

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
FEBRUARY 6, 2017**

The regular meeting of the Board of Supervisors was called to order at 7:31 PM in the Township Building by Chairman Conklin with the pledge of allegiance. A quorum of Supervisors was declared.

John Conklin	-	Chairman, Board of Supervisors
Scott Boorse	-	Vice-Chairman, Board of Supervisors
Mike Shiring	-	Member, Board of Supervisors

Supervisor Shiring moved to approve the January 3, 2017 organizational minutes and the January 3, 2017 regular minutes as written. Vice-Chairman Boorse seconded the motion and the minutes were unanimously approved.

Vice-Chairman Boorse moved to approve the bills submitted for payment since the January 3rd meeting. General Fund bills totaled \$67,874.00. Sewer Fund bills totaled \$40,709.26. Supervisor Shiring seconded the motion and the bills were unanimously approved.

FREDDY'S STEAKBURGERS AND CUSTARD RESTAURANT LIGHTING

The Supervisors approved a land development plan for Freddy's Steakburgers Restaurant located at 1302 Wilmington Pike. The restaurant is currently under construction. James Malin of Urban Neon Electric Sign Company requested to be on the agenda to discuss LED strip lighting around the perimeter of the rooftop structure. He was accompanied by John DiMarco, cousin of the owner, Steve DiMarco. Section 103-40.D.c of the Subdivision and Land Development Ordinance requires approval from the Board of Supervisors for the requested lighting. The horizontal red lighting will be located on the top roof line and the lower portion of the roof, which is consistent with the other Freddys' restaurants. The lumens per foot in red is 27.26 per foot which is less than if white lighting was used. Mr. Malin confirmed that the lighting requested is LED and not neon. The lighting doesn't flicker or rotate. The lights will be turned off at 11 PM. The applicant would also be willing to install an aluminum baffle around the lighting so it wouldn't appear quite as garish.

Vice-Chairman Boorse noted that the drive-in side of the building faces the residential area of the Township. He suggested that the lighting not be included on that side of the building. In response to Vice-Chairman Boorse, Mr. Malin said that if the horizontal lighting was eliminated that the photometry of the site would not be affected and the lighting plan would not have to be adjusted.

The Supervisors had mixed feelings on whether installing the lighting inside the baffle should be included.

Chairman Conklin moved to approve the lighting plan for the LED strip lighting around the perimeter of the rooftops for Freddy's Steakburgers Restaurant except for the rear of the building

facing Faucett Drive. Supervisor Shiring seconded the motion which was unanimously approved.

MESSICK ZONING HEARING BOARD APPLICATION – 1111 DORSET DRIVE

The Zoning Hearing Board is meeting on February 15th to consider the application of the Messicks, 1111 Dorset Drive in Spring Meadows, for a variance from the 10% lot coverage requirement of Section 122-24.C of the Zoning Chapter of the Code and also from the 90% green space requirement of Section 122-24.1 of the Code in order to have a 14.2% lot coverage and 85.8% green area in order to install a pool on their property.

Chairman Conklin expressed concern that each time a variance is granted from the ordinance that it sets a precedent for other properties in the Township.

In response to Chairman Conklin, Mrs. Messick said she had not contacted the Spring Meadows HOA about the application.

It was discussed that the applicant's engineer did not locate the floodplain on the plan. In the Township Engineer's review letter of January 30th, Mr. Hatfield notes that the Flood Insurance Rate Map (FIRM) shows the location of the 100-year floodplain approximately 25' behind the existing house. Mrs. Messick provided a plan from PennDOT which shows the location of the 100-year storm flow from Radley Run as seventy feet from the house which is based on hydraulic computations and not approximations as shown in the FIRM.

Vice-Chairman Boorse moved to have the Board of Supervisors take a non-position on the application but to defer to the expertise of the Zoning Hearing Board. Supervisor Shiring seconded the motion which was unanimously approved.

SCHEDULE STOLTZFUS ORDINANCE HEARING DATE

At its January 14th meeting, the Planning Commission recommended an amendment to the Zoning Ordinance, specifically sections 122-45.D and G. The amendment to Section 122-45.D would provide for maximum gross floor area and minimum parking behind the building requirements. The amendment to Section 122-45.G would provide a rear-yard setback of 100 feet when the rear yard abuts a residentially zoned property and establishes a rear-yard of not less than 50 feet when the rear yard abuts a non-residentially zoned property.

The amendment to Section 122-45.G is being proposed by Ross Unruh, Esq. for his client, Earl Stoltzfus, who is looking to purchase the adjacent Brandywine Patio property to allow for a repair building for the RV business and to have it constructed further back from Rt. 202.

In response to the Board, Mr. Unruh indicated that the Planning Commission had added the amendment to Section 122.45.D to the ordinance proposal to eliminate the possibility of a big box store.

Vice-Chairman Boorse was concerned about the effect of the ordinance language in Section 122-45.D on other commercial properties, specifically that a 40,000 square foot one story building was being proposed and a 80,000 square foot two story building with a provision for the Board to

approve a 50% increase in the maximum size of the building. Supervisor Shiring concurred as the ordinance provision would affect C-1 properties as well. Supervisor Shiring confirmed with Ross Unruh that the ordinance proposal had been forwarded to the Chester County Planning Commission for review.

Chairman Conklin moved to authorize advertising on the ordinance proposal for March 6th @ 7:30 PM with a request for an explanation from the Planning Commission on the square footage language added in Section 122-45.D. Vice-Chairman Boorse seconded the motion which was unanimously approved.

2017 ROAD PROGRAM

The 2017 road program was duly advertised in the Daily Local News on January 9th and 13th and bid through PennBid. Two bids were received. The base bids were Innovative Construction Services for \$99,614.00 and Stephens Excavating, LLC for \$109,326.00. The Township Engineer, VanDemark & Lynch, Inc. estimated the base scope work at \$93,805.00. Bids on several add alternates were also requested but were not considered as the intent was to keep the bid award under \$100,000.00.

Roadmaster Dave Rathbun felt that only two bids were received because slurry seal was almost half of the bid and that work is usually sub-contracted out so the small size of the bid didn't make sense to bid for most contractors. Mr. Rathbun noted that the replacement of the storm pipe on Sherbrooke Drive was bid at \$14,000.00 and that is for a full pipe replacement. It will not be known if the entire pipe needs to be replaced until the area from the sink hole is dug up. There could be some cost savings on this item.

Vice-Chairman Boorse questioned why some of the unit costs, specifically for the bituminous pavement patching, were so high on the bids compared to the estimates by the Township Engineer? Mr. Rathbun had not discussed this with the Township Engineer, but felt that the Township was paying premium price for small quantities as well as the fact that the contractors are looking for a bottom line total and certain items are adjusted in order to achieve the desired outcome.

Supervisor Shiring moved to approve the base scope bid for the 2017 road program to Innovative Construction Services for \$99,614.00. Vice-Chairman Boorse seconded the motion which was unanimously approved.

HISTORICAL COMMISSION REPORT

Carla Westerman, Historical Commission Chairperson, reported that Karen Marshall, Chester County Historic Preservation Officer, had attended the January Historical Commission meeting to discuss honoring the 240th anniversary of the 1777 Campaign with an evening of "Summer Town Tours and Village Walks" starting at Thornbury Farm and travelling past the 1709 farm buildings located on Thornbury Road in Thornbury Township. The tour will be a one mile level path walk on the farm to the old road along the edge of the Birmingham Lafayette Cemetery to the Birmingham Friends Meeting. The intent is to bring people to the area that are interested in history. There will be leaders for guide groups. The event would be held on July 6th with the tours taking place from 5:30 – 7 PM. This would be a joint venture with Thornbury Township.

Ms. Westerman asked about one day event insurance? Sect./Treas. Nelling and Chairman Conklin advised that this was discussed with the Township's insurance carrier for the re-enactment and additional insurance was not required for such events.

Chairman Conklin moved to have the Township support the "Summer Town Tours and Village Walks" event hosted by the Chester County Historical Commission. Supervisor Shiring seconded the motion which was unanimously approved.

Ms. Westerman said that the former Chairman, Matt Bedwell, would still like to be a member of the committee but he wanted to scale back on his commitment. The historical commission requested the Board's approval of a sixth member, Susan Walters. Chairman Conklin advised that anyone from the public can be involved with the committee without being a member and he was in no hurry to increase the number of members on the committee or to replace Matt Bedwell. Supervisor Shiring said that with the Township's discussion of merging HARB and the Historical Commission is reason not to take any action on the request at this time.

POLICE REPORT

Chief Nelling reported for the month of January 2017. There were 960 incidents including 4 criminal arrests (2 DUI's). There were 9,108 patrol miles logged on the vehicles during the month.

With the closing of the Rt. 926 Bridge on Monday, February 13th, Chief Nelling stated that there would be increased police patrols. Country Club Road would be monitored closely at Hessian Circle and General Wayne Drive for increased traffic. If necessary, barricades will be installed at the intersection of Creek Road and Country Club Road so that it is not used as a thoroughfare. Unionville-Chadds Ford School District has requested that the intersection be kept open during the school year. For the first couple of weeks of the bridge closure there will be one or two hours added onto each shift to monitor the traffic situation.

Chief Nelling added that Pocopson Township has requested temporary police services at the location of the new traffic light located at West Creek; Lenape and Pocopson Roads when the bridge is first closed for construction activities. They have requested the special detail at \$65.00/hr. for six days for six hours each day from 6 AM – 9 AM and 4 PM – 7 PM.

Supervisor Shiring moved to enter into a Memorandum of Understanding with Pocopson Township for temporary police service. Chairman Conklin seconded the motion which was unanimously approved.

TREASURER'S REPORT

Sect./Treas. Nelling reported that the books have been closed for 2016. Financial statements have been prepared and distributed to the Board. All required State reports have been completed to ensure the receipt of liquid fuels funds on March 1st. W-2's and 1099's have been distributed. The appointed auditor, Carl Hogan of BBD, LLP. is in the process of reviewing the books and preparing the audit for the State.

2016 Year End Balances
General Fund - \$957,561.
Sewer Fund - \$291,785.
State Fund - \$665.

Sect./Treas. Nelling highlighted some items from the financial statements.

<u>General Fund</u>	<u>Budget</u>	<u>Actual</u>
Revenues	\$2,156,956.	\$2,469,647.
Expenditures	\$1,547,339.	\$1,512,086.
Real Estate Transfer Tax	\$ 140,000.	\$ 206,806.
LST Tax	\$ 45,000.	\$ 58,503.
Vehicle Code Violations	\$ 30,000.	\$ 49,947.
Cable TV Franchise	\$ 76,000.	\$ 80,287.
PEMA Snow Disaster Relief		\$ 40,565.
Police Details	\$ 18,000.	\$ 64,845.
Building Permits	\$ 60,000.	\$ 61,943.
Land Disturbance Deposits for Services		\$ 35,295.
Police Department Expenditure	\$587,959.	\$ 644,297.
Snow Removal	\$140,000.	\$ 76,095.

<u>Sewer Fund</u>	<u>Budget</u>	<u>Actual</u>
Revenues	\$688,401.	\$756,869.
Expenditures	\$387,543.	\$465,083.

There were two new tie-ins to the sewer plant in 2016 for four additional EDU's, Stillman Volvo and 1370 Old Wilmington Pike. Year to date cost on the nitrogen removal upgrade project, including legal and engineering expenditures, is \$791,281.

Chairman Conklin moved to accept the Treasurer's Report. Vice-Chairman Boorse seconded the motion which was unanimously approved.

PUBLIC COMMENT

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

Jarl Mork, Brinton's Bridge Road, said that as a proponent of protecting open space that he is asking the Board to consider being a party of interest on the hearings for the development of the Crebilly Farm property.

The meeting was adjourned at 8:40 PM. (JLC;SCB)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer

Check Register**BIRMINGHAM TOWNSHIP**

16-Jan-17

Check No	Check Date	Vendor No	Vendor Name	Check Amount
NATIONAL PENN GENERAL FUND				
18312	1/16/2017	11	21ST CENTURY MEDIA - PHILLY	\$794.51
18313	1/16/2017	80	AQUA PENNSYLVANIA	\$2,348.25
18314	1/16/2017	366	BUCKLEY, BRION, MCGUIRE ATTY	\$627.39
18315	1/16/2017	1001994	CLARK HILL PLC	\$63.00
18316	1/16/2017	1002258	EASTERN SALT COMPANY INC	\$4,153.91
18317	1/16/2017	114	FRONEFIELD CRAWFORD. JR. LL	\$700.00
18318	1/16/2017	780	GUMBALL MEDIA, LLC\LAND ART	\$65.00
18319	1/16/2017	21	H. A. THOMSON	\$6,720.24
18320	1/16/2017	422	HARRY TILLMAN AUTOMOTIVE L	\$214.97
18321	1/16/2017	281	IACP	\$25.00
18322	1/16/2017	178	PAGE EXCAVATING COMPANY, I	\$13,542.50
18323	1/16/2017	205	PARKWAY DRY CLEANERS, INC.	\$90.35
18324	1/16/2017	29	PECO ENERGY	\$826.73
18325	1/16/2017	30	PECO ENERGY (TRAFFIC LIGHT)	\$67.08
18326	1/16/2017	171	REILLY & SONS INC.	\$1,137.21
18327	1/16/2017	75	RJCRAIG GRAPHICS & DESIGN	\$50.00
18328	1/16/2017	811	S & S CLEANING SERVICE	\$368.33
18329	1/16/2017	1002003	TYNAN CONSULTANTS	\$500.00
18330	1/16/2017	1001881	YIS/COWDEN GROUP INC	\$87.99
Bank Totals:				\$32,382.46
Total Of Checks:				\$32,382.46

Check Register

BIRMINGHAM TOWNSHIP

16-Jan-17

Check No	Check Date	Vendor No	Vendor Name	Check Amount
NATIONAL PENN SEWER FUND				
9076	1/16/2017	149	AECOM	\$1,403.37
9077	1/16/2017	366	BUCKLEY, BRION, MCGUIRE ATTY	\$170.00
9078	1/16/2017	1001859	COYNE CHEMICAL	\$3,086.60
9079	1/16/2017	1001970	EAST BRADFORD TOWNSHIP	\$3,881.13
9080	1/16/2017	1001963	M & B ENVIRONMENTAL INC	\$12,347.51
9081	1/16/2017	798	PA ONE CALL SYSTEM, INC.	\$13.12
9082	1/16/2017	29	PECO ENERGY	\$2,777.16
Bank Totals:				\$23,678.89
Total Of Checks:				\$23,678.89

Check Register

BIRMINGHAM TOWNSHIP

18-Jan-17

Check No	Check Date	Vendor No	Vendor Name	Check Amount
NATIONAL PENN GENERAL FUND				
18331	1/18/2017	517	INDEPENDENCE BLUE CROSS	\$4,429.72
18332	1/18/2017	1001833	STAPLES BUSINESS ADVANTAG	\$18.95
18333	1/18/2017	61	VERIZON 610-793-2600-794	\$327.38
Bank Totals:				\$4,776.05
Total Of Checks:				\$4,776.05

Check Register

BIRMINGHAM TOWNSHIP

18-Jan-17

Check No	Check Date	Vendor No	Vendor Name	Check Amount
NATIONAL PENN SEWER FUND				
9083	1/18/2017	586	VERIZON 610-399-6923 315	\$162.04
Bank Totals:				\$162.04
Total Of Checks:				\$162.04

Check Register

BIRMINGHAM TOWNSHIP

30-Jan-17

Check No	Check Date	Vendor No	Vendor Name	Check Amount
NATIONAL PENN GENERAL FUND				
18334	1/30/2017	1001926	AJ BLOENSKI, INC.	\$147.74
18335	1/30/2017	83	INTERNATIONAL CODE COUNCIL	\$135.00
18336	1/30/2017	1002154	VERIZON 610-4291316 676	\$51.61
18337	1/30/2017	1001913	VERIZON WIRELESS	\$148.50
Bank Totals:				\$482.85
Total Of Checks:				\$482.85

Check Register**BIRMINGHAM TOWNSHIP**

06-Feb-17

Check No	Check Date	Vendor No	Vendor Name	Check Amount
NATIONAL PENN GENERAL FUND				
18338	2/6/2017	11	21ST CENTURY MEDIA - PHILLY	\$426.73
18339	2/6/2017	80	AQUA PENNSYLVANIA	\$39.00
18340	2/6/2017	79	BRANDYWINE VALLEY SPCA	\$243.00
18341	2/6/2017	873	CARDMEMBER SERVICE	\$591.30
18342	2/6/2017	617	CHESTER WATER AUTHORITY	\$653.40
18343	2/6/2017	1002121	CLEVENS K-9 SCOOP LLC	\$105.00
18344	2/6/2017	1001902	COMCAST CABLE	\$104.85
18345	2/6/2017	1001560	COMSTAR TECHNOLOGIES	\$6,470.66
18346	2/6/2017	70	CONCORD AUTO BODY, INC.	\$1,794.08
18347	2/6/2017	775	CONVENIENT CAR CARE CORPO	\$499.00
18348	2/6/2017	1002261	ESTATE OF BONNIE HALL	\$25.05
18349	2/6/2017	2	FREEDOM SYSTEMS	\$1,206.75
18350	2/6/2017	114	FRONEFIELD CRAWFORD, JR. LL	\$360.00
18351	2/6/2017	46	GALLS, LLC	\$371.85
18352	2/6/2017	289	GENERAL CODE PUBLISHERS C	\$2,809.92
18353	2/6/2017	21	H. A. THOMSON	\$3,550.00
18354	2/6/2017	1002153	HARRIS CORPORATION PSPC	\$218.75
18355	2/6/2017	422	HARRY TILLMAN AUTOMOTIVE L	\$984.43
18356	2/6/2017	211	LEGISLATIVE REFERENCE BURE	\$3.00
18357	2/6/2017	953	PA DUI ASSOCIATION	\$165.00
18358	2/6/2017	178	PAGE EXCAVATING COMPANY, I	\$2,235.00
18359	2/6/2017	171	REILLY & SONS INC.	\$979.91
18360	2/6/2017	811	S & S CLEANING SERVICE	\$368.33
18361	2/6/2017	1001833	STAPLES BUSINESS ADVANTAG	\$204.79
18362	2/6/2017	1002003	TYNAN CONSULTANTS	\$500.00
18363	2/6/2017	746	V.E. RALPH & SON, INC.	\$224.00
18364	2/6/2017	23	VANDEMARK & LYNCH, INC.	\$3,241.84
18365	2/6/2017	1001922	WESTERN PEST SERVICES	\$432.00
18366	2/6/2017	1001881	YIS/COWDEN GROUP INC	\$1,425.00
Bank Totals:				\$30,232.64
NATIONAL PENN SEWER FUND				
9084	2/6/2017	149	AECOM	\$4,173.47
9085	2/6/2017	80	AQUA PENNSYLVANIA	\$2,614.00
9086	2/6/2017	2	FREEDOM SYSTEMS	\$804.50
9087	2/6/2017	1001963	M & B ENVIRONMENTAL INC	\$6,783.23
9088	2/6/2017	586	VERIZON 610-399-6923 315	\$91.44
9089	2/6/2017	574	WASTE MANAGEMENT OF SOUT	\$57.19
9090	2/6/2017	1001922	WESTERN PEST SERVICES	\$432.00
9091	2/6/2017	1001834	WM P MCGOVERN INC	\$1,912.50
Bank Totals:				\$16,868.33
Total Of Checks:				\$47,100.97