

**BIRMINGHAM TOWNSHIP
BOARD OF SUPERVISORS MINUTES
DECEMBER 7, 2009**

SPRINT/NEXTEL CONDITIONAL USE HEARING

A hearing to consider the conditional use application of Sprint Nextel was held at 7 PM. The hearing was continued from November 2, 2009. Sprint Nextel proposes to install two microwave dishes and three panel antennas on an existing cellular communications tower owned by American Tower Company located at 1335 Wilmington Pike. The hearing was transcribed by Court Reporter Colleen Pimer. At the conclusion of the hearing the Board approved the application based on the exhibits and testimony presented.

REGULAR MEETING

The regular meeting of the Board of Supervisors was called to order at 7:37 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:

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| John Conklin | - | Chairman, Board of Supervisors |
| William Kirkpatrick | - | Vice-Chairman, Board of Supervisors |
| Al Bush | - | Member, Board of Supervisors |
| Thomas Nelling | - | Chief of Police |
| Dan Hill | - | Recreation, Park and Open Space Committee Member |
| Richard Jensen | - | Building Inspector & Zoning Officer |
| Quina Nelling | - | Secretary/Treasurer |

Chairman Conklin moved to approve the November 16, 2009 minutes as written. Mr. Bush seconded the motion and it was carried. Mr. Kirkpatrick abstained from voting as he was not in attendance at the meeting.

Mr. Bush moved to approve the bills submitted for payment. General Fund bills totaled \$27,282.67. Sewer Fund bills totaled \$11,397.14. State Fund Ck#141 was approved for payment to Page Excavating Company for \$1,665. for sink hole work on Hampshire Place. (Approved all in favor.)

POLICE REPORT

Chief Nelling reported for the month of November. There were 1,015 incidents for the month including 17 deer struck (record high number of reported deer struck in a month); 13 auto accidents and 1 DUI arrest. There were 7,911 patrol miles logged on the vehicles. There was a motor vehicle theft from the Comfort Inn. The vehicle was later recovered in Philadelphia. Chief Nelling also presented a resignation letter from part-time officer Justin Fonock effective January 3, 2010.

BULL DURHAM'S STEAK HOUSE AND SALOON CONDITIONAL USE DECISION

The Board had anticipated signing off on the conditional use decision and the list of holidays for extended hours for the Bull Durham's Steak House and Saloon which was given verbal conditional use approval at the November 11, 2009 hearing, but after reviewing the written decision there was one clarification that was requested by the Board so action was deferred until the December 21st meeting.

BERKHEIMER'S RESOLUTIONS FOR LST TAX

At the November 16, 2009 meeting, the Board adopted an ordinance for the collection of a Local Services Tax. Berkheimer Associates was appointed for the collection of the tax. Berkheimer has provided the Township with four resolutions that need to be passed for the collection service. For simplicity, the Board asked the Township Solicitor to combine the four resolutions into one resolution. Mrs. Camp will prepare the resolution for action at the December 21st meeting. The Board also received an agreement from Berkheimer for execution which designates Berkheimer as the tax collector; outlines Berkheimer's duties, compensation, and record keeping requirements; and identifies the term and renewal requirements of the contract. Solicitor Camp reviewed the agreement and noted that the term was not date specific in the agreement, though it was referenced in the resolution. She suggested that a sentence be added to the end of Section 1. Designation as Tax Collector which reads, "The initial term of this Agreement shall be from January 1, 2010 until December 31, 2012." Mrs. Nelling has discussed this proposed addition with Mike Santangelo, District Manager with Berkheimer, and he had no problem with the Township adding this clarification. Chairman Conklin said that he had been contacted by a resident who was concerned about privacy and the sharing of information because of this tax. Chairman Conklin asked for a copy of Berkheimer's privacy form and the form that will be used by Berkheimer to collect the tax. Chairman Conklin moved to enter into the contract agreement between Berkheimer and the Township for the collection of the Local Services Tax. (Approved all in favor.)

FEES RESOLUTION

Mrs. Nelling proposed the elimination of Section IX. 2.E.5, under applications and appeals of the fees resolution, which required a charge of \$300. for the re-opening of an application before the Supervisors after it has been closed. Mrs. Nelling thought this section was confusing and if it were the only fee imposed that it wouldn't cover costs incurred by the Township for such a hearing. After discussion on modifying or deleting the section, Mrs. Camp suggested that the section be deleted from the fees resolution. Chairman Conklin moved to modify the fees resolution with the deletion of Section IX.2.E.5 under applications and appeals. (Approved all in favor.)

BRANDYWINE VALLEY SCENIC BYWAYS COMMISSION

Dan Hill presented an overview of the Brandywine Valley Scenic Byways Commission. The group was formed in 2002 and is composed of representatives from seven participating municipalities. An application for Pennsylvania Scenic Byway Designation was submitted to PennDOT in 2004 which resulted in the designation of portions of Rt. 52, Creek Road, and Rt. 162 as the Brandywine Valley Scenic Byway. The next step in

the process was to develop a Corridor Management Plan (CMP). The purpose of the CMP is to create a management plan that looks at the entire byway corridor to determine the initiatives necessary to preserve and enhance the resources of the Byway. Grant funds totaling \$160,000. have been awarded to enable the CMP to move forward. Approximately half of the grant funds have been spent. The CMP was supposed to be completed in 2009. A "Draft Goals Matrix" which lists recommendations for a CMP was prepared by the vendor chosen for the project, Kise, Straw, & Kolodner (KSK) of Philadelphia. There have been some glitches with KSK and the CMP. PennDOT is handling the contract for the project and they have placed a hold on the work. The major goal of the CMP is to provide a comprehensive management program to address traffic, development, tourism, recreation, resource protection and land conservation. KSK changed personnel and the people working on the CMP are demonstrating a lack of understanding of the local community. The seventy page Draft Goals Matrix is missing some of the key elements required by the federal criteria for a CMP. At this time it is being determined whether KSC, another vendor, or the Byways Commission will finish the CMP.

Chairman Conklin asked Mr. Hill for his opinion on participating in the Brandywine Valley Scenic Byway Commission? The Township contributes \$500. /yr. for this cause. Mr. Hill felt that it was a worthwhile effort for the Township to participate in financially and with volunteers as the Township's stake in the byway is significant. The Township is supposed to have two representatives on the Commission. He felt that there is an opportunity for participation by the Planning Commission. The commitment would require ten to twenty hours/month of volunteer time.

Chairman Conklin noted that the Planning Commission and some of the residents attending the presentation at the September PC meeting did not react well to some of the promotional and commercial recommendations in the CMP. Mr. Hill said that KSC presented a resource grid that was premature and not endorsed by the Byways Commission. There are some commercial elements of the CMP, such as Longwood Gardens and the Brandywine River Museum, which we all have a stake in their preservation. The Planning Commission didn't get to see the CMP at the state of development where it should have been. Everyone is very sensitive about what the CMP will do to the communities.

In response to Mr. Bush, Mr. Hill said that presentations have not been made to other municipalities since PennDOT has put a stop on the CMP. Mr. Hill said it was beneficial for KSC to make its presentation to the Birmingham PC in order to see that each community has its own interests and concerns. Mr. Bush confirmed with Mr. Hill that feedback is relevant and important.

Mr. Hill was thanked for his volunteer work on this Commission.

SEWER REPORT

Mr. Kirkpatrick reported a pump failure and a dialer problem at the Dilworthtown Pump Station. The pump was removed and returned to the manufacturer for rebuild and the back-up pump was operating with no problems. The dialer problem is being addressed.

The meeting was adjourned at 8:16 PM. (JLC)

Respectfully submitted,

Quina Nelling
Secretary/Treasurer