

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
AUGUST 18, 2008**

The regular meeting of the Board of Supervisors was called to order at 7:30 PM in the Township Building by Vice-Chairman Kirkpatrick with the pledge of allegiance and a moment of silence. A quorum of Supervisors was declared. The following Township officials were in attendance:

William Kirkpatrick	-	Vice-Chairman, Board of Supervisors
Al Bush	-	Member, Board of Supervisors
Thomas Nelling	-	Chief of Police
Anthony Webb	-	HARB Chairman
Sandra Morgan	-	Sewer Engineer, URS Corporation
Quina Nelling	-	Secretary/Treasurer

Absent was Chairman of the Board of Supervisors, John Conklin.

Mr. Bush moved to approve the August 4, 2008 minutes as written. Mr. Kirkpatrick seconded the motion and it was carried.

Mr. Bush moved to approve the bills submitted for payment. General Fund bills totaled \$13,102.94. Sewer Fund bills totaled \$15,430.59. Mr. Kirkpatrick seconded the motion and it was carried.

ANNOUNCEMENTS

Sect./Treas. made two announcements.

1. On Tuesday, August 26th, the Zoning Hearing Board will consider an application from Brandywine River Nursery and Carl DiPiazza for an appeal from the notice violation which asserts that certain activities on the property violate the flood plain hazard district regulations of the zoning chapter of the Township Code as well as any other necessary variance relief.
2. On Tuesday, September 2nd, the Board of Supervisors will consider a conditional use application from CJ's Tire and Automotive Services to use the property at 1309 Wilmington Pike (the old Wenner Ford Tractor property) for the retail sale of tires and automobile accessories.

SNOW REMOVAL BIDS

A request for bids for the 2008/2009 snow removal season was duly advertised in the Daily Local News on July 24, and July 31, 2008. One bid was received from Page Excavating, Inc. of Lincoln University, Pennsylvania. The bid request was for hourly rates for various pieces of equipment. There were two changes to the equipment prices from the 2007/2008 snow removal season. The rate for the dump truck with a 10' plow/spreader was increased from \$90./hr. to \$95./hr. The rate for the 4x4 truck with an 8' plow/spreader was increased from \$80./hr. to \$85./hr. The labor rate remains at \$35./hr. The Supervisors felt this was a good bid and that the cost increases were related

to the increase in fuel prices. Mr. Bush complimented the good job done in the past by Page Excavating, Inc. Mr. Kirkpatrick moved to accept the bid from Page Excavating, Inc. for snow removal services for the 2008/2009 season. Mr. Bush seconded the motion and it was carried.

WASTEWATER TREATMENT PLANT GREASE DISCUSSION

Sandi Morgan, Township Sewer Engineer, reported that in March 2008, URS performed a follow-up inspection of the sewers which had been cleaned in 2007. Meetings were held in April 2008 with representatives from the Township, URS, the Dilworthtown Inn, Biotech Solutions, Bennigan's Restaurant, and R.J. Waters and Associates. Subsequent to the meeting, URS performed several random inspections.

BENNIGAN'S

It appears that less grease and oil has been discharged in 2008 than was observed in 2007 but based on the inspections grease is still collecting in the sewer system. URS also began monitoring the waste grease disposal container for Bennigan's in April 2008. From their observations it appears that grease is being removed and volume is available for dumping fryer oil in the waste container rather than down the drain. The temperature in the grease interceptor continues to be high. The grease is still in a liquefied form in the grease interceptors. The owner of Bennigan's Restaurant, Paul Hoffecker, had indicated that the Chester County Health Department (CCHD) had required a high temperature in the dishwasher. URS spoke with a representative from the CCHD. The older style dishwashers rely on high temperatures of 180 degrees for disinfection. The newer style dishwashers primarily utilize chlorine for disinfection. The recommendation from URS is that another grease interceptor be installed to cool the temperature of the grease before it gets into the sewer lines or to replace the dishwasher with a newer style so the water temperature could be reduced.

