

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
APRIL 6, 2009**

The regular meeting of the Board of Supervisors was called to order at 7:30 PM in the Township 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
Dave Rathbun	-	Roadmaster
Michael Langer	-	Recreation, Park & Open Space Committee Chairman
Carol Leeson	-	Recreation, Park & Open Space Committee Member
Jeff Corrigan	-	Recreation, Park & Open Space Committee Member
Quina Nelling	-	Secretary/Treasurer

Mr. Kirkpatrick moved to approve the March 16, 2009 minutes as written. (Approved all in favor.)

Mr. Kirkpatrick moved to approve the bills submitted for payment. General Fund bills totaled \$25,415.16. Sewer Fund bills totaled \$7,732.86. (Approved all in favor.)

ROAD REPORT

Dave Rathbun reported for the first quarter 2009. A written report was provided to the Board on the following items:

- 1 Complaint for the quarter from the homeowner at 620 General Weedon Drive regarding a water run-off problem with roadside swales. Turf build-up along the driveway at the swale line traps water at the end of the driveway. There appears to be no adverse affect to the roadway. Mr. Hatfield will write a letter to the homeowner advising that the homeowner is responsible for re-grading next to the driveway.
- Spring Road Inspection was held on March 19th. The estimate for the road work for 2009 is \$30,490. The major item for the road work is a sleeve under General Cornwallis Drive. There is also patching work proposed, a large portion being on Meetinghouse Road. Maintenance of storm drains will be an add-on item for the road program.
- Liquid Fuels funds have been received. The amount of \$111,496. is a 3.5% decrease as a result of economic conditions and revenues from gasoline purchases declining.

The Board discussed making sure that the maintenance work is separated in the bid to avoid the prevailing wage requirements.

Chairman Conklin moved to authorize advertising for the 2009 road program with bids to be opened at the May 4th meeting. The request for bids will be advertised in the Daily Local News on April 20th and April 23rd. (Approved all in favor.)

Mr. Kirkpatrick commented that it is not possible to get a handle on the full cost of the road work without having an estimate of the engineering costs.

Mr. Bush discussed a March 13, 2009 letter that the Township received from the Chester County Planning Commission on the Transportation Improvements Inventory which is a list of transportation needs in the County with a request for input on existing and new projects. Two items of interest on the list for Birmingham are safety improvements at Creek Road and Rt. 926 and signalization of the five points intersection at Birmingham Road. The construction cost for these two items is listed on the report is \$300,000. The Brandywine Creek Bridge replacement is also on the list but the costs were not listed. Copies of the letter will be given to Mr. Rathbun and Mr. Hatfield for review and input.

RESOLUTION FOR CHIEF ADMINISTRATIVE OFFICER FOR PENSION PLANS

Mrs. Nelling reported that the Township is undergoing a three year audit by the Auditor General's Office on the pension plans. The Treasurer was designated as the Chief Administrative Officer for the Police Pension Plan at the September 19, 1988 Township meeting. The Non-Uniform Pension Plan was established at a later date. Mrs. Nelling has been assuming the role of the Chief Administrative Officer for the Non-Uniform Plan but an official resolution has not been passed by the Board. The Auditor General's Office understood that it was the Township's intent for the Treasurer to be the Chief Administrative Officer of both plans and asked that a resolution be adopted by the Supervisors establishing the Chief Administrative Officer position for both plans.

Chairman Conklin moved to adopt Resolution #090406 to designate the Chief Administrative Officer for the Birmingham Township Uniform and Non-Uniform Plans. (Approved all in favor.)

WHEREAS, the Secretary/Treasurer of Birmingham Township is hereby directed and authorized to execute the provisions of the pension agreements with the Pennsylvania Municipal Retirement System and Trustees Insurance Fund in accordance with all rules and regulations governing the Pension Plans.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Birmingham Township, Chester County, Pennsylvania that the Uniform and Non-Uniform Pension Plans of Birmingham Township, in Association with the Pennsylvania Municipal Retirement System for the Uniform Plan and the Trustees Insurance Fund for the Non-Uniform Plan, shall be administered by the Secretary/Treasurer of Birmingham Township who is designated as the Chief Administrative Officer of both plans for Birmingham Township.

AUTHORIZE ADVERTISING FOR ORDINANCE HEARING ON CHAPTER 97

Mrs. Nelling said that based on a decision by the Commonwealth Court on Act 90 of 2002, known as the Waste Transportation Safety Act, the County of Chester can no longer require municipal waste haulers to be licensed to operate in the County. In Chapter 97, Solid Waste, of the Birmingham Township Code, haulers are required to provide proof of their County registration. The Township Solicitor has reviewed Chapter 97 and has drafted an ordinance revision which would comply with the Commonwealth's Decision and provide updates.

Mr. Bush moved to set a hearing date to consider the Chapter 97 Ordinance Revision for Monday, May 4th @ 7:15 PM. (Approved all in favor.)

PUBLIC COMMENT

The Township Solicitor has had a Notice of Violation served on the owner of the Brandywine River Nursery for zoning violations in the flood plain. If the Township receives a default judgment it will be difficult to enforce if there are no assets. At the recommendation of the Township Solicitor, Chairman Conklin moved to have the Township Solicitor initiate an action in equity seeking a court order to have the property brought into compliance. (Approved all in favor.) This order will keep the owner from doing anything on the property in a manner that violates the ordinance.

Mr. Bush read a letter of commendation from James Hughes of Dorset Drive on one of the part-time police officers, John Freas. Mr. Hughes commented on the helpfulness and compassion of Officer Freas on a 9-1-1 ambulance call. Mr. Bush said that the letter points out the fact that the Township has some fine part-time police officers that are doing a good job. Chairman Conklin said that such letters help at budget time to justify the existence of the police force.

RECREATION, PARK, & OPEN SPACE COMMITTEE

The RPOS members were present with new designs and colors for the entrance signs for Birmingham Hill and Sandy Hollow Park. The Birmingham Hill sign is a darker blue and it would be mounted on a kiosk. The cost of the kiosk is about \$50.- \$75. and it would be 24x36 with a frame surround and a cedar shake roof. The verbiage on the signs has been changed to list the Brandywine Battlefield trail at Birmingham Hill.

At the March 2, 2009 meeting, the signage had been discussed. The Board felt strongly that the sign should designate the location, Birmingham Hill, with the Brandywine Battlefield trails being the identifier for all the trails. Mr. Kirkpatrick asked why the signage had been changed from what was discussed by the Board at the March 2nd meeting? Chief Nelling had indicated that there would be a problem with emergency responders if the Brandywine Battlefield trail name was used as the identifier because of the close proximity of the Battlefield Park on Rt. 1. Mr. Langer responded that this had been discussed in detail at the last RPOS meeting. The committee felt the verbiage read better with the Brandywine Battlefield trail at Birmingham Hill than vice versa. They also thought there would be no issue identifying the location of the trail as the road names of Meetinghouse and Birmingham would be the identifiers.

The Board asked about feedback from the Brandywine Conservancy? Mr. Langer said that the Brandywine Conservancy had conceded to the Birmingham Hill trail name.

Doug Jones, Fieldpoint resident, felt that the name Birmingham Hill should be first on the sign.

With regards to Sandy Hollow Park, RPOS had decided to refurbish the existing sign. A new sign would cost about \$2,000. more. The committee also felt that Birmingham Hill is more residential and that Sandy Hollow Park has a different feel. The committee thought that two different signs were acceptable.

Mr. Bush commented that there is value in consistency in appearance. The two properties are close together in location and they are tied together by being part of the same battle. They are also the focal point of the Township and he recommended spending the additional money and having the Township put its “best foot forward” in this situation.

Chairman Conklin appreciated the budget concerns of RPOS but agreed with Supervisor Bush. He also thought it was an opportunity to highlight the open space in the Township.

Chairman Conklin moved to approve the regulatory sign in blue on the kiosk for Birmingham Hill; to have Birmingham Hill as the prominent name on the park signs, with Brandywine Battlefield trails as part of the sign, and to have new signs with the same design for Birmingham Hill and Sandy Hollow Heritage Park. (Approved all in favor.)

Mike Langer stated that the entranceway to Birmingham Hill will be paved by the end of April with the Park opening in a couple of weeks. Mark Beauchamp is coordinating the mowing efforts on the property.

ADDITIONAL PUBLIC COMMENT

Doug Jones, Fieldpoint resident, commented on the visibility of the police in the Fieldpoint development. He was discussing general safety with one of the police officers and commented on the number of residents that leave their vehicles unlocked and their garage doors open. Mr. Jones had a discussion with the police officer about the rights of individuals to park on the lawn of his property. The police officer indicated to Mr. Jones that the public has the right to park on the street and the property of Mr. Jones as it was Township property. In a later discussion with another police officer Mr. Jones said he was told that the public can park on the street only and not on his property. He was here tonight looking for clarification.

Chairman Conklin told Mr. Jones that the police officer was probably referring to the right-of-way of the road which provides the Township with the ability to maintain the road and stormwater facilities within the right-of-way. Mr. Bush added that the right-of-way is wider than the road width. The Board said that they would confer with the Township Solicitor on the matter and respond back to Mr. Jones. Mr. Kirkpatrick did

clarify with Mr. Jones that his specific question is the public parking an entire vehicle on his property, not just a car being parked on the road with two of its tires encroaching upon his yard, and his rights to demand that the vehicle be removed.

Bud Starr, Birmingham Hunt resident, complained about the number of solicitors that come to his door. He asks for proof of registration. The solicitors claim ignorance of the registration requirements and say that there are no signs posted which state that solicitation isn't allowed. Mr. Starr had contacted 9-1-1 about a solicitor problem. He complained about the hassle of dealing with the 9-1-1 center. Mr. Starr asked the Board to consider signage. He also asked if the police could patrol the development for such solicitors. Chairman Conklin suggested to Mr. Starr that he bring up the issue to the Homeowner's Association. He also noted that the Supervisors have historically avoided signs in the Township unless absolutely necessary.

Mr. Jones asked for the stormwater basin checklist information from Mr. Hatfield, Township Engineer. This information is not available at this time, but handouts will be provided at the meetings scheduled for April 30th and May 6th.

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

Respectfully submitted,

Quina Nelling
Secretary/Treasurer