

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
JULY 21, 2008**

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 and a moment of silence. A quorum of Supervisors was declared. The following Township Officials were in attendance:

John Conklin	-	Chairman, Board of Supervisors
Al Bush	-	Member, Board of Supervisors
Thomas Nelling	-	Chief of Police
Dave Rathbun	-	Roadmaster
Dan Hill	-	Recreation, Park & Open Space Committee Member
Dr. Robert Reder	-	Recreation, Park & Open Space Committee Member
Jim Hatfield	-	Township Engineer, VanDemark & Lynch, Inc.
Quina Nelling	-	Secretary/Treasurer

Absent was Supervisor William Kirkpatrick.

Mr. Bush moved to approve the July 7, 2008 minutes as written. Chairman Conklin seconded the motion and it was carried.

Mr. Bush moved to approve the bills submitted for payment. General Fund bills totaled \$25,233.09. Sewer Fund bills totaled \$12,519.09. Chairman Conklin seconded the motion and it was carried.

2008 ROAD PROGRAM

The bid opening for the 2008 Road Program was duly advertised in the Daily Local News on June 30th and July 3rd. The bid request was for a base scope and three alternates. This was the second bidding on the road program this year. The first bids were rejected as the Department of Labor and Industry has opined that the Birmingham Township 2008 Road Program is construction, not maintenance, and the work would be subject to the State's prevailing wage rules. Therefore the bid was re-advertised requesting prevailing wage rates. The Supervisors had also authorized advertising on a second program which would include a minimal scope of work to complete road repairs deemed necessary by the Township Engineer and the Roadmaster which was designed to come in under \$25K and therefore not subject to prevailing wage requirements. Jim Hatfield was present to review the bids for completion and accuracy.

Dan Petrucci Paving Co. – Kennett Square, PA

Base Scope	-	\$151,503.00
Add Alternate #1	-	\$ 19,894.00
Add Alternate #2	-	\$ 7,140.00
Add Alternate #3	-	\$ 10,109.00
Misc. Road Program	-	\$ 31,998.00

S.A. Macanga, Inc. – West Chester, PA

Base Scope	-	\$183,624.00
Add Alternate #1	-	\$ 21,721.00
Add Alternate #2	-	\$ 12,444.00
Add Alternate #3	-	\$ 37,867.00
Misc. Road Program	-	No bid

Melchiorre Paving, Inc. – Malvern, PA

Base Scope	-	\$190,570.00
Add Alternate #1	-	\$ 19,691.00
Add Alternate #2	-	\$ 7,480.00
Add Alternate #3	-	\$ 8,525.00
Misc. Road Program	-	\$ 24,938.00

D. Malloy Paving, Inc.- Downingtown, PA

Base Scope	-	\$157,521.50
Add Alternate #1	-	\$ 19,082.00
Add Alternate #2	-	\$ 8,568.00
Add Alternate #3	-	\$ 15,587.00
Misc. Road Program	-	\$ 24,316.50

Three bidders from the first bid did not re-bid on the project (JFC Contractors; A.F. Damon, Inc. and Charlestown Paving). JFC Contractors had been the low bid on the first bidding on the road program.

Mr. Hatfield informed the Board that the replacement of the culvert pipe on Adams Way had been deleted from the bid and the overlay of General Sterling Drive had been taken out of the base scope and put into add alternate #1. This was done in hopes of having the bids come in close to the same price they did without incorporating prevailing wage. Mr. Bush said that the re-bids were supposed to be the same packages as originally bid. Comparisons were done between the original bids and the bids received. The price differential on the low bidders with the addition of prevailing wage and the escalating asphalt cost was between \$13,000. and \$20,000. Mr. Hatfield felt the bids were very competitive and recommended that the Supervisors proceed with the road program. He was very familiar with all the bidders and their prior work performance.

Mrs. Nelling stated that there is \$226,000.+ in the State Fund for road work. There is only \$4,000.in the general fund budget for emergency road issues so the work would all have to be paid from the State Fund. Mrs. Nelling reminded the Board that liquid fuels funds can also be used for snow removal if there is a shortfall in transfer tax revenues this year and the budget is tight. The Board has taken the position in the past that they wanted liquid fuels monies used to maintain the Township roads.

Mr. Hatfield added that there is an asphalt escalator in the contract which could affect the final price of the project. If the asphalt price changes more than 12%, either direction, there is a price change to the asphalt price. This could add \$10,000. - \$15,000. to the bid.

Mr. Miller asked which streets are proposed for overlays? Mr. Hatfield replied that the streets planned for overlays include Mansion View; General Wayne Drive; Lambourne Road; Artillery Point Road; Forsyth Drive; and General Sterling Drive. There is patching proposed on Meetinghouse Road; General Sterling Drive; Vale Drive, General Howe Drive; and General Lafayette Blvd. The balance of the work includes drainage repairs.

Mr. Bush said that the Township could wait on the road program and hope that the legislature changes the prevailing wage requirement or go forward with one of the bid options. Mr. Rathbun encouraged the Board to proceed with a road program as it would take some time to get the law changed and he felt that prices are only going to increase. Chairman Conklin said that the Township has already invested funds in this road program with engineering and advertising costs. The Township roads have been maintained and taken care of well over the years and there is a responsibility to continue to maintain the roads in the same manner.

Mr. Bush moved to award the bid for the 2008 Road Program to Dan Petrucci Paving Inc. for the base program and the three alternates at a cost of \$188,646. (Approved all in favor.)

PREVAILING WAGE

Chairman Conklin stated that Supervisor Kirkpatrick had proposed and prepared a letter to be sent to the Governor; state and local officials; and PSATS regarding the issue of prevailing wage. Mr. Conklin read the letter prepared by Supervisor Kirkpatrick.

*“We are writing to ask for your assistance in correcting a glaring problem faced by all townships in Pennsylvania. This problem concerns every township’s effort to provide well-maintained roads, bridges, and transportation structures for the taxpayers. All these roads require periodic **MAINTENANCE AND REPAIR** to meet the public’s expectations.*

*The issue we would ask you to address is that of **REPAVING AND MAINTENANCE OF OUR ROADS**. The Municipal Code rightly directs the townships to publicly **BID** road repaving projects. In Birmingham Township we do exactly that and open these bids at a public meeting. In our recent 2008 road maintenance program, five bids were received on the \$150,000.+ project and reviewed by our Township Engineer as qualified bidders and companies with suitable experience in our geographic area. Imagine our surprise when we were told that the \$40.+ per hour labor rate each contractor had in their bids was below the prevailing wage requirement. We were told that we must **REBID** with direction to the contractors to use the prevailing wage rate (12 – 15% higher @ ~ \$46. per hour).*

*Pardon us if we seem incredulous! **WHY** are we continuing to force our taxpayers to pay 12 – 15% more than open, competitive, bidding can demonstrably deliver to repair and maintain our public facilities? Public bidding is an excellent way for the citizens to get the best value for their tax dollars. The contract bid specification for materials and processes are written and precise and the townships typically use*

engineers (licensed by the State) to vet the contractors, audit the bid and oversee the work. What does Pennsylvania's "prevailing wage" law add to the process or do to support the beleaguered taxpayer in 2008?

*We ask that you, as our elected leaders and representatives, individually and collectively undertake to correct this situation...now!!! The recent Pennsylvania Supreme Court Decision (see attached) has interpreted the applicable law as "protecting workers on public works projects from receiving sub-standard wages". We would suggest that we are far removed from the dark days when such legislations may have had a socially responsible reason to be enacted. If you believe that a complete abandonment of the prevailing wage requirement from public works projects is too large a hurdle for you to support and achieve, then, at minimum, the **REPAVING or ROAD MAINTENANCE** work done by townships should be exempted from the "prevailing wage" requirement. The realities of today's economy should not irresponsibly force the taxpayers of Pennsylvania to support a wage floor for repair and maintenance of our public roads, bridges, and utilities.*

Thank you for any help you can provide in correcting this problem".

Chairman Conklin felt that the State, the elected officials and the judges should be embarrassed by the State's decision to dictate the increased prevailing wage rate for this road program and to take \$30,000. additional from the taxpayers for absolutely nothing, but they are not, and it isn't right! He thought that people should get upset about the court's decision, which he felt was a weak opinion by the court, and that it should be protested in every way. He noted that 75% of laborers in the greater Philadelphia area work for non-union contractors. Chairman Conklin moved to accept the letter proposed by Supervisor Kirkpatrick on prevailing wage and to forward it with a copy of the Supreme Court's Decision to the State and local officials. Mr. Bush seconded the motion and it was carried.

AUTHORIZE ADVERTISING FOR SNOW REMOVAL FOR 2008/2009 SEASON

Mr. Bush moved to authorize advertising for bids for the necessary equipment and labor for the 2008/2009 snow removal season to be received by 3 PM on Monday, August 18th with the bids to be opened at the Township meeting that evening. Chairman Conklin seconded the motion and it was carried.

