



GERMAN TOWNSHIP BOARD OF TRUSTEES MINUTES OF THE REGULAR MEETING HELD ON AUGUST 8, 2022

The meeting was held at the German Township Hall located at 12102 St. Rt. 725 West, Germantown, OH 45327 and virtually using WebEx.

The meeting was called to order by Board President Mark Cross at 7:00 pm. In attendance were:

| | | |
|------------------------------|-----------------------------|-----------------------------|
| President Mark Cross | Vice-President Jacob Stubbs | Trustee Lou Potter |
| Fiscal Officer Mark Heistand | Police Chief Joe Andzik | Road Admin. Jeremy Holbrook |
| | WebEx Facilitator Deb Cross | |

IN-PERSON ATTENDEES:

| Name | Address | Name | Address |
|-----------------|-------------------|----------------|-------------------|
| Lynn Cleveland | 11858 Oxford Road | Mark Keener | 7865 Jamaica Road |
| Robert Rohrbach | 50 Mary Place | David Gehron | 14239 Kiefer Road |
| Kurt Jacoby | 12955 Harris Road | Agigail Dennis | 13091 Oxford Road |

ONLINE ATTENDEES:

| Name | Name | Name | Name |
|------|----------------|------|------|
| Sam | Call in User 2 | | |

The Germantown Press was notified of the Regular Meeting on 8/3/22 at 7:13 pm.

Dr. Cross led the group in the Pledge of Allegiance.

VISITOR COMMENTS:

- **Bob Rohrbach, 50 Mary Place:** Mr. Rohrbach presented a package of information related to the potential renewal of a License Agreement between the Township and Montgomery County Amateur Radio Emergency Services Inc. (MoCoARES). He stated that the original License Agreement was signed in 2014 and expired 12/31/19. Since that time, the Township and MoCoARES have been operating without an Agreement. He suggested that the new Agreement be ongoing, as it includes an ability to cancel by either party upon 45-day written notice.
 - Dr. Cross introduced **RESOLUTION 2022-31**, seconded by Mr. Stubbs: **A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN GERMAN TOWNSHIP AND THE MONTGOMERY COUNTY AMATEUR RADIO EMERGENCY SERVICES (MoCoARES)**. The roll was taken and the adoption vote was as follows: Dr. Cross-Yes; Mr. Stubbs-Yes; Mr. Potter-Yes. **RESOLUTION 2022-31 WAS ADOPTED.**

- Dr. Cross and Mr. Heistand then signed two copies of the License Agreement/Memorandum of Understanding with MoCoCARES and gave one copy to Mr. Rohrbach.
- **Mark Keener, 7865 Jamaica Road:** Mr. Keener discussed the upcoming first meeting of the Joint Economic Development District (JEDD) Board. He noted that Germantown City Manager Judy Gilleland has recommended that the City's Deputy Finance Director Randy Stiver be appointed as the fifth JEDD Board member. He stated that he will recommend to the other Board members that Mr. Stiver not be appointed, since as a City employee he would have a conflict of interest. He will recommend that someone from Farmersville or Jackson Township be appointed as the fifth member. He stated that Jackson Township Trustee Mike Moyer has agreed to become the fifth member should he be appointed.
 - Dr. Cross noted that the fifth member will serve as JEDD Board President. He stated that the selection of the fifth member is a decision to be made by the Board, not others.
 - Mr. Stubbs stated that having a Germantown employee serve as the fifth member would be a conflict of interest. He supported appointing a Jackson Township resident.
 - Mr. Heistand announced that earlier that same evening the Valley View Board of Education appointed its two members to the JEDD Board. School Superintendent Joe Scholler will represent the property owner and Primary/Intermediate Principal Lindsay Schmidt will represent the JEDD District employees. He questioned the appointment of Ms. Schmidt since she currently works in a Valley View building located in Germantown.
 - Mr. Keener responded that he believed that JEDD Attorney Brenda Wehmer approved the appointment of Ms. Schmidt. He then stated that Farmersville Mayor Nick Lamb told him that he thought the fifth appointment should be a recent Valley View graduate.
- **Kurt Jacoby, 12955 Harris Road:** Mr. Jacoby presented a written report concerning storage and backup of electronic data at the Township. He noted that there is not a standard procedure for storage and backup. His report contained several recommendations for the Trustees to consider.
 - Mr. Stubbs stated that the Zoning Inspector laptop was purchased a couple of years ago. He noted that it needed to be replaced since when the prior Zoning Inspector left the Township it was returned in such poor repair that it cannot be used any longer.
 - Chief Andzik discussed the backup procedures used by the Police Department.
 - Mr. Heistand discussed backup procedures for the Fiscal Officer's electronic data.
 - Mr. Stubbs discussed the Township's standardized email and how they are backed up.

