**Regular Beavercreek Trustee's Meeting**

**Tuesday, November 13, 2012**

Ms. Graff called the Regular Trustee Meeting to order at 2:03 P.M. Those present were Trustees: Carol Graff and Dan Paxson. Trustee Bob Glaser was absent. Fiscal Officer, Christy Ahrens and Legal Advisor Robert Surdyk were also present. Staff present: Township Administrator Alex Zaharieff, Assistant to the Fiscal Officer James Barone, Road Superintendent Tim Parks, Fire Chief David VandenBos, Deputy Fire Chief Scott Dorsten, and IT Manager Jeff Terry.

**2012-379** Mr. Paxson made a motion to approve the Agenda for November 13, 2012 with the following additions: add Budget Meeting under New Business and Objection to the Annexation Resolution under Legal Advisor. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff, yes.

**2012-380** Mr. Paxson made a motion to approve the November 15, 2012 Payroll in the amount of $269,989.43. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff, yes.

**2012-381** Mr. Paxson made a motion to approve the Bills in the amount of $44,387.73. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff, yes.

**2012-382** Mr. Paxson made a motion to approve the Regular Meeting Minutes of October 15, 2012. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**2012-383** Mr. Paxson made a motion to approve the Special Meeting Minutes of October 18, 2012. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**2012-384** Mr. Paxson made a motion to approve the Special Meeting Minutes of October 22, 2012. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**2012-385** Mr. Paxson made a motion to approve the Regular Meeting Minutes of October 29, 2012. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**2012-386** Mr. Paxson made a motion to approve the Special Meeting Minutes of November 7, 2012. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**RESIDENTS/GUESTS DESIRING TO SPEAK**:
Dr. James Amon of the Beaver Creek Wetlands spoke to the Trustees regarding two concerns. First, he has a concern with the Spring Ridge drainage pond discharging water onto the Wetlands property. Second, Mr. Amon expressed concern regarding the City of Beavercreek's quest for annexation of property. Protection of all flood plain is one of the Wetlands main goals and experience with the City has shown that the City does not protect flood plains like the Township and County. He is very concerned about this.
General discussion occurred regarding annexation and Spring Ridge. Road Superintendent Tim Parks stated that he is looking into the Spring Ridge matter; however, the drainage is in compliance with the Zoning specifications for that subdivision.

Lee Schatzley, 1442 Devoe Drive, Beavercreek, Ohio spoke to the Trustees regarding the second reading of the annexation ordinance at the Beavercreek City Council meeting. He also gave kudos to Dr. Amon and the Beaver Creek Wetlands. He stated that the Trustees presented a united front and explained how

this annexation will affect all Township residents. He was very grateful that the Mayor allowed him to speak.

**OLD BUSINESS:** None.

**NEW BUSINESS:**
Budget Meeting:
The Beavercreek Township Board of Trustees will conduct a Special Meeting at the Beavercreek Township Fire Administration Building, 851 Orchard Lane Beavercreek, Ohio 45434 on Tuesday December 11, 2012 at 1:30 PM.
The Purpose of this Special Meeting is to meet in Open Session to continue discussions on the 2013 budget/appropriations.

**ADMINISTRATOR:**
Non Union Employee Compensation:
Township Administrator Alex Zaharieff recommended to the Trustees a one and one half percent (1.5%) increase in wages for 2013, keeping in line with the approved Fire Union contract. Mr. Paxson stated he had asked Legal Advisor Bob Surdyk for answers to a few questions, but that he had not received answers. General discussion occurred.

**2012-387** Mr. Paxson made a motion to approve the Pay Rate for all Township employees, not covered by a Labor Management Agreement, to receive a one and one half (1.5) percent increase in wages and to adjust the employee healthcare and dental contribution from ten (10) to twelve (12) percent for 2013. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

2013 Group Health Benefits:
Mr. Zaharieff stated that he had not received any updated information from Brower regarding the Township Health benefits. Mr. Paxson asked if his email asking for information regarding a dual plan was also being investigated. Mr. Zaharieff stated, yes. General discussion occurred regarding a dual plan. Mr. Zaharieff stated that as soon as he received the information from Brower that he would send it out.

**ROAD:**
Resolution to move money in the Cemetery (Fund):
**2012-388** Mr. Paxson made a motion to re-appropriate from Account 2041-930-930-0000 Contingencies Cemetery, to Account 2041-410-190-0000 Salaries Cemetery, in the amount of $2,500.00. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.
General discussion occurred regarding a columbarium and changing the fee structure for the cemetery to keep in line with surrounding entities cemetery fees.

Recommendation to Station 63 Roof Replacement:
General discussion occurred regarding the applications to complete the work for the Station 63 roof replacement.

**2012-389** Mr. Paxson made a motion to accept the base bid from G.L. Dart Contracting, for the Station 63 roof replacement, in the amount of $52,070.00; and to have the Township Administrator sign the necessary paper work. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

Informational Item on Alpha Road:
Discussion occurred regarding the Township re-paving of Alpha Road, south of Rt. 35 and that with the City paying it's half and the Township receiving a grant from the county, the Township ended up only paying $337.00 out of pocket for the re-paving. Mr. Parks stated that the car dealers are very happy with the re-paving.

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**FIRE:**
EMS Billing Refunds:
Fire Chief VandenBos stated that the billing refunds that were discussed at a previous meeting were in today's bill cycle. There might be a few more that trickle in; but a majority of the refunds are now complete.

EMS Budget:
Chief VandenBos stated that there is an EMS Budget in the Trustees packet for review and that Deputy Scott Dorsten was present to answer any questions or the discussion could wait until the Budget meeting. This topic will be discussed at the Budget meeting. Mr. Paxson asked Chief Dorsten for a graph showing the EMS run volume versus budget spending of supplies for 2008-2011. He'd like to see if the increase in budget spending is correlating with an increase in run volume and compare the percentages. Chief Dorsten explained that in 2011 there was a drop in EMS supplies due to using the supplies already in stock. In 2012, he states that the Department is in the range of spending what they have spent in the past, and that the Boundtree bills are not higher this year than last year. The Fire Department now purchases supplies on a monthly basis instead of a quarterly basis, and only purchases what is needed. Chief Dorsten stated that due to his error of $38,000 in the budget presented to the Trustees, that there is confusion on this topic. He also stated that tracking what supplies are actually being used has never been done in the past and will take time to collect the information to give a full picture of the use of EMS supplies. General discussion occurred.

Purchase Request – Boundtree Medical:
**2012-390** Mr. Paxson made a motion to approve the purchase request to Boundtree Medical for the purchase of EMS supplies, in the amount of $5455.20; and to authorize the Township Administrator to sign for the Board. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff.

Optical Sensors for Station 62 and 64:
**2012-391** Mr. Paxson made a motion to approve the purchase request to Dayton Door Sales for safety sensors for bay door at Station 62 and Station 64, in the amount of $5395.00; and authorize the Township Administrator to sign for the Board. Ms. Graff seconded. General discussion occurred. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**LEGAL ADVISOR:**
Legal Advisor Bob Surdyk read the Objection to the Annexation Resolution into the record,

WHEREAS, the Beavercreek Township Board of Trustees is the chief legislative body of Beavercreek Township;

WHEREAS, a petition has been filed with the Greene County Board of Commissioners to annex approximately 118.403 acres, more or less, in Beavercreek Township, Greene County, into the City of Beavercreek;

WHEREAS, said petition was filed pursuant to R.C. 709.023, which provides an opportunity for the Township to adopt a resolution consenting or objecting to the proposed annexation by filing a resolution with the Board of County Commissioners; and

WHEREAS, R.C. 709.023(F) mandates that the Board of County Commissioners denies an annexation petition filed under R.C. 709.023 if all conditions have not been met.