Mr. Hoffecker informed the Board that the corporate entity for Bennigan's has gone bankrupt. The point of sales has dropped by 70% from \$3 million to \$1.2 million annually. Mr. Hoffecker had Termac Corporation, the company that supplies the dishwashing materials for the restaurant, install a Viking Pro V sanitizer pump in the restaurant. The dishwasher is now using a chlorine base sanitizer at 50ppm and the final rinse temperature is 140 degrees which satisfies the CCHD and it should satisfy the Township's requirements. Mr. Hoffecker provided the Township with a letter dated August 17, 2008 from Sean O'Reilly of Termac Corporation which verifies the installation. Mr. Hoffecker asked if he could be provided with written documentation from URS Corporation which verifies that the grease problem was identified with Bennigan's. Mrs. Morgan will provide Mr. Hoffecker with the requested report. However, she reported that a video was taken of the sewer pipe downstream and the only other user is Starbucks. There was no grease in the Starbucks grease trap.

Mr. Kirkpatrick said that at the April meeting that there was discussion that the temperature in the grease trap was still elevated at 8 AM from the preceding evening. Mrs. Morgan confirmed that the Township Code states that the waste discharge can't exceed 110 degrees. The elevated temperature not only keeps the grease in a liquid form,

but it is a Township code violation. Mr. Hoffecker said that since this allegation he has the Restaurant Manager document and sign off that the fryer oil is being dumped in the outside depository and not down the drain.

Mrs. Morgan felt that the owners of Bennigan's had shown good faith effort in trying to comply with Township ordinances in dealing with the grease problem. URS will continue to monitor the temperature.

DILWORTHTOWN PARTNERS

Random inspections were performed of the grease interceptors and pump stations in the Dilworthtown Partners complex. Many of the components were locked, had bolted lids, or were inaccessible due to vehicles parked on top of the access lids. Therefore, consistent observations were not possible and no conclusive result which could pinpoint any particular source of the grease was evident. Dilworthtown Partners adds a bacteriological product to their kitchen wastewater in all three restaurants. Information on the product was provided by Biotech Solutions. After reviewing the data, Sandi Morgan determined that the information received is insufficient to demonstrate that the bacteriological product is protective of the Township's sewers and she recommended that the use of the product be discontinued until tests can prove otherwise. The Township requested monthly pumping in June, but quarterly pumping reports only have been received. Mrs. Morgan recommended monthly pumping as required by the Township Code.

Mrs. Nelling indicated that at the March 1, 2004 meeting, at the advice of Todd Duerr from Applied Water Management, the plant operator, the Township granted a waiver for the Dilworthtown Inn and the Inn Keeper's Kitchen from the monthly cleaning of the grease interceptors and he recommended quarterly pumping. A condition of the waiver was that the Supervisors retained the right to cancel the waiver if information is discovered that the quarterly pumping is inadequate. Bob Rafetto of Dilworthtown Partners was requested to start monthly pumping at the April meeting, but no formal action was taken by the Board so the waiver needs to be rescinded for monthly pumping. Mr. Bush moved to rescind the waiver from monthly pumping to allow quarterly pumping of the restaurants owned by Dilworthtown Partners and that effective immediately monthly pumping is required and the submission of the monthly pumping reports must be provided to the Township. Mr. Kirkpatrick seconded the motion and it was carried. Mrs. Nelling will notify Dilworthtown Partners in writing of the Board's action.

There was no representation from Dilworthtown Partners present at the meeting. Bob Rafetto had informed Mrs. Morgan that Dilworthtown Partners would discontinue the use of the bacteriological product. She believed that if she called Mr. Rafetto that he would be willing to unlock the bolted lids to the grease traps for inspections by URS. Mr. Kirkpatrick said that notification would defeat the purpose of a random check on the grease traps. Mrs. Morgan said that the lids that can be accessed by the public must be bolted and locked for the public's safety and to prevent tampering with the grease traps.

Mr. Kirkpatrick said that at the April meeting Dilworthtown Partners had been given until mid-July to come into compliance. He was very surprised that no one was present from Dilworthtown Partners tonight. Since there is no way of knowing whether they are in compliance with the requests made by URS, Mr. Rafetto will be asked to attend the September 2, 2008 Township meeting to follow up on this discussion.

SHOPPES @ DILWORTHTOWN CROSSING GIANT EXPANSION

At its meeting on August 12, 2008, the Planning Commission reviewed the application from R.J. Waters & Associates to increase the square footage of the building currently held by Blockbuster by 12,500 square feet. The space would be utilized as an expansion by the Giant Food Stores. The Plan, dated 11/30/07, last revised 7/24/08, consisting of seven sheets, was drawn by Chester Valley Engineers. The Plan was approved with the condition that approvals were received from the Township Engineer, the Township Sewer Engineer, and Thornbury Township, Chester County.

Neal Camens of Chester Valley Engineers, presented the plan to the Board. The plan on record is signed off on by both Birmingham and Thornbury Townships. The Thornbury Township Planning Commission has requested approval by Birmingham Township in order to proceed with approvals in Thornbury. Mr. Camens has been working with Sandi Morgan on the necessary capacity for the expansion. Areas that were reserved for future land development on the original plan for store extensions are being vacated in order to expand the Giant Food Store. The Blockbuster store will be removed. Giant Food will be increased from 54,000 sq. ft. to 67,000 sq. ft. The net change is an increase of a little over 1,400 sq. ft. The same number of parking spaces will be required and there will be a modest increase in impervious coverage. There will be some striping removed from some of the parking spaces to accommodate the truck deliveries to the back of the store and a larger turn radius. A stormwater basin will be enlarged and a second perforated pipe and stone will be installed. Construction is anticipated in 2010.

Mr. Kirkpatrick said that the Township is very interested in the effects on stormwater because of the increased DEP requirements under the NPDES MSIV permitting. Mr. Camens replied that this is being addressed as the previous calculations were for a ten year storm post and now will address a two year storm pre for the impervious coverage as-built conditions.

Mr. Bush confirmed that Thornbury Township submitted the plans for review to the Chester County Planning Commission.

Mrs. Morgan said that that if there is a change in the needs for sewer capacity the Board will need to decide if it wants to sell more capacity or whether the available capacity would want to be kept for future users in the Township. The Shoppes @ Dilworthtown Crossing Shopping Center has used the maximum allowable capacity that was allocated to the shopping center. Mrs. Morgan said that there has been an increase in flow at the sewer plant since mid-January. She has asked for flow data on the new Salad Works store. Mr. Camens will also supply Mrs. Morgan with flow data from other Giant stores of comparable size with the proposed expansion. Mr. Kirkpatrick said that the potential

users in vacant stores could be limited in the future by the necessary capacity. Kevin Lahn of R.J. Waters & Associates would prefer to buy additional EDU's if possible. This will be reviewed in the future as the capacity needs for Giant are determined. Mrs. Morgan has also asked for assurance that the pump station will be protected with the increase in the pavement area. The current land development drawings do not appear to accurately show the as-built locations of the pump station and the proposed turning radius appears to be very close to the pump station.

The Township Engineer, Jim Hatfield of VanDemark & Lynch, Inc., provided the Township with a review letter dated August 14th. The issues identified in the letter were all related to the sewer.

Mr. Bush moved to recommend approval of the Final Land Development Plan for the Giant Expansion at the Shoppes at Dilworthtown Crossing with the condition that the Applicant continue to work with the Township Sewer Engineer, URS Corporation, on any sewer related issues, including the determination of the appropriate number of EDU's for the project. If additional EDU's are deemed to be necessary, R.J. Waters & Associates, Inc. will need to come before the Board of Supervisors to request the additional allocation. Mr. Kirkpatrick seconded the motion and it was carried.

Kevin Lahn of R.J. Waters & Associates, Inc. informed the Board that the date for the antique car show had been moved to November 1st, so the dates for the banner request would need to be changed. The Board didn't have a problem with the date change.

SEWER PLANT EQUALIZATION PUMP REPLACEMENT

URS has evaluated the replacement of the existing equalization tank pumps at the waste water treatment plant (WWTP). The existing pumps are progressive cavity pumps with variable frequency drives (VFD's). These pumps are a continuing source of maintenance problems due to disks which rupture periodically in low flow conditions. Replacement of the disks is relatively expensive. Additionally, the VFD controls have been difficult to operate. Typically, the operator of the plant manually controls the pumps rather than relying on the VFD controls.

The Township recently authorized URS Corporation to evaluate the feasibility and cost to replace the existing EQ pumps and controls. URS is recommending the installation of self priming horizontal centrifugal pumps to replace the existing EQ pumps. The Township Solicitor opined that the project does not need to be publicly bid since the work falls under the category of routine maintenance and repairs of public works of the Township which are not new additions. The cost of the project is estimated at \$110,000. This price includes the equipment; installation; engineering and a 15% contingency. Mr. Kirkpatrick said that the Township will realize cost savings with the installation in four years. It will also provide the Township with a more reliable system. The Township has a capital reserve sewer fund for projects like this. The design phase is the next step in the project. The operator of the WWTP also recommended an evaluation of the existing PLC functions to improve the WWTP operation and operator management which are different

than the EQ pump replacement but related to monitoring and control of other equipment at the WWTP. This is the third step in the May 8, 2008 proposal for the work from URS.

