

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
DECEMBER 6, 2010**

The regular meeting of the Board of Supervisors was called to order at 7:32 PM in the Township Building by Chairman Conklin with the pledge of allegiance and a moment of silence. A quorum of Supervisors was declared. The following Township Officials were in attendance:

John Conklin	- Chairman, Board of Supervisors
William Kirkpatrick	- Vice-Chairman, Board of Supervisors
Al Bush	- Member, Board of Supervisors
Thomas Nelling	- Chief of Police
Debbie Hineman	- Planning Commission Member
Quina Nelling	- Secretary/Treasurer

Chairman Conklin moved to approve the November 15, 2010 minutes as written. Mr. Bush seconded the motion and it was carried. Mr. Kirkpatrick abstained from voting as he was not in attendance.

Mr. Bush moved to approve the bills submitted for payment. Mr. Kirkpatrick seconded the motion and the bills were unanimously approved. General Fund bills totaled \$40,832.30. Sewer Fund bills totaled \$16,952.78. State Fund Ck. #149 for \$9,041.00 to Page Excavating was approved for storm related work on Meetinghouse Road. State Fund Ck. #150 for \$1,995.00 to Page Excavating was approved for storm related damage on General Weedon Drive.

PUBLIC COMMENT

The Commonwealth of Pennsylvania Sunshine Law Act 93 (as amended in 1998) requires public comment to be held before official action is taken.

Susan Ayd, 1142 Meetinghouse Road, said she had received information and a map showing that the Township was looking into taking a forty foot right of way along Meetinghouse Road. Chairman Conklin informed her that the Recreation, Park and Open Space Committee (RPOS) reviews the use of properties in the Township for the future use of trails and parks. With the opening of the Birmingham Hill trail, RPOS looked into extending the trail down Meetinghouse Road and met with the neighbors on the road to discuss the possibility. At the November RPOS meeting a vote was taken not to pursue a trail along Meetinghouse Road. Earlier during the year a map was prepared which showed the rights-of-way along Meetinghouse Road. Two of the rights-of-way on the plan were listed as proposed and not dedicated. There has been no discussion of expanding existing rights-of-ways. The Township Solicitor is reviewing the existing rights-of-ways to determine what they are and if they were properly recorded. Mrs. Ayd confirmed with Chairman Conklin that there are no plans to change the width of the existing rights of ways.

Robert Aiken, 1225 Birmingham Road, stated that any efforts to widen Meetinghouse Road would be a huge mistake. The Township should take every effort to protect the road corridor and to make it difficult to expand the road or enable traffic to drive faster on it.

Debbie Hineman, 1200 Meetinghouse Road, confirmed with Chairman Conklin that the only reason the rights-of-ways on Meetinghouse Road were being reviewed by the Township is as was previously stated and for no other reason. She also confirmed with Chairman Conklin that the Township was not looking into a proposal for a trail down Meetinghouse Road at this time. She requested that the residents on Meetinghouse Road be notified by letter if any plans are considered in the future to extend a trail down Meetinghouse Road. Chairman Conklin said that the procedure to look into the possibility of a trail in the future would be for RPOS to consider it and to contact the neighbors along the road, as was done this time. Mr. Bush commented that he didn't know how such a request could be memorialized for future boards. Mrs. Hineman said that neighbors are notified of subdivision applications and hearings. She thought something similar could be done for a trail proposal. Mr. Bush noted that the subdivision and hearing notices are ordinance requirements. Chairman Conklin suggested to Mrs. Hineman that, as a Planning Commission Member, she could bring her proposal to the Planning Commission for its consideration.

ANNOUNCEMENTS

The Supervisors will be holding a mediation hearing on Monday, December 20th at 6:30 PM to consider the zoning application filed by the Leonhards, 700 Brinton's Bridge Road, who are appealing the zoning enforcement notice and denial of a building permit concerning the use of the property for a 5100 square foot pole barn for a commercial landscaping business. Chairman Conklin said that the parties have agreed to meet to mediate the issues raised in the zoning appeal and that both sides must agree on how the mediation process will be handled. If a decision is reached during the mediation process it will be voted on at a public meeting.

The December Planning Commission meeting has been cancelled.

GARDINER ZONING HEARING BOARD APPLICATION

The Zoning Hearing Board will conduct a public hearing on Monday, January 10, 2011 @ 7:30 PM to consider the application of Timothy S. and Kimberly A. Gardiner for a variance from the RA district lot coverage requirement and a variance from the non-conforming lot requirements in order to increase the existing non-conforming lot coverage from 18.28% to 18.98% so that they may add a swimming pool and a garage addition to their property at 1009 Lambourne Road.

Mr. Gardiner was present with legal counsel, John Good. The plan was reviewed with the Board. Mr. Gardiner indicated that his neighbors, Mark and Carey Gross, were aware of the application and are supportive. Mr. Kirkpatrick said that information should be provided to the Zoning Hearing Board.

Mr. Kirkpatrick moved to not take a position on the application but to defer to the judgment of the Zoning Hearing Board. Mr. Bush seconded the motion and it was unanimously carried.

BANNER REQUEST FOR BULL DURHAM RESTAURANT

Lisa Diskin was present to request a banner for thirty days in front of the Bull Durham Restaurant on Rt. 202 which would advertise that the restaurant is now open for lunch. The banner will be 12' x 3' and will be placed on Rt. 202 in front of the bushes on the hill. Chairman Conklin moved to approve the temporary banner for thirty days with the understanding that the Township will be notified of the first day that the banner will be erected. Mr. Kirkpatrick seconded the motion and it was unanimously carried.

Ms. Diskin asked about the possibility of a permanent monument sign. She was informed that all the allowable signs are on the shopping center property and that the venue to seek relief for an additional sign would be through the Zoning Hearing Board.

SEWER PLANNING MODULES FOR ARDEN FORGE

The sewer planning modules for the Arden Forge have been reviewed by the Township Planning Commission; the Chester County Planning Commission and the Chester County Health Department. According to the Township Sewer Engineer, Sandi Morgan, she has not received the final package for recommendation to the Board of Supervisors for approval of a resolution for forwarding to DEP. In the URS review letter dated September 13, 2010, there were just a few editorial comments that needed to be handled by the applicant. Joe Viscuso, Engineer with Stantec, representing the applicant, 301 Brinton LLC, said that he agreed that the housekeeping items for the modules would only require about a half hour of work. and he asked for approval of the modules contingent upon the Sewer Engineer's review letter being addressed.

Chairman Conklin said that in response to a comment in the November Planning Commission minutes, that for the record, the land development submission for the Arden Forge property has been the most disorganized, botched, unresponsive application that has been before this Board. He also asked about the status of unpaid fees to the Township on the application.

Gary Whelan and Anthony Diver, principals were present. Their understanding from Stantec is that the Township Sewer Engineer has been very unresponsive during the process. Mr. Diver complained that review letters are not being sent to him, only to Stantec. The Board said that Sandi Morgan has a stellar relationship with the Township and working on projects with Sandi has never been an issue. Mr. Whelan also complained about the excessive engineering cost for the project.

Mr. Kirkpatrick said that the Board is sympathetic to the final result of this project. There was no reason that the application for land development and the application for the sewer couldn't have been run simultaneously in order to expedite the review process.

Mrs. Nelling concurred with the difficulties in working with the applicant. She told the owners that she had never been contacted from the applicant wanting to be on any agendas. She had been putting the application on agendas and notifying the applicant that they needed to appear in order to try and get the plan moving along. Mrs. Nelling was extremely frustrated with the working relationship between the applicant and the Township.

Mr. Whelan discussed problems with the URS review letter on the grinder pump. It was suggested that a meeting be held with the Township; the Township Sewer Engineer; and the applicant to resolve any outstanding issues. Action on the sewer planning modules was deferred until the December 20th meeting. It was hoped the meeting could be held and a final sewer planning module package could be delivered to and reviewed by URS prior to the meeting.

Mr. Whelan was anxious to proceed with the construction on the site and the demolition work.. Mr. Jensen questioned the status of the escrow and the developer's agreement, which must be in place before the construction process can begin. Plans need to be submitted to the Township for demolition and construction for review by Mr. Jensen.

2011 BUDGET

The 2011 preliminary budget was advertised for public inspection in the Daily Local News on November 5, 2010. The budget proposes no real estate tax increase and no increase in the sewer rent. There have been no changes to the advertised budget. General Fund Revenues are budgeted at \$1,789,407. which includes a carry forward of \$575,960. General Fund expenditures are budgeted at \$1,265,897. Mr. Kirkpatrick moved to adopt the 2011 Final Budget. Mr. Bush seconded the motion and it was unanimously approved.

POLICE REPORT

Chief Nelling reported for the month of November 2010. There were 978 incidents including nine criminal arrests. Chairman Conklin asked about the status of the recent rash of burglaries. Chief Nelling said that arrests have been made and some property returned to the rightful owners. There were 9,219 patrol miles logged on the vehicles during the month. Chief Nelling said that the Police Department received three complimentary letters during the month.

Chairman Conklin confirmed that there were no water leaks in the police department offices since the recent repair by Page Excavating.

ORDINANCE HEARING

The Supervisors have received two ordinance proposals from the Planning Commission for consideration, temporary sign and alternative energy. The Supervisors sent the temporary sign ordinance back to the Planning Commission for a minor clarification. The temporary sign ordinance will be re-considered at the January Planning Commission meeting. The ordinance also needs to go back to the Chester County Planning Commission for review. Chairman Conklin moved to authorize advertising for a hearing

for February 7, 2011 @ 7 PM to consider the two ordinance proposals. Mr. Bush seconded the motion and it was carried.

OTHER BUSINESS

John Abramson, Brinton's Bridge Road resident, reported on a family of beavers living along the Brandywine. He said that the Township should do whatever it can to preserve this wildlife phenomenon and keep people out of the area.

The meeting was adjourned at 8:26 PM. (JLC)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer