

**LIBERTY TOWNSHIP TRUSTEES
RECORD OF PROCEEDING
MAY 19, 2008**

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.

RECORD OF PROCEEDINGS

The Trustees met in Regular Session May 19, 2008, at 6:30 p.m. at the Liberty Township Complex. All Board Members were present. Also, present were Township Administrator David Anderson, Zoning Inspector Holly Foust, Township Attorney Craig Paynter.

MOTION: Executive Session

Ms. Guzzo moved to go into Executive Session under ORC 121.22G1 for the consideration of promotion, compensation, and hiring employees; as well as ORC 121.22G3 to discuss pending litigation, joining the Trustees in Executive Session was Zoning Inspector Holly Foust, Township Administrator David Anderson, and Township Attorney Craig Paynter. Mr. Mann 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

Ms. Guzzo moved to reconvene the Board of Trustees meeting at 7:38 p.m. Mr. Mann 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.

All Board Members were present. Also present was Township Administrator David Anderson, Zoning Inspector Holly Foust, ThisWeek Kelley Truxall, Jim Bresnahan, Mort Jensen, Tony Krystofik, Kevin Baxter, Marcia Rush, Tom Rainey, Max Holzer, M Michela, Steve Martin, Mary Rose Bushroe, Steve Cuckler, Brad Rudier, Al Coughlin, Janice Hitzeman.

Chairperson Peggy Guzzo called the meeting to order with the Pledge of Allegiance. She announced that she and the Township Administrator David Anderson would be recording the meeting this evening, and that approval of meeting minutes are postponed until further notice, and moved the approval of bills to the end of the meeting. Ms. Guzzo asked Mr. Anderson to notify Fiscal Officer Mark Gerber that she would like a copy of the invoices.

OLD BUSINESS:

Mr. Anderson announced that the Township had incurred an addition cost for the biannual audit of \$1,603.21. The audit is now complete and stated the Board may want to consider a Resolution to pay to \$1,603.21.

Ms. Guzzo inquired as to the status of the Action/Status item list and Columbus Regulator Substation. Mr. Anderson reported that the list was almost complete and there had been no progress yet on the Columbus Regular Substation, but was working on it. Mr. Anderson reported that the stop signs for Bakircay have been installed.

Ms. Guzzo put forth a Resolution to amend the compensation for the Assistant Fiscal Officer not to exceed \$20.00 per hour for this part-time position or exceed 30 hours per week, and not include OPERS pick up. The motion did not receive a second.

Ms. Guzzo inquired into the EMS vehicle discrepancy of the approved amount of \$169,000 and actual charged amount of \$171,000. Chief Bernans explained the additional cost of \$2,000.00; and it was agreed that a new Resolution including the \$2,000.00 for payment would be drafted by Mr. Anderson and brought back to the Board.

RESOLUTION 08-0519-01: Accept Report/Recommendation of TIRC with Citicorp

Ms. Guzzo moved to adopt Resolution 08-0519-01 with the correction of April to May 19, 2008. Mr. Sybert seconded the motion and roll call vote: Ms. Guzzo – yes, Mr. Mann – yes, Mr. Sybert – yes. The motion passed unanimously with a 3-yes and 0-no vote.

RESOLUTION 08-0519-02: Accepting Status of Enterprise Zone for Citigroup

Ms. Guzzo moved to adopt Resolution 08-0519-02 with the correction of April to May 19, 2008. 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.

ADMIN. REVIEW: DP 08-06

Ms. Foust stated the purpose of the hearing was to consider an Application for Development Plan approval submitted by Mary Rose Bushroe for a change of use for a portion of the 13,143 square foot building at 10516 Sawmill Road, Powell, Ohio. This Application was heard by the Zoning Commission on April 23, 2008. Ms. Foust read the motion for the record: 1) To approve Application DP 08-06 requested by Attorney Steve Martin on behalf of Mary Rose Bushroe contingent on a letter from Liberty Township Fire Department verifying adequate safe access into the purposed playground for the daycare center, and 2) The motion was amended to eliminate NAICS Code #5322 Consumer Goods Rental from Applicants Application, and correct the square footage of the proposed children's playground area to read 4,000 square feet in both the Applicant's Text and Drawing. The amended motion passed unanimously.

Attorney Steve Martin stated that this was for an existing building located at 10516 Sawmill Road and the current permitted use is a dance studio, but changing that to an 8,000 square foot daycare, with no exterior changes other than a white 71-½ vinyl fence around the exterior play area; the fence will abut to another daycare play area. He said there will be more than adequate parking; they used the closest applicable parking requirement which was 50 spaces for an elementary school. Ms. Guzzo announced that

