

**REGULAR PUBLIC MEETING
July 19, 2010**

MEMBERS PRESENT

Arthur Murphy, President
Paul Weiss, Vice President
Jerry Batcha, Commissioner
Michael Hudak, Commissioner
Thomas Nolan, Commissioner

OTHERS PRESENT

James Broughal, Township Solicitor
Jon Hammer, Township Manager
Doug Bruce, Assistant Township Manager
Howard Kutzler, Director of Planning & Economic Development
Andrew Freda, Finance Director
Brian Dillman, The Pidcock Company – Township Engineer

CALL TO ORDER

President Murphy called the meeting to order at 7:00 p.m. and led those in attendance in reciting the Pledge of Allegiance to the Flag.

COURTESY OF THE FLOOR**TIM BRADY
3817 CHRISTIAN SPRING RD.**

Mr. Brady stated he recently read in the newspaper that Mr. Hammer would be leaving his position as Township Manager of Bethlehem Township. As a citizen of the Township and former member of the Board of Commissioners, Mr. Brady thanked Mr. Hammer for his service to the Township and wished Mr. Hammer the best of luck in his new position.

Mr. Brady also stated that he read the ordinance amending the current burning ordinance and the new ordinance only references the changes. Without having a copy of the current ordinance he does not quite know what those changes mean. Mr. Brady asked if the Board of Commissioners could reconsider acting on the amended ordinance this evening.

Mr. Brady noted the resolution authorizing the Township's application for casino grant funds and thanked the Board of Commissioners for including a new ambulance for BTVFC.

Lastly, Mr. Brady requested that the minutes of all the meetings of the Board of Commissioners be posted on the website, not just their regular public meeting minutes.

APPROVAL OF MINUTES

Upon motion (Batcha-Hudak), the Board of Commissioners unanimously voted by voice vote to approve the minutes of the July 6, 2010 regular public meeting and special public meeting as presented.

PUBLIC HEARING**ORDINANCE 02-10**

**AN ORDINANCE AMENDING ORDINANCE NO. 3-93, "THE
BETHLEHEM TOWNSHIP AIR POLLUTION CONTROL
ORDINANCE" BY PROVIDING ADDITIONAL REGULATIONS
RELATING TO OPEN BURNING**

Solicitor Broughal stated that the Township received correspondence from their recycling consultant that stated monies are being lost because the Township allows open burning and based on the recycling consultant's suggestions of what should be amended, there are only minor changes to the current ordinance. Mr. Kutzler noted that the new ordinance does not ban all outdoor burning but

provides the definition of materials that are prohibited to be burned. The amended ordinance allows open fires by the police department and fire companies.

Mr. Nolan stated such an ordinance that does not ban all open burning is not acceptable and noted that Bethlehem Township is the only Township that currently allows burning. Mr. Nolan further stated that in his neighborhood whenever anyone burns there is an issue of air pollution and no one has the right to pollute their neighbor's air. Mr. Murphy stated that in Mr. Nolan's neighborhood no one can meet the requirements of the current burning ordinance. Mr. Kutzler added that if you look at the definitions of "leaf waste" and "yard waste" in the amended ordinance, you would see that the only thing allowed is a recreational fire and the burning of cut wood. Mr. Murphy stated that if all burning was banned there would be a problem with chimineas. Mr. Hudak commented that the only thing a resident is allowed to burn is cut wood in an open fire pit and the amended ordinance clarifies yard waste as tree branches, shrub trimmings and vegetative matter. Mr. Nolan stated that he does not want a back door to allow burning. Mr. Hudak suggested that the laws for burning be enforced. Mr. Batcha noted that burning in 55-gallon drums is now banned. Mr. Nolan concluded that this is a step forward and asked that the new burning rules be communicated to all residents.

Mr. Murphy opened the public hearing for comments or questions from those in attendance.

TIM BRADY
3817 CHRISTIAN SPRING RD

Mr. Brady stated that it is time for an appropriate change to the burning ordinance, however, he doesn't know what the new ordinance says without seeing the current ordinance. Mr. Brady suggested that the new ordinance state that there will be a 6 month grace period before anyone can be cited and also suggested that something be put in the next newsletter regarding the new burning ordinance.

JAMES CLARK
2107 5TH ST.

Mr. Clark stated his neighbor burns a lot and is burning more than cut wood. Mr. Hudak stated that he knows Mr. Clark's area well and does not believe the neighbor can meet the current burning requirements. Mr. Hudak suggested that Mr. Clark contact the Police Department the next time his neighbor burns. Mr. Clark expressed concern that with allowing chimineas, residents will burn at night while the current ordinance only allowed burning from 7:00 a.m. – 4:00 p.m. Mr. Clark questioned whether screening would be required for the fire pits to keep the embers from blowing.

