

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
ADVERTISED PUBLIC HEARING
August 31, 2005
7:30PM

The advertised Public Hearing to consider the application of Haines and Kibblehouse, Inc. was called to order by Chairperson Kenneth B. Bennington at 7:32PM and opened with the Pledge of Allegiance.

Also present were: George C. Egly, Jr. – Vice-Chairperson
Francis X. Grabowski – Township Solicitor
C. Robert Wynn – Township Engineer
Lynda S. Seimes – Township Secretary

A. CHAIRPERSON'S COMMENTS: Chairperson Bennington advised that he and Supervisor Egly approved and executed an Agreement with Haines and Kibblehouse, Inc. at a Public Meeting held on August 25, 2005, which provides for the settlement of pending litigation. The Agreement of Haines and Kibblehouse, Inc. includes a whole host of new regulations and limits regarding both the Blooming Glen Quarry and the Skunk Hollow Quarry. He advised that all of the items contained within that Agreement would not be reviewed this evening, though a copy of the Agreement is available as a public document for inspection here at the Municipal Building and has been since August 26, 2005. In addition to the Agreement there are nine exhibits, which are also available for inspection, along with an alphabetical listing of property owner's names located within the no-fault area for both quarries for water replenishment. By accepting the Agreement on August 25, 2005, Chairperson Bennington advised that he and Supervisor Egly obligated themselves to also adopt a proposed Ordinance, which provides for the actual re-zoning of the Murphey and Rice Tracts. The proposed Ordinance contains many of the same provisions that are contained within the approved Agreement.

Chairperson Bennington explained that the purpose for the adoption of the Ordinance amendment this evening is for two reasons – one is to provide for the actual re-zoning of the tax map parcels involved; and the second is that many provisions from the Agreement have been incorporated into the Ordinance so that future Boards can more easily enforce the Agreement. The Supervisors believe that the appropriate courts will be more easily convinced of the seriousness of any perceived violation of the Ordinance, rather than a violation of the Agreement itself. Although it is a formality, Chairperson Bennington noted the normal process to adopt an Ordinance amendment would be followed. He advised that copies of the full text of this Ordinance have been available at the Municipal Office since July 18, 2005. Because this is a Public Hearing, the Board of Supervisors will entertain public comment before considering a motion to adopt the Ordinance. It is not Chairperson Bennington or Supervisor Egly's intention to be bogged down in any argument as to what has been done so far, nor do they intend to be bogged down with questions of why they've taken the actions they have.

Zoning Ordinance Amendment Public Hearing
August 31, 2005

B. SOLICITOR'S SUMMARY OF PROPOSED ORDINANCE AMENDMENT:

Solicitor Grabowski advised that there was a review of the proposed Zoning Ordinance amendment by the Bucks County Planning Commission, dated August 3, 2005. The review provides for the general purpose of the amendment, discusses the various provisions, and includes commentary, noting that several requirements of the proposed amendment provide protection from potential impacts of resource extraction areas. The review also states "Township officials have painstakingly weighed these concerns against the benefits of moving forward and amicably resolving current litigation, while still protecting the health, safety, and welfare of their constituency. We note that there are editorial and structural issues related in the proposed Zoning Ordinance and how it would fit into the existing Zoning Ordinance. We had attached a marked up copy of the proposed amendment to assist in making the appropriate changes in this regard." Solicitor Grabowski advised that the recommended changes are cosmetic, and deal with renumbering paragraphs so that the numbers would be consistent with the Codified portion of the Code of Hilltown Township.

The proposed Ordinance was presented to the Hilltown Township Planning Commission for review at their Worksession meeting of July 18, 2005, and was considered at several subsequent meetings as well. On August 15, 2005, the Planning Commission then issued its recommendation, which is to be contained within the minutes of that meeting that are yet to be transcribed. Solicitor Grabowski stated that the Hilltown Planning Commission voted unanimously to recommend denial of the approval of this Zoning Ordinance Amendment.

A summarized version of the proposed Ordinance was advertised in the Doylestown Intelligencer on August 17, 2005 and August 24, 2005. Additionally, the affected properties considered for re-zoning (TMP #15-34-84 and #15-29-41-1) were properly posted as of August 24, 2005 by the Township Zoning Officer, David W. Taylor, for which a certification has been executed, as required by the Municipalities Planning Code. Mr. Taylor's certification noted that the postings were placed in a conspicuous place upon the subject property. Accompanying Mr. Taylor's certification and a copy of the actual Zoning Ordinance are two maps indicating the location of the postings. The Municipalities Planning Code also requires that the proposed Ordinance be filed with the Bucks County Law Library, which occurred on August 19, 2005. The M.P.C. further requires that the property owners incorporated within the proposed Zoning area must be notified as well, which has also occurred. Solicitor Grabowski explained that the proposed Ordinance amendment mirrors the Stipulation Agreement, which was accepted and executed by Chairperson Bennington and Supervisor Egly on August 25, 2005. Section 160-3 of Chapter 160 is amended by adding subsection N, which provides for the reasonable development of materials in the Township. Section 2 of the proposed Ordinance provides an amendment to Section 160-11 of Chapter 160, by adding the following definitions:

- Mineral Activities
- Resource Extraction Activities
- Quarry
- Quarry, or Quarry Operator, or Operator

Subsection 3 of the Ordinance provides for an amendment to Section 160-16C.1 of the Zoning Ordinance, currently titled "Resource Extraction Areas, Quarry." The Ordinance provides for the intent of the zoning, and for the permitted uses of which are enumerated within the Ordinance as they were in the Stipulation Agreement to include the quarry and various other activities as stated.

Solicitor Grabowski stated that there is only one new use included in Section 3, Subsection 12, which states "Any use regulated by the Pennsylvania Public Utility Commission." The proposed Ordinance also speaks to uses allowed by Special Exception, including agricultural or recreational uses subject to other provisions of the Zoning Ordinance. It provides for a setback of 50 ft. for uses, except for pre-existing uses, quarry uses, and accessory uses. The minimum lot size is proposed to be 10 acres and the maximum height for structures is 65 ft. measured from original grade.

Subsection 4, the largest part of the proposed Ordinance, provides for a new Section 160-44, or "Quarry Performance Standards," which in effect completely amends the former Ordinance by providing for purposes, use regulations, and a host of limits and regulations. It provides for the types of planting and supporting document requirements to comply with all Federal, State, or Local Ordinance amendments. It provides for general operating performance standards, which include discussion and requirements for the submission of documents to the Pennsylvania Department of Environmental Protection and to the Bureau of Surface Mines. It also discusses the limit of the peak particle velocity, which shall not exceed .6 of one inch per second, and sound levels that shall not exceed 130 decibels; provides for the maximum height of structures, provides for the filing and retention of blasting records, and provides for monumentation. It then goes on to provide for a section on pre-blast activities, which includes pre-blast inspection as defined by DEP regulations of all homes within a radius of 1,000 ft. of the location of any blasting activities that are anticipated to occur within the following year. This section also speaks to how those pre-blast inspections shall be conducted, and how the notice will be provided via certified mail to those homeowners located within the applicable radius of the blast site from year to year. Further, it includes the specifications of what the inspection will entail, provides for homeowners to have their own pre-blast inspector present during any inspection, and discusses the requirement of a written report.

Subsection 5 of the proposed amendment discusses blasting performance standards, with the time frame of 9:00AM to 4:00PM, but not between 11:30AM and 12:30PM Monday

through Friday. There is also language that talks about notification to the Our Lady of Sacred Heart School and Church, which is referenced and defined as collectively "the Church." Homeowners within 1,500 ft. of a blast site who request notice shall also be notified of a blasting schedule within two hours prior to such blast, but no later than 30 minutes prior to a blast.

Subsection 6 refers to Operating Performance Standards to provide standards for noise levels as established by DEP.

Subsection 7 discusses Performance Standards for equipment, providing for limits on alerts, equipment on loaders, yard trucks, and yard vehicles, with strobe lights for night back-up warnings, and also provides for efforts to minimize dust and dirt on the roadways. The last subsection also requires that within 12 months from the adoption of the Ordinance, the operator shall install on all crushers a new dust control system known as a NESCO System or a similar system that would utilize a high-pressure fog spray to suppress dust.

Subsection 8 addresses Operating Performance Standards for hours of operation, which is 6:30AM to 6:30PM Monday through Friday and no later than 12:00 noon on Saturday, except that the operator may load trucks and operate the asphalt and concrete plants from 6:30AM until 6:30PM. No quarrying operations of any type are permitted on Sundays. There is a provision in this section that permits the operator to request temporary expanded hours of operation because of unusual bid or contract requirements. Such a request must be made of the Board of Supervisors and will require 14 days notice. Solicitor Grabowski commented that when the original proposed Ordinance was presented to the Bucks County Planning Commission, the draft had a 7-day notice, which was a typographical error that has since been corrected to 14 days notice, in order to allow the Supervisors the ability to hold a Public Hearing or Public Meeting to discuss the request. Section 8 also prohibits the operation of the crusher on Sundays and various listed holidays.

Subsection 9 discusses the issues of groundwater, and sets the groundwork for the zones of influence and the no-fault areas, none of which is contained in the existing Ordinance. This section provides for the no-fault areas pursuant to the exhibits or the appendixes that were attached to the stipulation Agreement as adopted last week.

Subsection 10 provides for Performance Standards on quarry water, and provides that the Township shall have the right to 60% of the quarry water generated or produced at the Skunkhollow site; as well as providing for certain reclamation of the quarries.

Subsection 11 provides for the Overburden Performance Standards, and discusses what "overburden" is and what can be accomplished with it.

Subsection 12 defines berms, and specifically requires the operator to construct a berm along the perimeter of the tract unless the perimeter adjoins upon another tract upon which the use is a quarry, at which time no fence or berm shall be required. If a berm or fence exists where one is not required, it may be removed by the operator.

Subsection 13 addresses the issue of Berming Standards, providing for berms of at least 15 ft. in height, with a minimum bottom width of 90 ft., and the minimum top surface of 15 ft., which is permitted within the buffer zone. It provides for a slope of 3:1 for the outer slope of the berms, with the inner slope permitted to be 2:1. Additionally, the operator is required to place a chain link fence 6 ft. in height along the boundary line of the quarry, and requires the planting of two rows of evergreens, spaced and staggered at 15 ft. intervals.

Subsection 14 speaks to buffer zones and setbacks, permitting the placement of utilities, including but not limited to electric, water, sewer, and any other use now or hereafter recognized as a utility use, wetland areas, detention basins, berms, stabilizing and screening vegetation, fencing and water discharge.

Subsection 15 of the proposed amendment discusses water runoff, and prohibits the discharge of waters from the tract in this zone that does not conform with all requirements of DEP and Bureau of Surface Mining as to quality, quantity, or temperature.

Subsection 16 provides for the location and installation of an entry and exit gate to accommodate the queuing of trucks that may be waiting to enter the quarry by providing an off-road site for queuing.

Subsection 17 discusses the issue of re-vegetation for disturbed areas and the planting and seeding of such.

Subsection 18 provides for DEP regulations and submissions, requiring the operator to comply with all regulations of the Environmental Protection Agency, Department of Environmental Protection of Pennsylvania, and the Pennsylvania Bureau of Surface Mining. The operator is required to promptly supply the Township with copies of all applications and related documents applied to, and licenses and permits received from those agencies.

Subsection 19 discusses the Reclamation Performance Standards, with the Skunkhollow site proposed to be a water impoundment. Reclamation of the Blooming Glen Quarry shall be by work being accomplished pursuant to the Stipulation Agreement, along with the exhibits and appendixes, which showed the operator's ability to reclaim the quarry

hole by the deposit of regulated fill, as defined by DEP. Ultimately, a good portion of that property would be turned over to Hilltown Township.

Subsection 20 addresses Fees and Charges, which provides for a payment to the Township of a quarrying fee (or tipping fee) of \$0.10 per ton of stone mined and sold from the quarry tract. It also provides for the dates of payment and the mechanism by which that is to occur.

Subsection 21 provides for the Township's right of inspection of quarry operations at any time during normal business hours. Subsection 22 provides for the issuances of permits.

Section 5 of the proposed amendment provides for the actual designation of the quarry area and the change to the official Hilltown Township zoning map of the two tax map parcels that are the subject of these hearings.

C. PUBLIC COMMENT:

1 Mr. Bill Godek of 206 Broad Street felt that what the Board has done to this Township is a disgrace and a disservice. He noted that there have been agreements between the Township and the quarry in the past that have been violated. Mr. Godek questioned the wisdom of constructing a playground near the quarry, and hopes that no one is killed or injured due to quarry operations near a playground. He vehemently disagreed with the comment that this will actually be a decrease in quarry operations, stating that the hours of operation have been increased, uses have been changed, and nighttime activity has increased.

Mr. Godek referred to several errors in the appendixes, in particular that Hilltown Pike had apparently been re-named.

Mr. Godek wondered if the Township had ever conducted a cost analysis study to determine what the benefit would be if the quarry site was private property with dwellings constructed, and what tax revenue it would generate, versus an ugly hole in the ground.

2. Mrs. Mary Schiavone of Township Line Road was disappointed that the tipping fee of \$0.10 per ton would, according to the Agreement and Ordinance amendment, remain the same for perpetuity. She felt it should have contained provisions for an increased tipping fee over the years.

3. Mrs. Alice Kachline of Mill Road stated that the Hilltown Township Planning Commission unanimously recommended denial of this Ordinance amendment, and felt that the Board should have more respect for the opinions and recommendations

of the Planning Commission members, who spend a great deal of volunteer time reviewing this and other important issues. Chairperson Bennington commented that the Planning Commission, at their last meeting, spent only 20 minutes reviewing the proposed Ordinance amendment. He noted that there is a 45-day time constraint for the Planning Commission to review the Ordinance amendment from the time they receive it.

4. Mrs. Leslie Keers of 529 Skunk Hollow Road was very disappointed with the Supervisor's decision to accept the Agreement at the August 25, 2005 Public Hearing, stating that she believes they only consented to the Ordinance amendment and the Agreement due to the monetary reimbursement that H & K would offer. She wondered what the residents who live around this quarry get for all of the inconvenience, the decline of their lifestyle, and the devaluation of their homes.

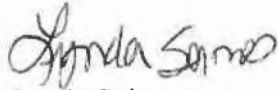
5. Mrs. Judy Greenhalgh of 874 Blooming Glen Road who resides near the Blooming Glen Quarry, is pleased with many of the rules and the regulations that have been established with this new Agreement and Ordinance amendment. She was happy to hear that the Supervisors had hired outside expert consultants to review the documentation, and feels that the Board had many of the resident's issues and concerns at heart while negotiating this Agreement. Mrs. Greenhalgh commented that she can live with what has been established.

6. Mrs. Mary Schiavone of Township Line Road advised that the reason the Planning Commission did not spend a great deal of time reviewing this Ordinance at the August 15th meeting was because they had a full agenda, and the matter did not come up for discussion until 11:50PM. To be fair the Planning Commission members, Mrs. Schiavone stated that they were dealing with a developer's attorney who filibustered earlier that evening, which did not allow much time for discussion.

D. **ACTION ON PROPOSED ORDINANCE:** Motion was made by Supervisor Egly, seconded by Chairperson Bennington, and carried unanimously to **adopt Ordinance #2005-2, amending the Hilltown Township Zoning Ordinance, Chapter 160 of the Code of Hilltown Township by creating a new Resource Extraction Area and Quarry, and related operations performance standards and certain regulations with regard thereto, as requested by the Haines and Kibblehouse, Inc. application, with a specific change to the official Zoning Map of Hilltown Township of the Zoning District Classification of Bucks County Tax Map Parcel #15-29-41, more commonly known as the Rice Property, located on Forest Road from RR-Rural Residential District to Q-Quarry, Resource Extraction District and also to re-zone Bucks County Tax Map Parcel #15-34-84, more commonly known as the Murphey Farm located on Broad Street and Skunk Hollow Road from RR - Rural Residential District to Q-Quarry Resource Extraction District.** There was no further public comment.

E. ADJOURNMENT – Upon motion by Supervisor Egly, seconded by Chairperson Bennington, and carried unanimously, the advertised Public Hearing of August 31, 2005 was adjourned at 8:05PM.

Respectfully submitted,



Lynda Seimes
Township Secretary