FISCAL OFFICER'S REPORT:

- Mr. Heistand submitted minutes for the 7/11/22 Regular Meeting. Dr. Cross made a MOTION, seconded by Mr. Potter, to approve the minutes as presented. The MOTION WAS APPROVED by a unanimous voice vote.
- Mr. Heistand presented the July Financial Reports: (1) 7/31/22 Fund Status; (2) YTD July 2022 Cash Summary by Fund; (3) Month of July 2022 Cash Summary by Fund; (4) July 2022 Receipt Listing; and (5) July 2022 Payment Listing. He noted the following items:
 - Receipt #96-2022 for \$152,179.90 from the State of Ohio was the second and last annual payment from the American Rescue Plan Act.
 - He transferred \$200,000 to the STAROhio account on 7/22/22 from First National Bank of Germantown. In July STAROhio paid interest at 1.63%; FNB Germantown paid at .05%.
- Dr. Cross made a MOTION, seconded by Mr. Stubbs, to approve the July financial reports and authorize the payment of July bills (warrants 50595 through 50600 and vouchers 558 through 660 for payroll direct deposit, payroll tax withholdings and other electronic payments). The MOTION WAS APPROVED by a unanimous voice vote.

- Mr. Heistand reported that the Auditor of State ended the on-site audit of the Township's books for 2020 and 2021 on 7/11/22. On behalf of the Township, he executed an Audit Engagement Letter on 7/25/22. He had not yet received the auditor's draft report. Once the report is finalized, it will be posted on the Auditor's website and a link will be added on the Township's website.
- He reported that on 7/20/22 an attorney from the Green & Green Law Firm in Dayton was on site to review documents related to the pipeline construction near the Valley View High School in 1990. This review was in connection to a Public Records Request received in June related to the Board of Zoning Appeal's 3/8/22 hearing concerning the new school building.
- He reported that he sent a response to Montgomery County Auditor Karl Keith waiving a hearing before the County Budget Commission concerning the Township's 2022-2023 tax budget and/or inside millage at its 8/25/22 meeting. This waiver is sent annually by the Township.
- He discussed the recent first distribution of funds from the OneOhio Opioid Proposed Settlement. He stated that because of bad advice he received from the Ohio Township Association (OTA) in August 2021, he did not submit the Participation Form to join the Settlement. As such, the Township did not receive the first distribution, which he estimated would have been approximately \$600. He noted that the Township can still opt-in and participate in future distributions of the same amount over the next 17 years.
 - Mr. Stubbs asked if the funds could be used to support our K-9 program. Mr. Heistand stated that he would need to look into that possibility. Mr. Stubbs indicated that he wanted the Township to opt-in to join the Settlement. Mr. Potter agreed.
 - Mr. Heistand agreed to submit the Participation Form and prepare any additional Resolutions that might be needed to be approved at the September Trustee meeting.
- He congratulated Chief Andzik on the interview he gave to the Dayton Daily News for a front-page article on 7/25/22 about the closure of the DNA lab at the Miami Valley Regional Crime Lab and the effect on small police departments. He stated that it was a great interview. He noted that a color picture of Officer Marsden was also included with the article.
- He congratulated Mr. Holbrook on his 7/31/22 retirement and welcomed him back to the Township as a rehired retiree effective 8/1/22.

POLICE DEPARTMENT REPORT:

- Chief Andzik reported that the Township's National Night Out will be on 10/4/22 from 6-8pm. The event will include a K-9 demonstration.
- He addressed the situation since the Miami Valley Regional Crime Lab stopped doing DNA testing, noting that the Ohio Bureau of Criminal Investigations (BCI) facility in London, Ohio is now the closest lab. However, that lab only tests certain types of DNA. He is working with BCI regarding submission of evidence and becoming part of their system.
- He reported that his department conducted a Saturation Patrol on 7/16-7/17/22. All road officers worked from 10pm-3am. Eight citations were issued, one for OVI.

ROAD/SERVICE DEPARTMENT REPORT:

- Mr. Holbrook reported that the Road Department continues to patch potholes and level areas that will be receiving chip seal this year. To date, they have placed 178 tons of asphalt, with 100 tons used since the July Trustee meeting. They should complete the project within a week.
- He reported that there has been a tremendous increase in the per ton cost of rock salt used for snow and ice control. He noted that he has 90 tons of salt on hand and typically uses 250 tons

each year. As part of the Southwest Ohio Purchasers for Government, the Township purchases salt through the consortium on a two-year contract. Recent years' per ton prices were as follows:

- 2020-2021 = \$45.46
 - 2021-2022 = \$55.46
 - 2022-2023 = \$80.46
 - 2023-2024 = \$91.05
- He noted that the Road Department completed the fourth round of right-of-way mowing.
 - He discussed the possibility of repaving the Township Hall parking lot. He asked three companies for quotes. He received a quote from Jamison Construction Solutions, Inc in Cleves, Ohio for \$51,800, including striping. He expected to receive an additional quote from Houser Paving. He has not had a response from ABC Paving. He asked the Trustees for their thoughts on this project.
 - The Trustees expressed support for moving this project forward. Both Mr. Potter and Dr. Cross felt that American Rescue Plan Act funds could be used for the repaving.
 - Mr. Holbrook stated that the Road Department continues to mow the rural cemeteries.
 - He reported that the Department received four after-hours call outs. Two were for deer in the roadway, one was for a damaged stop sign, and one was for a tree across the roadway.

ZONING DEPARTMENT REPORT:

- Reporting for the Zoning Department, Dr. Cross made a MOTION, seconded by Mr. Potter, to accept the resignation of Zoning Commission (ZC) alternate Eric Brent Walters. Mr. Walters has been unable to attend several meetings and told Dr. Cross that due to his schedule he was unable to serve. The MOTION WAS APPROVED by a unanimous voice vote. Dr. Cross stated that he will advertise the open position before the next Trustee meeting.
- Dr. Cross made a MOTION, seconded by Mr. Stubbs, to appoint William Heistand as an alternate member of the Board of Zoning Appeals. He stated that even though Mr. Heistand is the son of the Fiscal Officer, he didn't see this as a conflict of interest. Mr. Potter agreed. Mr. Stubbs stated that Mr. Heistand is dedicated to the Township and would do a fantastic job. The MOTION WAS APPROVED by a unanimous voice vote.
- He reported that the Zoning Department received a resident complaint about a property on Moyer Road that had long grass and trash on the property. He shared some photos he took when he visited the property on 8/3/22. He has attempted to contact the complainant, but has not received a response. He noted that Ohio Revised Code (O.R.C.) 505.87 (Abatement, control, or removal of vegetation, garbage, refuse and other debris) allows the Trustees to initiate the abatement process, but also points out the limitations of enforcement due to the abatement cost to the Township and the lack of a guarantee that the Township will ever recoup the cost. He indicated that he will send a letter to the Moyer Road property owner.
- On 7/20/22 he attended a webinar sponsored by the OTA titled "Zoning Code vs. O.R.C." Subsequently, he shared the recording with the ZC members. The presenter stated that townships may not prohibit *permanently* sited manufactured homes. Dr. Cross stated that this was confusing, since, by definition, in the United States manufactured homes are the same as mobile homes. The Township's Zoning Resolution does not consider a mobile home as a dwelling and it can't be a principal structure. He believed that this was a matter that the ZC should address to clarify the rules in the Zoning Resolution.
 - **Visitor Comment: Lynn Cleveland, 11858 Oxford Road:** Mr. Cleveland stated that if the wheels and tongue are removed from a manufactured home, it is no longer considered a mobile home. Dr. Cross agreed, adding that it would need a permanent foundation.

- He noted that at its 8/2/22 meeting, the ZC discussed the status of updating the Zoning Resolution. He reviewed that the Trustees passed Resolution 2021-26 on 7/21/21 amending the Zoning Resolution as recommended by the ZC in Case #2021-54ZTC. The amendments related to three sections: Definitions, Well Field Protection, and Swimming Pools. He noted that the Zoning Inspector at that time never incorporated the approved updates into the official Zoning Resolution or had the changes recorded at the Montgomery County Recorder's Office as required by O.R.C. 519.12(H). Further, upon examining the document sent to the Montgomery County Planning Commission, multiple errors in the Definition section were noted. Three definitions were omitted and six definitions were added without ZC approval. As such, the Zoning Inspector submitted an erroneous document to the ZC, the County Planning Commission, and the Trustees.
- He noted that he discussed the situation with the Prosecutor's office. Nathaniel Peterson concluded that since Resolution 2021-26 was passed by the Trustees, the path forward is to incorporate those changes in the official Zoning Resolution copy and send them to the Recorder. The ZC can then go through the entire amendment process again to correct the errors.
 - He thanked Chief Andzik, Dani Jacoby and Deb Cross for help in determining the changes that need to be made to the Zoning Resolution. He stated that he and his wife read through both versions word for word to find errors, noting that this is a mess to correct.
 - **Visitor Comment: Kurt Jacoby:** Mr. Jacoby, ZC President, asked the Trustees to consider the possibility of not sending the current round of Zoning Resolution changes to the County Recorder. Dr. Cross stated that the approved changes should be submitted.

TRUSTEE POTTER' REPORT:

- Mr. Potter attended the recent Parks Board meeting. He noted that David Shortt applied for the concrete needed for the Miami Military Institute memorial; 10 yards was donated. The recently cleared hill will be seeded this fall.
- He reported that residents Don and Dan Flory would like to donate about one acre of their property that abuts the Browns Run-Judy Cemetery and reopen the cemetery for burials. Using 500-1000 graves as a possibility of what could be developed on the donated acre, and a \$1000 selling price, the Township could generate \$500,000-\$1,000,000 from selling the lots. He noted that the Township would need to pay the expense of designing the cemetery. He asked the other Trustees for authority to continue discussions with Messrs. Flory about the possible donation.
 - Mr. Holbrook stated that the Judy Cemetery has enough room for 100 additional burials. Mr. Potter replied that Germantown Union Cemetery Sexton Mark Steinecker believes that the records of existing burials are not accurate enough to use the Judy cemetery.
 - Mr. Holbrook noted that about 2/3 of the land owned by the Township is being farmed. He stated that the Township does not own right-of-way access to the Judy Cemetery. He felt a crew would need to be hired to handle burials should the cemetery be reopened.
 - **Visitor Comment: Bob Rohrbach:** Mr. Rohrbach, a former Township Fiscal Officer, noted that when the rural cemeteries were closed about 30 years ago, there was a legal process that had to be followed. He recommended that if the Trustees go forward with the Flory's offer, a new cemetery be opened rather than reopening the Judy Cemetery. He recalled that the Trustees hired Klaber Company in the late 1990's to clean and repair headstones at the Township's cemeteries. He suggested that the proposed land donation could be established as a private cemetery, similar to Holp Cemetery in Jackson Township.
 - Dr. Cross agreed that further discussion should occur, noting that more information is needed. Mr. Potter felt that there would not be a problem to obtain right-of-way access to the proposed cemetery from the Florys.

- Mr. Heistand stated that Perry Township performs burials for their rural cemeteries and suggested that they be contacted for more information. Mr. Holbrook stated that Butler County's Madison Township also does burials.
- Mr. Holbrook suggested that the land be set up as a private cemetery. Mr. Potter stated that he didn't think the Florys would be interested in having a private cemetery.
- **Visitor Comment: Mark Keener:** Mr. Keener asked whether the Township could restrict headstones to be flush with the ground to make mowing easier. Mr. Potter said it could.
- Mr. Stubbs stated that he did not want this to be a burden for the Road Department or the Fiscal Officer.
- **Visitor Comment: Bob Rohrbach:** Mr. Rohrbach reported that Germantown Union Cemetery averages 50-55 burials per year.

TRUSTEE STUBBS'S REPORT:

- Mr. Stubbs reported that Germantown Union Cemetery Sexton Mark Steinecker will retire May/June 2023. The Cemetery Trustees will post a job description in September. They hope that the new Sexton will have three months of overlap with Mr. Steinecker before he retires.
- He stated that Pool Oversight Committee meetings have been canceled for the past three months. He has a conflict and cannot attend the Committee's August meeting.
- He reported that he called Lonnie Pederson of TSC Communications for an update on the company's progress on installing fiber optic lines throughout the Township. Mr. Pederson told him that the company is working on County and Ohio Department of Transportation permits and hopes to have fiber lines at the Township Hall by late fall or early winter.
- He asked Chief Andzik if the Township now has access to all the technology that the former Zoning Inspector handled. The Chief responded that the Township does not yet have access to the GoDaddy.com main account due to the requirement for two-part verification. He sent everything that GoDaddy requested to resolve the issue, but hasn't heard anything for about a month. He will reach out again. He stated that the Township also cannot access the Trustee's Facebook page. Rather than trying to gain access, he set up a new page earlier that day.
 - Mr. Stubbs asked whether the former Zoning Inspector could simply provide the GoDaddy code for two-part verification. Chief Andzik said that could happen assuming that she still has the same cell number. Mr. Stubbs asked for help from the in-person visitors.

TRUSTEE CROSS' REPORT:

- Dr. Cross reported that he watched the 8/1/22 Germantown City Council meeting online. He noted the following:
 - Susan Miller discussed the upcoming Pretzel Festival on 9/24-9/25/22.
 - The new basketball court has been finished in Veteran's Memorial Park, although the hoops are not yet installed and some landscaping needed to be completed.
 - The new water tower is close to being filled.
 - Council Member Michael Kuhn discussed the potential creation of a Designated Outdoor Refreshment Area (DORA) in Germantown. Mr. Heistand noted that he had attended several meetings where the DORA was discussed and noted the possible boundaries.
 - There are plans for a Taco Bell to open in the Triangle Station area.
- He reported that the Trustees have been contacted by Phillip Leppla concerning possible electricity aggregation in the Township. Mr. Leppla represents Sustainable Ohio Public Energy Council (SOPEC) that services electric aggregation programs in 20 communities, including Dayton. All electricity supplied through the Council is from sustainable sources. He thought that the issue would probably need to go on the ballot. He will ask Mr. Leppla to attend a Trustee meeting.

- Mr. Heistand noted that there are two options by which electric aggregation can occur. If approved by the electorate, anyone not wishing to participate with the aggregation would have to opt-out. If approved by the Trustees without a ballot vote, anyone wanting to participate would have to opt-in.
- **Visitor Comment: Bob Rohrbach:** Mr. Rohrbach asked if a Township aggregation decision would include the City of Germantown. Dr. Cross didn't think the City would be included.

OLD BUSINESS:

- None.

NEW BUSINESS:

- None.

EXECUTIVE SESSION:

- Dr. Cross made the following MOTION, seconded by Mr. Stubbs: **I move to go into Executive Session pursuant to O.R.C. 121.22(G) to consider the employment of a public employee.** The roll was taken and the vote was as follows: Dr. Cross-Yes; Mr. Stubbs-Yes; Mr. Potter-Yes. The motion was approved. The Trustees entered into Executive Session at 8:37 pm.
- Present in the Executive Session were: Trustees Mark Cross, Jacob Stubbs, and Lou Potter; Fiscal Officer Mark Heistand; and Police Chief Joe Andzik.
- The Trustees held discussion under the authority of O.R.C. 121.22(G).
- Dr. Cross made a MOTION, seconded by Mr. Stubbs, to reconvene into Regular Session. The MOTION WAS APPROVED by a unanimous voice vote. The Trustees reconvened into Regular Session at 8:53 pm.

OTHER BUSINESS:

- Responding to a request to speak to the Trustees that was received earlier in the meeting from an on-line attendee, Dr. Cross asked if the attendee wished to make a comment. There was no response. Mr. Heistand noted that only one of the two attendees was still on-line.

MEETING ADJOURNED:

- With no further business, Mr. Stubbs made a MOTION, seconded by Mr. Potter, to adjourn. The MOTION WAS APPROVED by a unanimous voice vote. The Meeting adjourned at 8:55 pm.

Signed: Mark Cross
Mark Cross, President, Board of Trustees

Attest: These minutes were approved by the Board of Trustees at the September 12, 2022 meeting.

Signed: Mark A. Heistand
Mark A. Heistand, Fiscal Officer