**NOW, THEREFORE, BE IT RESOLVED**, that the Beavercreek Township Board of Trustees objects to the subject proposed annexation on the following grounds:

1. R.C. 709.023 requires that the annexation can be granted only if the Board of County Commissioners finds that each of the seven conditions specified in division (E) of R.C. 709.023 has been met. All seven conditions have not been met. Therefore, this requirement precludes this Board of County Commissioners from granting the annexation for the following reasons:

   A. The condition for approval set forth in R.C. 709.023 (E)(6), which requires that the City "has agreed to provide to the territory proposed for annexation the services specified in the relevant ordinance or resolution adopted under division (C) of this section," has not been met.

   B. The condition for approval set forth in R.C. 709.023 (E)(7), which requires that, "if a street or highway will be divided or segmented by the boundary line between the township and the municipal corporation as to create a road maintenance problem, the municipal corporation to which annexation is proposed has agreed as a condition of the annexation to assume the maintenance of that street or highway or to otherwise correct the problem has not been met."

   C. The condition for approval set forth in R.C. 709.023 (E)(1) which requires that the petition meet all of the requirements set forth in Section 709.021 of the Revised Code have not been met since the map and legal description attached to the petition are not "accurate" as required by Section 709.02 (C)(2). Both contain errors as to the legal description of the land to be annexed.

2. The petition filed is misleading and inaccurate and does not serve to inform the public as to what property is being annexed. The petition states that the petitioners who owns a mere 5.010 acres within the 118.403 acres sought to be annexed, is the owner of 100% of the property to be annexed to the City of Beavercreek, Ohio. It further states that "[T]he number of owners in the territory sought to be annexed is two (2) and the number of owners who signed the petition is two (2)." In fact, as set forth in the map attached to the petition, the petitioner seeks to annex into the City twelve (12) separate tracts of land. Nine of those tracts are owned by the Board of Trustees of Beavercreek Township, one is owned by the Board of Commissioners of Greene, County, Ohio, and one is owned by the Beavercreek Township Park District.

   Section 709.02 (E), which defines "owner," provides as follow:

   (E) As used in sections 709.02 to 709.21, 709.38 and 709.39 of the Revised Code, **"owner"** or "owners" **means** any adult individual who is legally competent, **the state or any political subdivision** as defined in section 5713.081 of the Revised Code, and any firm, trustee, or private corporation, any of which is seized of a freehold estate in land; except that easements and any railroad, utility, street, and highway rights-of-way held in fee, by easement, or by dedication and acceptance are not included within those meanings; and no person, firm, trustee, or private corporation, the state, or any political subdivision, that has become an owner of real estate by a conveyance, the primary purpose of which is to affect the number required to sign a petition for annexation, is included within those meanings. For purposes of sections 709.02 to 709.21 and 709.39 of the Revised Code, the state or any political subdivision shall not be considered an owner and shall not be included in determining the number of owners needed to sign the petition unless an authorized agent of the state or the political

subdivision signs the petition. The authorized agent for the state shall be the director of administrative services.

R.C. 709.02(E) clearly identifies political subdivisions as "owners," and the term "political subdivision" includes, pursuant to R.C. 5713.081, "townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership." Beyond that, R.C. 709.02 provides that political subdivisions are to be counted for purposes of determining the number of owners needed to sign a petition only if they do, in fact, sign. That portion of R.C. 709.02 is applicable only to the issue of the number of signatures required to initiate the annexation process under Section 709.023. If the political subdivisions choose to sign, they will be counted in the number of owners' signatures required. If they choose not to sign, they will not be counted as owners for purposes of meeting the signature requirement. That does not mean they are not owners of property within the territory—as this petition states. Accordingly, the petition is misleading and inaccurate. The use of the term "owner" in the petition before the Commissioners is not to delineate the number of property owners whose signature may be required to meet the signature requirement, but rather to represent the number of property owners whose land is involved in the proposed annexation. A citizen reading the petition would be lead to believe that only property owned by Richard and Marilyn Favorite is to be annexed into the City of Beavercreek. That, of course, is far from correct. Such a misleading and inaccurate representation justifies the invalidation of the pending petition.

3. Although Greene County, Beavercreek Township, and the Beavercreek Township Park District are property owners within the territory proposed to be annexed, they were not given the opportunity to review the petition and determine whether they would sign the petition, and thereby be counted in the number of owners required to sign the petition.

4. As a property owner in the territory sought to be annexed, the Board of Commissioners of Greene County, Ohio, has a conflict of interest and cannot rule upon the requested annexation.

R.C. 709.023(F) provides that "if the board of county commissioners finds that one or more of the conditions specified in division (E) of this section have not been met, it shall enter upon its journal a resolution that states which of those conditions the board finds have not been met and that denies the petition."

As set forth above, since each of the statutory grounds has not been met, the petition must be denied as required by R.C. 709.023(F).

Further, the Township Board of Trustees hereby reserves the right to raise additional reasons why the petition should not be approved and to address the objections herein raised, based upon conditions and circumstances at the time of the meeting at which the Board of County Commissioners reviews the petition, pursuant to R.C. 709.023(E).

BE IT FURTHER RESOLVED, that

The Beavercreek Township Board of Trustees urges this Board of County Commissioners to issue a resolution denying the pending petition for the annexation of 118.403 acres, more or less, in Beavercreek Township to the City of Beavercreek.

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The Board of Trustees hereby authorizes the filing of this Resolution with the Greene County Board of Commissioners within the timeframe provided by statute, and further authorizes any Trustee or the Board's designated representative to speak on behalf of the Board of Trustees at the review regarding said annexation petition.

**2012-392** Mr. Paxson made a motion to approve **Resolution 2012-392**, a Resolution Objecting to Petition to Annex 118.403 acres, more or less, in Beavercreek Township to the City of Beavercreek, as read above. Ms. Graff seconded. General discussion occurred. Roll Call: Mr. Paxson, yes; and Ms. Graff.

**TRUSTEES:**
Ms. Graff stated she was pleased that all three Trustees presented a unified front when speaking before the Beavercreek City Council Monday night regarding the annexation of Township property.
Mr. Bob Darden, Beavercreek Township Park District Chair, stated that he feels this annexation petition has destroyed all collaborative efforts that the three entities have been working on and have worked on in the past. There is no longer any trust between the entities. General discussion occurred.

**FISCAL OFFICER:**
Fiscal Officer Christy Ahrens stated that she had requested Assistant to the Fiscal Officer, James Barone, to research other revenue generating investment account options available to the Township. As the Trustees are aware, we only have 5 depository agreements on file which limits our choices on where to invest Township funds. That being said, Star Ohio which is run by the State is a viable option for us to invest Township Funds.
Currently, Star Ohio Plus is paying a yield of 0.25% and has a minimum initial deposit of $500,000.00 and a maximum deposit of $15,000,000.00.
Therefore, it would make sense to open up a Star Ohio Plus account and move some revenue from each of the other investment accounts to fund the Star Ohio Plus account. It accomplishes making a little more revenue on our investments and also keeps our funds diversified. I have information packets for you to review at your convenience. Please let Jim or I know if you have any questions.
General discussion occurred.

Ms. Ahrens asked for an update as to the Handbook. At the last regular Trustee meeting a big deal was made out of the fact that Ms. Ahrens had not gotten the pages to HR for changes. Two weeks later, the topic is not on the Agenda and no mention is made of the document. Township Administrator Alex Zaharieff stated that Legal Advisor Bob Surdyk was making changes and final touches were being put on the document. He stated that Elected Officials will receive the document by the end of this week.

**2012-393** Mr. Paxson made a motion to Adjourn at 3:29 P.M. Ms. Graff seconded. Roll Call: Mr. Paxson, yes; and Ms. Graff, yes.

Trustee: _____

Fiscal Officer: _____