Mr. Kirkpatrick moved to have URS proceed with the design phase of the self priming horizontal centrifugal pumps to replace the existing EQ pumps at the sewer plant and the PLC Improvements at an estimated at a cost of \$23,000. - \$25,000. Mr. Bush seconded the motion and it was carried. Mr. Kirkpatrick said that the final phase of the project should be approved within 30 - 45 days and that construction should begin on the project in mid-October.

PUBLIC COMMENT

BIRMINGHAM HILL TRAIL

Tony Webb, HARB Chairman, was present to ask the Board's approval for HARB to review and provide input on the location of the parking lot for the Birmingham Hill trail. Even though he understands that HARB is not required to provide input, as a courtesy he would like the Board to approve the review. The location of the parking lot is directly in the line of sight for the viewshed along Birmingham Road of the Brandywine Conservancy property. Mr. Webb would prefer that the parking area be located on either Wylie Road or Meetinghouse Road.

Ken Paulsell, Thornbury Road, said he found out about the parking area when he went over and questioned why a portion of the Brandywine Conservancy property had been mowed along Birmingham Road when there were surveyors on the property. He didn't understand why the parking area was being located on the most scenic part of the property. At the June 2nd Township meeting, Philip Moore had stated that there is a spectacular view of the property from Birmingham Road and he suggested that the parking area be moved to a less conspicuous area. Mr. Paulsell was in total agreement with Mr. Moore's comments. Mr. Paulsell called Tony Webb to ascertain HARB's involvement in the review of the parking lot location. He said that the Township has worked very hard to protect its viewsheds and he doesn't understand why this parking area will be located on Birmingham Road. Mrs. O'Dell had gone through stringent reviews from HARB when the indoor riding arena was constructed. He asked why the Brandywine Conservancy is exempt from HARB review requirements.

Mr. Kirkpatrick explained that the Brandywine Conservancy received funds from Chester County to help in the acquisition of the property. The County required the installation of an unimproved trail and a parking area as a stipulation for providing funds. Part of the trail that accesses the parking area must be ADA accessible. The best location for a viewing area for the Brandywine Battlefield was established at the corner of Wylie and Birmingham Roads. The ADA portion of the trail will be rolled gravel and must extend from the parking area to the viewing area. Visibility of the parking area for the trail was also part of the discussion for the determination of the location and in reviewing the possibility of the parking area being on Meetinghouse Road. PENNDOT will be meeting with the Township Engineer in the morning to review the exact location for the trail as there is a utility pole that may be restricting sight distance. The project is just about ready to be bid. The Township has committed to cover the cost of the trail installation.

The County provided a time line for the trail installation that the Township must follow. The Township's Recreation, Park & Open Space Committee (RPOS) has been working with the Brandywine Conservancy this year on this project.

Mr. Bush added that looking at a parking area of twelve spots is certainly a better choice than looking at the backs of 29 houses. Birmingham Road was determined to be the best location for sight distance for egress.

Mr. Kirkpatrick suggested that HARB and Mr. Paulsell attend the next RPOS meeting to understand the reasoning on the location chosen for the parking area and to work with that committee on providing input for the parking area. However, his belief is that the location of the parking area on Birmingham Road is a done deal. The parking area on Birmingham Road may interfere with the viewshed to some extent but the intent is for the parking area to be accessible and visible for public access.

BENNIGAN'S RESTAURANT

Mr. Hoffecker asked the Board for permission to install a temporary banner on the side of the store as well as a kiosk with balloons along Birmingham Road to let the public know that the restaurant is open for business. The kiosk will only be used on Thursdays, Fridays, and Saturdays. The size will be 4' x 5'. The banner on the building will be full-time . The size will be 4' x 12'.

Mr. Kirkpatrick approved a temporary banner not to exceed 4' x 12' on the side of the restaurant and a portable kiosk temporary sign no larger than 4' x 5' to be erected Thursdays, Fridays, and Saturdays starting the week of August 25th. Permits must be applied for at the Township within the next four days. Mr. Bush seconded the motion and it was carried.

The meeting was adjourned at 9:06 PM. (AWB)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer