

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
SEPTEMBER 6, 2022**

The regular meeting of the Board of Supervisors was called to order at 7:02 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

Supervisor Hill moved to approve the July 11, 2022 minutes as written. Vice-Chairman Shiring seconded the motion. Chairman Boorse abstained from voting as he was not in attendance. The minutes were approved with two in favor and one abstention.

Vice-Chairman Shiring moved to approve the July 15, 2022 minutes for the special meeting on the Act 167 Ordinance. Supervisor Hill seconded the motion and the minutes were unanimously approved.

Supervisor Hill moved to approve the August 1, 2022 minutes as written. Chairman Boorse seconded the motion. Vice-Chairman Shiring abstained from voting as he was not in attendance. The minutes were approved with two in favor and one abstention.

Vice-Chairman Shiring moved to approve the bills submitted for payment from August 2<sup>nd</sup> through September 6<sup>th</sup>. General Fund bills totaled \$76,478.93. Supervisor Hill seconded the motion and the bills were unanimously approved.

Vice-Chairman Shiring announced the upcoming Brandywine 2022 Battlefield Re-enactment to take place on September 24<sup>th</sup> and 25<sup>th</sup>. This will be the third re-enactment hosted by the Township in the last ten years. There will be about 400 re-enactors and historians walking the property; as well as Daniel Shippey, who portrays George Washington at Mt. Vernon. The purpose is to promote the history of the area for the residents. There will be around 12 – 14 Calvary actually re-enacting the battle on the hallowed ground where the battle was fought. This is expected to occur between 1 and 2 PM both days. Mr. Shiring said that volunteers are still needed and there is a sign-up on the web site for volunteers and the e-mail will go directly to Vice-Chairman Shiring.

**WEST CHESTER LIBRARY PRESENTATION**

Victoria Dow, Executive Director, and Fredda Maddox, Board Member, joined the meeting to thank the Board for this year's contribution to the Library of \$2,041.00, which is \$.50/Township resident. Ms. Maddox asked for the Board to consider an increase of \$1.00/resident. She stated that 50% of their contributions come from government agencies. She emphasized the historical significance of the West Chester Library.

Ms. Dow noted that summer reading was very active this year, bringing in a lot of Birmingham residents. The Library is now in the midst of open registration for story times. She added that the demand for e-books is still very high and much more expensive than regular books.

### **HARB REPORT**

#### **DYE/989 WHITETAIL LANE/SIDING**

At its meeting on August 16<sup>th</sup>, HARB recommended that a Certificate of Appropriateness be issued to Brian Dye, 989 Whitetail Lane, to replace the stucco, soffits and trim on the rear of his house. Materials/colors include: HardiePlank Fiber Cement Siding in Arctic White with white soffits and trim.

Vice-Chairman Shiring moved to approve the Certificate of Appropriateness for Mr. Dye, 989 Whitetail Lane, as recommended by HARB. Supervisor Hill seconded the motion which was unanimously approved.

### **HISTORICAL COMMISSION REPORT**

#### **SAWYER/1215 CREEK ROAD/ROOF**

At its meeting on August 23<sup>rd</sup>, the Historical Commission recommended approval of the application from William Sawyer, 1215 Creek Road, HR #67, for a new roof. The cedar shake roof will be removed and replaced with DaVinci Castle Gray multi-width slate.

Supervisor Hill moved to approve the Certificate of Approval for Mr. Sawyer, 1215 Creek Road, as recommended by the Historical Commission. Vice-Chairman Shiring seconded the motion which was unanimously approved.

### **VMDT PARTNERSHIP LAND DEVELOPMENT PLAN/1350-1360 WILMINGTON PK**

At its meeting on August 30, 2022, the Planning Commission recommended approval of the Preliminary/Final Land Development Plan for VMDT Partnership. The Plan, dated November 11, 2021, last revised July 19, 2022, was prepared by E.B. Walsh & Associates, Inc.; consisting of eleven sheets. The Plan proposes the consolidation of the two parcels (5.21 acres) into one parcel. Improvements are proposed on the 1360 Wilmington Pike parcel (currently Hyundai Dealership). Two waivers are being requested. 1) A waiver from Sections 101-305; 101-308; and 101-309.D(2)(c) to not require 20% of the existing impervious to be considered meadow; and 2) A waiver from Section 103-20 to allow a combined preliminary/final plan review and approval.

Ed Foley, Esq. was present on behalf of the Township. The Township Solicitor's firm, Buckley, Brion, McGuire and Morris, represents VMDT Partnership which creates a conflict of interest on the application. Present for the applicant was Adam Brower, P.E. with E.B. Walsh & Associates, Inc.

Mr. Brower presented the application to the Board. He explained that the parcel boundary for 1350 and 1360 is being removed as the expansion to 1360 would encroach in the side yard setback. The overall improvements will decrease the impervious surface and a decrease in runoff; therefore stormwater management is not proposed as part of the application. The existing site has a stormwater management system in place to control the runoff from the site so anything

new or additional would be a duplicate system for the same runoff. The pavement is being adjusted in elevation but what is noted as proposed on the plan will be in the same location as the existing pavement. The building is for a service write up area. Several planted islands with grass and low level landscaping are being added to channel the traffic coming in and exiting the service write-up area which will decrease impervious area. The building addition is replacing existing paving. Due to the limited scope of the land development, a waiver is being requested to allow a combined preliminary/final plan approval.

Ed Foley stated that all the land development agreement documents have been forwarded to Rich Orlow, Esq. with VMDT Partnership for review and approval.

Vice-Chairman Shiring moved to approve the two waiver requests by VMDT Partnership.

1. A waiver from Sections 101-305; 103-308; and 101-309.D(2)© to not require 20% of the existing impervious to be considered meadow.
2. A waiver from Section 103-20 to allow a combined preliminary/final plan review and approval.

It was noted that the Township Engineer, Dave Schlott with Arro Consulting, had no objections to the waiver requests. Supervisor Hill seconded the motion which was carried.

Vice-Chairman Shiring moved to grant Preliminary/Final Land Development Plan approval for VMDT Partnership for a service bay extension and island additions for 1350-1360 Wilmington Pike conditioned upon the application addressing the comments in the August 16, 2022 review letter from Arro Consulting. The Plan, dated November 11, 2021, last revised July 19, 2022, was prepared by E.B. Walsh & Associates, Inc.; consisting of eleven sheets. Supervisor Hill seconded the motion which was unanimously approved.

#### **STILLMAN VOLVO LAND DEVELOPMENT PLAN/1290 WILMINGTON PIKE**

At its meeting on August 30, 2022, the Planning Commission recommended approval of the preliminary/final land development plan for Stillman Volvo, subject to receiving a clean review letter from the Township Engineer. The Plan, dated April 6, 2022, last revised on June 27, 2022, was prepared by E.B. Walsh & Associates, Inc.; consisting of six sheets. The Plan proposes the construction of a new 600 square foot building at the rear of the existing building. A waiver is being requested from Section 103-20 to allow a combined preliminary/final plan review and approval process due to the limited scope of the land development. The applicant has requested that landscaping analysis per the requirements of Sections 122-102.C and 122-102.D(2)(a) not be applicable as the condition is already satisfied. The applicant has also requested that they not be required to dedicate additional right-of-way, per Sections 103-23.H and 103-27.D(3).

Present from the Township Solicitor's Office was Aristidis Christakis, Esq. Adam Brower, P.E. was present representing Stillman Volvo.

Mr. Brower said that the shed will be a car barn storage area for vehicles prepped for delivery. Two cars can fit in the shed which will be located on the northwest corner of the property on the back parking lot. Three parking spaces will be removed. The building will be 6'2" in height. There will be no electricity or utilities to the building.

Chairman Boorse noted that there will be a net loss of one parking spot.

Mr. Brower said that the landscaping requirement was discussed with the Planning Commission. In looking at the Stillman Volvo tract boundaries, the existing full grown trees meet the Code and no new landscaping would be required. All the mechanical equipment on the property is screened. The landscaping/screening is not less than 10%. As buffering is provided on the property it is felt that the landscaping requirement is satisfied and as such does not require a variance.

Regarding comment #7 under Subdivision in the August 16<sup>th</sup> Arro Consulting review letter, Stillman Volvo is hoping not to add additional right-of-way along Rt. 202. Mr. Brower is willing to show the right-of-way if widening of Rt. 202 takes place, but the applicant is asking not to have to offer it for dedication at this time.

Vice-Chairman Shiring asked how much area would be included for the additional right-of-way. Mr. Brower said it would be ten additional feet along Rt. 202. There is a 93' right-of-way along Rt. 202 but it is not centered.

Mr. Christakis said that no new stormwater management facilities are being proposed. The only requirement is the installation of rip-rap for run-off around the building which can be included in the developer's agreement.

Vice-Chairman Shiring moved to approve two waiver requests by Stillman Volvo.

1. A waiver from Section 103-20 to allow a combined preliminary/final plan review and approval.
2. A waiver from Sections 103-23.H and 103-27.D(3) to omit the dedication of additional right-of-way between the existing right-of-way and the ultimate right-of-way.

Chairman Boorse seconded the motion which was unanimously approved.

Vice-Chairman Shiring moved to grant Preliminary/Final Land Development Plan approval for Stillman Volvo for a 600 sq. ft. storage shed per the recommendation of the Planning Commission from their August 30<sup>th</sup> meeting and conditioned upon the following:

1. Satisfying the comments in the Township Engineer's review letter of August 16, 2022 and receipt of a clean review letter from the Township Engineer.
2. Submission of an Operation and Maintenance Agreement for stormwater management in a form satisfactory to the Township Solicitor for recording.
3. Posting of Financial Security for the installation of the required stormwater management facilities, in an amount approved by the Township Engineer, and in a form approved by the Township Solicitor.
4. Execution of a Subdivision and Land Development Agreement.
5. No landscaping analysis is required.

Chairman Boorse seconded the motion which was unanimously approved.

### **PANAS KOLLAS/1245 CREEK ROAD**

Panas Kollas, President and CEO of Uniscrap PBC, was present to discuss future plans that Uniscrap has for the property located at 1245 Creek Road. The property is currently zoned R-A and would need to be rezoned to a commercial status in order for Uniscrap to obtain an SBA 504 business loan for the intended use of the property which will be for running the Discovery Incubator where inside the property, Education, Scientific, and Innovation programs will be created for the young generation.

Chairman Boorse clarified that Mr. Kollas wanted to create a library, offices and education facility on the property with no demolition of the residence or additional buildings proposed.

Mr. Christakis said that in researching the property he found that it was enrolled in the Act 319 tax program which creates a favorable tax situation for the property. If the use is changed on the property there would be a tax penalty of \$1.9 million from a tax rollback which should be taken into consideration by Mr. Kollas.

Vice-Chairman Shiring said that in looking at this from a legislative perspective, if the Supervisors were to approve a change in zoning for the property it would make this property an island of commercial in the midst of residential zoning which is considered spot zoning and could put the Township in a position for a legal challenge. It is also an expensive and timely process. In general, zoning districts are kept contiguous. He felt that efforts would be better spent to look for a property that is already zoned commercial.

Supervisor Hill said he was not in favor of rezoning the property, but was favorable towards the project.

Chairman Boorse felt that rezoning the property would be a large hurdle to overcome and it would create outrage among the residents. It is a challenge that he would not be looking forward to take on as a Supervisor. Even if Mr. Kollas was able to figure out the financing without changing the zoning to commercial, Mr. Boorse was not in favor of the use for the property and felt it should be maintained as a residential use.

### **ACT 167 ORDINANCE HEARING**

The Supervisors held a special meeting on July 15<sup>th</sup> to discuss the required, unfunded mandate to the Act 167 Stormwater Management Ordinance requirements. The amendment is required in order to comply with the PA Department of Environmental Protection's (DEP) MS4 program and update to the State's model stormwater ordinance. The hearing was duly advertised in the Daily local news on August 29<sup>th</sup> and copies of the proposed ordinance were sent to the Daily Local News and the Chester County Law Library.

Township Engineer, Dave Schlott, had suggested to the Township Solicitor that the ordinance be consistent in referring to either earth disturbance or grading permits, but not both. It was decided to eliminate the references to grading and make them all earth disturbance.

At the July 15<sup>th</sup> meeting the Supervisors had to choose between two options for a proposed new section 706. The Supervisors chose option 2 which puts the responsibility of inspection of the BMP's on the responsible party.

Chairman Boorse moved to adopt Ordinance 2022-01/Act 167 Stormwater Management Ordinance Update. Vice-Chairman Shiring seconded the motion which was unanimously approved.

#### **BIDS FOR STORMWATER PIPE REPLACEMENT/GEN. LAFAYETTE PROJECT**

Bid requests for the replacement and repair of 360 feet of stormwater piping on General Lafayette Blvd. at Forsyth through Pennbid were duly advertised in the Daily Local News on July 29<sup>th</sup> and August 5<sup>th</sup>. There was a pre-construction meeting on August 16<sup>th</sup> with no attendance. Four bids were received. The lowest, qualified bidder was Premier Concrete Services, Inc. from Broomall for \$115,750. The high bid was \$141,800. The 2022 budget included \$115,000. for this project. Chairman Boorse moved to approve the bid from Premier Concrete for \$115,750. for the stormwater pipe repair work on General Lafayette Blvd. upon verification of satisfactory performance by the Township Engineer. Vice-Chairman Shiring seconded the motion which was unanimously approved.

#### **BIDS FOR SNOW REMOVAL FOR 2022/2023 SEASON**

Bid requests for snow removal for the 2022/2023 season were duly advertised in the Daily Local News on August 4<sup>th</sup> and August 11<sup>th</sup>. One bid was received from Page Excavating Company of Lincoln University. Chairman Boorse compared rates to the contract for the 2021/2022 season. All hourly rates for labor and equipment had increased between \$5. and \$100. The bid was accompanied by a bid bond and proof of insurance. Chairman Boorse moved to approve the bid for the 2022/2023 snow removal season as presented by Page Excavating Company. Supervisor Hill seconded the motion which was unanimously approved.

#### **POLICE PERSONNEL**

Chairman Boorse said that the Supervisors met in Executive Session prior to tonight's meeting to discuss police personnel. There is a lack of police officers available for hire and the Chief is unable to hire part-time officers. In order to maintain the existing police department with the level of service that has been provided to the residents, some rate and personnel changes are being made. Effective October 3<sup>rd</sup>, the status of the three part-time police officers, Spencer Wood, Justin Prorock and Kevin White will change to full-time at the rate of \$30./hr. Officer McCardle's rate will increase to \$36./hr. Corporal Arnold's rate will increase to \$40./hr. Lieutenant Urbany's rate will increase to \$42./hr. Chief Nelling's rate will increase to \$57./hr. Chairman Boorse moved to approve the police department status and rate changes effective October 3<sup>rd</sup>. Supervisor Hill seconded the motion which was unanimously approved.

#### **RESOLUTION TO APPOINT BBD, LLP TO PERFORM THE 2022 AUDIT**

It was duly advertised in the Daily Local News on August 4<sup>th</sup> that a resolution would be considered for the appointment of BBD, LLP to do the 2022 audit for a cost of \$5,500.00. The rate was increased by \$500. which is the first rate increase submitted from BBD, LLP. Vice-Chairman Shiring moved to adopt Resolution #2022-0906 to appoint BBD, LLP to do the 2022

audit for a cost of \$5,500.00. Chairman Boorse seconded the motion which was unanimously approved.

### **MMO 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 of September.

The calculation of the 2023 plan costs, or the MMO, required an estimate of the 2022 W-2 wages of the employees covered by the plan. The minimum municipal obligation for both the uniform and non-uniform plans is \$0.00 as the actuarial present value of future benefits is less than the actuarial value of assets, so the plan's MMO is automatically set at \$0.00. Any pension costs would be offset by State Aid to municipal pensions to which the Township is entitled under Act 205. Chairman Boorse moved to accept the MMO for 2022 as presented. Supervisor Hill seconded the motion which was unanimously approved.

### **PUBLIC COMMENT**

There was no public comment.

The meeting was adjourned at 8:22 PM. (SCB;JDH)

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer

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

04-Oct-22

From: 02-Aug-22 To: 06-Sep-22

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
<b>Bank Account: 11 TRUMARK GENERAL FUND</b>					
21699	8/8/2022	11	21ST CENTURY MEDIA - PHI	\$511.09	O
21700	8/8/2022	1001926	AJ BLOSENSKI, INC.	\$170.80	O
21701	8/8/2022	79	BRANDYWINE VALLEY SPC	\$143.25	O
21702	8/8/2022	1002390	CJS TIRE & AUTOMOTIVE	\$1,401.94	O
21703	8/8/2022	1002121	CLEVENS K-9 SCOOP	\$228.00	O
21704	8/8/2022	1002816	DANIEL & LISA MCMAHON	\$488.88	O
21705	8/8/2022	2	FREEDOM SYSTEMS	\$1,895.00	O
21706	8/8/2022	1002182	GALE M FITZPATRICK	\$365.00	O
21707	8/8/2022	422	HARRY TILLMAN AUTOMOTI	\$712.99	O
21708	8/8/2022	1002815	NANETTE DUEA	\$584.88	O
21709	8/8/2022	205	PARKWAY DRY CLEANERS,	\$118.55	O
21710	8/15/2022	699	4IMPRINT, INC.	\$185.48	O
21711	8/15/2022	469	BIRMINGHAM TOWNSHIP S	\$200,000.00	O
21712	8/15/2022	366	BUCKLEY, BRION, MCGUIRE	\$4,024.50	O
21713	8/15/2022	775	CONVENIENT CAR CARE C	\$239.70	O
21714	8/15/2022	1002817	LAKE SHORE INDUSTRIES	\$1,536.80	O
21715	8/15/2022	1002526	MCDONALD UNIFORM CO., I	\$2,914.67	O
21716	8/15/2022	798	PA ONE CALL SYSTEM, INC.	\$9.51	O
21717	8/15/2022	171	REILLY & SONS INC.	\$1,643.65	O
21718	8/15/2022	811	S&S CLEANING SERVICE	\$388.00	O
21719	8/15/2022	1001833	STAPLES BUSINESS ADVAN	\$54.45	O
21720	8/15/2022	917	WITMER PUBLIC SAFETY G	\$368.28	O
21721	8/22/2022	11	21ST CENTURY MEDIA - PHI	\$499.58	O
21722	8/22/2022	1002782	CELS LANDSCAPE & TREEC	\$1,400.00	O
21723	8/22/2022	1002390	CJS TIRE & AUTOMOTIVE	\$41.97	O
21724	8/22/2022	775	CONVENIENT CAR CARE C	\$239.70	O
21725	8/22/2022	1002606	CRYSTAL SPRINGS	\$44.64	O
21726	8/22/2022	1002526	MCDONALD UNIFORM CO., I	\$2,663.03	O
21727	8/22/2022	26	SIGNAL SERVICE INC.	\$268.50	O
21728	8/22/2022	1001833	STAPLES BUSINESS ADVAN	\$289.99	O
21729	8/22/2022	1002819	DANIEL H.T. SHIPPEY	\$2,500.00	O
21732	8/25/2022	11	21ST CENTURY MEDIA - PHI	\$639.44	O
21733	8/25/2022	1001926	AJ BLOSENSKI, INC.	\$170.80	O
21734	8/25/2022	1002820	DAVID MUDDIMAN	\$2,000.00	O
21735	8/25/2022	1002011	FRANCOTYP-POSTALIA INC.	\$237.00	O
21736	8/25/2022	171	REILLY & SONS INC.	\$1,295.63	O
21737	8/25/2022	1001833	STAPLES BUSINESS ADVAN	\$145.58	O
21740	9/6/2022	1002659	ARRO CONSULTING, INC	\$6,597.15	O



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

04-Oct-22

From: 02-Aug-22 To: 06-Sep-22

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
21741	9/6/2022	1002659	ARRO CONSULTING, INC	\$19,939.38	O
21742	9/6/2022	849	BATTAVIO/B&F SERVICE CO	\$135.00	O
21743	9/6/2022	1002121	CLEVENS K-9 SCOOP	\$285.00	O
21744	9/6/2022	775	CONVENIENT CAR CARE C	\$199.70	O
21745	9/6/2022	1002801	GREG RADFORD, ARCHITE	\$1,600.00	O
21746	9/6/2022	780	LAND ART	\$625.00	O
21747	9/6/2022	1002053	MICHAEL J HOCHHAUS	\$250.00	O
21748	9/6/2022	798	PA ONE CALL SYSTEM,INC.	\$69.30	O
21749	9/6/2022	1002821	PALMER LOUX	\$350.00	O
21750	9/6/2022	205	PARKWAY DRY CLEANERS,	\$221.15	O
21751	9/6/2022	811	S&S CLEANING SERVICE	\$388.00	O
21752	9/6/2022	1002792	SUNNY GARDEN LANDSCAP	\$1,417.50	O
21753	9/6/2022	1002822	THOMPSON HOMES	\$528.86	O
21754	9/6/2022	1001958	TRAFFIC SAFETY STORE	\$294.40	O
21755	9/6/2022	278	UNRUH, TURNER, BURKE &	\$1,044.50	O
21756	9/6/2022	1001834	WM P MCGOVERN INC	\$5,630.00	O
<b>Bank Total:</b>				<b>\$269,996.22</b>	

**Bank Account: 22 GF - Electronic Payments**

100025	8/8/2022	29	PECO ENERGY	\$581.99	O
100026	8/8/2022	30	PECO ENERGY (TRAFFIC LI	\$22.89	O
100027	8/8/2022	61	VERIZON 753-804-167-0001-	\$364.13	O
100028	8/8/2022	80	AQUA PENNSYLVANIA	\$2,685.58	O
100029	8/11/2022	1002798	TRUMARK FINANCIAL CRED	\$1,220.36	O
100031	9/6/2022	80	AQUA PENNSYLVANIA	\$110.22	O
100032	9/6/2022	1001902	COMCAST BUSINESS	\$159.89	O
100033	9/6/2022	29	PECO ENERGY	\$623.37	O
100034	9/6/2022	30	PECO ENERGY (TRAFFIC LI	\$187.95	O
100035	9/6/2022	61	VERIZON 753-804-167-0001-	\$365.52	O
100036	9/6/2022	1001913	VERIZON WIRELESS 722423	\$160.81	O
100038	9/6/2022	517	INDEPENDENCE BLUE CRO	\$5,527.22	O
<b>Bank Total:</b>				<b>\$12,009.93</b>	
<b>Total Of Checks:</b>				<b>\$282,006.15</b>	