

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS
SPECIAL MEETING
ACT 167 STORMWATER ORDINANCE UPDATE
JULY 15, 2022**

A special meeting to discuss the Act 167 Stormwater Ordinance update was duly advertised in the Daily Local News on July 11, 2022. The meeting was called to order at 12 PM by Chairman Boorse. A quorum of Supervisors was declared.

Scott Boorse	-	Chairman
Michael Shiring	-	Vice-Chairman
J. Daniel Hill	-	Supervisor

Participating by phone was Solicitor Kristin Camp.

Per Solicitor Camp, the Township must update its stormwater management ordinance and adopt the revised model Act 167 Ordinance that was adopted by Chester County on February 10, 2022. The amendment is required in order to comply with the PA Department of Environmental Protection's (DEP) MS4 program and update to the State's model stormwater ordinance. All municipalities are required to adopt the updated ordinance by September 30, 2022. There are 57 changes to the ordinance, some of which are policy decisions and some are mandated. DEP has suggested three changes to the County model. The County ordinance is being updated and reapproved in August. The working draft of the ordinance delineates the proposed changes in colors with green being additions; red being deletions; and yellow being optional.

Solicitor Camp met with the Township Engineer, Dave Schlott and Vice-Chairman Shiring to review the proposed changes on behalf of the Township. On the optional proposed changes the Township is not taking the opportunity to make the ordinance more stringent. When this ordinance was adopted in 2013, the Supervisors took the approach of adopting the least restrictive requirements. One change which requires input from the Board is a new Section 706, for which there are two options.

Option 1 is for municipalities who elect to conduct inspections of stormwater best management practice facilities (BMP's) for proper operation and maintenance themselves and requires persons responsible for the operation and maintenance of BMP's to pay into a fund to cover the cost of inspections and any maintenance the municipality undertakes.

Option 2 is for municipalities who elect to place the responsibility of inspections of BMP's on the responsible party.

The municipality may also choose to develop their own version that is a modified version of either option, as long as the inspection frequencies are consistent with the DEP 2022 Model Stormwater Ordinance.

Inspections are to be annually for the first five years and once every 3 years thereafter and after every ten year storm.

There are pros and cons to each option which were discussed.

- Will rural landowners do the required inspections and submit reports to the Township and follow the timeline for those inspections.
- Should the Township pay a consultant to do the inspections and bear the cost or set up some sort of escrow for the cost.
- A spreadsheet should be kept of all the BMP's. Who should keep it, township or consultant and who covers the costs
- There are administrative requirements and additional costs under each option.
- Cost to the homeowner for an inspection after a ten year storm would be \$150. - \$200.

There was discussion as to what level additional impervious cover needs more review. The 2013 ordinance requires:

- No stormwater management for additional impervious cover up to 1,000 sq. ft.
- Between 1,000 and 2,000 sq. ft. a simplified stormwater management plan is required but not a fully engineered plan.
- Over 2,000. sq. ft. there is a mandatory requirement for a fully engineered plan.
- For redevelopment of an existing site with impervious cover 20% of the lot was considered meadow which has increased to 40%, which is good for infiltration.

Vice-Chairman Shiring said that most municipalities are staying with 20%. Urban areas that are prone to flooding, like the Borough of West Chester, are going to 40%.

Vice-Chairman Shiring noted that the impervious cover calculations are cumulative since the adoption of the 2013 ordinance. Each project for the property, even if all are under the 1,000 sq. ft, are included in the calculations for impervious cover.

Chairman Boorse said he would like to eliminate the Simplified Approach and just begin the requirements at 2,000 sq. ft. Solicitor Camp said this was not an option.

The Supervisors also have a choice of whether to include decks and swimming pools in the calculations. The definition of impervious cover was reviewed. The Board agreed that swimming pools should be included but there was some discussion on decks as water can infiltrate through the cracks of a deck and many decks are raised off of the ground. It was decided to add decks at another place in the definition of impervious cover. "Uncompacted gravel areas with no vehicular traffic, such as gardens, walkways, *decks*, or patio areas, shall be considered pervious per review by the Municipal Engineer.

The Supervisors were not in favor of Option 1 and wanted the least involvement by the Township.

There was discussion on how a ten year storm is determined and DEP involvement in the Township's inspection process as well as the administrative burden of keeping track of the inspections through a possible software system as well as tracking escrows. Sending letters to

residents reminding of the requirements and the regulations as well as posting a notice on the web site was mentioned. It was suggested that the Municipal Engineer should put together a checklist template for the residents for the inspections. There was discussion on how new residents would know about the requirements. Solicitor Camp stated that the stormwater management agreement is recorded against the property.

It was agreed by the Board that the ordinance proposal would include Option 2 where the residents would be responsible for the inspections and providing the inspection reports to the Township.

The only other option discussed and not included in the ordinance proposal was the riparian buffer easement where the riparian buffer would have to be maintained in its natural state with natural species for a certain number of feet off of the embankment.

The ordinance will be advertised at the August 1st meeting for action at the September 6th meeting.

The meeting was adjourned at 1 PM. (SCB;JDH)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer