

BERLIN TOWNSHIP TRUSTEES

6:00 p.m. Trustee Meeting August 9, 21

HELD AT: This meeting was held at 3271 Cheshire Road, Delaware, OH 43015

CALL TO ORDER: Ron Bullard, Trustee Chairman

PLEDGE OF ALLEGIANCE: Ron Bullard led the Pledge of Allegiance

ROLL CALL: Ken O’Brien (Absent), Tom D’Amico, Ron Bullard, Claudia Smith, Fiscal Officer and Theresa Taylor, Assistant Fiscal Officer

ATTENDANCE: Joe Pichert, Chris Paykoff, Cynthia Stemen and Mr. Skunza

**Approval of Minutes-
RESOLUTION 21-08-04 APPROVE THE 07/12/21 REGULAR MEETING MINUTES, THE 7/16/21, 7/28/21 AND 8/3/21 SPECIAL MEETING MINUTES AND THE 7/28/21 EMERGENCY MEETING MINUTES AND DISPENSE WITH THE READING**

Motion: Bullard
Second: D’Amico
Vote: D’Amico yes and Bullard yes

**Old Business-
Disaster Plan-** Bullard asked that this be moved to the September 13, 2021 trustee meeting.

Trails & Recreation Committee- D’Amico stated that the trustees had received a few emails from residents who are interested in being a part of the trails and recreation committee.

Zoning Hearing Policy- Bullard spoke with Flaherty about working together, along with following the prosecutors’ recommendations, to put rules in place as to how and when zoning applications will be heard by the trustees.

Public Comment- Cynthia Stemen asked the trustees about transferring her plot in Fairview cemetery to her son. The trustees stated that as long as she had the deed, along with a \$50.00 fee that could be done.

**Rumpke Trash Contract-
RESOLUTION 21-08-05 MOTION TO ADOPT A RESOLUTION TO RENEW THE CONTRACTOR FOR THE COLLECTION, TRANSFER AND DISPOSAL OF SOLID WASTES WITH RUMPKE OF OHIO PER THE REVISED CODE 505.27**

**BOARD OF TRUSTEES
BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO**

RESOLUTION NO. 21-08-05

A RESOLUTION TO RENEW THE CONTRACT FOR THE COLLECTION, TRANSFER, AND DISPOSAL OF SOLID WASTES WITH RUMPKE OF OHIO (R.C. § 505.27)

PREAMBLE

WHEREAS, the Board of Trustees of Berlin Township, Delaware County, Ohio (“Board”) contracted with Rumpke of Ohio, Inc. (“Rumpke”) on November 26, 2018 for the collection, transfer, and disposal of solid wastes, pursuant to a Joint Request for Bids (“RFB”) and Section 505.27 of the Ohio Revised Code; and,

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WHEREAS, the RFB that was released in 2018 allows the Board and Rumpke to mutually agree to an extension of the original three-year contract for another three-year term pursuant to Section 6.5.A of the RFB; and,

WHEREAS, the Board now desires to approve the attached Addendum with Rumpke to effectuate the extension of the contract for three additional years.

RESOLUTION

NOW THEREFORE, BE IT RESOLVED BY THE BOARD:

1. The Board hereby adopts and approves the attached Addendum with Rumpke for the collection, transfer and disposal of the solid waste produced in the Township, consistent with the terms of the Addendum and the Joint RFB, and pursuant to R.C. 505.27.

All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of this Board, and all deliberations of this Board and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

This Resolution shall be in full force and effect immediately upon adoption.

Bullard moved to approve.

D'Amico seconded the motion.

Voted on and signed this 9th day of August, 2021 in Berlin Township, Delaware County, Ohio.

