

## <BLOOM TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING 05-14-08>

Joseph Smith, Chair, called the meeting to order at 6:30 P.M. Members present were Trustees Smith, David Petty, Brian Randles, and Fiscal Officer Carol Moore. Also present were Anne Darling Cyphert, Board Admin. & B/Z Administrator; Fire Chief Terry Gill; Road Supervisor Randy Solt; Township's legal counsel for the proposed JEDD, John Albers; and several interested citizens.

### **PRESENTATIONS AND PUBLIC COMMENTS:**

- Smith asked John Albers to begin the discussion regarding the proposed 33 corridor JEDD.

Albers referred to his May 9<sup>th</sup> correspondence to the trustees in which he summarized the status of the issues he had discussed with the trustees at the April 23<sup>rd</sup> trustee meeting. Albers said he and Petty attended the meeting held at Shade Restaurant which was called by the proposed JEDD parties. Violet Twp., City of Pickerington, Village of Canal Winchester, City of Lancaster, and Bloom Twp. were represented. He said Bloom Twp's concerns were addressed at the three hour meeting.

- Albers said he drafted the changed language regarding compelling a landowner to join the JEDD District. He said it now makes it clear that no parcel of land can be compelled to join by the vote of owners of any other parcel of land. It is no longer a requirement to join the JEDD in order to form a PUD. It does require all parties to identify parcels likely to be in the JEDD within one year.
- Moore asked if there is a requirement to notify prospective JEDD properties that their land is being considered for the JEDD District. Albers said they will get a notice and be given the opportunity to object. Moore asked how far in advance would they be notified and how long they have to register their objection? Albers said there is no time limit. Albers said when they would receive the notice they would have to petition to join. Tony Vogle of Fairfield County Utilities said they will have to petition to opt out. Albers said if they object in writing then they will not be included. Robert Stebelton asked for clarification. Randles said he is guessing it is a letter. Moore said it is not defined and is concerned this will subject the township to lawsuits. Stebelton asked about notification that the JEDD is being considered and said he was not notified by the township. He said he was notified by the county. Randles said he told Stebelton at a community steak dinner. Stebelton said the township is wasting a bunch of money and for what. He asked if Albers owned any property. Albers said he is here as attorney for the township and would not answer that question.
- Albers said the expansion area of the map is what shows protection from annexation and has not changed. Smith asked why the landowner has to respond if they do not want to join the JEDD. Smith said that the three trustees said they do not want anyone to be forced into this JEDD. He asked why isn't that you have to respond if you want to be in the JEDD? Smith said we are forcing everyone in this district to reply whether or not they want to be part of this and they shouldn't have to do anything. They should come to the JEDD and say they want to be in the JEDD. Albers said the landowner should be required to file something and in his opinion, any written objection would do. Randles said the trustees have been adamant about not forcing anyone in. He said we need some kind of language where they will not be forced in or taken in without their approval. That language is not in there. Albers asked what do you think is not in there. Moore said; how they are notified and how long prior to their being taken into the JEDD that they are required to be notified. Randles said there should not be any forcing. Albers said again you can't go into the JEDD unless you agree or unless you file a written objection. Albers said he does not understand what the issue is. Randles said that needs cleaned up. Albers said maybe we go back and take a look if the time frames are a concern but he thinks the language is clear that you can't be forced to join. Randles said that it still takes some kind of action on their part to make sure they are not included. Randles said it should be just the opposite; it should take some sort of action to join the JEDD. Albers said that you do- if you want to join the JEDD you have to sign a petition. Randles said this could be a loophole, sometime down the road, to send a letter to someone who is not around and they could include him in that. Albers said the concern expressed at the meeting was that someone may just sit on their rights and doesn't do anything; shouldn't there be some mechanism to compel them to say Yeah or Ney. Phil Crist said he felt there is misunderstanding what the agreement said and recommended the attorney draw up what Bloom Twp. wants. Albers told the trustees he will notify that only petitioning property owners will go into the JEDD so it is totally voluntary. Smith said he talked with the man who owns the most property in this JEDD area. Stebelton said we do not need more government screwing with our property rights. Albers asked the trustees if they want him to go back and make it clear that only petitioning owners and if someone does not reply doesn't want to take a position or just does not want to participate, those people cannot be forced in even if they don't file an objection. The trustees said yes. Albers said understand this was not his language, this was proposed at the meeting. Albers said he doesn't think there would ever be a circumstance where a property would be brought in that doesn't want to be in. He said he has never seen that.
- Regarding Item 4, Incentive Payment: Albers said this problem of out-of-pocket incentive payments is now resolved and Canal Winchester will assume the responsibility for incentive payments, then CW will get reimbursed from the JEDD. Albers said the incentive payment will

<BLOOM TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING 05-14-08>

never come out of Bloom Township's pocket or Violet or Pickerington or Lancaster but it will come out of Canal Winchester's pocket. Albers said he is still not sure this is legal but he didn't want Bloom Twp holding the pot.

- Regarding Item 5, Albers said he drafted this language as well that makes it clear that Bloom Twp. will have a total financial obligation to the JEDD Board at \$5,000.
- Item 6: Manner of reimbursement: no changes
- Term of the Agreement and Opt-out provision that Bloom Twp wanted: the other parties would not agree to a shorter term or a clause to opt out of the Agreement.
- Item 8: Elimination of Income tax on net profit of businesses and impose it solely on payroll: The other parties would not agree to it. Everyone agree that 99% of the revenue would come from payroll tax but it wasn't something the group thought should be changed.
- Item 9: Limiting the authority of municipalities in the JEDD to Levy and collect taxes and utility fees: the other parties agreed to it and JEDD language was modified to correct that.
- Item 10: Bloom Twp. concern that JEDD Board can borrow up to \$500,000 without the consent of all the contracting parties: The other parties are concerned they may need infrastructure one day. Moore asked if they can still borrow up to \$500,000 as many time as they like. Albers said they can borrow up to \$500,000 without limit. Albers said that the township is not obligated for those obligations; only the District is. Moore said she is concerned if the JEDD falls through, the other parties would have the liability. Albers said no one will lend them money if they cannot support it.
- Changing the amount that the JEDD is going to retain: 35% now and Albers told the other parties that was a huge sum, however, others thought it should be more because it might be needed. Petty said Lancaster said they will earmark their profits to use only for reinvestment in the JEDD zone. Vogle said Lancaster said they will earmark it for economic development, not for the JEDD area. Albers said this agreement doesn't require them to do that.
- Albers said that covers the areas of concern that were discussed at the meeting. Albers said if the trustees will not have a unanimous vote; it would have to go to the electorate. He said the other parties are looking for some understanding as to whether the Bloom Twp trustees think this is going to be unanimous or not and if the trustees think it is not they may go forward without Bloom. Violet trustees plan to vote unanimously. Moore asked what the time frame would be if two trustees voted "yes" and one voted "no" and it went to the electorate. Albers said it wouldn't make it on the ballot this fall and that is why the others were saying that Bloom Twp may not be a part of it and maybe could join later. He said the municipalities do not have to have unanimous consent not to go to the voters. Moore said her concern is Bloom Twp has no control over how much the JEDD Board would obligate or where they would put the infrastructure. She does not think the township's influence would be there because we are too small and have no legal staff to protect the twp. There are too many risks. Albers said there is really not much in the agreement that encourages businesses to locate in the JEDD. He said that is a bigger concern to him. He said he doesn't know if anyone will end up in this thing and we may have gone to all this time, money and effort and not get much of a return from it because people are not going to be required to join in any way shape or form.
- Albers said Bloom would still get revenue from the other contracting parties that get businesses in the JEDD. Carl Heister recommended structuring the agreement so that the township would not have to assume the liability. Albers said if the whole thing craters there is the potential for liability. Albers said the crowd has legitimate concerns and is entitled to their opinion. He said it is not likely and in everything there is some risk but historically he doesn't know of any JEDDS. Heister said anticipate the worst case so you are prepared; it may never happen. No one thought that Bears and Sterns would go under either. Vogle said you won't be able to control your own destiny with the JEDD. If a business would layoff, the revenue is not there. Stebelton said the township would be obligated to pay for a road if needed. Randles said we need to think that the CW area in Bloom Twp. could be lost from Bloom Twp. if annexation takes place. Vogel said the map that shows the township line would not allow CW to take land from Bloom Twp. Randles said a part of that is in the JEDD. Vogle said CW can only provide sewer services up to a certain area at Waterloo Road and then the county takes over in providing utility services. Stebelton brought up the issue that a radio tower wanted to come into the township and the trustees screwed with them all the way and wondered why they are in there trying now to get business. Smith informed him this issue would be in the hands of the BZA.
- Petty said at the meeting he got the impression that we got about the best compromise they would do because Violet said if it was forced the other way it was a deal breaker; if the land owner would need to petition to join verses petition not to join the JEDD. Albers said Bloom Twp. is the only entity that brought up all these changes. He said they pushed hard for them. He said they effected some major changes. Moore asked Petty if the other parties said it would be a deal breaker if Bloom Twp. took it to the voters for the people to decide. Petty said they are not going to wait for us; they are going to move on. Randles said he wants to see the final draft before he makes a decision. He would like to do more research on it. Moore said the township

