

**LIBERTY TOWNSHIP TRUSTEE
RECORD OF PROCEEDINGS
JULY 21, 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.

PROCEEDINGS SUMMARY:

The Trustees of Liberty Township met in regular session Monday, July 21, 2008, at 7:00 p.m. at the Liberty Township Complex. All Board Members were present; see attached sign-in sheets for others in attendance.

Chairperson Curtis Sybert called the meeting to order with the Pledge of Allegiance. Mr. Sybert stated that they were meeting this evening at 7:00 p.m. to discuss a contractor request regarding Havener Park.

Havener Park Discussion

Mr. Anderson introduced POD Design Construction Manager Rocky Von Rochsberg in charge of the overall project and McDaniels Construction Steve Besco; he said this had been a very unique project with the Preservation Parks District. There were several unexpected issues that arose during this project which threw a wrinkle into the estimating process so they are here to discuss those items. Mr. Anderson noted that the grass has been hydro seeded, there were a couple of spots noted in the asphalt that was going to be corrected, and the final layer of asphalt would be placed after they get as much paving done as possible, which is quite a cost savings for the Township. He added that the Board had a letter and additional information in their packets. Mr. Von Rochsberg reviewed the project details to date and explained they were 95% complete with seeding and expected to complete the project tomorrow and begin working through the punch list. Ms. Guzzo said she was not aware they were putting the top coat of asphalt on later, and asked what happened to the mounding that was approved in the Plan for Preservation Parks. Mr. Anderson explained the asphalt was a cost saving issue and was discussed at previous meetings, and advised that the topsoil was distributed throughout the site. Mr. Von Rochsberg explained the topsoil was in the portion of the project that Preservation Parks eliminated, so it was redistributed and used for the roadways, parking lots, etc. Ms. Guzzo asked if any topsoil left the site and Mr. Besco and Mr. Von Rochsberg answered no. Ms. Guzzo questioned the compacting of the gravel which was brought to the attention of the Township by one of the residents, and asked if it had been tested. Mr. Von Rochsberg answered yes, and said the results were given to the Township. He noted that the results were all 100% except in one instance where it was 99%. Mr. Mann asked who provided the stone which was deleted from the project and Mr. Besco said he did. Mr. Mann asked who under the original contract was going to be providing it. Mr. Besco said it was simply removed from his contract by addendum, so he was not sure. Mr. Anderson said that Preservation Parks was going to

fulfill that obligation. Mr. Besco explained when the time came for the stone he called his contact asking where the stone was, and since at the time there was less than good feelings between the two entities, decided to go ahead and supply the stone himself and settle up later. Mr. Sybert said it sounded like the contractor ordered it because he needed it and the schedule had to keep moving. Mr. Besco answered yes; he took the risk on behalf of the people that he was working with to get that material to the site. Ms. Guzzo noted that there was a credit given for the \$27,000, so why is there a charge. Mr. Von Rochsberg stated the credit was roughly \$27,000 for Preservation Parks portion. Ms. Guzzo said so it was a mistake, he should not have done the change order and given the credit. Mr. Besco apologized and said he was not that good on procedural issues; he did not catch the fact that he was crediting the Township something that had not been purchased. Mr. Mann asked why a change order was not done at the time to correct the math error. Mr. Besco explained that amending the contract was very confusing, and when the issue of the credit came up, it took time trying to figure out what portion was whose, and what needed to come out, etc. Mr. Sybert said due to the contract changes and an error the contractor paid for the material so the Township should correct it and the other Board Members agreed. Mr. Sybert asked how the grass was doing in this hot weather, and Mr. Von Rochsberg said it would lay dormant until we get moisture. Ms. Guzzo asked if there was a one year warranty on the grass, and Mr. Von Rochsberg replied that it was good until next season. Mr. Sybert asked if Mr. Besco had provided an invoice for the stone. Mr. Besco answered no and Mr. Von Rochsberg advised there was an amount in the cover letter provided in the packet. Mr. Mann stated he would like to make sure all of the paperwork and accounting was in order and requested that they submit an invoice.

John Schuette, 5192 Seldom Seen Road, said he did not have anything against McDaniels Construction Company, but had a tremendous problem with the man currently at the podium. He said if they were supposed to be in charge of overseeing the project it should be done right and to specs as written. Mr. Schuette noted a few items that he was upset about: It was hot and dry and they were not using a box to dump into as required by ODOT, they were just tailgating; there was no water truck on the site; they were dumping out of trucks and striking it off with a small dozer which results in segregation of your aggregates and greatly interferes with structural properties. He said contacted POD Design and was told they were not responsible. Mr. Schuette noted the specs said the road would be built to ODOT and Delaware County specifications, and he felt they did not do that. Mr. Schuette suggested that someone should submit the weigh tickets so they can be evaluated. He has not known anyone that would seed in July unless arrangements for watering have been made; if the seed lays for more than 21 days it needs to have temporary seed placed, and that has not been done. He believes a pretty good percentage of seed will be lost. Mr. Schuette said after his complaints they did bring in a water truck and tested the asphalt but the biggest mistake made was beginning this project in winter. After a lengthy discussion Mr. Besco offered to let the Township chose a company to test the asphalt to ensure a proper job had been done and he would pay for it. Mr. Anderson said that had already been done. Mr. Besco said it was O.K., he wanted to prove beyond a shadow of doubt it will pass an ODOT specification test, and if it does not pass ODOT specification he will mill it out, remove the stone, and start over.

MOTION: Approval of Minutes – June 11 and June 16, 2008

Mr. Sybert moved to approve the June 11 and June 16, 2008 meeting minutes, 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.

Citizen Comment:

John Schuette, 5192 Seldom Seen Road, said he has lived in the Township all of his life, and this year Delaware County is celebrating its bicentennial year and have printed up official banners. He held one up and said he could not hang it in his yard because Liberty Township Zoning prohibits banners. Mr. Sybert noted that what Mr. Schuette was holding was a flag. Mr. Schuette said he wanted to hang it on his deck and could not because of zoning, and he wanted to inform the Trustees of the inconvenience this caused.

Jim Hurt, 2081 Bunty Station Road, said he was concerned about the ballot initiative pending in Powell, which was put forth by Ms. Guzzo. He felt this was an issue for Powell citizens and Powell Council to work out. He said Ms. Guzzo got involved and championed this initiative, and does not live in Powell. He believes she lent her name and position as Township Trustee to this initiative, and does not feel it was in her authority to do so. Mr. Hurt felt this has now become a Liberty Township-Powell issue, instead of just being a Powell issue. He said this 10,000 square foot limit came as a surprise to both active citizen groups: The Oversight Foundation which he is a trustee and member of and Mr. Bennehoof with GVRA. Mr. Hurt felt this initiative was probably going to cause more problems than it solves. Ms. Guzzo said he was a citizen of the unincorporated Liberty Township just as she was and explained that she assisted the citizens of Powell because they asked her for help. She also used to be on Powell Council, and to her knowledge was the only one successful with a prior referendum because it is a very difficult process. She said they had conferred with an attorney on this process and regarding the 10,000 square feet. Mr. Mann asked for the name of the attorney which gave them the opinion that 10,000 square feet would be enforceable. Ms. Guzzo said they did not want to divulge that information at this point. Mr. Mann said he had concerns with the way this was handled and had a real problem with Ms. Guzzo issuing a press release or letter using her designation as a Liberty Township Trustee, because what Ms. Guzzo did was not approved by this Board or the official position of this Board. He felt attaching the 10,000 square foot limit on the petition to the existing 65,000 was a mistake, and why when there are two large citizen groups such as GVRA and COF, there was no discussion with them particularly when they have legal counsel themselves that can render an opinions on these matters. Ms. Guzzo said she felt it was a good piece of legislation and it would be helpful to Powell, and felt it would be good to define pedestrian scale in the Liberty Township Zoning Code as well. Mr. Sybert commented that he felt years of hard work mending fences with City of Powell have been destroyed. Ms. Guzzo explained as a Trustee her constituents are Liberty Township residents as well as the City of Powell, so she is here to serve both. Mr. Mann said he had been involved in the COF for at least five years and a Liberty Township Trustee for seven months and has not heard of any resident requesting a 10,000 square foot limit.

Where the 10,000 square foot limit came from and placed on the petition is mind goggling to him; he believes it was Ms. Guzzo's initiative because he has never heard of this request by a resident. Ms. Guzzo stated it was the residents of the City of Powell initiative, which she assisted with, and nor hers.

MOTION: DP 08-01 Kroger Final Approval

The purpose of the meeting is to consider approval for an Application for a modification for the Powell Crossing Development Plan submitted by Bruce Macauley on behalf of the Great Lakes area Kroger Co., as follow: To add a drive-thru pharmacy at the north of the existing store at 3975 W. Powell Rd., Powell, Ohio, the 8.914-acre Planned Commercial site is located on Lot #3675 on the Wedgewood Commerce Center, Section 3, Part A Subdivision Plat. A copy of Application DP 08-01 was available for examination at the Township Zoning offices and notices of this meeting were posted in the Delaware Gazette and at the Liberty Township buildings, and meeting notices were sent to the property owners within 200 feet of the property. Ms. Foust advised that on June 11, 2008 the Zoning Commission voted unanimously to approve the request; however, she was not at the meeting that night but there seemed to be some confusion as to what was being requested and what was actually approved. The motion was to approve as submitted but to replace the previously approved walk-up pharmacy. She believes the intention was for the walk-up pharmacy to remain and that was noted in the minutes from the meeting. She said the Board would need to vote unanimously in favor to modify what the Zoning Commission approved and advised that they had the complete final application before them this evening. Nick Cavalaris, 37 W. Broad St., speaking on behalf of Kroger Co., introduced the engineers and Kroger Company officials attending the meeting this evening. He said as noted in Ms. Foust's report this reviewed by the Zoning Commission and was requested to be on the north side of the building. He said the request came about due to the significant outcry of customers and residents of the Powell area to have a drive-thru. This is for the customers such as the elderly or people with young children to allow for quick refills and when there is inclement weather. Mr. Mann asked how they needed to proceed with the walkup pharmacy issue. Ms. Foust advised that the Trustees need to vote on whether to allow the walk-up pharmacy to remain and approve the new drive-thru pharmacy.

Mr. Sybert moved to approve the drive-up portion as well as approve to allow the existing walk-up pharmacy to remain. 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.

Trustees – Final Meeting Dates Scheduled

Ms. Guzzo moved to set final meeting dates for Administrative Review 08-02 submitted by Joy Hughes and Administrative Review 08-03 submitted by David & Julie Brown to be heard Wednesday, August 6, 2008 at 8:00 p.m. 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 08-0721-01: Authorize the Funding Mechanism for the HSA Acct

Ms. Guzzo moved to approve Resolution 08-0721-01 provided that it is reviewed and approved by the Prosecutor's office. 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 08-0721-02: Approve 2009 Tax Budget

Ms. Guzzo moved to approve Resolution 08-0721-02 authorizing the Fiscal Officer to submit the 2009 Tax Forecast to the Delaware County Auditor. 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.

Trash and Recycling Committee Update

Mr. Anderson advised they had received three emails so far from people expressing an interest in being on the committee. Mr. Mann said he was aware the GVRA and COF had extensive email lists and asked if Mr. Hurt would send an email notifying them that Liberty Township is looking for people to sit on a committee to review recycling and hauling potential opportunities for the Township. Mr. Hurt said he would.

Columbus State Fee Waivers Request

Mr. Anderson advised that through discussions with Columbus State Community College that it became aware they had budget sensitivities and constraints. Mr. Anderson stated told them that fee waivers were not possible at certain levels, but they could come before this Board to discuss the issue. The Director of Facilities Paul Goggin said he wanted to let the Trustees know how much they have appreciated the cooperation that they have given Columbus State over the last three years. He added that they were extremely excited about this project and it is going to be a terrific endeavor of them. He said they are very budget conscious, and when they did inquire about fees it was suggested that this was only body that could waive fees. He explained that they had fees waived by the County and City of Columbus previously, because they are a sister government organization and pursuing higher education. Ms. Guzzo asked what the fee amount was and Ms. Foust apologized, she left the paperwork back at the office. Mr. Goggin believed one permit was a few hundred dollars, but the other was for significantly more approximately \$60,000, because it was so much per acre. Mr. Goggin explained they were new to this process, and they were actually beginning the plat process tomorrow at Regional Planning. Mr. Anderson explained that it is not uncommon for a public institution to be granted a waiver. It is similar to when a public sector company was offered tax abatement. Mr. Sybert stated that they would do whatever they could to help. The Board asked Mr. Anderson to put together a Resolution with amounts for the next meeting.

MOTION: Removal of Eckington Drive Guardrail Request

Mr. Anderson stated the Delaware County Engineers office recommended that there be a partial removal and realignment of the Eckington Drive Guardrail.

Mr. Sybert moved to accept the recommendation by the Delaware County Engineer's office dated June 17, 2008 regarding the Eckington Drive guardrail. 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.

Ideas and Expenditures Regarding Patriot's Day 5K Run

Mr. Anderson stated this is the bicentennial for the County and Township and there have been discussions regarding a way to celebrate the bicentennial of the Township without serious expenditure of funds. They tried to come up with an idea that would be an annual event and focus positive attention on the community and came up with the Patriot's Run, and noted this would highlight the Park aspect in Liberty Township. Premier Sports is a company which handles these types of races and they have indicated they would handle this for their minimum amount of \$750.00.

Zoning Fee Schedule Review and Discussion

Mr. Anderson reviewed the funds generated from the Zoning Department and informed the Board that the fees have not changed since 2004. Ms. Foust reviewed the proposed changes to the Zoning Fee Schedule, and it was determined that it be posted to the Liberty Township website to notify people of the proposed changes and revisit the subject at the next regularly scheduled Trustees Meeting.

RESOLUTION 08-0721-03: 2008 Amended Tax Budgets & Appropriations

Ms. Guzzo moved to approve Resolution 08-0721-03 to approve the 2008 amended tax budget and appropriations. 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: Pay Bills

Mr. Sybert moved to approve paying the bills and Mr. Mann seconded the motion and the roll call vote: Ms. Guzzo – yes, Mr. Mann – recused himself from signing the Brown Publishing check, but to the remainder - yes, Mr. Sybert – yes. The motion passed with a 3-yes and 0-no vote.

Sawmill Pedestrian Path Bid

Mr. Anderson updated the Board on the process and said the bid would be out by the next meeting.

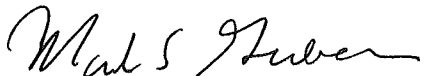
MOTION: Dr. Robert Cape Fire Station #322 Sign

Mr. Anderson said he was not at the last meeting but believes the issue regarding the proposed Dr. Cape dedication/informational sign was stalled or not acted upon. Mr. Sybert explained after a brief discussion at the last meeting it was decided to table the discussion until a full board was present.

Mr. Sybert moved to approve the new sign as drafted and Mr. Mann seconded the motion and the roll call vote: Ms. Guzzo – no, Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 1-no vote.

ADJOURNED:

There being no further business Chairperson Sybert adjourned the meeting at 9:38 p.m.


Mark S. Gerber, Fiscal Officer