

**LIBERTY TOWNSHIP TRUSTEE  
RECORD OF PROCEEDINGS  
April 6, 2009**

**PROCEEDINGS SUMMARY:**

The Trustees of Liberty Township met in Executive Session Monday, April 6, 2009, at 6:30 p.m., at the Liberty Township Hall at 7761 Liberty Road, Powell, Ohio. In attendance were Chairperson Trustee Robert Mann, Trustee Sybert, Trustee Guzzo, Fiscal Officer Mark Gerber, and Attorneys Craig Paynter and Bill Loveland.

**MOTION: Enter into Executive Session**

Mr. Mann made a motion to enter into Executive Session pursuant to ORC 121.22 (G) (3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action. Mr. Sybert seconded the motion and the roll call vote: Ms. Guzzo – yes, Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 3-yes and 0-no vote.

**MOTION: Reconvene – Out of Executive Session**

Mr. Mann made a motion to reconvene out of Executive Session and Mr. Sybert seconded the motion and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**REGULAR MEETING PROCEEDINGS SUMMARY:**

The audio recording, resolutions passed, and any attachments constitutes an accurate record of the Liberty Township Trustee Proceedings at the above dated meeting as determined by the Fiscal Officer. The following summary is provided as an overview of the meeting and a road map to the audio record. Copies of this record are available by request at the Township Government Office, 10104 Brewster Lane, Suite 125, Powell, Ohio.

The Trustees of Liberty Township met in regular session Monday, April 6, 2009, at 7:30 p.m. at the Liberty Township Hall at 7761 Liberty Road, Powell, Ohio. Board Members present were Robert Mann, Peggy Guzzo, and Curt Sybert. Also present were Fiscal Officer Mark Gerber, Attorney Craig Paynter, and Chief Bernans. Others in attendance are listed on the attached sign-in sheet.

Chairperson Robert Mann called the meeting to order with the Pledge of Allegiance.

**RESOLUTION: 09-0406-01: Approving “Then and Now” PO’s**

Mr. Sybert moved to adopt Resolution #09-0406-01 Approving “Then and Now” PO’s. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-02: Approving Bills – EFT’s and warrants**

Mr. Mann moved to adopt Resolution #09-0406-02 Approving Bills – EFT’s and warrants. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-03: Accept Recommendations regarding TIRC for program year 2008 for Citigroup**

Mr. Sybert moved to adopt Resolution #09-0406-03 Accept Recommendations regarding TIRC for program year 2008 for Citigroup. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-04: Accept Recommendations and report regarding TIRC for 2008 for Citicorp and State Auto**

Mr. Sybert moved to adopt Resolution #09-0406-04 Accept Recommendations regarding TIRC for 2008 Citicorp and State Auto. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-abstain, and Mr. Sybert-yes. The motion passed with a 2-yes and 1-abstention.

**RESOLUTION 09-0406-05: Accept report of Liberty/Berlin Township CRA and TIRC program for 2008 P & D Builders**

Mr. Sybert moved to adopt Resolution #09-0406-05 Accept report of Liberty/Berlin Township CRA and TIRC program for 2008 P & D Builders. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-06: Declaring the appropriation by the Board of Trustees of Liberty Township of property and to authorize the township’s legal advisor to initiate formal process to complete the appropriate of real property**

Mr. Sybert moved to adopt Resolution #09-0406-06 Declaring the appropriation by the Board of Trustees of Liberty Township of property and to authorize the township’s legal advisor to initiate formal process to complete the appropriate of real property. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-07: Declaring intent of Board of Trustees to authorize legal advisor to initiate appropriation process**

Mr. Mann moved to adopt Resolution #09-0406-07 Declaring intent of Board of Trustees to authorize legal advisor to initiate appropriation process. The motion was seconded by Mr. Sybert and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-08: Declaring necessity and intent to appropriate property for construction of roadway improvements and operation of township Havener Park property**

Mr. Mann moved to adopt Resolution #09-0406-08 Declaring necessity and intent to appropriate property for construction of roadway improvements and operation of township Havener Park property. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-09: Authorize the purchase of voicemail (computer) server**

Mr. Sybert moved to adopt Resolution #09-0406-09 Authorize the purchase of voicemail (computer) server subject to the change of adding “and approval” at the end of the last sentence. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-10: Approval of Technical Service Support Agreement for EKG’s**

Mr. Sybert moved to adopt Resolution #09-0406-10 Approval of Technical Service Support Agreement for EKG’s. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-11: Approve purchase of drinking fountain**

Ms. Guzzo moved to adopt Resolution #09-0406-11 Approve purchase of drinking fountain. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-12: Consider bids for landscaping work**

Mr. Mann moved to adopt Resolution #09-0406-12 Consider bids for landscaping work. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-13: Approve a “no hearing” related to the transfer of one (1) liquor permit for “Azteca Liquor License”**

Mr. Sybert moved to adopt Resolution #09-0406-13 Approve a “no hearing” related to the transfer of one (1) liquor permit for “Azteca Liquor License”. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-14: Proclaiming April, 2009 as Autism Awareness Month**

Mr. Mann moved to adopt Resolution #09-0406-14 Proclaiming April, 2009 as Autism Awareness Month. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**RESOLUTION 09-0406-15: Acceptance and Appropriation for Special Revenue Funds 2901 and 2902**

Ms. Guzzo moved to adopt Resolution #09-0406-15 Acceptance and Appropriation for Special Revenue Funds 2901 and 2902. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

Mr. Gerber did state that the first quarter Financial Summary was now available.

**CITIZEN COMMENT:**

**Kurt Dehner, 1975 Carriage Road**, is asking for a waiver for a project on Sawmill Parkway. He stated he is a business owner there and we are 40 to 45% through the project. He received a letter from Tracy Mullenhour stating their permit is going to expire on May 10<sup>th</sup>. In order to keep the sign we would need to file another application at a cost of \$600 to go before the BZA again to have them review our sign to see if they would extend the length of time for our sign. The letter also stated we wouldn't be able to meet with the BZA until June 2<sup>nd</sup>; therefore we needed to take our sign down. If we submitted our application and \$600 and received approval we could reinstall it along with another fee of \$225 for the sign permit. He stated he is here to see if there is another way that we could have our project accommodated.

**MOTION:**

Ms. Guzzo moved to waive the \$600 BZA fee and have his application tacked onto the scheduled hearing on May 19th or next possible meeting and waive the penalty fees. The motion was seconded by Mr. Sybert and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

**Mel House, 3955 Bainbridge Mills Drive**, is asking to replace signs at their Development but with foreclosures and unemployment 10% of the homeowners haven't paid the HOA. The new signs are close to the same size, color, and same verbiage. The new signs are made of material that won't deteriorate.

**MOTION:**

Ms. Guzzo moved to waive the fees and have his application tacked onto an existing BZA Hearing. The motion was seconded by Mr. Sybert and the roll call vote: Ms. Guzzo-yes, Mr. Mann-abstain, and Mr. Sybert-yes. The motion passed with a 2-yes and 1-abstention.

**MOTION:**

Mr. Sybert moved to waive the zoning permit fees. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-abstain, and Mr. Sybert-yes. The motion passed with a 2-yes and 1-abstention.

Mel House also questioned the engine braking signs and if they can be enforced.

Mr. Mann stated that is something that concerns the trustees and we are waiting on advice from the prosecutor's office.

**Sharee Dugic, 3460 Timberside Drive**, stated she was shocked and in disbelief by what she read in This Week's News from March 24, 2009. She stated that she didn't attend the last Powell City Council meeting but read the article that spells out what transpired there and was totally stunned by some of the comments. She wanted to speak face to face with Bob Mann regarding a comment that he made that he referred to Powell's claims that the Township violated an agreement between the city and township when Guzzo lobbied for the petition. Ms. Dugic stated she was a petitioner and Peggy Guzzo did not lobby for this petition. Other than to discredit her or to try to hurt her politically she didn't know of another reason for that statement.