HARB REPORT

HARB met on July 15th to consider two applications.

500 DILWORTH FARM LANE/TROSTLE/FENCE

HARB recommended that a Certificate of Appropriateness be issued to Mr. & Mrs. Keith Trostle to erect a three-rail split rail fence around the perimeter of the property. Mr. Bush asked for the reason for the fence. There was no purpose stated in the HARB minutes. Mr. Bush moved to approve the Certificate of Appropriateness for the fence on the Trostle property as recommended by HARB. Chairman Conklin seconded the motion and it was carried.

1304 BIRMINGHAM ROAD/RUDIBAUGH/TOWER EXTENSION

HARB recommended that a Certificate of Appropriateness be issued to John Rudibaugh for the preservation and extension of the tower, which is part of the residence. The plan, dated June 13, 2008, was drawn by James Bradberry Architects. Present were Bill Dolan, Pine Street Carpenters, and James Bradberry. The application is before the Supervisors for compliance with §122-36.4 for Class I Historic Resource alterations. The proposed tower was discussed with the Supervisors at the June 16th meeting. It was suggested that surrounding neighbors be contacted for their input on the application.

Mr. Dolan provided the Board with a copy of the letter sent to the neighbors. Five of the seven neighbors were in attendance at the HARB meeting and they all had positive feedback for the tower restoration. The neighbors in attendance at the HARB meeting were Scott Garrison; Jane Wylie; Pat Marshall; Mrs. Borel and her daughter. The other neighbors not in attendance (Bonnie Hall and Cheryl Cantrell) are familiar with the house and have been very receptive to the restoration.

Mr. Bradberry said that at the June 16th meeting there was a question asked as to whether the proposed mansard roof would jeopardize the house's eligibility on the National Historic Register. Mr. Bradberry confirmed that the Rudibaugh's could do whatever they want to do with the property as long as there was no funding involved with the restoration.

Chairman Conklin noted that the HARB minutes state that the tower would be restored back to its original state, however the tower never looked like the proposal being considered by the Board. Mr. Bradberry concurred. The tower was added to the house in the late 1800's. HARB also had questions about the tower being architecturally correct. Mr. Bradberry said that the proposed mansard roof will offer protection to the tower. Mr. Dolan added that Mr. Rudibaugh was trying to be as architecturally correct as possible within the confines of financial constraints.

Mr. Bush moved to approve the Certificate of Appropriateness for the tower extension application for the Rudibaugh's as recommended by HARB and, as opined by Solicitor Camp at the June 16th meeting that the Rudibaugh's can proceed with the tower extension application without the need for a variance from the Zoning Hearing Board. Chairman Conklin seconded the motion and it was carried.

Mr. Dolan confirmed with Mrs. Nelling that the building permit application could be submitted at this time.

TREASURER'S REPORT

Sect./Treas. Nelling reported for the second quarter 2008.

General Fund Balance	-	\$842,044.
Sewer Fund Balance	-	\$403,292. (\$324,213 is for capital reserve)
State Fund	-	\$226,895.

<u>General Fund Revenues</u>	<u>Budget</u>	<u>Actual</u>	<u>%</u>
Totals	\$1,201,710.	\$795,353.	66
Real Estate Property Taxes	\$ 646,700.	\$561,390.	87
Real Estate Transfer Taxes	\$ 200,000.	\$ 67,135.	34
Vehicle Code Violations	\$ 60,000.	\$ 47,730.	80
Act 101 Recycling Grant	\$ 2,000.	\$ 11,476.	
 <u>General Fund Expenditures</u>			
Totals	\$1,429,166.	\$592,745.	42
Legal Expenses	\$ 10,000.	\$ 14,694.	147
Building Maintenance	\$ 28,000.	\$ 1,000.	4
Police Department	\$ 574,600.	\$ 288,779.	50
Zoning Enforcement	\$ 2,000.	\$ 3,052.	153
Snow Removal	\$ 80,000.	\$ 35,602.	45
Traffic Lights	\$ 9,300.	\$ 2,231.	24
Recreation, Park & Open Space	\$ 13,500.	\$ 0.	
Office Health Insurance	\$ 35,700.	\$ 4,372.	12
Sewer Fund Total Revenues	\$ 309,077.	\$156,685.	
Sewer Fund Total Expenditures	\$ 411,554.	\$241,412.	

Mrs. Nelling highlighted some items from the financials.

- Real estate transfer taxes are only at 1/3 of the budget after six months. The Township would need to take in \$20,000./month to reach budget.
- The Township's financial situation is good for 2008 but, depending on transfer tax receipts for the rest of 2008, a tax anticipation loan may be needed for 2009 and the Board will need to review the millage rate for 2009
- There are some expenditures which are under budget which will help to counter the low real estate transfer tax receipts.
- Some maintenance items, such as the roof on the Township Building, can be deferred.
- Snow removal, even with an expenditure the end of this year, will be less than 50% of the budget.
- The Recreation, Park & Open Space Committee has not spent any of its budget.
- Health insurance expenditure for the office is lower than budget as the Office Assistant has declined coverage and the Board changed the benefits in the coverage.
- Budgeted expenditures exceed budgeted revenues but traditionally the excess in real estate transfer tax receipts has leveled out this difference, which may not be the situation for 2008.

Mrs. Nelling reported that the Township had been randomly selected for an audit by PennDOT on the liquid fuels tax fund. It was determined that the Township has taken the necessary steps to be in compliance with proper liquid fuels funds procedures by maintaining a well managed investment program.

Harry Miller, Bottom Lane, recommended that the roof replacement not be deferred as the building could incur damage to the support beams which would be more costly. He suggested 50 year asphalt shingles and that the Township should consider having the Amish contractors bid the project, as their prices are much lower. He said that his roof was replaced last year and the roof on the Township Building is the same age.

RECREATION, PARK & OPEN SPACE COMMITTEE REPORT

Dr. Reder reported that on the progress of the Birmingham Hill trail. Archeology has been completed on the site. The trail has been walked and all issues that need to be addressed have been identified. At this time the Township is waiting for approval from PennDOT for the access onto Birmingham Road.

Chairman Conklin said that Chief Nelling had expressed concern over the sight distance for the crosswalk location by the barn driveway. Mr. Hatfield said that he will meet Chief Nelling at the site to review options.

Mr. Hatfield anticipates having bid packages authorized at the August 18th or September 2nd meeting for bid opening either September 15th or October 6th. This schedule is based on approval by PennDOT. Hopefully the work can be completed by November. Chairman Conklin reminded those present that the County must be kept apprized of the work schedule as the deadline for completion is 2008. If there is a reason to extend it into 2009, the County will be more willing to grant the extension if they are aware of the Township's efforts to comply with the deadline.

PUBLIC COMMENT

Nicholas Hrnjez, Artillery Point, was present to discuss his concerns over safety and adequate site distance when exiting onto Rt. 926 from General Lafayette Blvd. He had also attended a meeting hosted by Representative Barrar and had expressed his concerns to him as well. As a resident for over twenty years he has watched the traffic flow escalate on the roads. His major concern was topography and a utility pole that blocks the site distance when exiting onto Rt. 926. Mr. Hrnjez asked for the Board's attention to this matter. He felt that a traffic signal at this location, as had been installed at the intersections of Birmingham Road and South New Street Road, would be helpful in preventing future accidents. If nothing else, something needs to be done to slow down the traffic.

Chairman Conklin stated that the Supervisors are always concerned with the safety of the residents. However, Rt. 926 is a State Road. PennDOT has criteria that must be met before signs and lights can be installed. Traffic signals are also a very large expenditure for the Township.

Chief Nelling said that there has only been one accident at that site from a car pulling out from Radley Run, which happened to be a Supervisor, Mr. Eeles, who was coming to the Township Building. The bigger issue for accidents is from traffic turning into the development and getting rear ended. Neither Chief Nelling nor Supervisor Bush felt that

there was enough traffic exiting the Radley Run development to warrant the installation of a traffic signal. Mr. Bush said this was the issue for years at the intersection of Old Wilmington Pike and Rt. 202 as there wasn't enough cross traffic until the Knolls of Birmingham development was constructed.

Harry Miller, Bottom Lane, agreed that the exit from General Lafayette Blvd., does have poor visibility. He felt the State could grade back the bank, similar to what had been done on Birmingham Road, and that the utility pole could be relocated.

Chairman Conklin commented that PennDOT will be contacted by the Township but that PennDOT looks at accident history and ranks/prioritizes projects in order of need and cost and there are many projects that don't get done because of financial constraints. He did not feel that this item would be high on PennDOT's list.

Mr. Hrnjez said that safety is paramount. Chairman Conklin agreed but said that PennDOT will prioritize a location for action by its accident history.

Mr. Hrnjez thanked the Board for their time.

The meeting was adjourned at 8:46 PM. (JLC)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer