EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
REGULAR SESSION
Wednesday, July 18, 2007

Those in Attendance:

Jay G. Fischer, Chairman
Hudson L. Voltz, Vice-Chairman
Scott T. Piersol, Township Manager
Mark Kocsi, Chief of Police
Mary Beth Smedley, Secretary/Treasurer

Absent:

David A. Kirkner, Member

The East Brandywine Township Board of Supervisors meeting of Wednesday, July 18, 2007 was called to order by Chairman Fischer at 7:30 P.M. at the East Brandywine Township Municipal Complex. There were five visitors present.

Opening of Meeting

Chairman Fischer Voltz opened the meeting with a Salute to the Flag.

Notices

The Ennis Zoning Hearing will be held Tuesday, August 28, 2007 at 7:30 P.M.

The Hopewell Methodist Church Zoning Hearing will be held Tuesday, August 28, 2007 directly following the Ennis Zoning Hearing.

Public Comment for Non-Agenda Items

Chairman Fischer asked if there were comments on non-agenda items. There were none.

Minutes: Board of Supervisors – June 20, 2007

Chairman Fischer asked if there were any additions or corrections to the above minutes. There were none. Vice-Chairman Voltz made a motion to approve the June 20, 2007 minutes as presented. Chairman Fischer seconded the motion, with both voting Aye.

Minutes: Planning Commission Minutes – July 11, 2007

Chairman Fischer asked if there were any additions or corrections to the above minutes. There were none. Vice-Chairman Voltz made a motion to approve the minutes as presented. Chairman Fischer seconded the motion, with all voting Aye.

Treasurer's Report

Mrs. Smedley read the account balances as of July 18, 2007. After review of the Treasurer's Report/Financial Statement, Chairman Fischer made a motion to approve the report and authorize payment of the bills. Vice-Chairman Voltz seconded the motion, with both voting Aye.

Report: Township Manager's Report

Revisions to our Zoning Ordinance in accordance with recommendations through the Growing Greener program were proposed to the considered at this evening's public meeting. An oversight during the preparation, which was discovered during preparation of the legal ad, caused Mr. Piersol to decide to withhold its consideration, and re-submit the revised draft to the County Planning Commission for their re-review. He is hopeful the County will provide their comments on this revised draft quickly, and we may be able to advertise and consider this amendment at either the August 15th or September 6th public meetings.

The Executor for the Estate of Millicent Fails recently sent a final distribution of Mrs. Fails' bequest to the East Brandywine Community Parks in the amount $18,750.00. We are grateful to the members of the Krapf family for their on-going support of our Parks. David Summers and Sandra Lammey from the Park and Rec Board will be meeting with Mr. Piersol later this week to discuss an appropriate permanent acknowledgement of this donation, and other donations received from the family.

Mr. Piersol was contacted by Caln Township Manager Greg Prowant Monday about scheduling a meeting soon to discuss proceeding with the necessary next steps with applying to PennDOT for a permit for the flashing light on Rock Raymond Road. We have received the grant paperwork from the state Department of Community and Economic Development, which basically confirms the grant has been awarded and is available, although it will take several months to receive this funding. Mr. Piersol has contacted Kathryn Sohnly from PennDOT about the appropriate permit application, and Bill Conrad from Signal Service for guidance on the equipment needed for this type of installation. Mr. Piersol will keep the Board informed of our progress in this matter.

The Supervisors will consider Resolution 09 of 2007 later this evening. This resolution requests that PA DEP solicit public comment on proposed changes to the National Pollution Discharge Elimination System, or NPDES MS4 program, which is mandated by the federal Environmental Protection Agency. These stormwater management regulations are intended to improve water quality. This program has been passed down to the local level without local input, direction or funding. Most municipalities have attempted unsuccessfully to comply with the requirements. It has been very frustrating for all local municipalities.

The next phase is proposed to deal with Total Maximum Daily Loading, or TMDLs, which is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards. Mr. VanLew and Mr. Piersol attended a meeting in June with several officials from Chester and Delaware Counties on this subject, and the resolution was created from those discussions. The request is to have input into the process, and request that PA DEP partner with local government to meet the goals we all share, which is to improve the quality of our water supplies.

Our Family Day in the Community Park was well-attended on June 24th. For the first time in the past several years, the weather cooperated to give all those who attended an enjoyable afternoon. The Crusin' Classics Car Club's car show was again the highlight of this year's event. We congratulate the Park & Rec Board, and particularly Jim Worrell, on the success of this year's event.

Earlier this week, Mr. Piersol was contacted by two residents on Dowlin Forge Road about on-going issues with the electrical energy delivered by PECO. PECO did significant tree trimming along the roadway, which they thought resolved the problem. Apparently there are other problems with the transmission equipment which are causing voltage fluctuations in this area. If residents in other areas are experiencing similar on-going situations area-wide, they are encouraged to contact PECO directly, and also advise the Township. This is part of the agreement East Brandywine and Wallace Townships signed when PECO merged with Consolidated Edison several years ago. We cannot help resolve these issues if we are not aware of them.

Mr. Piersol previously reported on the concept of creation of a Regional Building Code Appeals Board. Township Solicitor Stacey Fuller provided a proposal for administration of such a group for the municipalities who desire to participate in this program to consider. The concept is to create a regional pool of municipal experts in building code issues to draw upon when an appeal request occurs. East Brandywine Township is fortunate to have 5 qualified members on our appeals board. Several of the municipalities interested have only one member, and one municipality had no appeals board.

When polled, those attending the July 12th meeting agreed these hearings are very infrequent. The Uniform Construction Code sets very stringent timeframes in which a hearing must be scheduled, or the applicant may receive a deemed approval of their application. This is the concern, and the cause for investigating this possibility.

Initial cost for participation would be $500.00, with an annual membership fee of $100.00, which is designed to cover administration costs. Mrs. Fuller also mentioned the Code allows for other reviews to be handled by a regional appeals board, which is also to be considered. A draft of the initial proposal has been circulated for initial comment. Once this draft is finalized, it will be circulated to the municipalities who previously expressed interest in participation, for a final decision to participate, which is due not later than October 1st.

Report: Building Inspector/Zoning Officer – Report for June 2007

Mr. Piersol read the Building Inspector/Zoning Officer's Report for June 2007. There were twenty-one building permits issued, six zoning permits issued, eight use and occupancy permits issued, and seventy-six inspections conducted during the month. The total fees collected were $16,968.60.

Report: Brandywine Regional Police Commission

Chief Kocsi reviewed the Brandywine Regional Police Commission minutes for May of 2007.

Because of threats against Delaware County Community College students and teachers, a meeting was held with Chief Kocsi, the Chester County District Attorney, and school officials regarding security measures. At the College's request, Brandywine Regional Police performed security duties from May 2nd through May 12th at the East Brandywine Campus.

Chief Kocsi testified at the Nelo hearing. The defendant was found guilty of a summary charge of destruction of public property and ordered to pay a fine of $2,000.00, and restitution in the amount of $12,606.00. Chief Kocsi does not know if the defendant plans to appeal the decision to the Chester County Court of Common Pleas.

Sealed Bids were received for three police cars advertised for sale. The Police Department will receive approximately $9,800.00 for the three vehicles.

Mr. James Bruton from Bruton Financial Advisors presented a portfolio summary of the Brandywine Regional Police Commission uniformed pension plan from January 1, 2007 to May 21, 2007.

Report: **Police Chief - Police Activity Report for June 2007**

Police Activity Report – June 2007

Investigations	238
Traffic Citations	153
Traffic Warnings	29
Traffic Accidents	12
Criminal Arrests	5
Summary Arrests	3

Criminal Investigations – June 2007

Burglary/Criminal Trespass	4
All Assaults	0
Theft/Fraud	9
Disorderly Conduct/ Harassment	5
Disturbances	12
Suspicious Activity/ Persons	22
Domestics	3
Criminal Mischief	14
Juvenile Complaints	1
Missing Persons/ Runaways	0
Driving Under the Influence	4
Fugitive Warrants	2

Drugs	0
Underage Drinking	0
Other	2

The Brandywine Regional Police Commission has appointed Mark Twaddell to the rank of Corporal effective July 1, 2007. Mark placed first out of a field of four candidates and will be filling the patrol supervisor's position left vacant by Sgt. Pence. Due to his vacation, Corporal Twaddell's official swearing-in will be conducted at the August Board meeting.

Report: Fire Company's Activity Report for June 2007

Mr. Piersol read the Activity Report for the month of June, 2007, as submitted by Fire Chief Robert Zynn, Jr. There were seventy-four total incidents. In East Brandywine Township there were eleven fire calls and fifteen QRS calls. The Fire Company assisted on calls in Wallace Township, Valley Township, Honey Brook Township and Modena Borough. Estimated fire damage for the month was $4,250.00. The Fire Company's semi-annual Chicken Barbeque will be held Saturday, July 21st from 4 P.M. to 7 P.M.

Subdivisions

Hillendale – The Planning Commission is recommending the Board accept an extension to review this subdivision application until August 31, 2007. Vice-Chairman Voltz made a motion to accept this extension. Chairman Fischer seconded the motion, with both voting Aye.

Weaver Tract – The Planning Commission is recommending the Board accept an extension to review this subdivision application until August 31, 2007. Vice-Chairman Voltz made a motion to accept this extension. Chairman Fischer seconded the motion, with both voting Aye.

Dilworth Tract – The Planning Commission is recommending the Board accept an extension to review this subdivision application until November 1, 2007. Vice-Chairman Voltz made a motion to accept this extension. Chairman Fischer seconded the motion, with both voting Aye.

Ordinance 06 of 2007 – Changes to the Historic Resource Protection Standards

These changes to the Subdivision and Land Development Ordinance have been reviewed by the Ordinance Task Force, the East Brandywine Township Planning Commission and the Chester County Planning Commission. These changes relate to the preliminary plan submission requirements when a Class I or Class II historic resource is located on the site. Mr. Piersol stated that Mr. George Holmes questioned the addition of Section 350-8.A under "Historic Site or Structure". The definition states "A certified historic site or structure, as defined in Chapter 399." Mr. Holmes said that he cannot find that definition in Chapter 399. Mr. Piersol stated it likely points to 399-62.A, which delineates two classifications of historic resources in East Brandywine Township. Mr. Piersol will discuss this with David Sweet.

Mr. Piersol stated that he would be asking the Board's permission to send the Growing Greener standards back to the Chester County Planning Commission to be revised again. These standards will likely be considered for adoption within the next month or two. In addition, the Ordinance Task Force is working on a draft that will amend Chapter 399, Article XII of the Historic Resource Protection Standards. After the Task Force completes its revisions, this amendment will be sent to the Chester County Planning Commission for the Act 247 review.

Chairman Fischer asked if there were other questions. Mr. Holmes stated that he still thinks owners of historic structures should be informed prior to the Township passing ordinances that will affect their properties. Chairman Fischer and Vice-Chairman Voltz agreed that sending out notices to affected property owners would set a precedent. Chairman Fischer stated that many ordinances are passed that affect residents, not just those owning historic structures. In addition to setting a precedent, there is always the possibility of leaving out one or more property owners who will be affected by the changes and who then might feel they should have been informed. The Township follows the regulations described in the Municipalities Planning Code for notifying residents, which is to discuss the proposed ordinances, voting on recommending adoption and passing of ordinances at public meetings and advertising the proposed ordinance in a newspaper of general circulation.

Mrs. Kate Okie asked who would be financially responsible to pay for the Historic Resource Impact Study, as outlined in the proposed ordinance. It is the applicant's responsibility to pay for this. It was noted that the Historic Resource Impact Study is required as part of the preliminary plan submission requirements for a subdivision or land development, not for when a resident is applying for a building permit. Mrs. Okie asked for a copy of the proposed amendment to Article XII of the Historic Resource Protection standards. Mr. Piersol will provide a copy to her.

Mrs. Louise Walker stated that she supported Mr. Holmes' request for property owners of historic structures to be given notice prior to passing ordinances that might affect their properties. She also asked when the advertisement needed to be placed in the newspaper. Mr. Piersol stated that a legal notice must be placed in two consecutive weeks, not more than 45 days or less then 10 days prior to enactment of an ordinance.

Chairman Fischer stated that the Township does not want to adopt a procedure that would require more specific notice than is required by State law.

Mrs. Okie asked if ordinances changes affecting historic structures were forwarded to the Historic Commission. The changes are forwarded to the Historic Commission, reviewed by them and they have input throughout the process. Mrs. Okie suggested that affected residents could be emailed of proposed changes. Chairman Fischer pointed out that the Township does not have email addresses for owners of historic structures, only addresses. She suggested that either the Historic Commission or a volunteer might take on the task of emailing affected property owners. Chairman Fischer stated that if an individual wanted to compile an email list and take that on they could do so, but the Board would not require the Township or Historic Commission to do that. Mrs. Smedley stated she was concerned that if residents were emailed

by the Historic Commission and at some point they decided they didn't want to continue doing it, a precedent would be set and residents would expect the Township to take on this task, which would be very difficult with our limited staff. It was also pointed out that the Township has approximately 150 historic structures now. That number could grow much higher in the future.

Chairman Fischer asked if there were other questions. There were none. Vice-Chairman Voltz made a motion to adopt Ordinance 06 of 2007. Chairman Fischer seconded the motion, with both voting Aye.

Draft Ordinance – Amending Various Provisions of the Land Use Code, Including Chapter 350, Concerning Conservation and the Four-Step Design Process and Chapter 399, Concerning Conservation and Cluster Development

Mr. Piersol explained that because of an oversight during preparation of the legal ad, he would like to re-submit the revised draft to the County Planning Commission for their Act 247 review. Chairman Fischer asked if there were comments from the audience. There were none. Chairman Fischer made a motion to authorize Mr. Piersol to send the above draft to the Chester County Planning Commission for their Act 247 review. Vice-Chairman Voltz seconded the motion, with both voting Aye.

Resolution 09 of 2007 – Request for Public Comment Period on Proposed Changes to the National Pollutant Discharge Elimination system Phase II Permitting System

Mr. Piersol and Mr. VanLew attended a meeting earlier this month regarding storm water management and the MS4 process. During the meeting, it was recommended that each municipality send a resolution to their respective legislators, asking PADEP to allow for a 120-day comment period on pending revisions, along with offering training so municipalities understand what is expected of them to comply. Chairman Fischer asked if there were comments from the audience. There were none. Vice-Chairman Voltz made a motion to adopt this resolution and forward it to State Senator John Rafferty. Chairman Fischer seconded the motion, with all voting Aye.

Additional Public Comment

Chairman Fischer asked if there were additional public comments. There were none.

Adjournment

There being no further business, Vice-Chairman Voltz made a motion to adjourn the meeting. Chairman Fischer seconded the motion, with both voting Aye. The meeting was adjourned at 8:10 P.M.

Respectfully submitted,

Mary Beth Smedley

Mary Beth Smedley
Secretary/Treasurer