## <BLOOM TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING 05-14-08>

could incur legal expenses if the JEDD broke up and the parties incur the debt. Albers said that is a 1% chance and that it protects from annexation and provides resources for the township. Moore asked if this JEDD is very different from others. Albers said the biggest difference is the amount of funds being retained by the JEDD board. Randles added that it is different in the large number of parties in the JEDD. Albers said it is unusual to have five entities. Albers said he keeps going back to, he doesn't know why people are going to join. He said the problem is not so much the possible financial tangles but that we won't make as much money as we hope.

- Heister said if the trustees are feeling pressure from the other entities, he encouraged the trustees not to do something they feel is not the right thing to do. He said Bloom Twp. can form its own JEDD. Albers said you need a municipality to do that with.
- Smith summarized the instructions to Albers to get clarification on the fact that the trustees insist that you apply to join the JEDD not to stay out of it. Albers will look into both those issues and get the trustees a letter.
- Vogle asked the trustees if they are comfortable with a 100 year JEDD. Albers said it protects against annexation that term. Vogle said land in Violet Twp. has utilities without annexation. Vogle said part of the reason landowners will not join the JEDD is that water and sewer services are already provided so there is no reason to join the JEDD. Albers said you get two big benefits from a JEDD: income and annexation protection.
- Petty said this is not a money maker but a money replacer. He said if a substantial business wants to move in and they want tax abatements, TIFS, etc. the township loses income but we still have to provide services. The income tax is the only way to replace lost income. Vogle asked why the township would give a tax abatement. Discussion of various scenarios by Petty and Vogle.

Smith recessed the meeting for 10 minutes and then the meeting reconvened.

Chair Joseph Smith asked everyone to stand for the Pledge of Allegiance and Moment of Silence in honor of our troops who are serving in the Military throughout the world.

