

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
SEPTEMBER 12, 2016**

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. 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

Chairman Conklin moved to approve the August 1, 2016 minutes as written. Vice-Chairman Boorse seconded the motion which was unanimously approved.

Vice-Chairman Boorse moved to approve the bills submitted for payment since the August 1<sup>st</sup> meeting. General Fund bills totaled \$41,586.07. Sewer Fund bills totaled \$38,739.02. Supervisor Shiring 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, 756 Brinton's Bridge Road, thanked the Township for the speed sensing display signs posted on Brinton's Bridge Road. He thought it was effective in alerting drivers of the 40 mile per hour speed limit on the road with the average driver travelling between 50 and 60 mph. He felt the speeding was a public safety issue and he requested speed sensing display signs in both directions. He also felt that police sitting on Kadar, Penns Way and Roundelay on a regular basis would be a deterrent to speeding.

Chief Thomas Nelling said that the police department had recently conducted thirty-one speed details on Brinton's Bridge Road with 1,753 drivers clocked. Fourteen were travelling over the posted 40 mph speed limit. Nine citations were issued. The average speed of the driver was 39 mph. Chief Nelling noted that there is only one speed sensing display sign for the Township which has to be rotated to various locations.

Mr. Mork thought the Township should own four – ten speed sensing display signs.

Joe Mobile with Rep. Dan Truitt's office stated that Rep. Truitt will be holding a town hall meeting at the Birmingham Township Building on Thursday, September 22<sup>nd</sup> from 7 - 9 PM.

Al Giacoio, tenant residing at 695 Paddock Circle in Fieldpoint, was present to follow up on a violation letter sent to the landlord of the property, Joe Napoletano, by Zoning Officer Richard Jensen on July 26<sup>th</sup> on property maintenance code violations on the property, including a leaking roof. Mr. Giacoio said that the violation letter gave the landlord ten days to remedy the situation



and he said that nothing has been fixed and he wanted to know the next step that would be taken by the Township?

Chairman Conklin asked Mr. Giacoio if he had hired a lawyer to help him as similar situations in the Township have taken up to two years to resolve. Mr. Giacoio said that he had and that his lawyer had indicated that he could take the Township Supervisors to court.

Supervisor Shiring said that there are other direct measures for Mr. Giacoio to pursue under the rights of a tenant such as escrowing rent and taking the landlord to court and that he would probably get quicker results through private action.

Mr. Giacoio did not think he should have to incur legal fees when the Township has regulations to address the problem.

The Board was not aware of the issue until tonight's meeting. They will review the correspondence from the Zoning Officer and follow up with Mr. Giacoio.

### **CONCORDVILLE FIRE & PROTECTIVE ASSOCIATION**

David Montville, Treasurer, and Rick Vasek, Business Manager, were in attendance to request an increase in the annual donation given by the Township to Concordville Fire & Protective Association (CFPA) which provides coverage to the residents that reside south of Rt. 926. Mr. Montville noted that there have been a lot of changes to the fire department which now has five full-time paid firemen. CFPA provides coverage to Concord Township; Chadds Ford Township; Thornbury Township and part of Birmingham Township, with 8.5% of the responses in Birmingham Township. Township contributions make up 22% of the budgeted funds. The CFPA annual budget was provided to the Board with charts on historical revenue and expense changes from 2010 – 2015. Currently the Township donates \$17,795. annually to CFPA. CFPA is requesting a five year average increase to \$37,038. If the requested amount is not feasible CFPA will consider incremental increases to get to the targeted five year end request of \$38,650.

### **FREDDY'S FROZEN CUSTARD FINAL LAND DEVELOPMENT PLAN**

At its meeting on August 9, 2016, the Planning Commission recommended approval of the Final Land Development Plan for the Freddy's Frozen Custard Restaurant located at 1302 Wilmington Pike. The Plan, dated April 25, 2016, last revised June 27, 2016, was drawn by JMR Engineering and consists of seven sheets. The Plan proposes the development of a restaurant on a parcel with three pad sites with an existing vacant bank building and office building located on the other two pad sites. The Plan proposes a 3,374 square foot restaurant with drive-through service. The Planning Commission approved the Final Land Development Plan with the following conditions:

1. Prior to the Board of Supervisors meeting the remaining engineering comments should be satisfactorily addressed.
2. All outside permits be obtained.
3. The applicant must comply with the Environmental Covenant that has been signed and recorded.



Mark Thompson, Esq., legal counsel, Matt Bush, Engineer with JMR Engineering; and Dave Vitali and Steve DiMarco, co-owners, were present on behalf of Freddy's.

Mark Thompson stated that the Land Development Agreement with the Condominium is not ready and that the bond needs to be obtained.

During preliminary plan approval there was discussion of a possible pedestrian crossing from the site to the Knolls of Birmingham pedestrian walkway. As requested by the Supervisors, Greg Richardson, P.E. of Traffic, Planning and Design, Inc. visited the location and prepared a memorandum dated July 26, 2016. He concluded that a painted pedestrian crossing not be provided at the intersection of Old Wilmington Pike and Knolls Road for the following reasons:

1. High vehicular speeds along Old Wilmington Pike that are exacerbated by the steep roadway grade;
2. Limited sight distance visibility of exiting vehicles as well as pedestrians;
3. The feasibility and reasonableness of constructing new sidewalks and ADA-compliant ramps along the roadway and at the intersection itself are limited due to existing topography and existing stormwater structures.

The Supervisors accepted the conclusion of Greg Richardson to not require a pedestrian crossing.

In reviewing the building permit plans, Rich Jensen identified an outside seating area which is shown as a concrete pad next to the building with concrete benches. The Township's definition of eating establishment does not permit outside eating. Vice-Chairman Boorse stated that outside dining was not discussed during the conditional use hearing. The plans do not make any notation or provide any indication of an outdoor seating area. The parking calculations on the plan do not include the area of the concrete pad. There are four tables with benches proposed. The proposed restaurant is to seat 100 patrons. The question is whether this outside area was included in the calculations for the determination of the number of patrons.

Vice-Chairman Boorse added that there would need to be further discussion on how the outside seating would fit with regards to the ordinance. He also confirmed with Mr. DiMarco that the site was ADA compliant.

Supervisor Shiring stated that with regards to the August 26, 2016 review letter from the Township Engineer, Jim Hatfield, page 2, item #4 under the Zoning Ordinance states: Section 122-102.C(5)(e)(2)(b) – The Board of Supervisors should determine if the proposed landscaping plan is adequate to serve its intended purpose.

Mr. Bush replied that the landscaping around the perimeter parking will be maintained with the existing shrubbery on the site being utilized. The applicant intends to meet the landscaping requirements of the ordinance. The site is mostly impervious. Trees will be added that are destroyed during demolition. The landscaping and lighting plan shows the addition of four willow oak trees. Also, the HVAC will be screened with shrubbery.

Supervisor Shiring moved to approve the Final Land Development plans for Freddy's Frozen Custard Restaurant with the following conditions:

1. Compliance with the August 26, 2016 review letter from the Township Engineer;



2. Submission of the land development and financial security agreements and posting of the financial security;
3. Outside seating is not approved but contingent upon the lawyers working through the outside seating issue to ensure compliance with the ordinances.

Vice-Chairman Boorse seconded the motion which was unanimously approved.

The applicant requested permission to go ahead with the demolition which will have to be coordinated with the Building Inspector, Rich Jensen.

### **POLICE REPORT**

Chief Nelling reported for the month of August. There were 1,628 incidents during the month which included sixteen criminal arrests (7 DUI's). There were 8,481 patrol miles logged on the vehicles during the month. Thank you letters were received on Officers Verikakis and Pot which have been put in their files. Police Commissioner Boorse moved to accept the police report which was seconded by Chairman Conklin and unanimously approved.

It was duly advertised in the Daily Local News on August 10, 2016 that bids would be accepted through Municibid for the 2007 Ford Explorer 4x4 and awarded at tonight's meeting. Twenty-two bids were received with the high bid going to Jimmie Ward of Westminster, MD for \$4,300.00. Police Commissioner Boorse moved to accept the high bid for the 2007 Ford Explorer. Supervisor Shiring seconded the motion which was unanimously approved.

### **ROAD REPORT**

Dave Rathbun, Roadmaster, has two quotes from Page Excavating Company for work that needs to be done now in the Township. The Board has already given approval for Page to do the work to move the utility box at the intersection of Rt. 926 and Birmingham Road which was estimated at \$6,500. The firm quote from Page is \$6,315. however additional asphalt work was added to the quote for a maintenance item on General Lafayette Blvd. for the replacement of the asphalt curbing on the downhill side as water is sheeting and forming a puddle. It is prudent to add this asphalt work to the job as a minimum quantity of asphalt must be purchased at a time and the quantity needed for General Lafayette is too small on its own. The proposal for both items is \$7,075.00. Supervisor Shiring moved to approve the amended quote from Page Excavating Company for the proposal for the Rt. 926 and Birmingham Road intersection to include maintenance work on General Lafayette Blvd. Vice-Chairman Boorse seconded the motion which was unanimously approved.

Page Excavating Company has provided a second proposal for three separate items of work: two inlets in the open space behind 804 Paine Drive and a pothole at the inlet in front of 1107 Yorkshire Way. The first inlet repair work includes parging the inside of the inlet and backfilling the holes around the inlet for a cost of \$815.00. The second inlet repair is similar to the work done at the inlet in the Knolls of Birmingham as the pipe is rusted at the bottom and needs to be replaced which will cost \$3,360.00. The pothole repair on Yorkshire could be done two ways: 1. A temporary fix by filling in the hole and reparging the inside for a cost of \$905.00; or 2. A more permanent solution of excavating and pouring a concrete ring around the inlet and patching the asphalt for a cost of \$1,445.00.



The Board felt that it was the time to do the work since funds were available from the PEMA grant for snow removal and it is work that would be included in next year's road program that is being brought forward and completed sooner. The Board agreed that the more permanent solution for the pothole repair around the inlet on Yorkshire was the most prudent option. Supervisor Shiring moved to approve the proposal from Page Excavating Company for \$5,620.00 which includes the \$1,445.00 option for the pothole repair at the inlet on Yorkshire Way. Vice-Chairman Boorse seconded the motion which was unanimously approved.

Dave Rathbun reminded the Board of the fall road inspection on Thursday, October 13<sup>th</sup> @ 8 AM. He anticipates a light road program next year of about \$100,000. with \$80,000. proposed for sealcoating work and \$20,000. for miscellaneous inlet repairs. Vice-Chairman Boorse asked about a three year forecast for road work with repaving needed in the near future on General Lafayette Blvd.; and roads in the Birmingham Hunt and Knolls of Birmingham developments; as well as tar and chipping on Meetinghouse Road. Mr. Rathbun has a list of all roads; the date work was done on the roads; and the projected date that the road will need work. He felt he had a pretty good handle on upcoming road projects for the township.

Chairman Conklin apprised Mr. Rathbun of vegetation growth in cracks on Revolutionary Drive that should be looked at during the road inspection.

The Township Engineer, Jim Hatfield, advised that the Township needs to execute another resolution to PennDOT in order to sign the revised Signal Permit Plan for the improvements at the intersection of Rt. 926 and Birmingham Road. The permit was revised so it agrees with the current conditions. Chairman Conklin moved to approve Resolution #160912 to PennDOT for the revised Signal Permit Plan. Supervisor Shiring seconded the motion which was unanimously approved.

Chairman Conklin moved to authorize advertising for snow removal bids for the 2016/2017 season to be opened at the October 3<sup>rd</sup> meeting. Vice-Chairman Boorse seconded the motion which was unanimously approved.

### **SEWAGE FACILITIES MANAGEMENT PLAN (ACT 537) CHADDS FORD TOWNSHIP**

At its meeting on August 9<sup>th</sup> the Planning Commission reviewed the update to the Chadds Ford Township's Sewage Facilities Management (Act 537) Plan and commented that the Plan was thorough but it did not affect Birmingham Township. The Supervisors concurred with the review by the Planning Commission. Chairman Conklin moved to forward such a letter to Chadds Ford Township. Vice-Chairman Boorse seconded the motion which was unanimously approved.

### **MMO'S FOR PENSION PLANS**

Act 205 of 1984, as amended, governs the funding requirements for all municipal pension plans. The law requires the Chief Administrative Officer of each municipal pension plan to inform the governing body of the municipality of the plans expected financial obligations for the coming year. This must be done by the last business day in September.



The calculation of the 2017 plan costs, or the MMO, required an estimate of the 2016 W-2 wages of the employees covered by the plans.

The minimum municipal obligation for the police pension plan is \$17,765.

The minimum municipal obligation for the non-uniform plan is \$4,209.

The pension plan costs will be offset by State Aid to municipal pensions to which the Township is entitled under Act 205. Sect./Treas. Nelling anticipates state aid to cover the entire cost of the pension obligation.

The meeting was adjourned at 8:43 PM. (JLC;SCB)

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer



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

15-Aug-16

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN GENERAL FUND</b>				
18061	8/16/2016	80	AQUA PENNSYLVANIA	\$2,348.25
18062	8/16/2016	884	ARAMARK	\$14.64
18063	8/16/2016	1002121	CLEVENS K-9 SCOOP LLC	\$84.00
18064	8/16/2016	46	GALLS, LLC	\$625.36
18065	8/16/2016	1001768	GRAFIX SHOPPE	\$450.57
18066	8/16/2016	422	HARRY TILLMAN AUTOMOTIVE L	\$67.94
18067	8/16/2016	29	PECO ENERGY	\$376.66
18068	8/16/2016	30	PECO ENERGY (TRAFFIC LIGHT)	\$67.07
18069	8/16/2016	811	S & S CLEANING SERVICE	\$413.94
18070	8/16/2016	61	VERIZON 610-793-2600-794	\$324.15
18071	8/16/2016	917	WITMER PUBLIC SAFETY GROU	\$189.35
<b>Bank Totals:</b>				<b>\$4,961.93</b>
<b>NATIONAL PENN SEWER FUND</b>				
9007	8/16/2016	1002016	COURIER SYSTEMS, INC.	\$2.50
9008	8/16/2016	29	PECO ENERGY	\$2,439.50
9009	8/16/2016	586	VERIZON 610-399-6923 315	\$89.69
9010	8/16/2016	1001834	WM P MCGOVERN INC	\$1,827.50
<b>Bank Totals:</b>				<b>\$4,359.19</b>
<b>Total Of Checks:</b>				<b>\$9,321.12</b>



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

29-Aug-16

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN GENERAL FUND</b>				
18072	8/29/2016	1001926	AJ BLOENSKI, INC.	\$147.74
18073	8/29/2016	557	ALL SEASONS LANDSCAPING C	\$849.33
18074	8/29/2016	1002215	ANTIMO VARRIALE	\$44.71
18075	8/29/2016	469	BIRMINGHAM TOWNSHIP SEWE	\$1,754.21
18076	8/29/2016	79	BRANDYWINE VALLEY SPCA	\$40.00
18077	8/29/2016	366	BUCKLEY, BRION, MCGUIRE ATTY	\$556.34
18078	8/29/2016	1001950	CARA M FITZPATRICK	\$130.00
18079	8/29/2016	415	COLLEEN M. PIMER	\$195.00
18080	8/29/2016	1001902	COMCAST CABLE	\$104.85
18081	8/29/2016	775	CONVENIENT CAR CARE CORPO	\$324.60
18082	8/29/2016	2	FREEDOM SYSTEMS	\$1,595.00
18083	8/29/2016	114	FRONEFIELD CRAWFORD, JR. LL	\$1,400.00
18084	8/29/2016	46	GALLS, LLC	\$86.51
18085	8/29/2016	21	H. A. THOMSON	\$214.00
18086	8/29/2016	517	INDEPENDENCE BLUE CROSS	\$3,852.77
18087	8/29/2016	1002049	LEAVE NO TRACE	\$100.00
18088	8/29/2016	211	LEGISLATIVE REFERENCE BURE	\$40.00
18089	8/29/2016	402	NATIONAL FIRE PROTECTION AS	\$445.00
18090	8/29/2016	658	POLICE	\$45.00
18091	8/29/2016	171	REILLY & SONS INC.	\$960.42
18092	8/29/2016	278	UNRUH, TURNER, BURKE & FRE	\$1,854.04
18093	8/29/2016	23	VANDEMARK & LYNCH, INC.	\$7,943.81
18094	8/29/2016	1002154	VERIZON 610-4291316 676	\$54.36
18095	8/29/2016	1001913	VERIZON WIRELESS	\$148.78
18096	8/29/2016	1002214	WE R TECHNOLOGY	\$1,500.00
18097	8/29/2016	1001881	YIS/COWDEN GROUP INC	\$731.00
<b>Bank Totals:</b>				<b>\$25,117.47</b>
<b>Total Of Checks:</b>				<b>\$25,117.47</b>



# Check Register

BIRMINGHAM TOWNSHIP

29-Aug-16

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN SEWER FUND</b>				
9011	8/29/2016	149	AECOM	\$5,455.64
9012	8/29/2016	366	BUCKLEY,BRION,MCGUIRE ATTY	\$134.00
9013	8/29/2016	1001963	M & B ENVIRONMENTAL INC	\$5,706.33
9014	8/29/2016	574	WASTE MANAGEMENT OF SOUT	\$48.87
<b>Bank Totals:</b>				<b>\$11,344.84</b>
<b>Total Of Checks:</b>				<b>\$11,344.84</b>



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

12-Sep-16

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN GENERAL FUND</b>				
18098	9/12/2016	80	AQUA PENNSYLVANIA	\$2,432.25
18099	9/12/2016	1001741	AW DIRECT	\$270.19
18100	9/12/2016	849	BATTAVIO/B&F SERVICE CO.	\$85.00
18101	9/12/2016	366	BUCKLEY, BRION, MCGUIRE ATTY	\$564.50
18102	9/12/2016	873	CARDMEMBER SERVICE	\$144.87
18103	9/12/2016	1001949	CHADDS FORD CLIMATE CONTR	\$36.00
18104	9/12/2016	51	CHESTER COUNTY TREASURER	\$386.88
18105	9/12/2016	1002121	CLEVENS K-9 SCOOP LLC	\$105.00
18106	9/12/2016	1001908	DEBRA GALLEK	\$308.75
18107	9/12/2016	2	FREEDOM SYSTEMS	\$310.00
18108	9/12/2016	114	FRONEFIELD CRAWFORD. JR. LL	\$700.00
18109	9/12/2016	46	GALLS, LLC	\$92.66
18110	9/12/2016	780	GUMBALL MEDIA, LLC LAND ART	\$1,568.00
18111	9/12/2016	422	HARRY TILLMAN AUTOMOTIVE L	\$238.97
18112	9/12/2016	29	PECO ENERGY	\$368.13
18113	9/12/2016	30	PECO ENERGY (TRAFFIC LIGHT)	\$67.07
18114	9/12/2016	171	REILLY & SONS INC.	\$425.94
18115	9/12/2016	811	S & S CLEANING SERVICE	\$368.33
18116	9/12/2016	1001833	STAPLES BUSINESS ADVANTAG	\$505.46
18117	9/12/2016	1002223	UNITED INSPECTIONS	\$95.00
18118	9/12/2016	278	UNRUH, TURNER, BURKE & FRE	\$2,433.67
<b>Bank Totals:</b>				<b>\$11,506.67</b>
<b>Total Of Checks:</b>				<b>\$11,506.67</b>



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

12-Sep-16

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>NATIONAL PENN SEWER FUND</b>				
9015	9/12/2016	149	AECOM	\$8,952.57
9016	9/12/2016	80	AQUA PENNSYLVANIA	\$1,407.00
9017	9/12/2016	849	BATTAVIO/B&F SERVICE CO.	\$255.00
9018	9/12/2016	366	BUCKLEY,BRION,MCGUIRE ATTY	\$10.00
9019	9/12/2016	1001859	COYNE CHEMICAL	\$956.50
9020	9/12/2016	780	GUMBALL MEDIA,LLC\LAND ART	\$100.00
9021	9/12/2016	1001963	M & B ENVIRONMENTAL INC	\$8,162.05
9022	9/12/2016	1001755	MAJIC LANDSCAPES	\$575.00
9023	9/12/2016	798	PA ONE CALL SYSTEM,INC.	\$1.64
9024	9/12/2016	29	PECO ENERGY	\$1,900.23
9025	9/12/2016	1001834	WM P MCGOVERN INC	\$715.00
<b>Bank Totals:</b>				<b>\$23,034.99</b>
<b>Total Of Checks:</b>				<b>\$23,034.99</b>