

**East Brandywine Township Board of Supervisors  
Organization Meeting  
Monday, January 7, 2008  
7:00 P.M.**

**Those in Attendance:**

Jay G. Fischer, Chairman  
Hudson L. Voltz, Vice-Chairman  
David A. Kirkner, Member  
Scott T. Piersol, Township Manager  
District Justice James J. Charley, Jr.  
Mary Beth Smedley, Secretary/Treasurer

The Board of Supervisors met for the purpose of reorganizing (and other matters it wished to discuss) on Monday, January 7, 2008 with all Supervisors present. Also in attendance were Township Manager Scott T. Piersol, District Justice James J. Charley, Jr., and Township Secretary/Treasurer Mary Beth Smedley. There were five visitors present.

Chairman Fischer called the Meeting to order at 7:10 P.M with a Salute to the Flag.

**Oath of Office**

District Justice Charley administered the Oath of Office to Mr. Fischer who will be serving another six-year term as Township Supervisor.

**Reorganization**

Mr. Fischer made a motion to nominate Mr. Voltz as Temporary Chairman of this meeting. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to re-appoint Scott T. Piersol as Township Manager for 2008 at an annual salary of \$70,200.00. Mr. Fischer seconded this motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Scott T. Piersol as the Township's Emergency Management Coordinator. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Scott T. Piersol as Fire Marshal for East Brandywine Township. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Mary Beth Smedley as Secretary/Treasurer for 2008 at an annual salary of \$49,920.00, plus \$20 a meeting to attend any meetings other than the Board of Supervisors, Planning Commission and Municipal Authority meetings. Mr. Kirkner seconded this, with all voting Aye.

Mr. Voltz made a motion to re-appoint Matthew T. VanLew as Roadmaster for 2008 at an annual salary of \$52,310.00. This was seconded by Mr. Fischer, with all voting Aye.

Mr. Voltz made a motion to re-appoint Yerkes Associates as Building Inspector/Zoning Officer. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Yerkes Associates as the Township Engineer for 2008. Mr. Fischer seconded this, with all voting Aye.

Mr. Voltz made a motion to re-appoint Chester Valley Engineers, Incorporated, to act as the Township's Special Engineering Firm for 2008. The motion was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to re-appoint Stacey Fuller, Esquire, of Gawthrop, Greenwood, as Township Solicitor for 2008, and John H. Spangler Esquire and Thomas Oeste, Esquire of Parke, Barnes, Spangler and Bortner, as Planning Commission/Zoning Hearing Board Solicitor and Municipal Authority Solicitor for 2008. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Anthony Damiano as a member of the Township's Zoning Hearing Board, to re-appoint Anthony Damiano as Chairman of the Zoning Hearing Board, Kevin Connors as Vice-Chairman of the Zoning Hearing Board and Rebecca Corbin as Secretary to the Zoning Hearing Board. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to re-appoint Bruce Rawlings to the Planning Commission, and to re-appoint Bruce Rawlings as Chairman and Stephen Cushman as Vice-Chairman to the Planning Commission. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to appoint Steffenie Kirkpatrick and Carl Josephsen to five-year terms on the Historical Commission and to re-appoint John Black as Chairman of the Historic Commission. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to re-appoint James N. Worrell, Jr. Chairman, Sandra Lammey as Vice-Chairman and Edward Cooney as Secretary to the Park and Recreation Board, re-appoint Kirk Fuhrman as a member of the Park and Recreation Board. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Kirkner made a motion to re-appoint Hudson Voltz, Samuel R. Matthews, and L. William Kay to the Agricultural Security Area Advisory Committee. This was seconded by Mr. Fischer, with all voting Aye.

Mr. Voltz made a motion to re-appoint Robert Meanix to the East Brandywine Township Code Appeals Board. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint David Summers to a five-year term on the East Brandywine Municipal Authority and to re-appoint Michael Corbin as Chairman, Gerald Kirkpatrick as Vice-Chairman, Joseph Anthony as Secretary and David Summers as Treasurer of the Municipal Authority. This was seconded by Mr. Fischer, with all voting Aye.

Mr. Voltz made a motion to re-appoint John Black, John Bryer, Brian Formica, John Neff, Chris Saello, Harold Thompson, Everett Lang, Richard Bates, Jeff Shaw, Ken Shaw and Mervin Thomas to the Traffic Impact Committee and to re-appoint Brian Formica as Chairman and Richard Bates as Vice-Chairman of the Traffic Impact Committee. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Kate Okie, Robert Long, Carolyn Long, Louise Walker, Carl Croft, Alan Yefko, and Dennis McCool to the Open Space Committee and appoint Robert Long as Chairman and Louise Walker as Secretary of the Open Space Committee. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Fischer made a motion to appoint Hudson L. Voltz as a representative to the Traffic Impact Committee. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to appoint Jay G. Fischer as a representative to the Open Space Committee. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint David Sweet and Brandywine Conservancy as the Township's Zoning and Comprehensive Plan Revision Consultants. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to re-appoint John Neff as Captain, Eileen Amatrudo as Lieutenant, Allan Cunningham as Lieutenant, Tim Cunningham, Terry Jameson, Faye Conner, Jim Jameson, John Sciandra, Ruth Ann Sciandra, Joel Gramling and Mike Whiteman as active members of the Township's Special Fire Police. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Fischer made a motion to appoint Hudson L. Voltz as a representative to the Downingtown Area Recreation Consortium. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to appoint Holmes and Simmons, P.C. as appointed Township Auditor for 2008. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to set the Treasurer's Bond at \$800,000 subject to approval by the Board of Auditors. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz named DNB First and National Penn Bank as depositories for all Township Funds. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to appoint Berkheimer Associates as the collector of the Earned Income Tax for 2008. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to appoint Berkheimer Associates as the collector of the Open Space Tax and to continue the tax at .125% for 2008. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to adopt Resolution 01 of 2008 "Resolution Fixing Millage Tax for 2007" a resolution for fixing Millage Tax at Two and One Half (2.5) Mills for 2008. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to set the refuse and removal fees at \$205.00 for 2008. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to continue the one percent (1%) Transfer Tax for 2008. Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to appoint the Board of Supervisors as the Local Tax Appeals Board (Act 50). This was seconded by Mr. Fischer, with all voting Aye.

Mr. Voltz made a motion to adopt Resolution 02 of 2008 "Final 2008 Budgets for the General and State Liquid Fuels Funds". Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to adopt Resolution 03 of 2008 "Designation of Emergency Service Providers". Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to adopt Resolution 04 of 2008 "Actuarial Findings for the Non-Uniformed Pension Plan for the Year 2008". Mr. Kirkner seconded the motion, with all voting Aye.

Mr. Voltz made a motion to certify the Board of Supervisors as delegates to the State Association's Annual Convention. This was seconded by Mr. Kirkner, with all voting Aye.

Mr. Voltz made a motion to appoint a Scott T. Piersol as Voting Delegate and David A. Kirkner as Alternate Delegate to the State Association's Annual Convention. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to re-appoint Mary E. Hinebaugh as East Brandywine Township's representative to the Downingtown Library. This was seconded by Mr. Fischer, with all voting Aye.

Mr. Voltz made a motion to re-appoint Deborah Marshman to the Vacancy Board and Norma Koth as an alternate to the Vacancy Board for 2008. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Kirkner nominated Hudson L. Voltz for Chairman of the Board of Supervisors for 2008. This was seconded by Mr. Fischer, with all voting Aye.

Mr. Voltz nominated David A. Kirkner for Vice-Chairman of the Board of Supervisors for 2008. Mr. Fischer seconded the motion, with all voting Aye.

Mr. Voltz made a motion to appoint a David A. Kirkner as Police Commissioner for 2008. Mr. Fischer seconded the motion, with all voting Aye.

#### **Subdivisions – The Watters Tract**

The plan depicts a commercial and residential land development plan located on the north side of Horseshoe Pike adjacent to the Brandywine Village Shopping Center. Development is planned in two phases, with Phase 1 being the development of the commercial tract. The commercial portion is zoned MU – Mixed Use Commercial District, and three free-standing commercial buildings are proposed.

The commercial tract is approximately 10.645 acres in size. A road is proposed which subdivides the commercial tract into two parcels. The development of this road was requested by the Township to facilitate traffic flow between North Guthriesville Road and Horseshoe Pike. The lot areas for the two resulting lots are 7.258 acres and 1.985 acres in size.

Four zoning variances were granted in a Zoning Hearing decision on April 10, 2007. The variances were for a reduction in front yard setback for the bank building from 85 feet to 50 feet, reduction in side yard setback from 50 feet to 17 feet, exceeding 50% for areas devoted to surface parking in the front yard along the proposed public road and the side yard adjacent to the shopping center, and to allow use in the MU District for the parcels after they are separated by the proposed public road.

There are several conditions associated with the zoning variances. The trash receptacle locations are to be approved by the Board of Supervisors, the existing package sewage treatment plant shall be decommissioned and sewage from the site shall be treated at the Applecross treatment plant as soon as treatment capacity and conveyance is available and permitted. The sewage disposal area in the area north of the bank shall be restricted from further development except for additional parking as approved by the Board of Supervisors.

The main residential tract consists of 41.311 acres and is proposed to become 39.602 acres in size after a parcel of 1.709 acres corresponding to the Watters home, barn and other structures is created. The R-3 tract located behind the commercial tract is approximately 10.049 acres in size and is proposed to become two parcels. The lot areas for the two resulting parcels are 7.63 acres and 1.50 acres. These parcels will be joined with the revised Watters tract, resulting in residential tract acreage of 29.651 acres.

The property is generally sloping to the north and sparsely wooded. There is a pond on proposed parcel No. 3. There is an existing sewage disposal area located at the rear of the commercial tract that will be decommissioned. Public water and public sewer are proposed.

Mr. Ted Kochen from Gambone Development, Ross Unruh, Esq., and Mr. Matthew Chartrand from Bohler Engineering attended the meeting to discuss the Planning Commission recommendation for preliminary plan approval.

Mr. Unruh stated that one of the conditions for preliminary plan approval was that the applicant agrees to install and construct a connector road. Gambone has agreed to do this, but asked that the Act 209 fees be offset by the cost for construction. Mr. Unruh said that the Act 209 fees would be approximately \$500,000 and he estimates that the cost for constructing the road would be \$650,000. The Township Engineer would need to review and confirm these costs.

The applicant agreed with all the conditions recommended by the Planning Commission at their January 2, 2008 meeting. Mr. Unruh said that all outstanding issues, including traffic concerns can be resolved prior to final plan approval.

Mr. Piersol stated that Mr. Heinrich's preference was to create a one-way counter-clockwise circulation pattern around the bank. His concern is that the right turn entry movement is almost a U-turn. It would not be unusual for a right turn entering vehicle to encroach upon the outbound vehicle traffic lane. Mr. Heinrich suggested that with some adjustments this could be corrected, but at this point he believes the one-way pattern is the best solution. The applicant will provide turning templates for Mr. Heinrich to review. If they can't provide the proper turning radius, the applicant agreed that the plan would be changed to provide a one-way traffic pattern.

There will be additional improvements to the Rt. 322 intersection. Brandywine Village Drive will be directly across from the entrance to the Weaver Tract development, creating a four-way intersection.

Recommendation for Preliminary Plan Approval

After review of the plan Mr. Fischer made a motion to recommend the Board of Supervisors grant preliminary plan approval for this land development plan with the following conditions, and also to grant the following waiver requests:

1. The plan will show an easement for the proposed parking lot to be used by the Croppers' store, but the parking lot layout will be removed from the plan.
2. A note will be added to the plan stating that stormwater for the proposed Croppers parking lot will be handled on the Brandywine Village Shopping center property.
3. Resolution of traffic circulation issues near the bank to the satisfaction of the Planning Commission, Township Engineer and Township Traffic Engineer prior to final plan approval.
4. The applicant will provide a construction sequence for the road construction prior to final plan approval so as to cause the least amount of interference with traffic ingress and egress to the Brandywine Village Shopping Center for the western entrance drive.
5. The existing package sewer treatment plant shall be decommissioned, and sewage from the site shall be treated at the Applecross treatment plant as soon as treatment capacity and conveyance is available and permitted.
6. The tapping fee will be resolved to the satisfaction of the East Brandywine Township Municipal Authority.
7. The final plan shall address the outstanding issues set forth in the Yerkes Associates Inc., November 30, 2007 review letter.
8. The final plans shall address the outstanding issues in the Heinrich and Klein Associates Inc., December 4, 2007 review letter in paragraph 3 through and including twenty-nine. However, the traffic signal permit plans relating to the Route 322 and Bollinger Road intersection referenced in paragraph twenty shall be addressed at the time of application for the townhouse development. Furthermore, regarding paragraph 2, any widening of Rt. 322 along the property frontage will be deferred to the townhouse development.
9. Prior to final plan approval, the Township Traffic Engineer and the applicant's Traffic Engineer shall resolve the issues set forth in paragraph 1a through 1e of the Heinrich & Klein Associates Inc. December 4, 2007 review letter. Paragraph 1f shall be resolved with the Board of Supervisors.
10. The final plans shall delineate the following easement on the applicant's property for the Brandywine Village Shopping Center:
  - a. The parking area along the southern boundary.

- b. The truck delivery access located at the northeast corner of the property which connects the Brandywine Village Shopping Center with Brandywine Village Drive.
  - c. The applicant will provide an easement for the upper entry connecting Brandywine Village Center on Brandywine Village Drive.
11. The final plans shall depict the geometric design of the vehicle connection driveway between Brandywine Village Drive and the Brandywine Village Shopping Center as depicted on the January 2, 2008 sketch plan.
  12. The final plans shall depict the geometric design for the truck delivery connection driveway between the Brandywine Village Drive and the Brandywine Village Shopping Center as generally depicted on the January 2, 2008 sketch plan.

#### Waiver Requests

1. Section 350-52.F(2) – To allow corrugated smooth interior high density polyethylene (HDPE) piping for all stormwater piping (excluding reinforced concrete pipe (RCP) basin outlet barrels).
2. Section 350-33.B(2) – To allow collector street centerline radius of 500 feet instead of 750 feet.
3. Section 350-34.C (1)(b) – To allow collector street vertical curves with a design speed of 35 mph instead of 50 mph.

The Board of Supervisors also agreed that the costs to construct the connector road from Rt. 322 to N. Guthriesville Road will be off-set by the Act 209 contribution.

Mr. Kirkner seconded the motion, with all voting Aye.

#### **Pulte Homes – Proposed Revision to Entrance Features**

Mr. John Curtin attended the meeting to discuss Pulte Homes' proposed revisions to entrance features at the development. Those revisions include:

1. Rt. 322 and Bollinger Road
  - Adding stone retaining walls on either side of the existing barn, removing the existing pond, and adding a smaller pond, small water feature and some piers to the cupolas on top of the barn.
  - Adding a sign to the retaining wall to the right of the barn that states "Applecross Country Club". The text of this sign would be a total of 80 square feet. It will be lit, with three flagpoles behind the wall.

## 2. Applecross Boulevard

- Remove all white walls, piers and roof structures
- Constructing low stone walls and piers with cupolas. This will be much lower to the ground and allow for views of the 9<sup>th</sup> hole on the golf course.
- The low stone wall at the left side of the Applecross Boulevard entrance is proposed to have another Applecross Country sign. What is there today is 43 square feet. Pulte is proposing an 80 square foot sign.

Mr. Curtin is asking that the Board consider another amendment to the Settlement Agreement in order to accomplish this.

Mr. Fischer asked who would maintain these areas. Mr. Curtin said that they would be maintained by the Homeowner's Association. Mr. Curtin was also asked if there would be a fountain in the pond. He said there would be no fountain, only a waterfall that would recirculate from the pond, and would be turned off in the winter.

Mr. Fischer stated that when the original Settlement Agreement was signed there were no provisions for an interconnecting trail system. Since that time the Board has discussed a trail connection to Berkley Drive and also to the Village of Guthriesville. Mr. Fischer explained that the Township's Ordinance Task Force is working on a master plan for the Village of Guthriesville and would like to provide trail interconnections. Mr. Curtin stated that Pulte would be receptive to the trail interconnections, but the portion of the development near the Village is a gated community. He suggested there could be a trail connection on the northern side of the Applecross property so that a trail could go from Pulte, through the K. Hovnanian development, to the Village.

Mr. Kirkner asked that Pulte provide a trail connection near the proposed bridge on E. Reeceville Road so that pedestrians and bicyclists can safely navigate E. Reeceville Road without having to cross the bridge, which he believes will be dangerous situation. He suggested a spur from the road to the trail and then back to the road.

The Supervisors were amenable to considering another amendment to the Settlement Agreement with their suggested improvements. Mr. Curtin agreed to look at the above and get back to the Township on how these suggestions might be accomplished. Mr. Piersol also asked Mr. Curtin to make sure these were the only items for discussion if an amendment to the Settlement Agreement is executed.

**Proposed Ordinance – Regulating the Operating of All Terrain Vehicles on Private or Public Property, Other than Public Highways; Prescribing Remedies and Penalties for Violation of Such Regulations, Including the Imposition of Fines and Penalties, the Seizure of Vehicles Violating Such Regulations and Enforcement by Actions in Equity.**

The Planning Commission is recommending the Board of Supervisors forward the proposed Ordinance to the Chester County Planning Commission for their Act 247 review and advertise it for adoption.

Mr. Fischer had recommended several changes to the Ordinance Task Force. He suggested that the property owner and ATV operator should be held responsible for any necessary repairs or remediation resulting from the illegal operation of an ATV in an environmentally-sensitive area. The current language states that the ATV operator will be responsible. Mr. Fischer stated it might be difficult to hold the ATV operator liable, since that person could be a minor.

The Ordinance will be enforced by the Township, although the Brandywine Regional Police Department will also be able to issue citations.

Mr. Voltz asked if there were any questions. There were none. Mr. Fischer made a motion to forward the Ordinance to the Chester County Planning Commission and to advertise it for adoption. Mr. Kirkner seconded the motion, with all voting Aye.

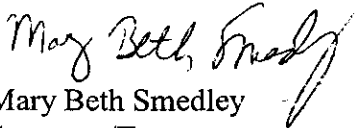
**COMMENTS FROM THE AUDIENCE**

Mr. Voltz asked if there were comments from the audience. There were none.

**Adjournment**

There being no further business Mr. Kirkner made a motion to adjourn at 8:00 P.M. Mr. Voltz seconded the motion, with all voting Aye.

Respectfully submitted,

  
Mary Beth Smedley  
Secretary/Treasurer  
East Brandywine Township