

EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS

Special Meeting

Wednesday, May 14, 2008

Those in Attendance:

Hudson L. Voltz, Chairman
David A. Kirkner, Vice-Chairman
Jay G. Fischer, Member
Mary Beth Smedley, Secretary/Treasurer

The East Brandywine Township Board of Supervisors meeting of Wednesday, May 14, 2008 was called to order by Chairman Voltz at 8:10 A.M. at the East Brandywine Township Municipal Complex. There were eight visitors present.

Programmatic Agreement Among the U.S. Army Corps of Engineers, Philadelphia District, the Advisory Council on Historic Preservation and the Pennsylvania State Historic Preservation Officer Regarding Construction of a Wawa Food Market and Associated Roadwork on Bondsville Road in the Township of East Brandywine, Chester County, Pennsylvania

Chairman Voltz explained that a Special Meeting was being held to discuss the Programmatic Agreement that was originally considered by the Board of Superiors at their May 1, 2008 Work Session. At that meeting the Supervisors chose not to become a party to the agreement although they did not take a position of either opposing or supporting it. In the May 1st meeting there were several areas of concern. These areas included:

1. The eight week marketing period was considered too short. In the revised agreement the marketing period has been extended to 75 days.
2. The requirement that any subdivision must be completed by December 31, 2008. The revised agreement has a two step time extension to January 31, 2009 and then to February 27, 2009.

Chairman Voltz went on to say that he thought that the requirement for liability insurance was not onerous and that the required Letter of Credit, although high, was reasonable under the circumstances since Wawa wants to make sure that the project is completed.

In a memo dated May 13, 2008 Mrs. Jane Davidson outlined several of her concerns that have been reviewed by the Board.

Michael Gill, Esq., attorney for Wawa reviewed the Agreement and pointed out several changes from the previous versions.

1. The first page includes a description of the project.
2. The Agreement includes a description of public information. It identifies the nature of public involvement and discusses certain meetings held, correspondence and the Army Corps' responses.
3. Wawa will provide the Corps with verification of Wawa's marketing activities to ensure that Wawa complies with its obligations in the Agreement.
4. The Agreement sets forth obligations of certain parties in the event the building is damaged during the marketing period.

5. There is an explanation of provisions regarding extension of the demolition permit.
6. Clarification that Mr. DiGiamberardino is not a permittee. In the event Wawa does not proceed with the project Mr. DiGiamberardino is not required to conform to the Stipulations set forth in the Agreement.
7. The signature block needs to indicate that Chairman Voltz will sign the agreement if approved, not Mr. Fischer.

Chairman Voltz asked Karen Marshall, the Chester County Historic Preservation Officer if she had anything to add. Ms. Marshall said she had nothing to add at this time.

Chairman Voltz asked if there were comments from the audience.

Mr. John Black, Chairman of the East Brandywine Township Historical Commission stated that there was no consideration of good faith on the part of Wawa in the Agreement. He said that it could be difficult for a prospective buyer to adhere to certain timelines since there could be unforeseen delays. Mr. Black went on to say that he was concerned that Wawa was choosing the brokerage firm. He thought that the firm should be independent of all parties. Mr. Black also thought that the retaining walls that are proposed would be a liability for a prospective buyer since they are not on the Guthriesville General Store property. He said that although there have been some movement there isn't enough to encourage success of the project. In closing, Mr. Black stated that the Village's Determination of Eligibility is dependent upon the building remaining. He said the Township wouldn't just lose the building, it would lose the Village.

Chairman Voltz stated that he agreed with most of what Mr. Black said. He said that the Agreement does have elements of good faith. He doesn't think anyone would want the subdivision to fail if there were only a few minor issues to resolve.

In regard to selection of a broker, Chairman Voltz thought it was incumbent upon everyone interested in preserving the building to get the word out to interested buyers. He went on to say that there has been a lot of press about the building so many people would know that it was for sale.

Chairman Voltz asked Vice-Chairman Kirkner and Mr. Fischer if they had any other comments. They had none.

Mr. William Inslee stated that he concurred with Mr. Black's comments.

Ms. Marshall said that she also agreed with Mr. Black and said that she was concerned with the revitalization of Guthriesville. As in the May 1st meeting, Ms. Marshall stated that she was willing to provide support in the form of a Task Force to look at the Guthriesville Master Plan and in marketing the building and the Village. She thinks that would be the best way to attract a buyer. Since the Township Ordinance Task Force is already working on the Master Plan, Ms. Marshall and other interested person were invited to attend that meeting.

Mr. Stephen Cushman, Vice-Chairman of the East Brandywine Township Planning Commission, said that he was disappointed that Wawa continues to ask for such a large Letter of Credit. He thinks the \$1.3 million LOC will discourage interested buyers. Mr. Cushman went on to say that there are only a few large developers who could post this sort of money and most of them wouldn't be interested in such a small job. He said that small developers would fear losing their money. He hoped that Wawa would be more reasonable.

Chairman Voltz stated that he is satisfied with the changes to the Agreement other than the Letter of Credit. He thinks that Wawa has acted in good faith and that it is now time to move forward. He said that this Agreement is a compromise. Chairman Voltz and the Board agreed that it will be helpful to have Ms. Marshall and other interested persons meet with the Ordinance Task Force during the marketing period to help with the Master Plan and offer assistance in encouraging prospective buyers.

Chairman Voltz asked if there were additional comments. There were no comments. Chairman Voltz then made a motion to sign version 15 of the Programmatic Agreement. Vice-Chairman Kirkner seconded the motion, with both voting Aye. Mr. Fischer abstained from voting. Mr. Gill thanked the Supervisors and said that the Advisory Council on Historic Preservation may request additional stylistic changes. In addition to Wawa, Mr. DiGiamberardino and the Township signing the Agreement, it is also expected that the U.S. Army Corps of Engineers, the Advisory Council on Historic Preservation, the Pennsylvania State Historical Preservation Officer and the Chester County Historic Preservation Officer will sign the document.

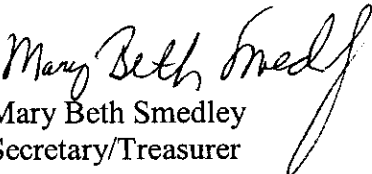
Additional Public Comment

Chairman Voltz asked if there were any additional comments. There were none.

Adjournment

There being no further business, Vice-Chairman Kirkner made a motion to adjourn the meeting. Mr. Fischer seconded the motion, with all voting Aye. The meeting was adjourned at 8:50 A.M.

Respectfully submitted,


Mary Beth Smedley
Secretary/Treasurer