BOARD OF TRUSTEES

**BERLIN TOWNSHIP,
DELAWARE COUNTY, OHIO**

Ron Bullard, Trustee

Ken O'Brien, Trustee

Tom D'Amico, Trustee

Motion: Bullard
Second: D'Amico
Vote: D'Amico yes and Bullard yes

RESOLUTION 21-08-06 MOTION TO AUTHORIZE TRUSTEE BULLARD TO SIGN ANY PAPERWORK NECESSARY FOR THE ADOPTION OF THE RUMPKE CONTRACT AND ANY ADDENDUMS RELATED TO IT

Motion: D'Amico
Second: Bullard
Vote: Bullard yes and D'Amico yes

**Fiscal Officer Items-
July Bank Statement and Electronic Payments-** The July bank statements and electronic payments balanced.

Copier- Smith stated that the copier has been down for two weeks and the part that is needed is on backorder and the company does not know when it will be available. She said

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that she called the township’s old contractor Joe Monastra, who is now working for Superior Business Systems. He told her that they could buy out the old contract from Xerox. With both the fire department and the township getting a new copier, it would be \$60 less a month than what we’re paying now. Bullard stated that the township computers would need to be set up to connect to the new copier. Smith stated that she would like to discontinue the fax machine because it has not been used for quite a while. By doing that, it will also save another \$100 a month. The trustees agreed to cancel the fax machine.

RESOLUTION 21-08-07 MOTION TO APPROVE SUPERIOR BUSINESS SYSTEMS AS THE NEW COPIER PROVIDER

Motion: Bullard
Second: D’Amico
Vote: Bullard yes and D’Amico yes

Natural Gas Aggregation Renewal- Smith stated that the renewal of the natural gas aggregation needs to be signed and notarized.

RESOLUTION 21-08-08 MOTION TO APPROVE THE RENEWAL CERTIFICATE APPLICATION FOR THE OHIO NATURAL GAS GOVERNMENT AGGREGATORS AND SIGN ALL PAPERWORK THAT IS NECESSARY

Motion: Bullard
Second: D’Amico
Vote: D’Amico yes and Bullard yes

OTARMA Cyber Application- Smith stated that the she will need help in filling out the cyber application for OTARMA and that it needs to be turned in by September 15th, 2021.

Opioid Settlement- Smith stated that she received a letter from Chris Betz with information on an opioid settlement that is available. He is recommending that the township apply for it and turn in any information that would pertain to receiving it.

RESOLUTION 21-08-09 MOTION TO APPROVE AN EMERGENGEY RESOLUTION TO ACCEPT THE MATERIAL TERMS OF THE ONE OHIO SUBDIVISION SETTLEMENT PURSUANT TO THE ONE OHIO MEMORANDUM OF UNDERSTANDING AND CONSISTENT WITH THE TERMS OF THE JULY 21, 2021 NATIONAL OPIOID SETTLEMENT AGREEMENT

BERLIN TOWNSHIP OF DELWARE, OHIO
Resolution No. 21-08-09

AN EMERGENCY RESOLUTION TO ACCEPT THE MATERIAL TERMS OF THE ONE OHIO SUBDIVISION SETTLEMENT PURSUANT TO THE ONE OHIO MEMORANDUM OF UNDERSTANDING AND CONSISTENT WITH THE TERMS OF THE JULY 21, 2021 NATIONAL OPIOID SETTLEMENT AGREEMENT

AN EMERGENCY RESOLUTION AUTHORIZING the [Prosecuting Attorney/Law Director/Solicitor/Appropriate Official] to execute the Participation Agreement for the OneOhio Subdivision Settlement with McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation (“Settling Distributors”) pursuant to the OneOhio Memorandum of Understanding regarding the pursuit and use of potential opioid litigation settlement funds and consistent with the material terms of the July 21, 2021 proposed National Opioid Distributor Settlement Agreement available at <https://nationalopioidsettlement.com/>.

WHEREAS, the [Jurisdiction], Ohio (herein “Municipality”) is a [county/municipal entity/township] formed and organized pursuant to the Constitution and laws of the State of Ohio; and

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WHEREAS, the people of the State of Ohio and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Opioid Pharmaceutical Supply Chain; and

WHEREAS, the State of Ohio, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Opioid Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance; and

WHEREAS, the State of Ohio, through its Governor and Attorney General, and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Ohio; and

WHEREAS, the State and its Local Governments, subject to completing formal documents effectuating the Parties Agreements, have drafted and [Jurisdiction] has adopted, and hereby reaffirms its adoption of, a OneOhio Memorandum of Understanding (“MOU”) relating to the allocation and the use of the proceeds of any potential settlements described; and

WHEREAS, the MOU has been collaboratively drafted to maintain all individual claims while allowing the State and Local Governments to cooperate in exploring all possible means of resolution; and

WHEREAS, the [Board or Council] understands that an additional purpose of the MOU is to create an effective means of distributing any potential settlement funds obtained under the MOU between the State of Ohio and Local Governments in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Ohio, as well as to permit collaboration and explore potentially effectuation earlier resolution of the Opioid Litigation against Opioid Pharmaceutical Supply Chain Participants; and

WHEREAS, nothing in the MOU binds any party to a specific outcome, but rather, any resolution under the MOU requires acceptance by the State of Ohio and the Local Governments; and

WHEREAS a settlement proposal is being presented to the State of Ohio and Local Governments by distributors AmerisourceBergen, Cardinal, and McKesson (collectively the “Settling Distributors”) to resolve governmental entity claims in the State of Ohio using the structure of the OneOhio MOU and consistent with the material terms of the July 21, 2021 proposed National Opioid Distributor Settlement Agreement; and

WHEREAS, [Board or Council] Council wishes to agree to the material terms of the proposed National Opioid Distributor Settlement Agreement with the Settling Distributors (the “Proposed Settlement”):

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF BERLIN TOWNSHIP OF DELAWARE, OHIO.

Motion: Bullard
Second: D’Amico
Vote: D’Amico yes and Bullard yes

RESOLUTION 21-08-10 MOTION TO ASSIGN TRUSTEE BULLARD TO BE THE AUTHORIZED OFFICIAL FOR THE ONE OHIO SUBDIVISION AND SIGN THE PARTICIPATION FORM

Motion: Bullard
Second: D’Amico
Vote: Bullard yes and D’Amico yes

OneOhio Subdivision Participation Form

Governmental Entity:	State: OHIO
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Authorized Official:	RON BULLARD
Address 1:	3271 CHESHIRE ROAD
Address 2:	
City, State, Zip:	DELAWARE, OHIO 43015
Phone:	
Email:	TRUSTEEBULLARD@BERLINTOWNSHIP.US

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity consistent with the material terms of the National Settlement Agreement dated July 21, 2021 ("*National Distributor Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the material terms of the National Settlement Agreement Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the National Distributor Settlement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate consistent with the material terms of the National Distributor Settlement and become a Participating Subdivision as provided therein pursuant to the terms of the final OneOhio Memorandum of Understanding dated July 28, 2021.

. The Governmental Entity's election to participate is specifically conditioned on participation by 95% or more of the Litigating Subdivisions in Ohio. Should less than 95% of the Litigating Subdivisions in Ohio participate, this election shall be deemed void and no claims shall be released.

. The Governmental Entity shall, prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.

. The Governmental Entity agrees to the material terms of the National Distributor Settlement pertaining to Subdivisions as defined therein.

. By agreeing to the material terms of the National Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

. The Governmental Entity agrees to use any monies it receives through the material terms of the National Distributor Settlement solely for the purposes provided therein.

. The Governmental Entity submits to the jurisdiction of the Madison County Court of Common Pleas where the Consent Judgment is filed for purposes limited to the court's role as provided in, and for resolving disputes to the extent provided in, the material terms of the National Distributor Settlement Agreement. If the National Distributor Settlement is finalized, the Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the National Distributor Settlement.

. The Governmental Entity has the right to enforce the material terms of the National Distributor Settlement as provided therein.

. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the material terms of the National Distributor Settlement, including, but not limited to, all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their

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official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the material terms of the National Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The material terms of National Distributor Settlement shall be a complete bar to any Released Claim.

. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision consistent with the material terms of the National Distributor Settlement.

. In connection with the releases provided for in the material terms of the National Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the material terms of the National Distributor Settlement.

. Nothing herein is intended to modify in any way the terms of the material terms of the National Distributor Settlement to which Governmental Entity hereby agrees, with the exception of the requisite Litigating Government participation level. If the National Settlement becomes effective by July 1, 2022 its terms will supersede the terms of the Ohio Settlement Agreement and will control with regard to all provisions except for Dismissal of Claims as set forth in the Ohio Settlement Agreement. If it is not effective by July 1, 2022, the Ohio Specific Distributor Settlement will control. To the extent this Participation Form is interpreted differently from the Ohio Specific Distributor Settlement in any respect, the Ohio Specific Distributor Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity and have been afforded the opportunity to review this matter with counsel.

Signature: _____
Name: _____
Title: _____
Date: _____

Cemetery-

Fairview: Mowing & Storage Container- D'Amico stated that he would like to look into a semi-trailer for the use of storage at Fairview Cemetery. He said that Foor offered to cut the

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grass in Fairview if a mower was provided by the township. Bullard stated that Foor will need to be trained on the mower. Smith stated that a new contract will need to be put out to bid for next years mowing season.

Fire Department-

Fire Fighter Resignations- Pichert stated that along with accepting Barcus and Lainge’s resignations, he would like it known that both leave in good standing and both are eligible to be rehired. Bullard asked if money was an issue. Pichert said yes. Bullard asked Pichert to speak with O’Brien about it and if need be, he would be willing to speak to him also. Pichert said he would discuss the current pay rate issue with O’Brien because he feels that if the pay rate was higher, it may have been possible to retain Barcus and Lainge.

RESOLUTION 21-08-11 MOTION UPON THE RECOMMENDATION OF ASSISTANT CHIEF PICHERT, TO ACCEPT WITH REGRET THE RESIGNATIONS OF BOB BARCUS AND CLINTON LAINGE, EFFECTIVE IMMEDIATELY

Motion: D’Amico
Second: Bullard
Vote: Bullard yes and D’Amico yes

**Requisitions-
RESOLUTION 21-08-12**

MOTION TO APPROVE REQUISITION 2021-10 TO PRECISION TIRE AND ALIGNMENT, TO PURCHASE FOUR NEW TIRES FOR FIRE ENGINE 393, FOR THE AMOUNT OF \$1,728

Motion: Bullard
Second: D’Amico
Vote: D’Amico yes and Bullard yes

**Road Department-
2022 Posted Roads-**

RESOLUTION 21-08-13 MOTION TO POST NO ROADS FOR THE WINTER OF 2021-2022

Motion: Bullard
Second: D’Amico
Vote: D’Amico yes and Bullard yes

Trustee Items- D’Amico stated that a resident in Summerwood had reached out about flooding in the extension area. Bullard said the problem is that the pavement is lower than the yard so a trench needed to be put in his right-of-way to be able to reach the storm sewer and ditch. Bullard will talk with him.

Zoning Department-

July Zoning Report- D’Amico does not have the zoning report for July.

Future Meetings-

**09/13/21 Trustee Meeting
09/27/21 Trustee Meeting**

Late Items- There were no late items.

Motion to Adjourn-

RESOLUTION 21-08-14 MOTION TO ADJOURN

Motion: Bullard
Second: D’Amico
Vote: Bullard yes and D’Amico yes

Meeting adjourned by Chairman Bullard at 7:35 p.m.

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Ron Bullard, Trustee

ATTEST:

Ken O'Brien, Trustee

Theresa Taylor, Assistant Fiscal Officer

Tom D'Amico, Trustee