

**LIBERTY TOWNSHIP TRUSTEE
RECORD OF PROCEEDINGS
April 20, 2009**

PROCEEDINGS SUMMARY:

The Trustees of Liberty Township met in Executive Session Monday, April 20, 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 Curt Sybert, Trustee Peggy Guzzo, Township Administrator David Anderson, Fiscal Officer Mark Gerber, and Attorney Craig Paynter.

MOTION: Enter into Executive Session at 6:35 pm

Mr. Mann made a motion to enter into Executive Session pursuant to ORC 121.22 (G) (1) to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual. Ms. Guzzo seconded the motion 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.

MOTION: Reconvene – Out of Executive Session at 6:55 pm

Mr. Mann made a motion to reconvene out of Executive Session and Ms. Guzzo 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.

MOTION: Enter into Executive Session at 6:55 pm

Mr. Mann made a motion to enter into Executive Session pursuant 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 and Ms. Guzzo 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 at 7:12 pm

Mr. Mann made a motion to reconvene out of Executive Session and Ms. Guzzo 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 20, 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 Township Administrator, David Anderson, and Fiscal Officer Mark Gerber. 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: 09-0420-01: Approving “Then and Now” PO’s

Mr. Sybert moved to adopt Resolution #09-0420-01 Approving “Then and Now” PO’s. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-no, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 2-yes and 1-no vote.

RESOLUTION 09-0420-02: Approving Bills – EFT’s and warrants

Ms. Guzzo moved to adopt Resolution #09-0420-02 Approving Bills – EFT’s and warrants. 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 09-0420-03: Approving more vendors to be added to the EFT list

Mr. Mann moved to adopt Resolution #09-0420-03 Approving more vendors to be added to the EFT list. 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 09-0420-04: Approving the purchase of HVAC Equipment

Mr. Sybert moved to adopt Resolution #09-0420-04 Approving the purchase of HVAC Equipment. 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 reported on the voicemail server resolution from the last meeting stating that the cost was \$2,500.00 which he stated is still too much and efforts will be made in the future to eliminate that situation.

Mr. Gerber also stated that as it was reported to the press the Prosecutor came back with an opinion that supports his position from last December that Mrs. Guzzo was liable for our legal costs relative to the action Powell has taken against the township concerning the violation of the CEDA Agreement. Knowing that information, he prepared an invoice for \$30,864.45 for costs through March 31, 2009. He also included his original letter explaining why he thinks she is liable and the resolution from this board asking the County Prosecutor for the opinion. He has asked that the invoice be paid by May 1st at noon and if it is not paid by then he will ask the board for a Resolution requesting the County Prosecutor initiate legal action to collect these dollars.

Trustee Guzzo stated that she is not going to pay the invoice as it was the opinion of the prosecutor’s office and was not definitive but if you want to go through this futile exercise than the board can do that. She stated she didn’t incur it, she’s not liable, and she didn’t breach the CEDA. She would like the board to authorize the Prosecutor’s office to move ahead with their

previous opinion regarding Mark's responsibility to take minutes of the meetings which he has failed to do to this day.

Trustee Sybert asked Mr. Gerber, "How do we know that this money is actually due for CEDA?"

Mr. Gerber stated that the legal statements that we receive from both law firms are itemized.

Trustee Sybert stated that since the opinion is so much of a question I believe we should make the opinion available to the public.

Trustee Guzzo stated that she also moved to make the opinion that we received from the prosecutor's office regarding Mark Gerber public as well.

Trustee Mann stated that we will take those one at a time.

Trustee Sybert stated that he moved to make the opinion in regard to Trustee Guzzo available to the public. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-no, Mr. Sybert-yes, and Mr. Mann-yes. The motion passed with 2-yes and 1-no vote.

Trustee Guzzo stated that she also moved to make the opinion that we received from the prosecutor's office regarding Mark Gerber public as well. There was no second as this motion failed.

Trustee Sybert stated that it had been too long since he had read that opinion he would like to review before he would support making it public. It is attorney client privilege and he is not willing to waive that until making sure in his own mind that we are not releasing anything we shouldn't. You can bring it up at the next meeting.

SPECIAL PRESENTATIONS:

Mary Jane Santos, Director for the Delaware County District Libraries, gave an overview regarding the levy that will be on the ballot and why it is greatly needed. Information was distributed and is part of the meeting file.

Autism Awareness Month for Liberty Township and Delaware County is April 2009. Chairman Mann welcomed special guests Bruce and Barb Reiersen and their son, John, to put a face with Autism and we appreciate you coming and telling us how autism has touched your family.

John Reiersen, 1774 Ford Road, stated he would like to thank Liberty Township for acknowledging Autism month and recognizing him as a role model. There are many young people like him facing the challenge of growing up autistic and organizing these challenges required patience and determination.

It begins with recognizing the symptoms autism and getting the needed support. He would like to thank his parents for their support for their tireless efforts, all the doctors and

specialists who have helped him, Delaware County MRDD, his principal Mr. Raiff at Olentangy Liberty High School, counselors, teachers, and staff of Olentangy School District and Master Tony Boles at Upkeep Taekwondo Academy as they have all contributed greatly to help his overcome the many challenges he has faced with autism. He hopes that through this recognition the Township can provide more help with autism, inspire their parents take action and increase awareness of autism here in Liberty Township. He wants to thank the Township again for acknowledging Autism Awareness Month.

Trustee Mann stated that we greatly appreciate John for coming and speaking to us today and reminding us that autism does touch people very close to us and in this community and your battle has been very courageous and we thank you for being here.

Trustee Guzzo stated that there will be a plaque for you and we will send it to you. We wish you good luck and the best in your future.

Mrs. Barb Reiersen stated that her son has made tremendous strides in his live. He is an honor student in his senior year at Olentangy Liberty High School. He is taking three AP courses right now which are for college credits. He belongs to National Honor Society, National Society for High School Scholars, and a third degree black belt in Olympic Style Taekwondo. He is one of the only 45,000 third degree black belts in the world. It is a very elite group of people. Last year he was invited to the Student leadership conference in Washington DC where he stayed at the Americans University for ten days. He attended a camp for National Security Intelligence. He met Secretary Robert Gates at the Pentagon. He has recently been awarded the Dean Scholarship at Ohio Wesleyan University which is a \$72,000 scholarship over 4 years and intends on studying computer science and physics and would like to someday work in security Intelligence to keep our country safe.

CITIZEN COMMENTS:

Max Holzer, 4885 Paddington Way, before he started he wanted to tell John he has great parents.

He would like to inquire about Shamrock Golf Course. It is approximately 100 acres of land in the township. We would like to keep it in the township in whatever form. That parcel of land was committed to green space and was a condition of the approval of the Wedgewood subdivision. There was a deed restriction written that was very short and precise by Attorney John Zonak, then representative of the Day Bros. Development Company. The approval of the subdivision was granted by unfortunately Mr. Zonak within only months passed away after the approval of that subdivision plan. Within months Mr. Howard Day, the President and CEO, of the Day Brothers passed away. To that end the deed restriction was never recorded. However, it was the intent beyond doubt of the trustees that approved the Wedgewood subdivision that it was a condition to that approval. He thinks it is very important that the township takes whatever legal steps are necessary to insure that the deed restrictions as intended would be imposed

Trustee Guzzo stated that she feels we shouldn't spend legal fees trying to force them to amend their deed restriction because all the lands that would be affected which would be Wedgewood. All those homeowners have to sign and it is a very large task to have the deeds amended. However it doesn't really change our power. Our power is still to only control the zoning. That is why she is saying to bring it to the public forum.

Max Holzer stated that he heard and understood everything that Peggy said. He is asking what was intended be certified and recorded. It was only by accident and perhaps because of the major players passed away within months of the action it was not complete.

Trustee Mann stated that there are ways to get around zoning. You can do it through annexation; you can do it through bankruptcy, and formal petition. A deed restriction cannot be rezoned away from. The deed restriction would give the ultimate protection for that property. There is no question in looking at the approval plan documents that the deed restriction was one of the obligations and commitments made by the property owner. That deed restriction was to be filed and would have assured this community that the land would have remained green space which is what it was zoned for and that zoning was part of a much larger development and the benefit has certainly been enjoyed by the developers and the owners in exchange for that deed restriction. Unfortunately it came to our attention a number of years ago that the restriction had not been filed. To answer your question on what has been done, legal counsel has sent, for the township, several letters to the current owners of the property. It was my understanding early on that the owner was agreeing to file that restriction but that has never happened to date. We are left in a situation where unless the owner voluntarily does what was agreed to be done when this property was zoned the only recourses are public pressure or we could file a law suit to try to force them to file that deed restriction. Our options are limited. Certainly no one wants to engage in a law suit with a local resident. It would be our preference that they honor what was agreed to when the property was zoned and file a deed restriction. The current owners were not the owner when this property was zoned.

Mr. Holzer stated the property is not owned by local residents. They are out of Cleveland Ohio. He thinks that this is an important piece of land as green space or in the future if it becomes developed. Residentially, I would like that benefit to accrue with the Township. Therefore, he thinks we have to be pro-active. He thinks we have to take the initiative. He doesn't want to spend anymore dollars on legal fees that this township already has over the last 4 to 5 years. It is an embarrassment to have spent as much money as we have on legal fees. Wal-Mart could have been avoided. That property would have been in contract 3-1/2 years ago but he knows that Peggy had direct conversations with Charley Ruma that blew that opportunity away. He just knows that Shamrock is an asset that needs protected.

Trustee Guzzo stated that she had direct conversations that blew what opportunity away? There has been a lot of opportunity that the developer has denied.

Mr. Holzer explained that he wasn't there to embarrass anyone but to find out the next step.

Trustee Guzzo stated that you need to clarify.

Mr. Holzer stated that when Wal-mart didn't extend their contract another developer was working with Mr. Ruma and I believe that you in fact started talking to him about the township acquiring it for a park. When that took place the developer walked.

Trustee Mann stated he would like to have the citizens input on how important it is to the community to keep Shamrock as dedicated green space or whether it's not important at all.

Trustee Sybert stated that this is an issue we are looking into. We have our attorney looking at the issue and we haven't received a full briefing yet.

Kim Simpson, 9443 Gibson Drive, spoke in support of keeping Shamrock as green space.

Trustee Mann stated that he whole heartedly agrees that this board needs to work tougher to get this Wal-Mart case settled. There was reference to two occasions where it could have been possibly been settled? There was a third occasion about a year ago where there was another offer ready to be made on that property and we only had one issue to resolve being sewer taps and because one person from this board decided to interfere with that process we lost a golden opportunity to potentially settle this case. That was before we incurred about one half million dollars of attorney fees over the last year. He hopes this board will actively and vigorously work together to get this case settled. He thinks this is the most important financial issue facing this township.

John Schuette stated that in regard to the golf course, Powell is probably already working to annex it and put homes on that property.

He also stated he wanted to speak to the Havener Park Overlay process. He feels very strongly that our trustees have done a great disservice to the tax payers of Liberty Township especially on the Havener Park. There was never a good set of plans, it was a glorified sketch. It was built without adhering to the specifications. He would hope that before anymore work is done there or any other resurfacing, or projects on any of our roads which there are a lot that need to be done. There are a lot of roads that won't get done because the attorneys have most of the money. The township should hire a qualified inspector to ensure the tax payers of this township are getting what they pay for. Civil engineering people are really hurting right now. We could very easily get one of those inspectors to come and look over our projects. He doesn't care what we have to pay them. The work needs to be done properly.

Trustee Sybert stated that was a good suggestion and that in the future we should take a look at someone of that statute to represent the township.

Melanie Leneghan, 5288 Stratford Avenue, stated she would like to make some comments as a taxpayer and what she feels is wasteful spending verses savings.

When Powell City Council alleged that Trustee Guzzo had violated the CEDA Agreement by helping her constituents regarding their concerns, it was this board's finding that in fact she had not violated the CEDA.

In spite of your findings that Peggy had yes aided her constituents but had in no way violated the CEDA. You still agreed to mediate with the City of Powell regarding by what you

call false accusations that by helping the people she violated the CEDA because the allegation, according to this very board had little to no merit.

Trustee Sybert stated we determined we had to defend her.

Melanie Leneghan stated that the board determined that she had not violated the CEDA. In spite of that being your position, you decided to mediate with the City of Powell. Trustee Guzzo suggested that there wasn't need to pay for legal counsel because your position was that she had in fact not violated the CEDA and if you wanted to mediate you should use the free services of the Delaware County Prosecutor. In spite of her recommendation to use their free legal assistance to mediate Trustees Mann and Sybert decided to hire not one but two private legal firms to mediate for the Township. The final decision to hire these two private legal firms instead of using the County Prosecutor was the choice of Bob Mann and Curt Sybert.

Trustee Sybert stated that the prosecutor told them that he is too busy with all the issues that we continue to send to him and said we are too big, and you need to get our own private counsel. He told us that years ago.

Trustee Guzzo stated that this was never said to him and she has never seen a statement from Yost saying we were too big to get our own private counsel.

Trustee Sybert stated these are issues that Yost can't handle. We decided to go to the attorneys who wrote the CEDA to save the taxpayers' money.

Melanie Leneghan stated you chose to save the taxpayers' money by hiring two legal firms instead of using the County Prosecutor?

Trustee Sybert stated it was to defend Peggy.

Melanie Lenehan asked to defend Peggy for what? Your position was that she had not violated the CEDA. The amount now owed to these two private legal firms, that Peggy was opposed to hiring, is \$30,864 which averages out to 150 hours to mediate something that this board's position never happened. Now our fiscal officer is presenting Peggy with the invoice for those very legal fees that she opposed to incurring by using Yost. She claimed she is not paying her invoice from Mr. Gerber, and she wouldn't either. Our fiscal officer wants us to spend more money on more attorneys to sue Peggy and Peggy is going to win.

Trustee Sybert stated that prosecution is within the county prosecutor's area of expertise and he will do that for free.

Melanie Leneghan stated she is just making a suggestion to save money.

Trustee Guzzo stated it is civil action not prosecution.

Melanie Leneghan stated Peggy is going to have to hire an attorney to defend herself as a politician who helped her constituents. She is going to have to defend herself against an action taken by the township to make her pay the legal fees that she opposed.

As a tax payer in business we call it "stop the bleeding". We are already up to \$30,000 of frivolous expense with attorneys over something that your position, never happened. My suggestion is stop the bleeding and move on. Stop the mediation and wait for them to sue you. They haven't even sued you.

I would say look at areas you could save for example our fiscal officer has two assistants, one makes \$27.50 an hour and one makes \$16.00 an hour.

Trustee Sybert asked how that was related.

Melanie Lenehan stated because instead of spending we should be saving.

Trustee Mann stated that he appreciated her coming here and Peggy is very fortunate to have a good friend like you. He knows Peggy has appointed her to a number of committees for this township. He knows she has written letters to the editor on Peggy's behalf. You have come before this board to advocate for her previously.

Melanie Lenehan stated you are right; I am a proponent of Peggy Guzzo because she helps her constituents. There is no secret about that.

Trustee Mann stated as far as the board's position is, there was no breach of the CEDA. That was and is our position with the City of Powell. It was also the position of this board that Target is not pedestrian scale and cannot be built and constitutes a major deviation. We lost our agreement in front of the Powel BZA and we are now in appeal in Court. It was this board's position that there was a 500,000 square foot limitation on the Wal-Mart acreage. The federal court has ruled against us on that issue. We may take positions on what we believe the outcome may be and we may take position because frankly we are forced to protect the dollars of our tax payers as with the situation with Powell. Just because we decree a position doesn't mean we can then close our eyes and say we decreed it and therefore that is the way things are. We have to live in the real world and recognize that just because we believe our position is correct doesn't mean that is the way a court will see it that is the way an administrative appellant court will see it. That is why when we sit here and say that we don't believe it was a breach of the CEDA. We chose to fight that accusation. That doesn't mean we are right. It doesn't mean that we'll win. Just like we chose to fight Target, it doesn't mean we are right. It doesn't mean that we'll win. We are taking the position that we believe in or that we believe we have in order to protect this community. As far as saying the prosecutor is free. The prosecutor is not free. All of us pay for the prosecutor. In fact, there are statutes in Ohio that fix the way to access the cost for government attorneys when they work on a case. So if it had been determined that Peggy had acted out of the scope of her authority and therefore government lawyers had defended this action there is still a provision and statutes that allow their costs to be fixed and their costs to be reimbursed. So there is no free ride.

As a practical matter Powell issued a demand for mediation. Under the CEDA that is a prerequisite to suing us. Powell sent us several letters outlining what they believe to be the breaches and we had two choices. We could either totally disregard their demand for mediation

and open us up to a lawsuit. If you refuse to mediate it puts you in a very bad position with the court. We did what we thought was responsible and we did what we thought was in the best interest of the community which was to reach out to Powell to try to resolve these issues. We also chose to go with private counsel because the CEDA is an extremely important document for this township. We gave up 800 plus acres of property plus in Golf Village to annexation without a fight in exchange for certain promises from Powell. One of which is that they will not annex any land north of Home Road. When Powell came in and threatened with breaches and threats that they could terminate the CEDA it was far too important of our issue for this community to sit back and say let's find the cheapest way to defend it. Furthermore, these are novel issues of law in Ohio. There is not a lot of law on CEDA in litigation between a township and a city. The prosecutor's office is not well suited to litigating novel issues of law. They also have significant manpower restrictions. We need very fast turnaround on these types of claims and on these potential lawsuits. We have opinions that have taken months to get out of the prosecutor's office on relatively straight forward issues.

Trustee Guzzo stated Powell did not initiate for mediation. We responded to them and the position with them was she did not violate the CEDA. We did not hear anything from Powell. It was this board who responded to Powell and asked them if they would like to mediate. It was the intent, she believes Bob, who is the one mediating with them was discuss issues such as the CEDA, Target issue, pedestrian scale, and so forth. Bob was using it as a tool.

Trustee Mann stated he was using the mediation to prevent a lawsuit. He was able to benefit the community by addressing other issues.

Trustee Guzzo stated Powell never sued but they alleged she violated the CEDA and then our position was that Ms. Guzzo didn't violate the CEDA. If Powell wanted to null and void the CEDA all they had to do was sue because it was over the 90 days. They are not because there is nothing to it.

Trustee Mann stated that Powell demanded mediation and had you not walked out of several executive sessions on this exact issue you may be better informed about what had happened.

Trustee Guzzo stated she is privileged to all the correspondence from Powell.

Melanie Lenehan asked if Powell officially initiated this in writing.

Trustee Sybert stated absolutely they did.

Melanie Lenehan stated you two chose to defend her but you want her to pay the bill.

Trustee Mann stated we chose to defend this community.

RESIDENTIAL COMMENT PERIOD REGARDING OPTION TO IMPLEMENT CURBSIDE RECYCLING USING A PUBLICLY BID TRASH CONTRACT APPROACH

Mr. John Schuette stated if you award a contract he would encourage you to look at someone who offers a good roll back in the rate or else to pay a franchise fee to the township. This township is short on finances and we need to bring in revenue. This would be my recommendation. I am neutral on the decision. He doesn't think we should tell people who they should have to use for trash collection. If we could get a reduction in the rate or more money in the township he could go along with it.

Mr. Max Holzer stated he believes in small government. He doesn't know how our township government got into this position. It seems to him we are trying to fix something that is not even broke.

Ms. Kim Simpson submitted over 60 signed petitions for Wedgewood Park and Wedgewood Park Estates and they are for the single hauler. She also handed out a PowerPoint presentation which is attached and part of the permanent record.

Mr. Mark Gerber stated that we already have a single hauler. We have one company who has 70% of the business. He thinks that once you get a monopoly service drops. He thinks that we should sit back and see what happens to the other townships that just recently implemented this program.

Mr. Ralph Hogle asked what companies were contacted and what prices did they offer? He also asked if there would be a different cost if someone chose not to recycle.

Ms. Mary Falkert, 6779 Notchbrook Dr., stated her neighborhood has Flower and we receive a slightly reduced rate.

Mr. Jim Cirigliano, 10363 Churchill Dr., stated that in response to the information that we received from Dave Anderson we had a few committee type questions. Will the recycling be picked up at a different time than the trash and if so will it be done on the same day? With regard to other waste what is white goods and would those be considered an extra charge?

Mr. Dave Anderson stated that those are built into the contract and white goods are considered stoves, refrigerators, washers, and dryers.

Trustee Mann asked if there was a way to accomplish a drop in price without having to go to a single hauler scenario.

Mr. Keith Bailey stated that the markets are very poor right now and we are losing on everything we collect.

Mr. Steve Montee stated that there are no markets right now for the recycling and the costs might be higher now than when Orange and other townships implemented because of the economy.

Trustee Mann asked what is the major cost component on recycling.

Mr. Steve Montee stated it is the transportation because there would be two trucks instead of one and three trucks instead of one if you have yard waste.

RESOLUTION 09-0420-05: Approve Havener Park Paving Bid Process for an overlay

Mr. Mann moved to adopt Resolution #09-0420-05 Approve Havener Park Paving Bid Process for an overlay. 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 09-0420-06: Request that the Delaware County Commissioners delegate enforcement of the conservation easements in River Run Subdivision to the Trustees

Mr. Mann moved to adopt Resolution #09-0420-06 Request that the Delaware County Commissioners delegate enforcement of the conservation easements in River Run Subdivision to the Trustees. 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 09-0420-07: Authorize purchase of a swath mower for Park Department

Ms. Guzzo moved to adopt Resolution #09-0420-07 Authorize purchase of a swath mower for Park Department. 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 09-0420-08: Share responsibility with the Delaware County Engineer's Office associated with development & implementation of the NPDES Phase II Storm Water requirements

Ms. Guzzo moved to adopt Resolution #09-0420-08 Share responsibility with the Delaware County Engineer's Office associated with development & implementation of the NPDES Phase II Storm Water requirements. 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 09-0420-09: Authorize a Street Sweeping Agreement

Ms. Guzzo moved to adopt Resolution #09-0420-09 Authorize a Street Sweeping Agreement. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-yes, Mr. Mann-yes, and Mr. Sybert-abstain. The motion passed with a 2-yes and 1-abstention vote.

RESOLUTION 09-0420-10: Approve payment to replace tires on Fire Dept. on #321 ladder truck

Ms. Guzzo moved to adopt Resolution #09-0420-10 Approve payment to replace tires on Fire Dept. #321 ladder truck. 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 09-0420-11: Authorizing the withdrawal of the Short Term Disability Coverage and authorizing the change of Life Insurance to \$50,000 for each employee

Mr. Sybert moved to adopt Resolution #09-0420-10 Authorizing the withdrawal of the Short Term Disability Coverage and authorizing the change of Life Insurance to \$50,000 for each employee. The motion was seconded by Mr. Mann and the roll call vote: Ms. Guzzo-no, Mr. Mann-yes, and Mr. Sybert-yes. The motion passed with a 2-yes and 1-no vote.

DICUSS ZONING CODE SIGN PROVISIONS AND CHANGES

RESOLUTION 09-0420-12: Signage Code Proposal

Mr. Mann moved to adopt Resolution #09-0420-12 Signage Code Proposal byh the zoning Inspector to propose revisions to our signage code along with any other zoning matters needing attention and to have that to the trustees within 45 days. 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.

ZONING BUSINESS:

The Zoning Inspector is requesting approval to sign the final plat mylar for The Shoppes at Liberty Crossing Section 1, which is a revision to the previous plat titled Big Bear Farms Lot 4615 Division 1. This play will divide lot #5126 (6.1443 ac.) into 3 lots (5.002, .454, and .333 ac.), and enlarges lot #5127 from .862 to 1.126 ac. for McDonalds. **Approval is requested with the following 2 conditions: (1) Plat the right-in/right-out curb cut onto Sawmill Parkway, approximately 70' north of the northern boundary of Lot 5151; and (2) Plat the full-service access onto Attucks Drive, directly adjacent to the eastern boundary of Lot 5151.** Upon those conditions being met, this play will be in compliance with the approved Shoppes at Liberty Crossing Development plan.

Mr. Mann moved to approve the Zoning Inspector to sign the final plat mylar for The Shoppes at Liberty Crossing section 1 after the curb cuts are added to the final mylar to be filed. 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.

ADMINISTRATIVE REIVEW 09-01 by Charles Driscoll on behalf of Nelson Farms Associates. The requested amendment to the Nelson Farms Development Plan (to allow a change in location of street trees), was approved by the zoning commission on March 18, 2009. The Trustees have received approved minutes from the zoning commission's hearing and **the final hearing on this application needs to be set by the Trustees.**

Ms. Guzzo moved to hear AR 09-01 at our May 6th meeting at 8 pm. 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.

ADMINISTRATIVE REIVEW 09-03 by Fred Fox requesting to amend the Wedgewood Park 2 Development Play to allow a 5' high aluminum fence instead of the allowable split rail fence; and to allow it to be located forward of the rear corner of the house, at

8544 Creighton Drive, Powell, OH. **The Trustees need to designate the following new application as major or minor; if minor, they need to schedule a date and time for the hearing.**

Ms. Guzzo moved to designate AR 09-03 as minor. The motion was seconded 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.

Ms. Guzzo moved to hear AR 09-03 at our May 6th meeting at 8 pm. 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.

ZONING VIOLATIONS

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. The zoning inspector is asking what next stop the Trustees wish to take for the following zoning violation that remain unresolved after the Delaware County Prosecutor's Office has sent a letter advising each to contact the zoning inspector and make arrangements to bring their properties into compliance. **This was brought to the Trustees on April 6th and the Trustees asked this item be brought back to them on April 20th.**

Mr. Mann moved to refer the zoning violation regarding Daniel McClurg, 1682 Malabar Ct., to the Prosecutors Office to seek enforcement. 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 3-yes vote and 0-no vote.

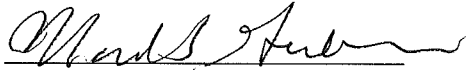
Ms. Holly Foust reported an update on the Zoning Violation James and Loretta Allen, 1819 Bean Oller Road, operating a business (AC Hauling) from their residential property. The Allen's have reported that they sold this business and the barn is empty. They invited zoning department over to have a look at the property. Mr. Dave Roberts did check the property and they are now in compliance.

WORK SESSION – Updates

- Discuss Trustees availability to participate in City of Powell Memorial Day Parade Monday, May 25th @ 10:00 am.
 - Everyone would like to attend
- Discuss grant applications – Sawmill Parkway, Seldom Seen, etc.
 - Go ahead and follow up
- Schedule meeting to discuss: Compensation System, Return to Work Policy, Policy Manual, Wellness Program, and Fire Physicals/Cardio Equipment
 - Board would like copies of the manuals before setting a meeting

ADJOURNED:

There being no further business Chairperson Mann adjourned the meeting at 11:22 p.m.


Mark S. Gerber, Fiscal Officer