

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
OCTOBER 20, 2008**

CJ TIRE'S CONDITIONAL USE HEARING

A hearing to consider the conditional use application of CJ's Tire & Automotive Services was held at 6:30 PM in the Township Building. The Applicant proposes to use the property at 1309 Wilmington Pike (Hannum's) for the retail sale of tires and automobile accessories and the associated automotive service and repair which are permitted in the C-2 zoning district by conditional use. The hearing was transcribed by Court Report Colleen Pimer. The hearing was continued until Wednesday, November 5, 2008 at 7 PM.

REGULAR MEETING

The regular meeting of the Board of Supervisors was called to order at 7:35 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
William Kirkpatrick	-	Vice-Chairman, Board of Supervisors
Al Bush	-	Member, Board of Supervisors
Thomas Nelling	-	Police Chief
Dave Rathbun	-	Roadmaster
Debbie Hineman	-	Planning Commission Member
Michael Langer	-	Recreation, Park & Open Space Comm. Chairman
Jim Hatfield	-	Township Engineer, VanDemark & Lynch, Inc.
Quina Nelling	-	Secretary/Treasurer

Mr. Kirkpatrick moved to approve the October 6, 2008 minutes as written. Mr. Bush seconded the motion and it was carried. Chairman Conklin abstained from voting as he was not in attendance.

Chairman Conklin moved to approve the bills submitted for payment. General Fund bills totaled \$14,649.43. Sewer Fund bills totaled \$14,530.18. State Fund Ck. #133 was issued to Dan Petrucci Paving Company for \$35,504.03. (Approved all in favor.)

BIRMINGHAM HILL TRAIL BIDS

It was duly advertised in the Daily Local News on October 7th and 10th that the Township would be accepting bids for the Birmingham Hill Trail project which includes bids for the installation of the parking lot and walking trail and bids for the installation and relocation of fencing along the walking trail. Five bids were received for the parking lot installation and two bids were received for the fence installation.

Parking Lot

S.A. Macanga Paving Contractors, Inc., West Chester, PA	-	\$52,276.00
Ply-Mar Construction Co., Inc., Plymouth Meeting, PA	-	\$39,230.00

JFC Contractors, Aston, PA	-	\$78,087.87
Lechmanik, Inc., West Chester, PA	-	\$52,867.50
B&J Excavating Inc., Downingtown, PA	-	\$88,724.00
VanDemark & Lynch, Inc. estimate	-	\$64,690.00

Fence

Fenceworks, West Chester, PA	-	\$43,096.58
Leonhard's Landscaping, West Chester, PA	-	\$43,900.00
VanDemark & Lynch, Inc. estimate	-	\$42,900.00

Mrs. Nelling stated that one bid arrived at 3:15 which she did not accept. She did not know who the bid was from or for which division of the project.

Keegan Maguigan of VanDemark & Lynch, Inc. reviewed the bids for accuracy. The low bid from Ply-Mar Construction Company appears to be a good bid. Mr. Hatfield was not familiar with the company. He had prior work experience with the other companies that bid on the project. Mr. Hatfield noted that there appeared to be an error in the bid from JFC Contractors that bid \$6.00/sy-in on the 2A Stone Base Course. The other bids came in at \$1.00 - \$1.81/sy-in. This error made the bid not competitive. Regarding the fence bids, Leonhard's Landscaping did not acknowledge the two addendums but they were not the lowest bid. Mr. Hatfield was also not familiar with the fence contractors. Chief Nelling stated that the owners of both companies were Township residents.

Chief Nelling said that it would be cheaper for the Township to install the signs than the \$400. being charged by Ply-Mar for the installation of the two signs, one stop sign and one handicapped sign. This can be a field change to the bid. Mr. Hatfield said that the Township is already scheduled to install the signs for the crosswalks. Mrs. Hineman asked where the stop sign would be located. Chief Nelling said that it would be installed at the exit from the parking lot. There will be four crosswalk signs on Meetinghouse Road, but no stop sign.

Chairman Conklin moved to award the bid for the parking lot project for the Birmingham Hill Trail project to Ply-Mar Construction Company for \$39,230. contingent upon Mr. Hatfield's receiving assurance of performance after checking the references. (Approved all in favor.)

Chairman Conklin moved to award the bid for the fencing project for the Birmingham Hill trail project to Fenceworks for \$43,096.58 contingent upon Mr. Hatfield's assurance of performance after checking the references. (Approved all in favor.)

Mr. Hatfield said that he anticipates the pre-construction meetings to be scheduled in the next couple of weeks and that the work could start by mid-November. The revised plans still need to be reviewed and approved by PennDOT. The Chester County Department of Parks and Recreation has approved the bidding documents.

At Mr. Hatfield's request, Mrs. Nelling executed the proposal from Lawn Force Landscape & Tree Service so that all the brush work could begin now that the bids had been awarded.

Mr. Shields, Associate Director with the Brandywine Conservancy said that the easement document has been approved by Bill Gladden of the Department of Chester County Parks and Recreation and the Township Solicitor. Register Associates is updating the legal description and VanDemark & Lynch is preparing the plan which will show the revised locations for the fencing and the parking lot. The Board approved having VanDemark & Lynch, Inc. bill the Brandywine Conservancy directly for this work which Mr. Hatfield estimated would cost under \$1,000. Mr. Shields anticipates that the easement agreement will be ready for signing in about thirty days. Mr. Shields added that Mr. Gladden has approved an extension on the time line for the completion of the trail.

TOWNSHIP ENGINEER'S REPORT

NPDES MS4 UPDATE

One of the most important items from the DEP comments on the Year 4 and Year 5 MS4 reports is the implementation of an IDDE ordinance to address illicit discharge into storm sewer systems. DEP provided the Township with a copy of the Treddyffrin Township ordinance with a suggestion that a similar ordinance be adopted by Birmingham Township. The Township Solicitor has prepared an ordinance for consideration that has been drafted after the Treddyffrin Township model. The Township Solicitor has suggested that it be forwarded to DEP for review so an ordinance isn't adopted that is unacceptable by DEP. Mr. Hatfield said that he forwarded the ordinance to DEP today for review. The only notable changes from the Treddyffrin Township ordinance are the removal of the definition of swimming pool, as there are no other references to swimming pools in the ordinance, and roof drains can't be connected to storm drains but if they have already been connected that they would be grandfathered so they won't have to be disconnected. The Board decided to wait for a response from DEP prior to authorizing advertising on a hearing.

Mr. Hatfield said that other items that are being worked on for the MS4 compliance are letters to homeowners owning basins notifying them of the maintenance requirements and working on a protocol with the police department for washing/maintaining vehicles.

PRD ZONING AMENDMENTS UPDATE

The Board had tasked the Township Engineer and the Township Solicitor to work on an ordinance proposal which would amend the zoning ordinance regarding certain provisions within Article XIV, Planned Residential Development, including impervious coverage limitations, defining accessory uses that are permitted, and to establish green space requirements. The Board had previously suggested that the Township determine the existing permitted coverage additions within the PRD's which would entail quite an administrative burden for the office staff to pull each permit out and quantify the information. Some of the necessary information may not exist on the permits. Kristin Camp, Township Solicitor, suggested that she and Mr. Hatfield could propose coverage

limitations based on sound engineering and land use planning, rather than having the Township staff spend a lot of time trying to determine what exists today as far as impervious cover and green space. Mr. Kirkpatrick said that the job might be tedious but if there is value that it should be considered. Mr. Hatfield explained that the ordinance allows the existing condition to remain but for future applicants who seek to increase impervious cover, they would have to comply with the new maximum green space requirement. Mr. Hatfield said that the worst criticism to be realized from adopting this ordinance is dealing with a resident that is not allowed to do something that his neighbor was allowed to do previously. After discussion, the Board concurred with passing on having the Township staff quantify the existing lot coverages and to have Mr. Hatfield and Mrs. Camp make a recommendation and bring the ordinance to the Board for consideration.

