr. Sybert's comment was that if this continues, and then the Board will stop it. If they had to stop it

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at the interview, then it is continuing, Mr. Sybert said it is an issue of public trust and confidence. He feels the issue is out there so much that the public and press are tired and a public confidence that is eroding because of these issues. Mr. Rainey said if the Township has an unhappy work force, poor performance and the public has to suffer. Mr. Sybert said when you are a public official, public trust and confidence is the most concern to him. He has respect for his fellow Board members and the work they have put in. He never knew how much work went into being a Trustee. The perception of roles and duties are different with each Trustee having different ideas and there lies the problem with the press reporting what is said, The problem is with the morale of the staff. He has gotten phone calls and we need to do something as a Board. If Mrs. Guzzo were here tonight, he would have said the same thing. He is in favor of looking at the issues and has been frustrated all week since he has heard different things. He would like to get someone in to take a look at the staff and see where the issues are. This is not a transitional thing as transition would have occurred in the first three months, and we are battling these 12 months. His utmost concern is the public trust and confidence of what we are doing here as a board as we do not have power as individuals (in his mind, but may be different in other peoples mind).

John Schuette said it seems that Mrs. Guzzo was elected to be a member of the governing board, three people and she seems to have the idea that she was elected to rule Liberty Township. She interferes with the personnel, while you sit there pondering what you are going to do, you are either going to get a lawsuit or union or both and is not the best interest of Liberty Township. Something has got to be done. He suggested that the Board make a policy; no trustee will speak to any employee unless there are two trustees present. Mr. Sybert said we couldn't do that and she has every right to ask questions. He said there is a line that gets crossed and he feels we do not know what to do.

Carl Coyan asked what is the chain of authority. The liaison issue is still in existence. If Chief Bernans is the one who oversees the employees, then what is the problem? It is cut and dry. If you cannot settle this as a Board, then who can? Mr. Cape said we couldn't discipline the other elected official,

Karen Carter said that it seems with all this, is there a job description that exists for Trustees? Yes, the Ohio Revised Code.

Mr. Sybert said when he comes to the Complex, this is not his house and he asks permission to speak with individual employees. Someone needs to come in and take a look at our policy and procedures as we have a problem. The so-called anonymous letter was not anonymous as there are problems.

Karen Carter suggested getting everyone on the same page and then this type of issue would not be an issue. Mr. Sybert said she is onto something. This is a delicate topic and he does have a lot of respect for Mrs. Guzzo. We need to define the staff and Board roles and bring someone in to investigate, review the procedures and make recommendations. He will ask Craig Paynter what we can legally do. Need to have a mediator that has worked with corporate structures and maybe the Delaware County Prosecutor, because they are free.

Craig Paynter said we came up with the liaison system about 20 years ago and it has worked (as back then employees were contacting all the Trustees and this is a part-time job). There is no job description as such, only what is in the Ohio Revised Code. What bothers him is the message that is the employees are not doing what they are suppose to do and that the wrong needs to be corrected. We have hard working employees who are dedicated. We have always been short staffed and try to save the residents of the Township money. Do not know if there is a legal solution, but perhaps a mediator would be willing to come and uncover what is at the bottom of all this. The staff may feel secure in fostering complaints if they understand that it takes two Trustees to discipline and to make a motion on their pay or position. It is intimidating for employees to talk with one of the Trustees.

Max Holzer said in the business world it is competitive and it is urgent that we have good morale within this company's team. Without that it will fail, This township is at a critical point in its growth and needs to investigate or the township will loose.

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Tom Rainey feels we are using the wrong word, mediator. There are procedural issues, responsibility issues and professional needs to come in. Since you do not have the authority to deal with each other, then need to form a public opinion mode. It seems the Board is not following the guidelines. Mr. Sybert said that with a mediator, things are confidential until there is a recommendation to review. If there is an investigation and they are doing the same thing, it is illegal.

Jim Bresnahan said Mr. Penning that was here earlier, if properly structured, could include what we are talking about within the Performance Audit.

Debbie Price said her perception is communication, relationships, egos, etc and maybe we need coaching and let's talk about perception vs fact. Maybe just clearing the air would get a lot done.

John Scheme said we have never had this trouble in the last 100-year or so until this year.

Mr. Sybert said when he had a problem (at another law firm years ago), they were sent to seminars that taught how to get along with peers and it does work, He regrets that this issue before us has gone on far too long and should have been addressed at the last meeting.

May Holler said this needs to be nipped in the bud and if there is smoke, there is generally fire.

Mr. Sybert moved to have legal council, Craig Painter look into hiring a mediator or any alternative seeking guidance from the Delaware County Prosecutor Office to review and investigate the staff morale issues and this individual to recommend or establish a means for employees to anonymously report potential concern issues and/or internal problems they might have. Discussion, Mr. Cape said he agrees with Mr. Sybert but it is also important to address our concerns to the people doing the Performance Audit and look at the structure of our organization to see how we can better operate to serve the needs of our employees. Mr. Sybert said the Performance Audit was a great idea but that would handle different issues than internal problems, they may get close but they are not going to fix this issue, like the chain of command. Mr. Scheme said if we wait too much longer, we are going to get a lawsuit or a union. Mr. Cape seconded the motion. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-314)

Mr. Cape moved and Mr. Sybert seconded to hold a public meeting on January 16, 2007, 8:30 P.M. at the Liberty Township Complex to consider an Application For Amendment of the Zoning Map submitted by Donald Avdul, on behalf of Geld Properties LLC requesting a rezone from FR-1 to Planned Residential for 13 condominium units on 2.75-acres at 9963 Sawmill Road. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06315)

Mr. Cape moved and Mr. Sybert seconded to go into executive session with legal counsel Craig Paynter and Chief Bernans to discuss collective bargaining as per ORC 121.22G3. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-316)

Mr. Sybert moved and Mr. Cape seconded to reconvene into regular session. Roll, call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-317)

Mr. Sybert moved and Mr. Cape seconded to retain Craig Paynter as general counsel for the township and the law firm of Chester Willcox & Saxbe LLP at an hourly rate of \$200.00 and at standard rates less fifteen percent (15%) for 2Q07. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-318). Complete resolution on file with the Fiscal Officer.

Mr. Cape moved and Mr. Sybert seconded to approve the November 20th minutes as presented. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-319)

Mr. Cape moved and Mr. Sybert seconded authorizing the Fiscal Officer to advertise in the Delaware Gazette for residents of Liberty Township to apply for shelter reservations prior to February 1st at which time the reservations will be opened to nonresidents. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-320)

Mr. Cape moved and Mr. Sybert seconded for the Liberty Township Trustees to meet the first and third Monday of every month, 7:30 P.M. at the Liberty Township Complex with the following exceptions for 2007;

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Tues. January 2, Tues. January 16, Tues. February 20, Tues. September 4 and Wed. November 7. Roll call vote; Mr. Cape, yes and Mr. Sybert, yes. (06-321)

Communications were received from DCPA about it takes a majority vote to erect stop signs. WorkHealth will be increasing their fees for drug screening, exams and alcohol testing in 2007. Delaware Gazette proof of publication. You must register to be put on the National Do Not Call list for cellular phones. Car seat checks will be Sat. March 3 and Tues. July 17 at Station 322 and Tues. May 15 and Tues. Dec. 18 at Station 321. Free Septic System Workshop, Feb. 7, 6-8 P.M. at Porter Twp. sponsored by Delaware General Health District. MORPC, funding is due by Jan. 12 for fiscal yrs. '08 -'15. Orange Road Bridge will be closed December 29 from 8-5 from 315 to Perry Road for repairs. DCRPC to meet Dec. 21 and received minutes of Nov. 30. BMV, Nov. report. OPERS updates. Newsletters of Genoa Twp. and Workers' Comp quarterly.

Chairman Cape adjourned the meeting at 10:41 P.M.