BARRY ROTH
4323 CHETWIN TERR.

Mr. Roth also expressed concern regarding chimineas and stated that his neighbor burns wet wood and the smoke hangs in the low spots. Mr. Roth is concerned that residents are using whatever is in the yard to burn in their chimineas and that is yardwaste. Mr. Roth stated he wants chiminea complaints tracked.

WAYNE KIRK
3109 FAIRVIEW ST.

Mr. Kirk stated he is in favor of the ordinance because it bans barrel burning. Mr. Kirk did not agree with a 6 month grace period.

Mr. Batcha stated he raised a time issue several weeks ago and suggests a grace period for giving warnings until the newsletter with the new burning information gets out to the residents. Solicitor Broughal indicated that the enforcement provisions of the burning ordinance have not changed.

There being no further discussion, Mr. Murphy closed the public hearing.

Upon motion (Hudak-Weiss), the Board of Commissioners unanimously voted by roll call vote to adopt Ordinance 02-10 amending Ordinance 3-93, "The Bethlehem Township Air Pollution Control Ordinance" by providing additional regulations relating to open burning.

RESOLUTION R043-10

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE BETHLEHEM TOWNSHIP SELF STORAGE SITE PLAN

Mr. Kutzler stated that T&L Partner's Inc. is proposing a two-story 9,600 sq. ft. building addition and associated site work on the Bethlehem Township Self Storage site located on Santee Road. After reviewing the draft resolution, Mr. Batcha noted that the third "whereas" incorrectly names the plan as Country Meadows.

Upon motion (Batcha-Nolan), the Board of Commissioners unanimously voted by roll call vote to adopt Resolution R043-10 as corrected, granting conditional approval of the Bethlehem Township Self Storage Site Plan.

RESOLUTION R044-10

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE COUNTRY MEADOWS OF BETHLEHEM SOLAR FIELD AND PARKING EXPANSION SITE PLAN

Mr. Kutzler stated that Country Meadows is proposing the construction of a ground mounted solar panel field and a parking lot expansion which will add 23 parking spaces to their site located on Green Pond Road. The solar panels will capture 25% of the energy used by Country Meadows and is permitted by zoning as an accessory use.

Mr. Murphy inquired whether there would be any health considerations for the neighbors. Mr. Tim Wolf, a consultant, responded that there would be no health concerns and that the solar panels will capture the sun's rays and turn it into energy for Country Meadows use. Mr. Hudak questioned whether the panels would reflect light and how neighbors would be affected. Attorney Jim Zulik responded that the panels are designed to absorb the sunlight and are pointed away from the neighbors. Attorney Zulik added that the solar field will be surrounded by a fence and a planting screen. Mr. Kutzler noted that a condition of approval in the draft resolution addresses this issue and the Township's Planning Consultant will be working with Country Meadows to make sure the landscaping addresses the issue. Mr. Hammer noted that a neighbor, Mrs. Davis, phoned today and stated she was out of town and would not be in attendance this evening. Andrew Bohl of Hanover Engineering stated he met with the Davis' last week and assured them their concerns would be addressed.

Attorney Broughal inquired whether the power generated by the solar panels would be 100% for Country Meadows because if they were to sell power to any other entity, it would no longer be an accessory use and then would not be a permitted use. Mr. Bohl responded that the energy would be used solely by Country Meadows and Attorney Zulik stated that a note to that effect would be added to the plan.

Upon motion (Hudak-Weiss), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R044-10 as presented, granting conditional approval of the Country Meadows of Bethlehem Solar Field and Parking Expansion Site Plan.

RESOLUTION R045-10

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE ST. LUKE'S HOSPITAL BARN AUDITORIUM RESTORATION SITE PLAN

Mr. Kutzler stated that St. Luke's is proposing to take an existing barn located on their site south of Hope Road and East of Route 33 and redevelop the barn into an auditorium/conference building. Mr. Hudak questioned what would prevent St. Luke's from adding additional floors to the barn in the future. Mr. Kutzler responded that the plan for the barn is specific and if they wanted to add anything else to the barn they would need to come back to the Township for approval. Mr. Batcha stated that the original plans for this site were grand and asked what St. Luke's envisions for this site. Anita Kingsbauer, Executive Director of the Riverside Campus, stated that St. Luke's does not have any plans for the site; but they like the barn and are committed to restoring the barn. Ms. Kingsbauer added that the site is perfect for open space. Mr. Weiss stated that he is concerned something will get approved that would short circuit what the Township envisions for this site. Solicitor Broughal stated that St. Luke's could come back with another plan in the future that would show something else on this site. The Board would have to review the plan and either approve or disapprove the plan.

Upon motion (Nolan-Weiss), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R045-10 as presented, granting conditional approval of the St. Luke's Hospital Barn Auditorium Restoration Site Plan.

RESOLUTION R046-10

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE VINEYARD AT WAGNER FARMS PHASE 4 POND LANDSCAPE MINOR PLAN CHANGE

Mr. Kutzler explained that in 2007 the Board of Commissioners accepted dedication of the rights-of-way and detention pond in the Vineyard Phase 4. The developer, Mark Wagner, is trying to end the 18-month maintenance period and during a final maintenance inspection it was found that plantings were missing around the detention pond. These plantings were removed by residents. Mr. Kutzler stated that in looking at the detention pond, the Township's Public Works Department recommended that the plantings not be re-planted. Mr. Batcha asked if there was any outreach to the neighbors about the plantings. Mr. Kutzler responded that his department did not contact the neighbors nor has he received any complaints regarding the missing plantings. Mr. Wagner stated that some homeowners took the plantings out because they obviously didn't want them.

Upon motion (Batcha-Hudak), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R046-10 as presented, granting conditional approval of the Vineyard at Wagner Farms Phase 4 Pond Landscape Minor Plan Change.

RESOLUTION R048-10

A RESOLUTION ACCEPTING THE OFFER OF DEDICATION OF ROAD RIGHT-OF-WAY FOR THE RELOCATION OF CHRISTIAN SPRING ROAD AS PART OF THE CHRISTIAN SPRING ROAD MULTI-FLEX SUBDIVISION/LAND DEVELOPMENT

Mr. Kutzler explained that as part of the Christian Spring Road Multi-Flex Subdivision/Land Development, the developer agreed to relocate a portion of Christian Spring Road and make improvements to Christian Spring Road from his property line to Brodhead Road. A final inspection of the improvements was made by the Township Engineer, all previously observed deficiencies have been addressed and the developer is offering dedication of the road-right-of-way for the relocation of Christian Spring Road.

Upon motion (Weiss-Nolan), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R048-10 as presented, accepting the offer of

dedication of road right-of-way for the relocation of Christian Spring Road as part of the Christian Spring Road Multi-Flex Subdivision/Land Development.

RESOLUTION R047-10

A RESOLUTION AUTHORIZING AN APPLICATION TO THE NORTHAMPTON COUNTY GAMING REVENUE AND ECONOMIC REDEVELOPMENT AUTHORITY FOR THE 2010 LOCAL SHARE MUNICIPAL GRANT

Mr. Hammer stated that the Township is requesting grant funding from the Northampton County Gaming Revenue and Economic Redevelopment Authority for three separate projects; 1) the purchase of an ambulance for BTVFC estimated at \$100,000.00; 2) the purchase of 2 police vehicles for the Bethlehem Township Police Department estimated at \$70,000.00; and 3) traffic signalization of the Freemansburg Ave/Washington St. intersection estimated at \$300,000.00 (one-half of the total cost of the project). Mr. Hammer added that the application for the funding will be submitted to the County by the end of July. Mr. Nolan advised that the application is for the committed funds available for the 5 contiguous municipalities. Solicitor Broughal noted that the funds will be allocated through a competitive bid process and Mr. Nolan stated that the Gaming Authority will make the final decisions on who will receive grant funding.

Upon motion (Hudak-Weiss), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R047-10, authorizing an application to the Northampton County Gaming Revenue and Economic Redevelopment Authority for the 2010 Local Share Municipal Grant.

MOTION

A MOTION AUTHORIZING THE TOWNSHIP MANAGER TO ADVERTISE FOR BID THE ROAD MATERIALS CONTRACT

Upon motion (Weiss-Nolan), the Board of Commissioners unanimously voted by voice vote to authorize the Township Manager to advertise for bid the road materials contract.

MOTION

A MOTION AUTHORIZING THE TOWNSHIP MANAGER TO ADVERTISE AN AMENDMENT TO ORDINANCE 05-95, AN ORDINANCE AMENDING ORDINANCE 02-76, THE BETHLEHEM TOWNSHIP BUSINESS PRIVILEGE AND MERCANTILE TAX ORDINANCE, CHAPTER 24, SPECIAL TAXATION,' PART 3, 'BUSINESS PRIVILEGE AND MERCANTILE,' OF THE BETHLEHEM TOWNSHIP CODE OF ORDINANCES, TO PROVIDE FOR THE ADMINISTRATION AND COLLECTION OF THE BUSINESS PRIVILEGE AND MERCANTILE TAX BY A COLLECTOR TO BE APPOINTED BY RESOLUTION OF THE BOARD OF COMMISSIONERS"

Mr. Hammer explained that this ordinance will authorize changes to Ordinance 05-95. Michael Recchiuti of the firm of Fox Tobey, P.C. stated that the current ordinance refers to Berkheimer Inc. as the Business Privilege and Mercantile Tax Collector and the Township needs to add any appointed consultants who may collect the taxes.

Upon motion (Hudak-Weiss), the Board of Commissioners unanimously voted by voice vote to authorize the Township Manager to advertise an amendment to Ordinance 05-95.

MOTION

A MOTION AUTHORIZING BETHLEHEM TOWNSHIP TO ENTER INTO AN INTERMUNICIPAL SEWER SERVICE AGREEMENT WITH PALMER TOWNSHIP REGARDING THE MAPLE SHADE ESTATES SUBDIVISION

Mr. Hammer stated that this Intermunicipal Sewer Service Agreement will allow sewage to flow from Bethlehem Township through Palmer Township to Easton Suburban Water Authority for the Maple Shade Estates Subdivision.

Upon motion (Batcha-Hudak), the Board of Commissioners unanimously voted by voice vote to authorize Bethlehem Township to enter into an Intermunicipal Sewer Service Agreement with Palmer Township regarding the Maple Shade Estates Subdivision.

ZONING HEARING BOARD AGENDA – MEETING OF JULY 28, 2010

Mr. Kutzler pointed out Zoning Hearing Board Appeal #11-2010 filed by the owner of the Applebee Restaurant on Route 191. Mr. Kutzler explained that Applebee’s wants to install a driveway from the rear of their property to connect to the adjacent property, the Bethlehem Square Shopping Center.

**TIM BRADY
3817 CHRISTIAN SPRING RD.**

Mr. Brady stated that he recalls when Bethlehem Square Shopping Center was being constructed, the Township requested a road between the restaurant and the used car lot. That request was denied by PennDOT. Mr. Kutzler noted that the driveway now being proposed would only allow people to get from Applebee’s to the shopping center. Mr. Nolan also remembered the road being an issue with PennDOT. Mr. Dillman stated that he believes the driveway would be permitted by PennDOT because it will work off of volume. Solicitor Broughal added that Applebee’s will need to meet other regulations even if they are granted the variances. Mr. Kutzler also noted that permit will be required and his department will make sure PennDOT is ok with the driveway.

PURCHASE ORDER APPROVAL

Upon motion (Hudak-Weiss), the Board of Commissioners unanimously voted by voice vote to approve all purchase orders as presented.

APPROVAL OF BILL AGENDA

Upon motion (Batcha-Weiss), the Board of Commissioners unanimously voted by voice vote to approve the bill agenda of July 16, 2010 as presented.

APPROVAL OF TREASURER’S REPORT

Upon motion (Batcha-Weiss), the Board of Commissioners unanimously voted by voice vote to approve the Treasurer’s Report as of June 30, 2010, subject to audit.

ACCEPTANCE OF MONTHLY REPORTS

All monthly reports were accepted as presented.

DISCUSSION ITEMS

HOUSENICK PARK MASTER PLAN

Mr. Nolan stated that at a special meeting the Board of Commissioners interviewed 2 firms that submitted proposals for the Housenick Park Master Plan. Mr. Nolan reminded the Board that it was determined that the Township would provide the RFP and the Housenick Trustees would make the final decision on who they wanted to do the master plan. The Housenick Trustees have recommended Pennoni Associates and will provide the funding for the the Master Plan. If the Board of Commissioners were to choose not to follow the recommendation of the Trustees and chose another firm, the Trustees would need to approve the change. Mr. Hudak stated the park is a Township park and feels the final decision should be left to the Board of Commissioners.

Mr. Batcha stated that he could go with either firm but admitted that he was more impressed with Pennoni’s presentation. Mr. Batcha added that the Board

could follow the Master Plan or not follow it. Mr. Batcha stated that he had no problem going with Pennoni. Mr. Murphy stated he felt both presentations were fine but believes YSM is better. Mr. Murphy added that his concern is that the Board of Commissioners gets to decide what happens with the Master Plan.

Mr. Weiss asked if there would be a problem if the Board went with something other than what was recommended by the Trustees. Solicitor Broughal responded that the Trustees will fund Pennoni. If that is not acceptable to the Board of Commissioners it would have to go back to the Trustees saying that they had rejected Pennoni. The Trustees would have the right to not fund the other firm. Mr. Hudak asked if the Board of Commissioners would always be at the beckon call of the Trustees? Solicitor Broughal explained that the Trustees do not have the right to accumulate income; they must spend it, however, the spending is at their discretion. Solicitor Broughal stated that the Trustees can accumulate income for 2 years and Mr. Brady added that the clock started last December.

Mr. Hudak stated that YSM has done hundreds of park master plans and that is really not Pennoni's forte. Mr. Hudak then made a motion to award the contract for the Housenick Park Master Plan to YSM. There being no second to the motion, the motion died.

Mr. Nolan made a motion to award the contract for the Housenick Park Master Plan to Pennoni Associates. The motion was seconded by Mr. Batcha and carried by a 4-1 roll call vote (Mr. Hudak voted nay). Mr. Weiss stated that YSM was his choice but rather than delay the issue any longer and on the statement of Solicitor Broughal that the Master Plan was merely a guideline, he chose to go along with awarding the contract to Pennoni Associates. Mr. Murphy stated that he voted for Pennoni for the same reasons as stated by Mr. Weiss.

WEED ORDINANCE AMENDMENT

Mr. Kutzler stated that changes are being proposed to the Township's current weed ordinance because with the current economy his department is receiving complaints regarding foreclosed homes. Most of these foreclosed homes are owned by out of state banks and the complaints have to go through a long legal process. Some of these homes have very high weeds and neighbors want relief. Mr. Kutzler suggested the Board of Commissioners review the amendments and provide comments.

Solicitor Broughal explained that there are 2 major provisions in the new amendments; 1) allows the Township to enter the property and cut the weeds; and 2) allows the Township to file liens on the property to collect costs.

MOTION

A MOTION AUTHORIZING THE TOWNSHIP MANAGER TO ADVERTISE THE WEED AND NOXIOUS VEGETATION ORDINANCE

Upon motion (Batcha-Hudak), the Board of Commissioners unanimously voted by voice vote to authorize the advertisement of the weed and noxious vegetation ordinance.

OTHER BUSINESS

APPOINTMENT TO HOUSENICK COMMITTEE

Now that the Board of Commissioners has appointed a firm to do a master plan for the Housenick Estate, Mr. Nolan stated he would reconvene the Housenick Committee. Mr. Nolan asked, if the Committee wished to get a new member or change members, must they get approval from the Board of Commissioners or could they act on their own. Solicitor Broughal inquired whether it was the Board of Commissioners who made the original appointments to the Committee.

When the Board replied that they appointed the original members, Solicitor Broughal stated then they are the only body who can make changes.

Mr. Nolan noted that the Board of Commissioners gave permission to Victoria Bastidas to perform a study of the Housenick Estate's ecosystem. Mr. Nolan stated that Ms. Bastidas is very knowledgeable and would be an asset to the Committee, therefore he is asking the Board of Commissioners for the concurrence in appointing Ms. Bastidas to the Housenick Committee.

Mr. Hudak stated that he believes the Township already has a diverse group of people on the Housenick Committee and he sees no need to add anyone else to the Committee.

**VICTORIA BASTIDAS
3240 CHENAULT DR.**

Ms. Bastidas stated she is using the park as a lab site and is looking at this from a different point of view. Ms. Bastidas added that development of the park environmentally and recreationally are different.

Mr. Murphy pointed out that the Board just voted to appoint Pennoni Associates to develop a master plan for the park and suggested that the Board wait to see what Pennoni comes up with before adding anyone to the Committee. Mr. Murphy also advised Ms. Bastidas that the Housenick Committee is a recommending body to the Board of Commissioners.

Mr. Batcha stated that he agrees that an environmental educator is a valuable asset and suggested that Ms. Bastidas be a part of the open meetings Pennoni will have while developing a master plan. Mr. Batcha expressed his frustration that discussions regarding the Housenick Estate are becoming too personal and embarrassing.

Upon motion (Nolan-Batcha), the Board of Commissioners voted 3-2 by roll call vote (Mr. Hudak and Mr. Weiss voted nay) to appoint Ms. Bastidas to the Housenick Committee.

**EXECUTIVE SESSION
ANNOUNCEMENT**

Solicitor Broughal announced that the Board of Commissioners will hold an executive session pursuant to Section 708 (a) of the Pennsylvania Sunshine Act following adjournment of this evening's meeting to discuss personnel matters and potential litigation.

ADJOURNMENT

The Board of Commissioners adjourned into executive session at 8:50 p.m.

Respectfully submitted,

Judy Todaro
Recording Secretary