this site is in the Wedgewood Commerce Section and had been calculated toward the amount of commercial square footage; they were staying in the same classification just changing some of the uses. Ms. Guzzo said she was considering accepting the Zoning Commission recommendations but wanted to amend it to state that the businesses shall be compatible to one another within the building and to the surrounding residential area, and shall not be operational between 11:00 p.m. and 6:00 p.m. to hopefully prevent an all night grocery store from going in there. Applicant Mary Rose Bushroe said she was no longer able to teach dance, and she needs the ability to put tenants in the building and made a living from it. She added that there were certain limitations and it was approved by the Zoning Commission unanimously. Mr. Martin distributed a substitute page with the elimination of consumer goods. He said that miscellaneous store retail was accepted and under the Liberty Township Zoning Code is an absolute permitted use in Planned Commercial. They had eliminated approximately half of the listed permitted uses in the Planned Commercial which they did not feel was appropriate, but retail is in the surrounding area. Mr. Sybert agreed stating other retail business in the Old Sawmill Corridor including Metro Fitness which sells health related supplies, and 40,000 square foot Drug Mart right around the corner. Ms. Guzzo noted that the Zoning Commission designated that the retail within had to relate to some sort of health care. Mr. Sybert said they added a Flyer Pizza. Mr. Mann asked what this Subarea was designated in the Wal-Mart litigation. Ms. Foust said it was commercial. Mr. Mann asked if the area was designated as suburban office, and Ms. Foust answered yes. Mr. Mann commented that he was not comfortable approving this until the attorneys in the Wal-Mart litigation look at it first, and give them an OK. Mr. Sybert advised that Ms. Foust had already added it in as Commercial. Ms. Guzzo asked if the Applicant would consider amending it and/or limiting it. Ms. Bushroe said the Zoning Commission approved it unanimously, they had conditions which they met and she had no interest in changing it further. Mr. Martin stated this was a 2.5 acre portion out of a 20-acre Subarea, which allows retail all they added was miscellaneous retail which is in the Code, which is retail that does not fit in another area.

MOTION: DP 08-06

Ms. Guzzo moved to amend what was approved the Zoning Commission to add the language the permitted uses shall be compatible to the surrounding area and for no establishment be operational for the business hours between 11:00 p.m. and 6:00 a.m. There was no second; the motion failed.

Mr. Sybert moved to approve Application DP 08-06 based on the Zoning Commission recommendation. Mr. Mann asked if the Applicant would consider tabling this until the next meeting so he could confer with the attorneys in the Wal-Mart litigation. Mr. Martin stated with all do respect he does not believe that it was appropriate, nor that there was a legal basis for tabling, or putting a condition on it. Ms. Guzzo seconded the motion and the roll call vote: Ms. Guzzo – yes, Mr. Mann – no, Mr. Sybert – yes. The motion passed with a 2-yes and 1-no vote.

MOTION: EXECUTIVE SESSION:

Ms. Guzzo moved to go into executive session at 8:27 p.m. under ORC 121.22G(3) with Township legal counsel regarding pending litigation with Janice

Hitzeman. Mr. Mann 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.

RECONVENE MEETING:

Ms. Guzzo reconvened the Board of Trustees Regular Session Meeting Monday, May 19, 2008.

RESOLUTION 08-0519-03: Township Administrator as FEMA Authorized Agent

Mr. Mann moved to approve Resolution 08-0519-03 as presented. 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.

RESOLUTION 08-0519-04: Purchase Backhoe from State Purchasing Program

Ms. Guzzo moved to approve Resolution 08-0519-04 as presented. Mr. Mann 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.

RESOLUTION 08-0519-05: Eco-Engineering Recommendations and Agreement

Mr. Anderson stated this agreement would save the Township money while continuing on a path to be more “Green”; the firm is Eco Engineering and their specialty is lighting. Electrical engineers went to all buildings and they found that some of our lighting was inefficient. He noted that the YMCA was included in the packet, but that was not part of package. Mr. Anderson explained if the recommended upgrades would be done, they would get a return of approximately \$39,700 a year in savings from just electricity; however, the investment must be made up front. Mr. Anderson stated the savings were broken down by department, but the majority was in the Fire Department because those are the larger facilities and in operation 24/7. Mr. Mann suggested they table this and ask the Fiscal Officer to do an analysis to see if he agrees with the cost savings they have projected in the report.

MOTION: Table Resolution 08-0519-05

Ms. Guzzo moved to table Resolution 08-0519-05 Eco Engineering Agreement to be heard at the next Board of Trustees Meeting. Mr. Mann seconded 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.

RESOLUTION 08-0519-06: Authorize Zoning Inspector to sign final subdivision plat mylar for Big Bear Farms Section 10

Ms. Foust stated that this meets the Development Plan. The Shops at Liberty Crossing is actually an amendment to the Big Bear Farms Development Plan, and they are platting their lots and all of the utility and site work is under way. Ms. Guzzo asked if there were proposed fast food establishments. Ms. Foust said she has not seen what she defines as fast food yet, and noted there was a proposed Buffalo Wild Wings. Ms. Guzzo moved to authorize the Zoning Inspector to sign the final subdivision plat mylar for Big Bear Farms Section 10. Mr. Sybert seconded the motion and the roll call vote: Ms.

Guzzo – yes, Mr. Mann – yes, Mr. Sybert – yes. The motion passed unanimously with a 3-yes and 0-no vote.

RESOLUTION 08-0519-07: Authorize Fee Increase to Pay Accounting Firm

Mr. Anderson asked if the Board would like to authorize payment of \$1,603.20 to the accounting firm for the extra cost incurred for the audit. There was a note from the Fiscal Officer stating his opinion was that the Township should pay the fee.

Ms. Guzzo moved to authorize the increased fee to the accounting firm for \$1,603.20. There was no second; it was decided to bring it back at the next meeting.

MOTION: Resignation of Zoning Secretary

Mr. Sybert wanted to commend Barbara Threlfall for her more than 20 years of service to this Township as the Zoning Secretary.

Ms. Guzzo moved to accept the submitted resignation of the Zoning Commission/Zoning Secretary Barbara Threlfall effective June 1, 2008. Mr. Mann 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: Advertise for Part-time Zoning Secretary

Ms. Guzzo moved to authorize the Administrator Dave Anderson to advertise in the Delaware Gazette along with the two local papers and The Columbus Dispatch, for a part-time position 20 to 35 hours per week for Zoning Commission Secretary/BZA Secretary and assistant to the Zoning Inspector with a pay range of \$14.00 to \$16.00 per hour. Ms. Guzzo – yes, Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 3-yes and 0-no vote.

Pedestrian Path

The Sawmill Parkway Pedestrian Path Improvements involves the portion from Seldom Seen down the west side of Big Bear Avenue which then crosses over Big Bear Avenue to the east end of the road, and goes from Big Bear Avenue to Galloway Drive connecting to Powell's bike path. This is part of the overall Master Bike Path Plan; the engineering has already been done by the Engineers office. Ms. Guzzo said she would like Mr. Anderson to work with the Engineer's office. Ms. Guzzo asked if the Fiscal Officer reviewed it and if funds were available and Mr. Anderson answered yes.

MOTION: Pedestrian Path

Ms. Guzzo moved to authorize the Township Administrator David Anderson to bid the Sawmill Parkway Pedestrian Path Improvements with the County Engineer's office. Mr. Mann seconded the motion and the roll call vote: Ms. Guzzo – yes, Mr. Mann – yes, Mr. Sybert – yes.

Technological Committee and Draft Plan Discussion:

Mr. Anderson explained that one of the recommendations that came out of the Performance Audit was that Liberty Township should form a Technology Committee and Draft Plan. After a brief discussion it was decided that a formal committee was not needed, and staff and Department Heads could work on this.

Set Work Session to review growth projections, financial and budget issues.

It was agreed that Mr. Anderson is to setting up a special work session (which would be advertised) and invite all Boards to attend in the next month to review the following items: Zoning fees, school growth projections, inside millage issues, Township finances and projections, and possibly budget. Mr. Mann asked Mr. Anderson to put a report together for how much the Township is paying the City of Powell to administer commercial building applications. He said he would like to see the numbers for this year and the last two years.

No Solicitation/Peddling Signs

Ms. Guzzo advised that there is a provision that will allow them to pass a “No Pandering” or “No Peddling” Resolution which is in essence the same as “No Solicitation” but just identified differently. Non-profits would be exempt, but it would require organizations to register or notify the Township. It was decided that Mr. Anderson would contact the Prosecutors office since they have dealt with the issue before and ask them to draft a resolution to regulate peddling.

Health Insurance Incentives

An incentive compensation ranging from \$1,000 to \$2,000 was discussed for employees who elect to opt out of the Liberty Township health insurance coverage. It was decided to discuss this further at a future meeting.

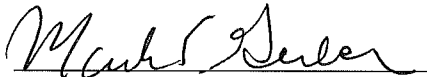
MOTION: Sewer taps

Mr. Mann stated there might be another developer interested in making an offer on the property where the Wal-Mart is located, and it may be a way of resolving the litigation. He said the hold up has been the allocation of sewer taps available on that property. There have been behind the scenes talks with various County officials, the involvement of some citizen groups, as well as the developer, and they have made zero head way towards getting this sewer tap issue resolved. Therefore, he would like the Township to engage an attorney familiar with the layout of Delaware County politics to work with the Township and to try and accomplish a resolution that will allow us to get the sewer tap issue resolved, and hopefully pave the way for settling the Wal-Mart litigation.

Mr. Mann moved to retain Attorney Steve Cuckler or a firm that he is working through as legal counsel, to resolve the sewer tap issues for the Township pertaining to the property that the Wal-Mart development was submitted on with the following fee structure: Mr.Cuckler would be paid \$1,000.00 upon retention and would be paid an additional \$9,000.00 if the sewer tap issue is satisfactorily resolved. Satisfactorily resolved meaning the Township gets approximately 150 sewer taps under an arrangement that this Board is able to approve, and they obtain any other approvals that are necessary through other bodies that are required in order to allocate the taps in a sufficient manner for this development proposal to go forward, with a cutoff date for obtaining the satisfactory resolution to be July 10, 2008. Mr. Sybert seconded the motion. The roll call vote: Ms. Guzzo - yes, Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 3-yes and 0-no vote.

ADJOURNED:

Chairperson Guzzo adjourned the meeting.


Mark S. Gerber, Fiscal Officer