

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
SEPTEMBER 2, 2008**

**CJ'S TIRE & AUTOMOTIVE SERVICE CONDITIONAL USE HEARING**

A conditional use hearing to consider the application of CJ's Tire and Automotive Services was called to order at 6:30 PM. The Applicant proposes to use the property at 1309 Wilmington Pike for the retail sale of tires and automobile accessories which is permitted in the C-2 district by conditional use. The Applicant attended the August 12<sup>th</sup> Planning Commission meeting and was asked to provide an engineered drawing of the proposal. As the Planning Commission did not make a recommendation on the application, the hearing was continued until Monday, October 20<sup>th</sup> @ 6:30 PM. The hearing was transcribed by Court Reporter, Pat Post.

**REGULAR MEETING**

The regular meeting of the Board of Supervisors was called to order at 7:33 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	-	Chief of Police
Dr. Robert Reder	-	Recreation, Park & Open Space Committee Member left @ 8:30 PM
Lloyd Roach	-	Emergency Management Coordinator arrived at 7:37 PM
Jim Hatfield	-	Township Engineer, VanDemark & Lynch, left at 8:20 PM
Quina Nelling	-	Secretary/Treasurer

A major portion of the August 18, 2008 meeting covered sewer related issues. Sandra Morgan, Township Sewer Engineer with URS, reviewed the minutes and has e-mailed some proposed changes. Mr. Kirkpatrick stated that in the minutes it says that the cost of the EQ pump replacement is \$110,000. He wanted the minutes clarified so it was understood that this was the total cost, including a 15% contingency, and it covered the cost of equipment, installation and engineering. The Board only approved a portion of the cost at the August 18<sup>th</sup> meeting, about \$20,000. The final work will be approved in 30 – 45 days. Mr. Bush moved to approve the minutes from the August 18, 2008 meeting with the corrections and clarifications from Sandra Morgan and William Kirkpatrick. Mr. Kirkpatrick seconded the motion and it was carried. Chairman Conklin abstained from voting as he was not in attendance for the meeting.

Mr. Bush moved to approve the bills submitted for payment. General Fund bills totaled \$16,925.57. Sewer Fund bills totaled \$2,531.41. State Fund check #132 to Dan Petrucci Paving Co. for \$136,852.44. (Approved all in favor.)

**TOWNSHIP ENGINEER'S REPORT FROM JIM HATFIELD**  
**BIRMINGHAM HILL**

Mr. Hatfield reported that the Township received a review letter from PennDOT on the Birmingham Hill Trail project with approximately twelve comments. The most significant comment was the need to move a utility pole which was interfering with the sight distance. This could be a costly and timely endeavor. Mr. Hatfield said that he met with PennDOT at the site on August 19<sup>th</sup> and they were able to identify a location for the parking lot ingress and egress which is 25' south of the location submitted to PennDOT for approval. PennDOT would prefer that the entrance to the parking lot was 50' from a utility pole but that distance would bring the entrance too close to the intersection with Thornbury Road, so this seemed to be the most practical and acceptable location to all parties. The parking lot will now be 225' north of Thornbury Road. The plans will have to be resubmitted to PennDOT for approval showing the new location for the parking lot. The final bid documents must be submitted to the Brandywine Conservancy and the Chester County Planning Commission for approval.

Mr. Hatfield stated that he met with a resident, Mr. Paulsell, who lives across from the proposed parking. Mr. Paulsell has expressed some concerns over the location of the parking area and apparently he has talked with HARB and RPOS members about moving the parking area. At this point, Mr. Hatfield said that he is ready to ask the Board to proceed with authorizing advertising for bids for the parking lot and the fence.

Mr. Paulsell, Thornbury Road, said that since the last meeting HARB has tried to meet at the site with representatives from RPOS and conversations have been ongoing between HARB and RPOS. Mr. Paulsell said that he has been operating in a fact finding mode. He has talked to neighboring residents who are unaware of the proposal and they feel that the current proposal should be reviewed. The parking area along Birmingham Road is not consistent with the Township's objective to preserve the viewshed and the historic corridor of the Township. Mr. Paulsell has also talked with Judy Thomas of Chester County Open Space Preservation and she reviewed the details of the County grant with him. He also talked with Karen Marshall of the County Parks and Recreation Department who has walked the site with him. Mr. Paulsell felt that alternative locations should be reviewed, even if the access remains the same, the parking area could be moved to the corner of the property with either Wylie Road or Meetinghouse Road. Mr. Paulsell just feels that there has to be a better alternative.

Dr. Robert Reder said that he has talked with HARB Chairman Tony Webb on several occasions and they have been trying to get together at the site. Dr. Reder and Tony Webb agree that Meetinghouse Road is too narrow and not an option, but Mr. Webb feels that the parking area could possibly be moved down Wylie Road. He feels that the parking lot location is an aesthetic issue. Dr. Reder stated that he has gotten an informal sense from RPOS that the group would like the parking area and the trail to proceed per the plans.

Chairman Conklin said that the Board members were here when efforts were being made to save the property from twenty-nine McMansions. There are always other views but he feels that this should be a time of celebration for the Township.

With no further discussion, Mr. Bush moved to authorize Mr. Hatfield to prepare the bids for the parking lot and the fence installation (two separate bids) with bid opening scheduled for the October 6<sup>th</sup> meeting. The ad will run in the Daily Local News the week of September 22<sup>nd</sup>. (Approved all in favor.)

Mr. Hatfield said that he had received two quotes for clearing the brush, chipping and brush hogging and removing all the material from the Worth property. Steve Giffi – Lawn Force and Brian Matuszewski – Land Art both provided bids of \$3,500. Mr. Giffi was recommended by Mr. Worth as he has done work on his property for many years. Mr. Matuszewski does the landscaping for the Township properties and he has done other miscellaneous jobs for the Township. Mr. Hatfield wants to submit this bid to the County for approval for matching funds from the grant. It is anticipated that the work will be done the first week of October, prior to the fence installation. Mr. Kirkpatrick suggested that the Township accept the bid from Steve Giffi as the property owner needs to be satisfied with the work being done on the project. The Board concurred.

#### 2008 ROAD PROGRAM

Mr. Hatfield said that the first invoice from Dan Petrucci Paving Co. had been submitted for payment for the road program. There was an escalator invoice submitted for asphalt for \$19,000.± for the increase in the cost of asphalt from June – August. The asphalt index price of asphalt has actually decreased for September. There have been very tight job controls instituted by VD&L and the quantities for the job are less than the total projected so the net cost to the Township with the asphalt escalator is approximately \$5,000. more than the bid cost. Lambourne Road is the last road for overlay work and the work should be completed this week. Chairman Conklin asked how the drainage problem onto the Gross' property was going to be handled. Mr. Hatfield replied that the under drain will be installed between the first driveway and the inlet, as originally planned. However, there were some utility conflicts that are preventing the installation of an under drain from the inlet to the second driveway on the south side of Lambourne Road so the swale will have to manage the runoff, but on the other side of the driveway an under drain will be installed to tie into the inlet. The road will have a crown in it which will hopefully avert the runoff problem that occurred in the past. Miscellaneous grading and drainage repairs, and the work for the Meetinghouse Road culvert are the last items to be completed, which will be done in about two weeks.

#### FEMA

Mr. Hatfield reported that the Township asked FEMA to issue a revision to the Flood Insurance Rate Map (FIRM) for Chester County. There is a FEMA 100 year flood plain that traverses the Radley Run stream through the Knolls of Birmingham and Birmingham Hunt developments. The FIRM was never amended for the post-construction of the developments. Lending institutions started notifying some of the residents in these developments that they had to purchase flood insurance. In the 1990's the homeowners

were able to get exempted from flood insurance with letters of map amendments from FEMA. In 2006 the flood maps were amended, post-Katrina. FEMA was no longer accepting the previous letter of map amendment, and these homeowners are now finding it hard to get mortgage insurance because their properties are shown in the flood plain. The Township, in conjunction with VanDemark & Lynch, Inc. and Penco Management, the management company for the Knolls and the Hunt, have been working together to get a formal engineered map revision with topographic provisions submitted to FEMA for a map revision. This revision was submitted and the Township received a letter dated August 22, 2008 in which some minor documentation is required by FEMA to complete the review. This documentation must be submitted within ninety days for the map amendment to be considered. A fee must be submitted, which was included in the bills approved by the Board tonight. The map must be certified by a licensed surveyor or registered professional engineer. Finally, the sixty affected property owners must be notified of the map revision. Mr. Hatfield presented the Board with sample form letters from FEMA that need to be sent. He also showed the Board the updated FEMA map and the location of the floodplain. Property owners that are still affected by the floodplain will be able to purchase elevation certificates from an engineering firm since there will now be elevations associated with the floodplain from the revised map. Discussion ensued on how to best inform the property owners. The Board felt that scheduling a meeting with the HOA to advise them of the information that will be forthcoming would be a good idea.

#### NPDES MS4

Mr. Hatfield reported that the Township received a review letter in August from DEP for the last two reports submitted for the NPDES/MS4 program (June 2007 and June 2008). Overall, the review was positive but there are a couple of deficiencies that need to be addressed.

- 1) An ordinance has to be adopted to regulate illicit discharge to storm drains. Mr. Hatfield said that Tredyffrin Township has adopted an ordinance for the illicit discharge which he will use as a sample and he will work with the Township Solicitor on a draft for Birmingham.
- 2) Letters have to be sent to the HOA's and property owners with stormwater management facilities on their properties to ensure that they are being properly maintained and inspected on a regular basis. In response to Mr. Kirkpatrick, Mr. Hatfield indicated that there are approximately 100 basins in the Township.
- 3) The Township must adhere to the MCM6 requirement to manage infrastructure. Mr. Hatfield will work with Chief Nelling on drafting a vehicle washing policy statement to address the MCM6 requirement.

#### WEST CHESTER LIBRARY

Howard Sundall, President, and Victoria Dow, Director, of the West Chester Library were present to discuss funding options for the library. The library is located in the Borough and it serves the residents of the Borough and six townships, Pocopson, Birmingham, East Bradford, Thornbury, West Goshen, and Westtown. Only the Borough, Pocopson, and East Bradford provide financial support to the Library. Libraries are facing a funding crisis because they are not supported by a particular

political entity. The state has an incentive program whereby contributions made by the local government will be matched by the state. The library is losing out on these funds because they are not receiving full support from the local governments. Mr. Sundall appealed to the Board for a contribution in the 2009 budget of \$1.00/resident which would yield a contribution of \$4,221. per the 2000 census.

Mr. Sundall said that the library is in its 106<sup>th</sup> year of existence and it is located at 415 N. Church Street. In 2005 the library doubled its interior space. The annual budget is \$524,000. and this hasn't changed over the last seven years, even with the increase in space. The West Chester Library is part of the Chester County Library System. Mr. Sundall said that business is great at the library. Circulation is up 13%. There is a summer reading program and a teen program. Mr. Sundall noted that in hard economic times people visit the library more frequently.

Jacquie Roach, Meetinghouse Road, staff member at the Library, commented that many of Birmingham's residents use the Library facilities.

Harry Miller, Bottom Lane, asked why the County doesn't fund the Library. Ms. Dow explained that the County does fund other member libraries but there are eighteen libraries in the system and taxes would increase if all the libraries were funded by the County. Some of the Library services are funded, such as internet service.

Mr. Sundall commented that one third of the Library's budget is from non-taxable private sources. Funding also comes from fund raising events; grants and corporate sponsorship.

#### **DILWORTHTOWN PARTNERS GREASE UPDATE**

At the August 18<sup>th</sup> meeting, the Supervisors had discussed the current status of the grease build up at Bennigan's and the Dilworthtown Inn facilities with the Township's Sewer Engineer, Sandra Morgan of URS Corporation. There was no representation from the Dilworthtown Inn at the last meeting so representation was requested for tonight's meeting to update the Board on the recommendations from Mrs. Morgan. Bob Rafetto, partner, was present and advised the Board that Dilworthtown Partners is in compliance with the recommendations of URS Corporation. Dilworthtown Partners has discontinued the use of the bacteriological product that they have been using for fifteen years to eat through the grease. Mr. Rafetto had provided information on Biotech Services to Mrs. Morgan. Mrs. Morgan was not satisfied that the bacteriological product that they were using to eat the grease was working efficiently so she had asked that its use be discontinued. Mr. Rafetto reported that monthly pumping and reporting is also being done. At the last meeting Mrs. Morgan noted that it was difficult to perform random inspections because the lids to the grease traps were locked. Mr. Rafetto advised that there is a key next to the grease traps which can be used for the random inspections. The Board requested a written response from Mr. Rafetto on his plan to correct the violations noted in the last correspondence from Sandra Morgan. Chairman Conklin emphasized the seriousness of the situation and he stated that violation notices would be issued for non-compliance.

### **SEWER PLANT OPERATION**

Chairman Conklin stated that the contract for operation of the sewer plant expires this year. He suggested that the Township provide the operator, Applied Water Management, Inc., with notice of non-renewal and inform them that the Township does not want the contract to evergreen as it will be shopping the services to see what the market has to offer. Chairman Conklin moved to have the Township Secretary send a letter to Applied Water Management, Inc. advising them that the contract would not evergreen. Mr. Kirkpatrick stated that it is entirely possible that the same operator could be reappointed. The Township wants to ensure that it is receiving value for the service provided. (Approved all in favor.) Mr. Kirkpatrick noted that URS Corporation will be providing a scope of work and a list of potential operators to ask for proposals. The operation of the sewer plant does not have to be publicly bid as it is a professional service.

### **POLICE REPORT**

Chief Nelling reported for the month of August 2008. There were 1,349 incidents during the month of which 1,349 remain open. Total patrol miles for the month were 10,108.

Chief Nelling stated that Officer Joseph Arnold was hired in May 2008 while he was completing his training at the Academy. He finished his schooling in June and began training as a patrolman. He is now patrolling on his own. Chief Nelling recommended that Officer Arnold's wage rate be increased from \$13.50/hr. to \$14.50/hr. effective today. Chairman Conklin moved for the wage increase for Officer Arnold as recommended by Chief Nelling. (Approved all in favor.)

### **EMERGENCY MANAGEMENT TABLE TOP EXERCISE**

Emergency Management Coordinator Lloyd Roach has requested that the Board set a date for a table top exercise with the Chester County Department of Emergency Services. Wednesday, October 15<sup>th</sup> and Wednesday, October 22<sup>nd</sup> @ 2PM were tentatively set as potential dates. Mr. Roach will get back to the Board when the date is confirmed.

### **PUBLIC COMMENT**

Chairman Conklin stated that the Board met with Yerkes Associates on August 28<sup>th</sup> to review the services and performance under the contract.

Mr. Paulsell was trying to understand the timeline for the parking lot construction for the Birmingham Hill project. Chairman Conklin explained that after the bids are opened the Board has sixty days to award the bid. The project is supposed to be completed by the end of November. There is a possibility that the County will extend the project deadline.

Mr. Paulsell repeated his concerns about the Township not paying attention to preserving the viewshed of the Brandywine Conservancy property. He suggested that twelve cars be parked on the site to see what it looks like driving by on Birmingham Road. He just felt that the Township could do better. He suggested that the ingress/egress remain as chosen but that the parking area be moved to the corner of Wylie Road and Birmingham Road. Even though HARB's participation is not required on this project by the letter of the law,

it doesn't comply with the spirit of the law not to encourage and involve HARB's participation.

The meeting was adjourned at 8:57 PM. (Conklin)

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer