

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS**  
**REGULAR SESSION**  
**Wednesday, August 2, 2007**

**Those in Attendance:**

Jay G. Fischer, Chairman  
David A. Kirkner, Member  
Scott T. Piersol, Township Manager  
Matthew T. VanLew, Roadmaster  
Mary Beth Smedley, Secretary/Treasurer

**Absent:**

Hudson L. Voltz, Vice-Chairman

The East Brandywine Township Board of Supervisors meeting of Wednesday, August 2, 2007 was called to order by Chairman Fischer at 7:40 P.M. at the East Brandywine Township Municipal Complex. There was one visitor present.

**Public Comment for Non-Agenda Items**

Chairman Fischer asked if there were comments on non-agenda items. Mr. George Holmes stated that he plans to do an article in an upcoming issue of the Milemarker about homeowners' associations. In his research he discovered that the Timbers development HOA documents indicated that a financial statement should be submitted once a year for the Township to review. Mr. Piersol and Mrs. Smedley said that the Timbers HOA has never submitted financial statements to the Township. Presumably, the reason for this requirement was to document to the Township that the HOA was financially solvent.

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

**Pulte Pump and Haul Agreement**

Mr. Piersol reported that the latest version of the Applecross pump and haul agreement was received Monday from Ebert Engineering. Municipal Authority Engineer Joseph Boldaz is away this week, so he hasn't reviewed the draft to determine if his recommendations are included. Municipal Authority Vice-Chairman Gerry Kirkpatrick advised the Township that Pulte representatives should attend the August 14<sup>th</sup> Authority meeting, and with their recommendation, the Supervisors could consider signing this agreement at their August 15<sup>th</sup> public meeting.

**Landscapes 21<sup>st</sup> Century Fund – Round XVI Park Addendum #1**

A six month extension for this grant was requested in June. Mr. Piersol stated that this grant is set to expire in December of 2007. Kim Merritt, the County Grant Coordinator, provided three copies of Addendum #1, which extends the contract time to June 2, 2008. Mr. Piersol requested the Board authorize signing three copies of the addendum to submit to the County Open Space Preservation Department. The Township also has a second grant for the park that will expire in October of 2008. The total for the two grants is approximately \$480,000.00. Mr. Kirkner made

a motion to sign the addendum for extending the grant to June 2, 2008. Chairman Fischer seconded the motion, with both voting Aye.

The Township did receive a copy of the County Conservation District's July 26<sup>th</sup> review letter on the proposed Phase III construction. The plan, prepared by Yerkes Associates, has several comments that need to be resolved. There are notes that the District want to see on the plan, which Chuck Jackson from Yerkes Associates reports is simple to accomplish. There are also several details, which may impact the layout slightly. Mr. Jackson and Mr. Conrad plan to meet with Adam Sauers from the Conservation District to discuss those items and then will meet with Mr. Piersol and Mr. VanLew.

### **Stormwater Issues with Brandywine Hunt Development**

Mr. Piersol and Mr. VanLew met with Mr. Richard Breitenstein of PA DEP to discuss on-going stormwater issues at the Polite resident on 1156 Osborne Road. Mr. Breitenstein's initial impression was that this issue might be related to storm water from the development streets, which would be an MS4 issue. His letter dated July 27, 2007 agrees that this is not the case, but is a private matter between the respective property owners. Ms. Polite has indicated that she would attend one of the Supervisors' meetings in August, and was asked to provide her concerns in writing.

Chairman Fischer asked where the water is entering the Polite property. Mr. Piersol stated it was entering through two properties in the Brandywine Hunt development. At this point the two property owners have not been receptive to finding a solution to the water run-off problem. There is a swale on both of the properties that is not working as designed. This is a property maintenance issue that is the responsibility of the homeowner where the swale is located.

### **Revised Land Use Ordinance Adoption Procedure**

Mr. Piersol provided a copy of Solicitor' Fuller's discussions of the recent validly challenge from Mrs. Jane Kessler and her challenge of the convenience store standards. In order to avoid confusion when ordinances are adopted, Mr. Piersol is recommending that the Township follow this procedure in the future:

1. Mr. Sweet's memo with the proposed ordinance will be sent to the Planning Commission for their recommendation and then to the Supervisors to authorize sending it to the Chester County Planning Commission for the required Act 247 review.
2. This language will be provided to the Township Solicitor to be put into ordinance format and submit it to the Chester County Law Library. This will allow for consistency throughout the process.
3. Once the Township Solicitor creates the ordinance format document, she will return an electronic copy for submission to the County Planning Commission for their Act 247 review.
4. The Board will authorize the Township Solicitor to advertise the hearing on the proposed amendments for a date at least 35 days from the date of submission to the County Planning Commission.

Chairman Fischer made a motion to adopt the above procedure. Mr. Kirkner seconded the motion, with all voting Aye.

### **Convenience Store Standards**

The Convenience Store Standards were originally adopted on June 19, 2002 and ratified by the Board on July 17, 2002, due to incorrect section reference in the ordinance. It was discovered that a revision in the "automobile service station" section was included in the legal advertisement, and sent to the Chester County Law Library. The ordinance amendment adopted did not include this section. Chairman Fischer made a motion to submit the Convenience Store Standards and the Automobile Service Standards to the County for the Act 247 review and have Mrs. Fuller submit the standards to the Chester County Law Library and to the Daily Local News for advertisement. Mr. Holmes questioned what would happen to the validity challenge. The Supervisors aren't sure, but Solicitor Fuller has been in touch with Mrs. Kessler's attorney and will report on any findings.

### **Historic Resource Protection Standards**

Mr. Piersol asked for the Board's permission to resubmit the Historic Resource protection Standards amendments to both the Subdivision and Zoning Ordinances to the County Planning Commission for their Act 247 review, in accordance with the procedure outlined above. Chairman Fischer made a motion to forward the amendments for the Act 247 review, to be sent to the Chester County Law Library and to the Daily Local News for advertisement. Mr. Kirkner seconded the motion, with all voting Aye.

### **Wawa Meeting**

This meeting was held July 31<sup>st</sup> at the request of the Army Corps of Engineers with various parties in an effort to resolve this process. During the meeting Mr. Steve Cushman suggested that he might be interested in the building, but asked for two weeks to look at the building and develop a proposal. Mr. Cushman also had questions about parking and the possibility of setback and other issues that need to be considered. The Board of Supervisors are amenable to working with the parties if a plan is determined to be feasible. Wawa remains concerned that the building will not be rehabilitated and maintained if the party who obtains it does not have the financial means to do so. At the conclusion of the meeting it was agreed that Mr. Cushman and Mr. William Inslee and Mr. Jonathan Inslee would craft proposals to be distributed within a two-week period for review. The Army Corps will begin drafting their Memorandum of Agreement. It was also agreed that the parties would meet again in mid-September to discuss progress on this matter.

Mr. Holmes asked why the Army Corp of Engineers is involved in matters related to historic resources. Chairman Fischer explained that the Army Corp has oversight over the Section 106 process, which is triggered when a project must obtain federal permits. The Section 106 process looks at alternatives to demolishing historic buildings.

Chairman Fischer asked if the canopy for the gasoline pumps could be moved to the back of the building. From a marketing standpoint Wawa doesn't want to do this because they think customers might not know they are selling gas.

#### **Off-Site Development Signs**

Mr. Piersol and Mr. VanLew have been actively removing off-site real estate signs that are placed along the roadways. They have also spoken to two companies who place signs along the road for developers and have told them these signs are not allowed by the Township Ordinance.

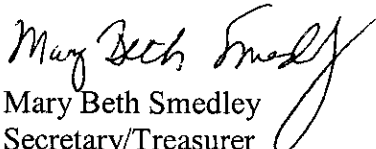
#### **Additional Public Comment**

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

#### **Adjournment**

There being no further business, Mr. Kirkner made a motion to adjourn the meeting. Chairman Fischer seconded the motion, with both voting Aye. The meeting was adjourned at 8:40 P.M.

Respectfully submitted,

  
Mary Beth Smedley  
Secretary/Treasurer