Mr. Mann stated that Ms. Guzzo absolutely lobbied for that petition. She issued at least two press releases for it, reactivated her private corporation that as far as he knew she is the sole shareholder and advocated for the petition. She has gone to meetings to advocate for it so she has certainly advocated for it. He doesn't know how you could come before us today and you don't think she has been an advocate.

Mr. Mann asked Ms. Dugic if she drafted the resolution that was presented as far as the ordinance and what it was going to do.

Ms. Dugic stated as far as the review of the ordinance and for it to be submitted as approved she was a big part of that entire process

Mr. Mann asked if she drafted the resolution and came up with the idea of a 10,000 s.f. and a 65,000 s.f. multipurpose limit. He also asked if she hired a lawyer to review it.

Ms. Dugic responded by saying that she did and has agreed with it from the beginning. She also stated that we did hire a lawyer.

Mr. Mann stated that he has heard that Peggy Guzzo hired and paid the lawyer.

Ms. Dugic stated that Mr. Mann is going beyond my comments.

Mr. Sybert stated that the citizen comment period is to have an issue that affects all of the community that the township needs to be aware of. He doesn't think this is the time to attack one trustee against another and/or to take the side of another trustee.

Ms. Guzzo stated that we should let her have her time.

Ms. Dugic stated that it shocked her that Mr. Mann felt the need to apologize for the citizen lead initiative. She didn't understand that.

Mr. Mann stated that he did not apologize for the citizen led initiative. He stated he was very adamant that citizens have the right to petition. He stated that he apologized for was Ms. Guzzo's involvement which led to a mediation with Powell over a breach of the CEDA Agreement. The Township has spent over \$30,000 at this point in time defending itself.

Ms. Dugic stated she has a question about a quote and the use of the words "bait and switch". "Did you really say that, Mr. Mann?"

Mr. Mann stated that yes he did and what he said about bait and switch was that he was very troubled in the manner in which this petition was presented from the beginning being that we already have a square footage limit that keeps out big box in both the city and township. We already have a big box ban in the Liberty Township and we already have a big box ban in the city of Powell. What bothered me was that this petition was presented as a big box ban which it is not and that people were being told essentially if you what this big box ban then vote for this petition which is not really a big box ban because we already have one. It is a 10,000 s.f. limit in the city of Powell which is a very artificially restrictive limit. It would bar for example CVS and Walgreens. His point to the Powell city council was its people believe this should be a 10,000 s.f. limit in the city or the township then bring a petition or come before the bodies and ask for a 10,000 s.f. limit. Don't present something as a big box ban and tell people that in order to get this big box ban that a 10,000 s.f. limit is needed. That is what he took exception to and that is why he called it a bait and switch. Mr. Mann suggested Ms. Dugic read the transcript of his 40 minute statement to fully understand his comments in the context they were presented.

Trustee Guzzo stated as an oath of office she is to uphold the United States as well as the State of Ohio's Constitution. The citizens have a right to put initiative and have a right to ask for help. She did that out of her own oath of office and not as this board. If Pat Tiberi were called they could have asked Pat Tiberi, a Congressman, to help them along with this process. She thinks his office would have helped them. She doesn't think Congress would have said how could you have helped them. As elected officials, we empower, we give information, and we assist and don't put a stone wall up. We help when we are asked. She helped them. She exercised her own constitution right to give personal money so that they could have helped with the legal cost of putting it into proper form because they wanted to do it the right way. You also said she formed in that private capacity on old corporation. She has never had an old corporation and nor did she form a new one. She formed a CAP, A Political Action Committee. Whenever you, by law, support a candidate or political issue you have to file a Political Action Committee because it all has to be transparent. So, when she gave her press release in the spirit of transparency she wanted my friends at Powell to know that she had been asked to help with the initiative and she is doing so because she understands the frustration they went through

**ADMINISTRATIVE REVIEW 09-02 by Donald Kenney for Kinsale Village LLC requesting to amend the PR development plan for Golf Village North, Sub Area A / Kinsale Village to relocate one of its two approved models and its signage; and requesting future flexibility, without further Administrative Review applications and hearings, to be able to relocate one or both model homes and accompanying signage within this condominium development as models are sold.**

Mr. Sybert made a motion to approve the amendment of the PR development plan for Golf Village North, Sub Area A / Kinsale Village to relocate one of its two approved models and its signage; and requesting future flexibility, without further Administrative Review applications and hearings, to be able to relocate one or both model homes and accompanying signage within this condominium development as models are sold. The motion was seconded by Mr. Mann and the roll call vote: Ms Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 3-yes and 0-no vote.

### **RIVER RUN SUBDIVISION**

**The zoning inspector requests that the Trustees formally request the Delaware County Commissioners to delegate enforcement of the platted Conservation Easement restrictions in the River Run subdivision to the Liberty Township Trustees; she also requests that the Trustees delegate the Conservation Easement enforcement, along with deed restriction enforcement for that development, to the Liberty Township Zoning Department.**

John Keller, Jewett Road, stated that the township have the right to enforce deed restrictions because once the HOA is responsible the damage to the properties would be done. In future rezoning the township has the right to enforce those deed restrictions.

### **ZONING VIOLATIONS**

**Richard Hillis, 2170 Strathshire Hall Lane, Powell, OH 43065. Mr. Hillis had an in-ground swimming pool installed on his property without the required fence. The Delaware County Prosecutor's office sent a letter in July of 2008 to send him a letter giving him one last chance. He applied to the BZA for a variance to allow his automatic pool cover to substitute for the required fence; the variance was denied in Sept. 2008. As of this date he still has not installed the fence, but claims "he will install it before he opens the pool this year." Additional violation: He occupies the house without the required zoning certificate of compliance, which we cannot issue due to the pool fence violation on the property. Please advise whether to submit this to the County Prosecutor for further action.**

Mr. Mann moved that he has until July 1, 2009, or no more than 5 days of opening the pool whichever comes first to put up his fence. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Sybert-yes, and Mr. Mann-yes. The motion passed with 3-yes and 0-no vote.

**James and Loretta Allen, 1819 Bean Oller Road. Operating a business (AC Hauling) from their residential property. The Delaware County Prosecutor sent a letter in Dec. 2008. We have received no response from the property owners since their initial verbal denials of operating a business there, but we are able to document that it is true.**

Mr. Mann moved that Holly Foust send the property owner a letter telling him that if he has not made the appropriate filings within 30 days that this will be referred to the Prosecutor Attorney office for enforcement action and that we also authorize an enforcement action if in fact

the property owner does not comply. The motion was seconded by Ms. Guzzo and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with 3-yes and 0-no vote.

**Daniel McClurg, 1682 Malabar Ct. Pergola built without the required zoning permit. The Delaware County Prosecutor sent a letter in Dec. 2008. We have received no response.**

Mr. Mann would like Holly Foust to check back with the Trustees at the first meeting in May in regard to this matter.

#### **WORK SESSION – Up Coming Business**

March – Three compressors replaced  
April – Compensation System  
April – Return to work policy and policy manual  
May – Fire Physicals/Cardio Equipment

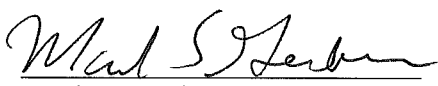
#### **MINUTES:**

Ms. Guzzo moved to approve the Board of Trustees Meeting Minutes of February 17, 24, 26, and March 2, 2009. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Sybert-yes, and Mr. Mann-yes. The motion passed with 3-yes and 0-no vote.

Ms. Guzzo moved to approve the Board of Trustees Meeting Minutes of March 16, 2009. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Sybert-abstain, and Mr. Mann-yes. The motion passed with 2-yes and 1-abstantion.

#### **ADJOURNED:**

There being no further business Chairperson Mann adjourned the meeting at 9:30 p.m.

  
Mark S. Gerber, Fiscal Officer