### PUBLIC COMMENT:

- Dave Cotner of Village of Carroll is asking for people to serve on a committee to research getting paramedic people closer to Bloom-Carroll High School. He said the closest squad is 20 minutes away. He will also ask the same from Greenfield Twp. He said many Bloom Twp. residents attend BCHS. Meetings will be held in the evening. Smith asked how the public meeting went with Greenfield Twp. residents about the fire levy. He said only 10 people showed up and he wants the two fire departments to get together to work something out.
- Robert Stebelton said he saw in previous minutes all of the money that has already been spent on attorney fees for the JEDD and asked how the township would get it back and how much longer the money will be spent. He asked why an attorney was necessary to waste money on what we already have. Randles said it wasn't planned to have it cost this much money. Stebelton said the taxpayers are part of it and Bloom Twp. would be liable for it. He asked why it went this long. Randles said we have had public hearings. Stebelton said he shouldn't stay away that long and will come back to meetings. He said none of the trustees personally have ground in the JEDD and that it affects others. Stebelton said if no houses can be in the JEDD, what manufacturer would build on hilly ground? And then he can't use it for residential. He said he saw in the minutes where we are investigating a resident with junk when then township building has mold in it.
- Mark Heister: encouraged the trustees to walk away from the JEDD. He said if this was truly a public meeting, there was a tiny circle where the township met with the attorney and said the public at the meeting was not able to hear what they were saying. Randles said usually there's no one here and acknowledged there was a lack of planning.
- Tony Vogel asked what the next step is in the JEDD plans. Smith said to vote as to whether Bloom Twp. will be in it but he will not vote to force someone into the JEDD. Smith said the vote may come at the next meeting, Vogel asked if he can get the answers as to the time frame. Randles said it has to go to the other parties. Stebelton said he wants to know when the attorney is working on the JEDD and wants copies of the attorney bills. Moore said she will provide copies to him of the attorney bills. Cyphert will inform him with self addressed stamped envelopes to provide minutes and public notices.
- Stebelton asked what is happening on the radio tower. Smith said he doesn't know because that has not been before this board. Stebelton said the board is playing games with these folks and he referred to trailers and block houses.

### FISCAL OFFICER REPORT: by Fiscal Officer Carol Moore

- **Motion** by Petty, second by Randles, to approve minutes of the regular meeting held APR 23, 2008. Motion carried 3-0.
- **RESOLUTION # 13-08: BE IT RESOLVED BY THE BLOOM TOWNSHIP BOARD OF TRUSTEES** that the following within fund transfer is approved in order to pay Road Dept

## <BLOOM TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING 05-14-08>

maintenance/repair bills for the remainder of 2008: \$10,000 from 2031-330-360 Contracted Services to 2031-330-323 Repairs and Maintenance. Motion by Randles, second by Petty.  
ROLL CALL: Petty – yes; Randles – yes; Smith – yes. Resolution adopted 3-0.

- **Motion** by Petty, second by Randles to approve payment of bill in the amount of \$2,164.50 for attorney John Albers for proposed JEDD. Motion carried 3-0.
- **Motion** by Petty, second by Randles to approve bills from Fire Dept: \$1,000 for Firefighter I & II course from Training services Gift Fund 291-220-318; \$840.20 annual air pack flow testing and repairs invoice from Finley Fire Equipment;\$3790 invoice from First Medical Urgent Care for physicals to be paid from FEMA Fire Act Grant;\$7540 invoice from Fairfield Diagnostic Imaging for CT scans to be paid from FEMA Fire Act Grant. Motion carried 3-0.
- **Motion** by Randles, second by Petty to approve payment of bills in the amount of \$214,108.87 and Payroll/ charges in the amount of \$49,819.37 having been certified by the Fiscal Officer that funds are available. Motion carried 3-0.

### ANNOUNCEMENTS and COMMUNICATIONS

- Moore said it is time to select an MCO. She had provided the trustees with ads received from MCO's. Decision was to stay with CareWorks. **Motion** by Petty, second by Randles to approve CareWorks as the township's Managed Care Organization. Motion carried 3-0.

### NEW BUSINESS:

Randles had spoken to Lt. Vorhis regarding a recent break-in and the township trustees will provide a certificate of recognition for bravery. It will be presented at the school awards program.

### OLD BUSINESS:

- Indigent Burial Plan: Discussion of Township Indigent Burial Plan as introduced by Moore at the May trustee meeting. Plan is adapted from the City of Lancaster's INDIGENT BURIAL PLAN dated 1/1/08. Petty said since it is the law, he has no problem with it. Moore and Petty agreed there is no need to set-aside funds at this time. Funds would be available if needed. No one can recall such a need in the past. The plan allows up to \$750 to the funeral home for the direct cremation of an indigent resident. The plan has an accompanying application that would go to Job & Family Services for evaluation of indigent status.

**Motion** by Petty, second by Randles to adopt Township Indigent Burial Plan with application as presented. Motion carried 3-0.

- Basement water/mold update: Jim from Service Master spoke to the trustees via telephone speaker phone and explained what has been done so far and what still needs to be done to eliminate the mold. He said more work is needed but can't be done until the excavating is done to alleviate the water problem. The cost for the next phase is \$4200. He recommended an environmental hygienist be brought in to test for additional mold identification. He said the trustees could verify it with the health department. Jim said he recommends that the township employees not do the mold removal because special suits are needed for protection. Mold is harmless unless it is airborne. Road Employee Mike Kouns said he had pulled a float out and gotten the water to flow outside. Jim said stairway may need to be removed. The added cost would not be a whole lot. He said testing would cost another \$1,000 or \$1,500. Randles asked about the environmental hygienist. Jim said that is a township decision. Petty said he talked to road dept. personnel who plan to trench down to footer to see if there is gravel down there. If not, they will fix it and seal it. Kouns explained the procedure he will do to investigate and fix the problem. He said he can't guarantee whether or not this old building has stone under the concrete; more work might be needed. Kouns said four days of good weather are needed. Kouns said the next door neighbors will need to be contacted regarding tying into pipe. Solt said a county permit will be needed.

### ZONING & BOARD OFFICE REPORT: by Anne Darling Cyphert, Board Admin & B/Z Admin.

Legislative Update: Cyphert spoke with Heidi Fought of Ohio Township Association. Heidi told her they are still actively campaigning against HB 521 because of its approach. She said the bill will appoint a committee to study ways to reduce local government. She said it is already pre-destined to eliminate many forms of local government because of its charge. There are nine people that would sit on this committee and Fought is concerned because the nine people are academias that are not in touch with small government functions. OTA's concern is the bigger the government, the farther removed from the people. OTA would like to see ways all governments can work together, without tearing the townships apart.

Cyphert distributed the Resolution drafted by the Fairfield County Prosecutors Office regarding the Schumacher property, 2650 Winchester-Southern Road. It is up to the trustees whether to take action at the next meeting by passing the resolution to get rid of the multitude of junk. The Health Department is moving forward in acting on the solid waste issues at the property and also has contacted Mr. Schumacher with the name of a person willing to clean the junk from the property in exchange for the scrap metal but no word yet on whether Mr. Schumacher will accept the offer. Mr. Schumacher is aware he has until next month to rid the property of violations but so far no visible progress has been made. Adult Protective Services is also working with him and are trying to communicate the importance of cleaning up the property.

<BLOOM TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING 05-14-08>

Cyphert is working with Carol Phillips of the Solid Waste District regarding its new five year plan. She will be bringing a resolution to the next meeting from the Solid Waste District for the trustees to consider that will increase fees for out-of-state waste.

Cyphert has been communicating with a resident regarding his desire to follow the zoning for wind turbines he plans to install.

Cyphert reported no permits of any kind have been issued for the Zoning Department so far during the month of May.

**FIRE DEPARTMENT REPORT:** by Chief Terry Gill

- The department received a donation from a local resident for the Education Gift Fund. Gill said the resident has donated annually and does not want to be recognized. He said a "thank you" has been sent.
- There was a fire on Kauffman Road last week. Gill said it was believed to be due to faulty cruise control on a pick-up. It exploded and fire spread to the house. Gill said the vehicle had a recall notice. Assistance was received from Greenfield Twp Fire Dept. Gill said the insulated garage construction saved the structure.
- **Discussion** regarding Horton purchase that was approved at the previous trustee meeting pending a suitable interest payment. Gill spoke to the rep and the rate to be applied to the down payment is still 6%. Gill will deliver the \$150,000 down payment.

**Motion** by Petty, second by Randles to approve purchase orders 41-2008 and 42-2008 totaling \$160,495.82 for purchase of the Horton Medic on State KT 77723300408. Horton requires two purchase orders. Motion carried 3-0.

**ROAD DEPARTMENT REPORT:**

- **Discussion** of Summer Road Maintenance Project. Discussion then went to Sitterley project discussion.
- Discussion: Petty said a resolution needs approved to fix the Sitterley Road issue. It is expected to surpass \$25,000. Petty recommended setting aside \$50,000. Easements will be required. Petty, Solt, and reps from the Engineer also met on Brandt Road and Kauffman Road. Engineer said state has set aside 8.9 million for our district (District 17). The engineer suggests breaking Kauffman Road Phase 2 into two projects. One part would be from Brandt (at Kauffman) to top of hill. The second part involves right-of-way at top of hill to move road to the east. Brandt Road to Pickerington could be a third project. Smith said Sitterley Road will not qualify because it is a dead end road. Smith believes Brandt Road will qualify. Smith said to also consider the by-pass and whether Kauffman Road will need to move. The trustees opted break out Phase two of the Kauffman Road project into two projects. Petty will call Jeff Baird on Thursday to tell him of the decision to continue with Kauffman Road per the recommendations of Adam Lanier as two project. He will also tell Baird that we want to do Sitterley Road drainage project separate from the OPWC grant projects.
- **Motion** by Petty, second by Randles to adopt **RESOLUTION #15-08** as written by township attorney Jerry Schwarz to request the Fairfield County Engineer's Office to prepare engineering plans and specifications for the drainage improvements for Sitterley Road and obtaining any easements required for diverting waters from the roadway.

ROLL CALL: Petty – yes; Randles – yes; Smith – yes. Resolution adopted 3-0.

- Discussion returned to Summer Road Maintenance Project. The trustees said they want to do as much as they can this summer. With the price increases the money will not go as far this year.

**RESOLUTION # 14-08: BE IT RESOLVED BY THE BLOOM TOWNSHIP BOARD OF**

**TRUSTEES** that the legal ad for bids for Summer Road Improvement Project for the amount of \$450,000 be submitted to run May 17 and May 23 in the Lancaster Eagle Gazette with bids being opened June 11<sup>th</sup> at the regular meeting. Motion by Randles, second by Petty.

ROLL CALL: Petty – yes; Randles – yes; Smith – yes. Resolution adopted 3-0.

- **Motion** by Randles second by Petty to approve \$5,000 Culvert Pipe Purchase. Motion carried 3-0.
- Solt presented a memo he gave to the county regarding the planned replaced culverts this year for their approval for MVL reimbursement. MVL funds will be \$6150 for us this year.
- Storage Building Update: Solt presented drawings for a new storage building from Steve Eversole. Eversole is helping with the wording for going out for bids and it will have to be sent to the Prosecutor's Office for approval.
- New Road Mowing Tractors: Petty said he spoke with Solt and recommended purchasing two John Deeres at price of \$36,000 and \$39,000.

**Motion** by Petty, second by Randles to authorize up to \$90,000 for the purchase of two John Deere tractors 5525 and 5225 with the Tiger side mount and the optional ditching head as presented. Motion carried 3-0.

<BLOOM TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING 05-14-08>

**OTHER:**

- Dan Boyer of Kauffman Road said one of his trees that was outside of the easement was cut down. He spoke with Solt and then he spoke with someone at the county who said the trees could be saved but took one out anyway. Boyer was aware they could have died from root damage but was willing to take that risk. Smith will go to his residence and investigate. Boyer said not all of the firewood was left and wants it replaced. He said the speed limit at the straight of way needs to be monitored and lowered to 45. Smith said that can be addressed later when a bill is passed that will allow townships to lower it.
- Petty said he will meet with a FEMA rep on Friday regarding the emergency that was declared a disaster. He said we can get 75% reimbursement. Solt and Petty will meet with FEMA regarding the reimbursement. Petty said it was a Level B so we cannot be reimbursed for the truck repair.

**ADJOURNMENT**

Smith adjourned the meeting.

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Joseph E. Smith  
Chair

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Carol J. Moore  
Fiscal Officer