

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
JUNE 20, 2011**

The regular meeting of the Board of Supervisors was called to order at 7:30 PM in the Township Building by Chairman Conklin with the pledge of allegiance and a moment of silence. A quorum of Supervisors was declared.

John Conklin	-	Chairman, Board of Supervisors
William Kirkpatrick	-	Vice-Chairman, Board of Supervisors
Al Bush	-	Member, Board of Supervisors

Chairman Conklin moved to approve the June 6, 2011 minutes as written. Mr. Kirkpatrick seconded the motion and the minutes were unanimously approved.

Mr. Kirkpatrick moved to approve the bills submitted for payment. General Fund bills totaled \$47,256.58. Sewer Fund bills totaled \$14,190.50. Mr. Bush seconded the motion and the bills were unanimously approved.

**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.

Doug Marshall, Meetinghouse Road, expressed concern about the adverse effect to the residents from loud noise scheduled for the 325<sup>th</sup> Anniversary Event, specifically from fireworks and cannon firing. Mr. Marshall indicated that there were problems caused by loud noises at the 300<sup>th</sup> Anniversary Event, one being a lost dog. He said he was representing three residents on Meetinghouse Road that preferred not to have loud noises at this Event.

Mr. Kirkpatrick said that there would be four canon discharges and a fife and drum corps at the Event. He did not think those activities would adversely affect Mr. Marshall. Chairman Conklin said he would advise the RPOS Committee of Mr. Marshall's concerns.

**LEONHARD SETTLEMENT AGREEMENT/700 BRINTON'S BRIDGE ROAD**

The Leonhard Family filed a building permit application to construct a 5,100 square foot building on their 23.6 acre property at 700 Brinton's Bridge Road in August 2010. The Zoning Officer issued a cease and desist order citing them for using the property as a landscape business. The building permit was denied on the grounds that the building would be used for the commercial landscape business. The Leonhard Family filed a variance application for extension of the non-conforming use for the landscape business and for the denial of the building permit application. An agreement was made between the Leonhard Family and the Township to mitigate the issues and a hearing was held on December 20, 2010. The parties have been working on conditions to resolve the zoning appeal and an Agreement has been prepared by the Township Solicitor and signed off on

by the Leonhard Family. Conditions of the agreement include lighting, building size and design, outside storage, noise, and various business restrictions. The agreement is only for the Leonhard Family and it does not run with the property. If the application had gone to the Zoning Hearing Board and the Leonhards proved their case, the business could have stayed on the property in perpetuity.

Peter Engel, Brinton's Bridge Road, expressed frustration that the Leonhard Family was continuing the operation of the landscape business after the cease and desist had been imposed. He bought his property because it was a residential area, not to be next to a commercial business with heavy machinery. Mrs. Camp explained that the landscape business was allowed to continue while the appeal process was taking place. Mr. Engel wanted to know how the conditions in the settlement would be enforced? He didn't want to have to call the Township and complain every time there is a violation. Mrs. Camp replied that most zoning enforcement issues come through neighbor complaints.

Steve Harkins, Brinton's Bridge Road, said that the noise is increasing on the property. There is a wood cutting business taking place and the noise starts at 7 AM on Sunday mornings. The wood pile on the property is as large as Mr. Harkins' house. He said that he had purchased firewood from the Leonhards many years ago. Mrs. Harkins added that the number of cars and trucks accessing the property is increasing along with the noise.

Lloyd Roach, Meetinghouse Road, questioned the Board's reluctance to send the appeal to the Zoning Hearing Board. Mrs. Camp explained that the Leonhards had witnesses, including the prior Zoning Officer, Ben Cialini, that the landscape business had been in existence for the past 25 years, prior to the adoption of the current ordinance. The mediation settlement process with the Supervisors was an option presented by the Leonhard Family which gave the Supervisors the ability to impose conditions. Also, if the Leonhard Family lost through the Zoning Hearing Board, they would have come in with an application for the building as an accessory structure for the farm, which would have been permitted. Chairman Conklin added that the process may not have stopped at the Zoning Hearing Board. There are appeal rights at higher courts and the Supervisors have "to protect the pocketbooks" of all the residents when making their decisions.

After reviewing the agreement and further discussion on the firewood and wood cutting business, Mr. Kirkpatrick moved to table action on the settlement agreement until this issue could be resolved. Mr. Bush seconded the motion and it was unanimously approved.

### **ROAD PROGRAM**

It was duly advertised in the Daily Local News on June 7<sup>th</sup> and 10<sup>th</sup> requesting bids for the 2011 miscellaneous street program. Two bids were received.

Cleaver Cable Construction, Glenolden, PA	Base scope work	\$24,426.
	Add alternate #1	<u>2,480.</u>
	Total	\$26,906.

Page Excavating Company, Lincoln University, PA	Base scope work	\$21,545.
	Add alternate #1	<u>2,232.</u>
	Total	\$23,777.

The project estimate from VanDemark & Lynch, Inc., Township Engineer, was \$24,680.

Dave Rathbun, Roadmaster, suggested that Page Excavating be awarded the contract contingent upon review by the Township Engineer. The Township is familiar with the firm and their work.

Doug Marshall asked about the bid bond? There were no bid bonds attached to the bids. In reviewing the ad Mrs. Nelling, Township Secretary, did not see that a bid bond was required. She presumed that the Township Engineer had eliminated that requirement because of the small scope of the bid and to save cost and encourage more bidders. Mrs. Camp said that if a bid bond was required that it would have to be part of the bid to be accepted. Mr. Marshall wanted assurance that the bidding procedures were properly followed.

Chairman Conklin moved to accept the low bid of \$23,777. from Page Excavating for the base work and add alternate contingent upon review by the Township Engineer that the bid was compliant with the bid requirements. Mr. Kirkpatrick seconded the motion and it was unanimously approved.

**PENNSBURY TOWNSHIP COMPREHENSIVE PLAN**

The Township received a copy of the Pennsbury Township Comprehensive Plan Chapter 5 Update Amendment for review and comment. The Amendment was reviewed by the Planning Commission at its meeting on June 14, 2011. The Planning Commission found nothing in the Plan that would adversely affect Birmingham Township. The Board of Supervisors concurred with the Planning Commission's recommendation. Chairman Conklin moved to forward a letter to Pennsbury Township indicating that Birmingham Township had no problems with the Pennsbury Comprehensive Plan Update. Mr. Kirkpatrick seconded the motion and it was unanimously approved.

The meeting was adjourned at 8:08 PM. (WJK)

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer

# Check Register

BIRMINGHAM TOWNSHIP

20-Jun-11

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN GENERAL FUND</b>				
15072	6/20/2011	80	AQUA PENNSYLVANIA	\$2,348.25
15073	6/20/2011	5	BOROUGH OF WEST CHESTER,	\$16,742.50
15074	6/20/2011	1001931	BRANDONS TREE SERVICE	\$1,275.00
15075	6/20/2011	106	BRANDYWINE HARDWARE & FA	\$79.77
15076	6/20/2011	366	BUCKLEY, BRION, MCGUIRE ATTY	\$3,851.64
15077	6/20/2011	4	CONCORDVILLE FIRE & PROTEC	\$17,795.00
15078	6/20/2011	11	DAILY LOCAL NEWS	\$271.76
15079	6/20/2011	933	GARNET AUTOMOTIVE GROUP	\$51.90
15080	6/20/2011	422	HARRY TILLMAN AUTOMOTIVE L	\$75.50
15081	6/20/2011	525	JACQUELINE L. ROACH	\$900.00
15082	6/20/2011	205	PARKWAY DRY CLEANERS, INC.	\$316.31
15083	6/20/2011	29	PECO ENERGY	\$498.90
15084	6/20/2011	30	PECO ENERGY (TRAFFIC LIGHT)	\$43.90
15085	6/20/2011	171	REILLY & SONS INC.	\$645.02
15086	6/20/2011	507	ROTHWELL DOCUMENT SOLUTI	\$44.00
15087	6/20/2011	1001833	STAPLES BUSINESS ADVANTAG	\$367.55
15088	6/20/2011	115	THOMAS R. NELLING	\$120.96
15089	6/20/2011	287	UNITED TEACHER ASSOCIATES	\$1,039.13
15090	6/20/2011	1001913	VERIZON WIRELESS	\$341.95
15091	6/20/2011	917	WITMER ASSOCIATES INC.	\$247.54
15092	6/20/2011	1001881	YIS/COWDEN GROUP INC	\$200.00
<b>Bank Totals:</b>				<b>\$47,256.58</b>

**Check Register**

BIRMINGHAM TOWNSHIP

20-Jun-11

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN SEWER FUND</b>				
8222	6/20/2011	602	APPLIED WATER MANAGEMENT,	\$8,597.67
8223	6/20/2011	767	COMMONWEALTH OF PENNSYL	\$100.00
8224	6/20/2011	798	PA ONE CALL SYSTEM,INC.	\$62.72
8225	6/20/2011	29	PECO ENERGY	\$3,300.65
8226	6/20/2011	1001913	VERIZON WIRELESS	\$89.46
8227	6/20/2011	1001834	WM P MCGOVERN INC	\$2,040.00
			<b>Bank Totals:</b>	<b>\$14,190.50</b>