

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SESSION  
Wednesday, February 20, 2008**

**Those in Attendance:**

Hudson L. Voltz, Chairman  
David A. Kirkner, Vice-Chairman  
Jay G. Fischer, Member  
Scott T. Piersol, Township Manager  
Mark Kocsi, Chief of Police  
Matthew T. VanLew, Roadmaster  
Mary Beth Smedley, Secretary/Treasurer

The East Brandywine Township Board of Supervisors meeting of Wednesday, February 20, 2008 was called to order by Chairman Voltz at 7:30 P.M. at the East Brandywine Township Municipal Complex. There were 23 visitors.

**Opening of Meeting**

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

**Public Comment for Non-Agenda Items**

Chairman Voltz asked if there were comments on non-agenda items. There were no comments.

**Minutes: Board of Supervisors – January 16, 2008**

Chairman Voltz asked if there were any additions or corrections to the above minutes. There were none. Mr. Fischer made a motion to approve the January 16, 2008 minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

**Minutes: Board of Supervisors – February 7, 2008**

Chairman Voltz asked if there were any additions or corrections to the above minutes. There were none. Mr. Fischer made a motion to approve the February 7, 2008 minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

**Minutes: Planning Commission Minutes – February 6, 2008**

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

### **Treasurer's Report**

Mrs. Smedley read the account balances as of February 20, 2008. After review of the Treasurer's Report/Financial Statement, Mr. Fischer made a motion to approve the Treasurer's report and payment of the bills. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

### **Report: Township Manager's Report**

The Supervisors previously authorized acceptance of a proposal from Rettew & Associates to complete a grant application to the Department of Conservation and Natural Resources for funding to create a master plan for the Bondsville Mill Park. The Mill Park Committee requested some changes in the contract, which Rettew has agreed to include. Requesting this funding assistance is the first step in planning for a variety of uses for this property, to include nature areas and interpretation of the history of the mill buildings on the property. A revised contract was received this afternoon, and a certificate of insurance will be provided to the Township by Rettew.

The Township held a pre-bid meeting this morning for our Phase III project in our Community Park. Fourteen firms attended today's meeting, other firms have contacted our Township Engineer who are interested in the project. This project consists of 3 components: site work to include grading and turf establishment on 2 multi-purpose fields and 2 baseball fields, installation of paved driveways and parking lots, paved walking trail that will connect to Phase I, the installation of a memorial garden in front of the maintenance building in Phase II, construction of one pavilion, and electrical work. A separate bid will be sought for installation of a self-contained waterless comfort station to serve the Phase I and III areas. Bids must be received by 4 PM on Wednesday, March 5<sup>th</sup>. Bids will be opened at 4:15 PM on March 5<sup>th</sup>, with public announcement and tentative award of the contracts on Thursday, March 6<sup>th</sup> at the Supervisors public meeting that morning. Mr. Piersol was pleased with the number of contractors who have expressed interest, and looks forward to receiving several bids.

East Brandywine Township hosted a meeting conducted by the Philadelphia Office of the Army Corps of Engineers to discuss the Guthriesville General Store and the Wawa project on February 5<sup>th</sup>. Numerous interested parties attended this meeting, including representatives of the National Trust for Historic Preservation and Preservation Pennsylvania. Under the requirements of Section 106 of the Historic Preservation Act of 1967, the Army Corps of Engineers is responsible to draft a Memorandum of Agreement between the various interested parties. The Army Corps requested the interested parties provide comments in response to Wawa's proposed conditions on the retention of the former Guthriesville General Store Building by Friday, February 15<sup>th</sup>. The Township did forward its concerns. It is uncertain how long this next step in this process may take.

Mr. Piersol recently received correspondence from Newtown Township, Delaware County, asking for our support of House Bill 397, which seeks to amend the Municipalities Planning Code to expand the ability of local governments to impose impact fees on new development. Similar legislation has been sponsored in the past, although none have been successful. The focus of this legislation is to help ease the strain on local governments placed by development growth on police, fire and emergency medical services, recreational resources and transportation

infrastructure. Currently, local municipalities may impose impact fees for recreational uses on new residential and commercial development, and for traffic impacts. This new legislation seeks to expand the use of transportation impact fees to assist with the costs associated with “pass-through” traffic, which certainly is an impact to our community. Mr. Piersol requested the Board consider approval of a motion to support this legislation to the Honorable Robert Freeman, Chairman of the Local Government Committee, with copies to Representative Schroder and Senator Rafferty, asking for their collective support of this legislation. Mr. Fischer stated that he wasn’t familiar with House Bill 397 and asked that Mr. Piersol provide copies of the Bill for the Supervisors to review prior to deciding whether to support the legislation.

**Report: Building Inspector/Zoning Officer – Report for January 2008**

Mr. Piersol read the Building Inspector/Zoning Officer’s Report for January 2008. There were ten building permits issued, eight use and occupancy permits issued, and one hundred and fourteen inspections conducted during the month. The total fees collected were \$17,987.00.

**DARC**

Chairman Voltz reported Bill Normoyle from West Pikeland Township was 2008 Chairman for the Downingtown Area Recreation Consortium. Diane Giumento from Uwchlan Township has retired. She will be replaced by Betty Randzin.

**Report: Brandywine Regional Police Commission**

Mr. Kirkner reviewed the Brandywine Regional Police Commission minutes for December of 2007.

The Brandywine Regional Police Commission 2008 budget was adopted by a unanimous vote.

The mandatory member contribution to the Brandywine Regional Police uniformed pension plan for 2008 will be 4%.

The next Brandywine Regional Police meeting will be held Thursday, February 28, 2008 at 8:00 A.M. at the East Brandywine Township Municipal Complex.

**Report: Police Chief - Police Activity Report for January 2008**

Police Activity Report – January 2008

Investigations	149
Traffic Citations	244
Traffic Warnings	30
Traffic Accidents	22

Criminal Arrests	6
Summary Arrests	12

Criminal Investigations – January 2008

Burglary/Criminal Trespass	1
All Assaults	2
Theft/Fraud	7
Disorderly Conduct/ Harassment	4
Disturbances	4
Suspicious Activity/ Persons	17
Domestics	0
Criminal Mischief	5
Juvenile Complaints	0
Missing Persons/ Runaways	1
Driving Under the Influence	1
Fugitive Warrants	4
Drugs	2
Other	0

The Governor's Center for Local Government Services has completed their study. Copies of the study were sent to each Board member and extra copies were provided to each Township for residents to read or copy

A PDF copy of the study is available at [www.brandywineregional.org](http://www.brandywineregional.org). The link is located on the bottom left side of the main page.

**Report: Fire Company's Activity Report for January 2008**

Mr. Piersol read the Activity Report for the month of January, 2007, as submitted by Fire Chief Robert Zynn, Jr. There were seventy-six total incidents. In East Brandywine Township there were sixteen fire calls and twenty QRS calls. In West Brandywine Township there were nine fire calls and nineteen QRS calls. The Fire Company provided assistance in Wallace Township, Caln Township, Honeybrook Township, West Nantmeal Township and Sadsbury Township.

**Subdivision Extensions**

The Weaver Tract - The Planning Commission is recommending the Board accept an extension to review this subdivision application until March 31, 2008. Mr. Fischer made a motion to accept this extension. Vice-Chairman Kirkner seconded the motion, with all voting Aye. Since representatives from K. Hovnanian have not attended any recent meeting, the Supervisors asked

that they attend the next Planning Commission meeting. Mrs. Smedley will contact their attorney so that a representative might attend the meeting.

### **Subdivisions – Hopewell Methodist Church**

The owner and applicant is the Hopewell United Methodist Church. The plan proposes two additional parking lots with accompanying stormwater management facilities. The tract is located within the R-1 Residential District and is located on Hopewell Road just west of Crawford Road. Ms. Melissa Kelly from Rettew & Associate and Mr. David Cloetingh, a member of the Church, discussed the revised preliminary plan and the Planning Commission's recommendation that the Board grant final plan approval with conditions as outlined in the February 6, 2008 Planning Commission minutes.

#### Waiver Request

The Planning Commission is recommending the Board of Supervisors grant a waiver from Section 350-44.B of the Land Use code to allow a curb height of 6 inches on the proposed west parking lot and for no curb construction along the east parking lot. Ms. Kelly stated that this should be adequate to control runoff, and Yerkes Associates had no objection to the waiver requests. Chairman Voltz asked if there were any questions. There were no questions. Mr. Fischer made a motion to grant the above waiver requests. Mr. Kirkner seconded the motion, with all voting Aye.

#### Final Plan Approval

The Planning Commission recommended that the Board of Supervisors grant final plan approval for this land development application with the following conditions:

1. Satisfaction of all conditions outlined in the October 23, 2007 Zoning Hearing Board Decision.
2. All surrounding property owners' issues are resolved to the satisfaction of the Township and Al Giannantonio, P.E., prior to commencement of work.
3. The applicant must demonstrate that an adjustable orifice has been installed and is properly operating on the basin outlet structure. Mr. Cloetingh reported the orifice has been installed.
4. Satisfaction of all outstanding items in the Yerkes November 19, 2007, January 20, 2008, and February 6, 2008 review letters.
5. Receipt of the PennDOT Highway Occupancy Permit.
6. Installation of at least six 8 to 10 foot high Norway spruce trees. The applicant has agreed to install additional trees if the buffer proves to be insufficient between the Church property and neighboring properties.
7. The western basin will be field adjusted so as to cause the least amount of damage to existing trees.
8. Orange construction fencing will be installed around all specimen trees.

9. An escrow account for construction of the parking lots will be established in the amount of \$48,523.75. Mr. Cloetingh asked that the Supervisors allow two escrow accounts to be established; one in the amount of \$16,317.55 for the western parking lot, which will be constructed first, and the other in the amount of \$31,486.20 for the eastern parking lot, which will be constructed at a later date, as funds are available.
10. The applicant will discuss installing a 28-inch high guardrail along Hopewell Road with PennDOT officials. Mr. Cloetingh stated that Church representatives will contact PennDOT officials to discuss this.

The Planning Commission had recommended that the property be deed restricted from allowing additional impervious cover beyond what was granted by the October 23, 2007 Zoning Hearing Board decision. Mr. and Mrs. Gastrock would like this to be a condition of final plan approval. Mr. Fischer stated he didn't think the Board was in a position to do this if the applicant met all the requirements for final plan approval. He also noted that in order to allow additional impervious cover the applicant would have to make application for a variance with the Zoning Hearing Board since they already exceed what is allowed by the ordinance. Mr. and Mrs. Gastrock stated that they were guaranteed by Church Trustees that there would not be additional impervious after the last building project, although this wasn't memorialized. Mr. Cloetingh stated that the Church is actually not exceeding the percentage of impervious cover that was originally granted by the Zoning Board at the time the education center was constructed. Although the present Church Trustees have no plans for additional building, Mr. Cloetingh stated they did not want to deed restrict property.

After review of the application Mr. Fischer made a motion to grant final plan approval with the following conditions.

1. Satisfaction of all conditions outlined in the October 23, 2007 Zoning Hearing Board Decision.
2. All surrounding property owners' issues are resolved to the satisfaction of the Township and Al Giannantonio, P.E., prior to commencement of work.
3. The applicant must demonstrate that an adjustable orifice has been installed and is properly operating on the basin outlet structure.
4. Satisfaction of all outstanding items in the Yerkes November 19, 2007, January 20, 2008, and February 6, 2008 review letters.
5. Receipt of the PennDOT Highway Occupancy Permit.
6. Installation of at least six 8 to 10 foot high Norway spruce trees. The applicant has agreed to install additional trees if the buffer proves to be insufficient between the Church property and neighboring properties.
7. The western basin will be field adjusted so as to cause the least amount of damage to existing trees.
8. Orange construction fencing will be installed around all specimen trees.

9. Two escrow accounts for construction of the parking lots will be established, one in the amount of \$16,217.55 for the western parking lot and \$31,486.20 for the eastern parking lot.
10. The applicant will discuss installing a 28-inch high guardrail along Hopewell Road with PennDOT officials. Mr. Cloetingh stated that Church representatives will contact PennDOT officials to discuss this.

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

The Supervisors asked that a meeting be scheduled between Church members, neighboring property owners and Yerkes Associates to discuss their outstanding concerns as soon as possible.

**At 8:10 P.M. Chairman Voltz adjourned the regular meeting to hold a public hearing on Ordinance 02 of 2008**

**Ordinance 02 of 2008 – An Ordinance of East Brandywine Township, Chester County, Pennsylvania, Regulating the Operation 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 for Violating Such Regulations and Enforcement by Actions in Equity.**

**Chairman Voltz opened the Public Hearing.**

Mr. Richard Bates, speaking on behalf of approximately 20 residents who attended the meeting, asked that the Supervisors postpone any action of this Ordinance for a period of at least 30 days in order to allow residents to comment and offer suggestions. Several concerns have been raised by residents, some of which were sent to Township Solicitor Stacey Fuller, Esq. by Brian Nagle, Esq., an attorney representing certain interested parties. Mr. Bates stated that some of the objections include the restrictive riding hours, the provision where ATV's cannot be operated within 25 feet of a property line and the maximum number of ATV's allowed to be operated. Mr. Tolbert Pongia was concerned about the provision concerning "environmentally-sensitive" areas and felt this needed to be defined.

Chairman Voltz suggested that a committee be formed of Township representatives and some of the concerned citizen to discuss this issue. He asked that residents provide the Supervisors with their concerns and suggestions prior to scheduling the meeting.

Chief Kocsi said that some of the provisions were already outlined in the Motor Vehicle Code, but that provisions such as limiting the time of day, limiting the number of ATV's were done at the discretion of the Board of Supervisors. He suggested that Officer Mark Twaddell should be involved in any meetings since he was quite familiar with the Motor Vehicles Codes' chapter on all-terrain vehicles. Mr. Bates was asked to provide dates to Mr. Piersol or Mrs. Smedley so that a meeting can be scheduled.

Mr. Stephen Conklin asked how this Ordinance had been formulated. Mr. Fischer stated that the Ordinance came out of discussions at the Ordinance Task Force meetings. The group looked at the complaints received by the Township and also had their consultant provide information on other similar Township Ordinances.

Ms. Sharon Richards stated that she owned quite a bit of property. She chose this property because of its size and the ability to enjoy recreational activities.

Mr. William King stated that it was unfortunate that this one activity was singled out. He suggested that this could probably have been handled by a noise ordinance. Mr. King also stated that the hours outlined in the ordinance were so restrictive that he and many other people would not be able to use their ATV's. Mr. King belongs to several different riding clubs. When these organizations hold events they must repair damage to any areas. Also, many of these clubs benefit the community; they hold fundraisers and often times make contributions to volunteer organizations such as local fire companies. Mr. King said that unfortunately many residents have a negative opinion of those who enjoy riding ATV's.

The Board of Supervisors unanimously agreed to table voting on this Ordinance until a meeting with residents takes place.

**The Public Hearing adjourned at 8:27 P.M.**

**The Public Hearing for Ordinance 01 of 2008 opened at 8:28 P.M.**

**Ordinance of 2008 – An Ordinance of East Brandywine Township, Chester County, Pennsylvania, Amending Chapter 399, Zoning, of the Land Use Code of the Township of East Brandywine Regarding the Common Open Space Conservation Easements**

Mr. Piersol stated that this Ordinance simply amended Article XI of the Institutional Residential District to state that all areas of designated common open space shall be subject to conservation easements with certain conditions. He provided the following exhibits for the Board to review.

- B-1 Copy of the Board of Supervisors minutes dated November 1, 2007 in which the Board authorized the Board to submit the Ordinance to the Chester County Planning Commission for the Act 247 review.
- B-2 Copy of the letter dated December 4, 2007 to the Chester County Planning Commission enclosing the Act 247 Notice and the proposed Ordinance.
- B-3 Copy of the Act 247 Notice
- B-4 Letter dated January 4, 2008 from the Chester County Planning Commission to Scott T. Piersol, Township Manager

B-5 Copy of the letter dated February 5, 2008 by Christel Barton to the Daily Local News enclosing the Public Notice and the full text of the proposed Ordinance and requested publication.

B-6 Notice and Proof of Publication from the Daily Local News.

The proposed Ordinance has been available for public review since February 5, 2008 when it was sent to the Daily Local News.

Chairman Voltz asked if there were any questions or comments. There were none.

**Chairman Voltz closed the hearing at 8:33 P.M.**

After review of the Ordinance, Vice-Chairman Kirkner made a motion to adopt Ordinance 01 of 2008. Mr. Fischer seconded the motion, with all voting Aye.

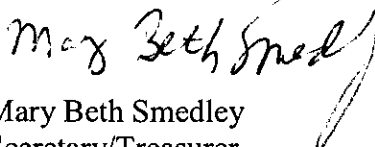
**Additional Public Comment**

Chairman Voltz asked if there were additional public comments. There were no comments.

**Adjournment**

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

Respectfully submitted,

  
Mary Beth Smedley  
Secretary/Treasurer