2008 ROAD PROGRAM

Included in work for the 2008 road program was culvert work at the intersection of Brinton's Bridge Road and Kadar Drive. The discharge from the end of the culvert has not flowed properly for years. The discharge feeds onto the property of Mr. Persons, Kadar Drive. Mr. Persons has previously expressed concern to Mr. Hatfield and to the Supervisors over the proposed work in the road program. Originally, the culvert flowed into a stream in the road ROW and bypassed a pond on the property of Mr. Persons. The owner before Mr. Persons had installed feed pipes to divert discharge to the pond. The pipes have since failed and the pond became stagnant. Mr. Persons re-directed the flow of water from the culvert with a berm to feed his pond which slows the velocity of water coming through the culvert. Mr. Persons had the culvert cleaned by Pipe Data View. The culvert was operating at a fraction of full capacity and during a heavy storm the water was overflowing the culvert and crossing the intersection of the two roads. From a hydraulic standpoint the channel should be cut back to feed to the stream. However, this will create a problem for Mr. Persons as the pond will become stagnant again as there will be no source of water to feed the pond. Mr. Hatfield ran some calculations and determined that if the culvert is cleaned of all silt and sediment, the culvert will have the same hydraulic capacity, regardless of whether Mr. Persons diverts the flow to his pond or not. However, the pond diversion results in slower, normal flow velocities, which results in increased sedimentation of the culvert, and therefore will require more frequent cleaning and maintenance. Mr. Persons has volunteered to pay for this maintenance cost. However, Mr. Hatfield did not think it was good policy to have a resident maintain the Township's infrastructure. Mr. Hatfield noted that the work done by Mr. Persons was in violation of DEP permits since the location of the stream flow was re-routed. By doing the road work, the potential DEP violation done by Mr. Persons will be rectified. Also, the velocity of the stream flow through the culvert will improve so that periodic maintenance work from silt accumulation will be mitigated.

Mr. Rathbun expressed concern about a standing, stagnant pond becoming a smelly eye sore that would become a mosquito infestation.

David Shields of the Brandywine Conservancy suggested that the pond be filled.

After much discussion, Mr. Kirkpatrick moved to proceed with the road program per the original scope of work but to allow Mr. Hatfield adequate time to communicate with Mr. Persons on the Township's road work as long as the work can be done this year.
(Approved all in favor.)

Mr. Hatfield reported that two more invoices were forwarded for approval and payment in tonight's bills for \$35,504.03 to Dan Petrucci Paving Company. The total billing to date on the road program is \$178,000. The bid award was for \$188,000. The escalator clause for the increase in the price of asphalt increased the job by \$15,000.; however there was a \$10,000. savings by cutting back on the patching work as well as the shoulder and stone work on Meetinghouse Road. The additional work to be done on Kadar Drive and Lea Drive should cost about \$5,000., which would result in the total price for the road program being around \$183,000.

Chairman Conklin stated that the Township would have been able to do more road work if the maintenance work was now not subject to prevailing wage rates, due to a recent court decision.

In response to Mr. Kirkpatrick, Mrs. Nelling noted that it is anticipated that the liquid fuels funds received from the State will decrease about \$5,000. in 2009 due to the decline in fuel use.

The fall road inspection is scheduled for Thursday, October 23, 2008 at 8 AM. All three Supervisors are planning on participating.

POLICE REPORT

Chief Nelling reported that there were 1,128 incidents during the month of September. Five of the incidents remain open. Patrol miles logged on the police vehicles for September was 10,265. The Township received a complimentary e-mail on Officer Joe Arnold, the newest part-time hire who responded to an ambulance call on Creek Road. Officer Arnold's professionalism and expertise in handling the call at such a young age was recognized.

NATIONAL INCIDENT MANAGEMENT SYSTEM

The Township is in receipt of correspondence dated October 3, 2008 from Ed Atkins, the Director of the Chester County Department of Emergency Services, requesting that the Township adopt a resolution to sign onto the February 10, 2005 Countywide Mutual Aid Agreement as compliance with the National Incident Management System is a requirement for Federal funding. Birmingham Township is one of fourteen municipalities which have not signed the agreement.

Mrs. Nelling said that the Board had reviewed this agreement in the past and they did not think that it applied to the Township. The Board decided to defer action on this item until the next meeting to in order to study the issue in more detail.

PUBLIC COMMENT

Mrs. Hineman said that it is anticipated that there will be a 60 – 70% turnout for the election as compared to the normal 24 – 40%. She asked about the possibility of officers for traffic control at the Friends Meeting House. Chief Nelling said that there will be extra police officers on duty for the election.

Chairman Conklin said that the Township has received correspondence from the Knolls of Birmingham and Birmingham Hunt HOA's thanking the Township for its assistance with the FEMA flood map corrections. Mr. Kirkpatrick commented that the project was successfully accomplished with financial support from the HOA's; the Township and from VanDemark & Lynch, Inc., who provided their services at a reduced rate.

The meeting was adjourned at 8:49 PM. (JLC)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer