

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
MARCH 6, 2023**

The regular meeting of the Board of Supervisors was called to order at 7:00 PM in the Township Building by Chairman Boorse with the pledge of allegiance. A quorum of Supervisors was declared.

Scott Boorse	-	Chairman
Michael Shiring	-	Vice-Chairman
J. Daniel Hill	-	Supervisor

Also present were Township Solicitor Kristin Camp and Township Engineer, Dave Schlott, Jr.

Vice-Chairman Shiring moved to approve the February 6, 2023 minutes as written. Supervisor Hill seconded the motion and the minutes were unanimously approved.

Supervisor Hill moved to approve the bills submitted for payment since the February 6<sup>th</sup> meeting. General Fund bills totaled \$60,906.58. State Fund Check #199 to East Bradford Township for \$728.70 for maintenance of East Regimental Drive was approved for payment. Vice-Chairman Shiring seconded the motion and the bills were unanimously approved.

**ANNOUNCEMENTS**

Chairman Boorse gave the following announcements:

1. The agenda included an item for the approval of mowing bids at Sandy Hollow and Birmingham Hill. This item will be deferred until the April meeting as the Township is waiting on a third bid as required by the State established requirements for bidding.
2. The Board of Supervisors is actively reviewing Chapter 122, Article VIII-A, Historic Preservation of the Township Code. The Board is taking into consideration the comments from the Township Historical Commission; the Township Planning Commission and the Chester County Planning Commission. The Township Solicitor will be taking the comments from the Supervisors and incorporating them into a red-lined draft which will be available on the web site at least 14 days prior to consideration by the Board. The Board will not be reviewing the comments from each of the recommendation letters again. It is hopeful that this review will be ready for the April 3<sup>rd</sup> meeting.

Doug Marshall, 1001 Meetinghouse Road, confirmed that the red-lined version will be posted on the web site for comparison to the existing Code.

3. The Township is a member of the Christina Watersheds Municipal Partnership which will be hosting a World Water Day event on March 22<sup>nd</sup> from 4:30 – 7:30 PM at the Stroud Water Research Center. Community members can engage in many activities, including the discovery of live “stream bugs” at the Mobile Lab, watching ecology videos under the pavilion, listening to a bilingual (Spanish and English) reading of the Creek Critters children’s picture book in the streamside forest, and an electrofishing demonstration to

learn about how real scientists sample eels, trout, and other underwater neighbors in White Clay Creek. A food truck with a diversity of options will also be available. You can visit the CWMP website to register for the event.

### **HARB REPORT**

HARB met on February 21<sup>st</sup> to consider an application from the Fieldpoint HOA, c/o Kenneth Zrebiec, HOA President, for a community replacement sign to be located at the corner of Farmstead Drive and Birmingham Road (UPI #65-4-42.54). The exact materials/colors proposed are:

- Aluminum post/posts, HDU panel, carved PVC
- Black metal straps to reinforce the chain connecting the sign to post
- White sign with black lettering

Mr. Zrebiec, 687 Highpoint Drive, was present. Supervisor Hill attended the HARB meeting and said that HARB had an issue with the strength of the iron strap that was proposed to hold the sign. The existing sign is supported with a post on each side. Mr. Zrebiec said that the HOA would be going with the recommendation of the sign company on the better support for the sign.

Vice-Chairman Shiring moved to approve the HARB recommendation for the Fieldpoint HOA sign with an amendment to the second material: Black metal straps to reinforce the chain connecting the sign to the post *or a second post*. Supervisor Hill seconded the motion which was unanimously approved.

### **ZONING HEARING BOARD APPLICATIONS**

The Zoning Hearing Board will be meeting on March 15<sup>th</sup> @ 7 PM to consider two applications.

#### **1110 INDEPENDENCE DRIVE/KENNEDY (OWNER) FISHER BROTHERS (APPLICANT) PROPERTY UPDATES AND PROTECTION FROM WATER EGRESS**

Joshua Kreger of Fisher Brothers was present. The applicant is seeking relief with variances from Section 122-24.C (lot coverage); 122-24.D (front yard setback); and 122-24.I (greenspace) of the Township Code in order to make alterations/improvements to the existing deck, patio and walkway. The scope of the work is protecting the property from water egress by directing water away from the house. There will be an expansion to the rear patio and a slight expansion to the front stoop. The lot is an existing non-conforming lot with 12.7% lot coverage. The ordinance requirement is 10%. The proposed work will increase the non-conformity to 12.9% which is diminimus.

Vice-Chairman Shiring moved to take a non-position on the application and to defer to the expertise of the Zoning Hearing Board to render a decision after hearing all the testimony. Chairman Boorse seconded the motion which was unanimously approved.

#### **1005 GENERAL STEVENS DRIVE/STOUTLAND/POOL RENOVATION AND GARAGE ADDITION**

David Falcone, Esq. with Saul, Ewing, was present on behalf of the Stoutlands. The Stoutlands are proposing to renovate the existing pool area and construct a two story garage/study addition. Variances are being requested from Section 122.24.C (lot coverage) and Section 122.24.I

(greenspace) to allow an impervious coverage of 18.5%, where 10% is permitted. The proposed renovations will not change the existing percentage of impervious cover which will remain at 18.5%.

Chairman Boorse moved to take a non-position on the application and to defer to the expertise of the Zoning Hearing Board to render a decision after hearing all the testimony. Supervisor Hill seconded the motion which was unanimously approved.

**KATHY HOLDEN REQUEST FOR REROUTING THE FLOW FROM THE RADLEY RUN WASTEWATER TREATMENT PLAN TO AQUA**

Kathy Holden, 804 General Sterling Drive, requested to be on the agenda to discuss with the Board the possibility and procedure to reroute the flow from the privately owned Radley Run Sewer Association's Wastewater Treatment Plant to the Aqua Pennsylvania's Wastewater Collection System on General Howe Drive through East Bradford Township. Mrs. Holden's property is serviced by the Radley Run Sewer System and she was a member of the Radley Run Sewer Association for many years.

Mrs. Holden stated that the homeowners connected to the Radley Run Sewer had no vote on adding the new Radley Run Country Club building to the existing system which was built in the 1980's and was designed for the existing Radley Run Country Club and 22 private homes. No additional members or tie-ins to the Radley Run Sewer were supposed to be approved without a vote from all the existing members. There was also no tie-in fee paid for the new Radley Run Country Club building. The total capacity under the NPDES permit for the Radley Run Sewer is 17,000 gallons, which has been reached. The new Radley Run Country Club Building will add 2,000 gallons according to an Aqua study. The Radley Run Sewer Association has never seen flow calculations for the new Radley Run Country Club building. The homeowners that are tied to the Radley Run Sewer are worried about peak flows to the system. They want to disconnect from the Radley Run Sewer system and re-route to Aqua's territory.

Dave Schlott replied that average, not peak, flows are evaluated for the project. The design for the Radley Run Sewer System is for 17,000 gallons. The sewer modules are a planning tool and not designed for capacity of the sewer system. Depending on the design engineer's report, the changes to the system for the new Radley Run Country Club may actually improve the flows to the system. Most sewer plants are designed for a 25-year storm. No sewer plants are designed for a 100-year storm like the recent Hurricane Ida.

Solicitor Camp reminded Mrs. Holden that DEP, not the Township, is the permitting authority for the Radley Run Sewer System. The Township can't approve Aqua expanding its territory, which would be approved through the PUC.

Mrs. Holden said that in DEP's February 6, 2023 review letter of the Radley Run Country Club sewer facilities planning module it states that DEP recommends that the operation and maintenance oversight for private community systems be formally memorialized by the Township in a sewage management program or an operation and maintenance agreement. She asked for an explanation of that comment.

Dave Schlott responded that an operation and maintenance agreement with the Township would be an agreement with a private entity for assurance that the facility is run properly by a licensed operator and complies with its NPDES permit.

Vice-Chairman Shiring noted that the comment from DEP is a recommendation but that it can't be mandated by DEP.

Solicitor Camp added that the Township wouldn't be interested in entering into an operation and maintenance agreement for an existing facility.

Mrs. Holden said that a representative from Aqua suggested that the homeowners connected to the system come to a Township meeting to approve the expansion by Aqua. Also, she has talked to Mark Lucas with East Bradford Township who was hopeful that the sewer could be re-routed to the manhole at Birmingham Road and East Regimental Drive.

Andrew Holden, 804 General Sterling Drive, said that the Radley Run Sewer System is failing and asked what the homeowners are supposed to do? There has only been one meeting in 2007 of the Radley Run Sewer Association. KBX took over managing the system from Cawley and they said it is not safe and it has not met the permit requirements for the last two years.

Solicitor Camp said that these are private, not Township matters, between the homeowners and the Radley Run Sewer Authority. She added that Mrs. Holden is confusing the DEP approval of the sewage facilities planning module for the Radley Run Country Club new building with the re-routing of the existing sewer line to Aqua's Wastewater Collection System. Solicitor Camp stated that the President of the Radley Run Sewer Association had signed off on the sewage facilities planning modules for the new Radley Run Country Club building. The Township has no rights over or information on a private sewer authority. The only involvement by the Township for the re-routing of the system to Aqua would be to amend the Township's Act 537 Plan.

Mrs. Holden said that in DEP's 12/15/2022 letter to the Township that DEP requested that the Township investigate the Radley Run Country Club STP and its service area to determine whether a separate Act 537 planning effort is needed. Solicitor Camp responded that this is only a suggestion from DEP, not a mandate.

Mrs. Holden said that in the 11/16/2021 Township approval of the Radley Run Country Club new building that the approval was based on satisfying the conditions of prior correspondence. The Arro review letter only references the NPDES permit for stormwater management and nothing was referenced about the sewer.

Solicitor Camp responded that a condition of approval was that all permits must be in place before a certificate of occupancy can be issued.

Chairman Boorse stated that the applicant followed procedures. Sewer for the facility and infrastructure are reviewed by Arro. There would be no comments if there was nothing required by the Township Code.

Mr. Holden said that there was a rumor that the Radley Run Country Club would be receiving a temporary or conditional occupancy for the new building.

Chairman Boorse replied that he was unaware of this rumor and that a certificate of occupancy wouldn't be issued until all the conditions had been met.

It was noted that the applicant (on behalf of the township) had submitted the sewage facilities planning module to DEP in December 2022 for the new Radley Run building which is reviewed by the Township Engineer.

#### **ADMINISTRATIVE ASSISTANT POSITION**

Sect./Treas. Nelling interviewed several candidates for the position of Administrative Assistant and recommended Diane Rementer of Garnet Valley. The Board met with Mrs. Rementer prior to tonight's meeting. Upon the recommendation of Mrs. Nelling, Vice-Chairman Shiring moved to hire Diane Rementer as Administrative Assistant at the rate of \$25.00/hr. Supervisor Hill seconded the motion which was unanimously approved.

#### **TREASURER'S REPORT FISCAL YEAR 2022**

Sect./Treas. Nelling reported for the fiscal year 2022. BBD, LLP has audited the books and no issues were found. The audit report will be forthcoming shortly.

General Fund Balance - \$1,422,713. which includes \$419,329. in ARPA funds. Mrs. Nelling said that the ARPA funds were designated for the on-going operation of the police department. Since the ARPA funds are in a low interest bearing checking account she suggested that they be transferred to the higher interest government plus account or invested in CD's. The Board suggested that they be put in the Trumark Gov Plus account so they would be available rather than tying up the funds in CD's.

Capital Reserve Fund - \$2,103,964.

State Fund - \$1,214,154,971. was received in liquid fuels which yields \$156,185. for road work this year.

Mrs. Nelling provided the Board with complete revenue and expenditure statements for 2022. She highlighted the total revenues and expenditures and the reasons for the differences.

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
2022 Revenues	\$3,155,220.	\$3,382,446.	\$227,226.
2022 Expenditures	\$2,273,000.	\$1,959,733.	\$313,267.
Real Estate Transfer Tax	\$200,000.	\$525,159.	\$325,159.
Permits	\$81,100.	\$186,984.	\$105,884.

Police Dept.	\$716,244.	\$816,004.	\$99,760.
Capital Construction	\$180,000.	\$4,900.	\$175,100.
Building Code Enforcement	\$116,500.	\$130,956.	\$14,456.
Road Maintenance General	\$260,000.	\$87,381.	\$172,618.

The Re-enactment Event had revenues and expenditures in 2022 and 2023. Total revenues were \$22,617.20. Expenditures were \$59,350.73. The cost to Township residents for the Event was \$36,743.53.

**PUBLIC COMMENT**

There was no public comment.

The meeting was adjourned at 8:04 PM. (SCB;MTS)

Respectfully,

Quina Nelling  
Secretary/Treasurer

**Check Register****BIRMINGHAM TOWNSHIP**

04-Apr-23

From: 07-Feb-23 To: 06-Mar-23

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
<b>Bank Account: 11 TRUMARK GENERAL FUND</b>					
21978	2/20/2023	372	BRANDYWINE CONSERVAN	\$5,123.75	O
21979	2/20/2023	1002008	BRANDYWINE RED CLAY AL	\$700.00	O
21980	2/20/2023	366	BUCKLEY,BRION,MCGUIRE	\$344.00	O
21981	2/20/2023	775	CONVENIENT CAR CARE C	\$219.70	O
21982	2/20/2023	21	H A THOMSON	\$382.00	O
21983	2/20/2023	422	HARRY TILLMAN AUTOMOTI	\$188.50	O
21984	2/20/2023	1002850	PORTER CONSTRUCTION	\$528.04	O
21985	2/20/2023	171	REILLY & SONS INC.	\$852.48	O
21986	2/20/2023	1002435	TREETOP PRODUCTS INC.	\$1,893.32	O
21987	3/6/2023	811	AGM LLC	\$388.00	O
21988	3/6/2023	1002659	ARRO CONSULTING, INC	\$12,945.74	O
21989	3/6/2023	1002659	ARRO CONSULTING, INC	\$16,866.84	O
21990	3/6/2023	1002849	BUSHRA KOURANI	\$662.26	O
21991	3/6/2023	1002121	CLEVENS K-9 SCOOP	\$133.00	O
21992	3/6/2023	775	CONVENIENT CAR CARE C	\$239.65	O
21993	3/6/2023	1002606	CRYSTAL SPRINGS	\$12.68	O
21994	3/6/2023	1002851	DANIEL & SHERRY TIERNEY	\$2,314.13	O
21995	3/6/2023	1002011	FRANCOTYP-POSTALIA INC	\$237.00	O
21996	3/6/2023	1001768	GRAFIX SHOPPE	\$499.67	O
21997	3/6/2023	1002053	MICHAEL J HOCHHAUS	\$250.00	O
21998	3/6/2023	205	PARKWAY DRY CLEANERS,	\$217.59	O
21999	3/6/2023	171	REILLY & SONS INC.	\$794.20	O
22000	3/6/2023	278	UNRUH, TURNER, BURKE &	\$2,786.00	O
<b>Bank Total:</b>				<b>\$48,578.55</b>	
<b>Bank Account: 22 GF - Electronic Payments</b>					
100086	2/20/2023	80	AQUA PENNSYLVANIA	\$2,679.67	O
100087	2/20/2023	29	PECO ENERGY	\$17.33	O
100088	2/20/2023	1002798	TRUMARK FINANCIAL CRED	\$270.62	O
100089	3/6/2023	80	AQUA PENNSYLVANIA	\$59.63	O
100090	3/6/2023	1001902	COMCAST BUSINESS	\$174.89	O
100091	3/6/2023	517	INDEPENDENCE BLUE CRO	\$7,812.56	O
100092	3/6/2023	29	PECO ENERGY	\$713.26	O
100093	3/6/2023	30	PECO ENERGY (TRAFFIC LI	\$74.29	O
100094	3/6/2023	61	VERIZON 753-804-167-0001-	\$365.47	O
100095	3/6/2023	1001913	VERIZON WIRELESS 722423	\$160.31	O
<b>Bank Total:</b>				<b>\$12,328.03</b>	
<b>Total Of Checks:</b>				<b>\$60,906.58</b>	