

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SESSION  
Wednesday, January 21, 2009**

**Those in Attendance:**

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

**Absent:**

Hudson L. Voltz, Chairman

The East Brandywine Township Board of Supervisors meeting of Wednesday, January 21, 2009 was called to order by Vice-Chairman Kirkner at 7:30 P.M. at the East Brandywine Township Municipal Complex. There were approximately 70 visitors present.

**Opening of Meeting**

Vice-Chairman Kirkner opened the meeting with the Pledge of Allegiance.

**Public Comment for Non-Agenda Items**

Vice-Chairman Kirkner asked if there were comments on non-agenda items.

Mr. Les Neri, President of the State Fraternal Order of Police (FOP) and Mr. Roosevelt Poplar, Vice Presidents of the FOP were in attendance at the meeting. Mr. Neri stated that the FOP represents approximately 43,000 law enforcement officers in the State. It is his opinion that the police situation has deteriorated. Mr. Neri stated that shortly after Wallace Township informed East Brandywine Township of their intention to withdraw from the Brandywine Regional Police Commission the Police Association asked to meet with Supervisors from both Townships, with no response. He then said that there was one attempt to have an informal meeting, but the officers were left with no information. Mr. Neri is concerned that East Brandywine Township violated the Police Tenure Act when Brandywine Regional Police laid off officers and East Brandywine Township didn't hire all of the most senior officers. He said that there are three grievances filed for unfair labor practices. He stated rather than having a prolonged fight he would like to see the labor issues resolved between all parties. Mr. Neri then thanked the Supervisors for their time and said that the FOP is willing to meet with the Supervisors at their convenience.

Vice-Chairman Kirkner thanked Mr. Neri for his comments. He said that at this time the Supervisors would have no comments regarding the issues raised because grievances have been filed.

Mr. Bud Koth from Dilworth Road asked why the hiring process was done the way it was. Mr. Fischer stated that the Supervisors can't discuss that at the present time. Mr. Fischer stated that both the Township and Police Association have retained counsel. The Township has been advised that these matters can't be discussed in public.

Mr. Bill Arters from Dilworth Road described the recent developments with the Police Department in the Township as "a bunch of crap". He asked if the Supervisors followed the wording of the police contract. Mr. Fischer stated that he believed the Supervisors did follow the contract.

**Minutes: Board of Supervisors – December 17, 2008**

Vice-Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Mr. Fischer made a motion to approve the December 17, 2008 minutes as presented. Vice-Chairman Kirkner seconded the motion, with both voting Aye.

**Minutes: Board of Supervisors – January 5, 2009**

Vice-Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Mr. Fischer made a motion to approve the January 5, 2009 minutes as presented. Vice-Chairman Kirkner seconded the motion, with both voting Aye.

**Minutes: Planning Commission Minutes – December 3, 2008**

Vice-Chairman Kirkner asked if there were additions or correction to the minutes. There were no suggested changes. Mr. Fischer made a motion to approve the December 3, 2009 minutes as presented. Vice-Chairman Kirkner seconded the motion, with both voting Aye.

**Minutes: Planning Commission Minutes – January 7, 2009**

Approval of the January 7, 2009 minutes was deferred until the February 4, 2009 Board of Supervisors meeting.

**Treasurer's Report**

Mrs. Smedley read the account balances as of January 21, 2009. Mr. Fischer asked for further information on check #11941. Mrs. Smedley explained that this was an escrow check made payable to Hopewell Methodist Church for work completed on their recent parking lot project. Mr. Fischer made a motion to approve the Treasurer's report and payment of the bills. Vice-Chairman Kirkner seconded the motion, with both voting Aye.

**Report: Township Manager's Report**

1. The Township will host a public meeting on Tuesday, February 17<sup>th</sup> at 7 P.M. here to present the draft revisions to the update of the Township's Comprehensive Plan. There will be several displays of the land use maps and portions of the important implementation activities proposed which will be discussed during this meeting. Also included as part of the plan is the final draft of the Master Development Strategy for the Village of Guthriesville, which will be a chapter in the Plan. The Comprehensive Plan will also incorporate the Open Space, Recreation and Environmental Resources Plan in the final document. The draft will be presented for comments later this month to the County Planning Commission.

2. Mr. Piersol advised that East and West Brandywine Townships did settle with the Thornburys on their Hadfield Road property on December 29<sup>th</sup>, acquiring conservation and trail easements across their properties in the two townships. Brandywine Conservancy is currently working to finalize the documents for the Robb acquisition, also on Hadfield Road.
3. Jack Stefferud of Natural Lands Trust and I met with the Whittaker family on December 19<sup>th</sup> to sign agreements of sale for the fee simple acquisition of 16 acres along the Brandywine, and a conservation easement on approximately 60 acres of the White Acres Farm. Settlement is to occur not later than June 30<sup>th</sup>, hopefully much sooner. We have grants from the County and the Pennsylvania Department of Conservation and Natural Resources pending on these two acquisitions.
4. The Supervisors, Roadmaster VanLew and Mr. Piersol will be meeting with representatives of Caln Township Friday morning, January 23<sup>rd</sup> to discuss the proposed re-opening of the East Fisherville Road bridge to limited vehicular traffic. We expected to have this aspect of the project completed by this time, and be discussing the next step which is to create an area for larger vehicles to turn around, but the Caln Township Engineer stopped the process.
5. The Township was notified earlier this week that the engineering firm of McCormick Taylor is working on the initial plans for the replacement of Chester County Bridge #244 on Hadfield Road. The Township worked cooperatively with the County on the replacement of another County bridge on Hadfield Road. Funds for this bridge work were allocated in the 2009 TIP for preliminary design. A public meeting to discuss this project will be scheduled, but is likely a year away. The project is likely to take 3-4 years to complete once it is advertised. The Township appreciates being contacted early in the process.
6. We are continuing to meet with our Township Engineer on plans to fully implement a Sewage Management Program in the Township. Revisions to the enabling ordinance and revisions to the computer program to manage the information on the properties in the Township will be subject to the requirement to pump their septic tanks, and otherwise maintain their disposal systems, have been ongoing since the fall. One of the first steps will be providing information to our residents on the program, which Mr. Piersol hopes will occur later this spring.
7. The Bondsville Mill Park projects have slowed somewhat. The RFPs for creation of a master development plan have been temporarily halted. Chairman Kirkpatrick and Mr. Piersol had a telephone conference with Cynthia Dunlap of DCNR about the scope of work. She asked for some initial information to review, and requested that the Township provide additional details to each prospective vendor on the work scope, as well as suggestions on how we must present the information for her review prior to submission to the potential vendors.

The due date for the limited demolition bids was extended to allow for some additional clarification of the work scope. Due to the dramatic reduction in the value of salvaged steel beams, the overwhelming majority of the prospective bidders attending the pre-bid meeting in December indicated there was no possibility of this project being done at no cost to the Township. One of the primary discussion items was the potential value of the stone used in

the building. Yerkes Associates will be providing an addendum to the original bid document which will give the opportunity for additional portions of the buildings to be razed and the debris removed using the value of the salvaged steel and stone as an offset. Because of the slow construction market, we expect several contractors will be looking at this opportunity to keep their crews working. We met yesterday to discuss a new target date for the bids, which we expect will be Friday, January 30<sup>th</sup>.

**Report: Building Inspector/Zoning Officer – Report for December 2008 and 2008 Year End Summary**

Mr. Piersol read the Building Inspector/Zoning Officer's Report for December, 2008 and the Year End Summary. In December there were five building permits issued, twelve use and occupancy permits issued, and forty-five inspections conducted during the month. The total fees collected were \$1,570.00.

In 2008 there were two-hundred and three building permits issued, one-hundred and sixty two use and occupancy permits issued and one thousand one hundred and fifty five inspections completed. The total fees collected were \$190,270.45.

**Report: DARC**

Chairman Voltz will report on the Downingtown Area Recreation Consortium at the February 23, 2009 Board of Supervisors meeting.

**East Brandywine Township Police Department**

Vice-Chairman Kirkner informed the audience that the East Brandywine Township Police Department has been operational since January 1, 2009 at 12:01 A.M.

**Police Chief's Report**

Chief Kocsi reported that he worked New Year's Eve in order to monitor the transition from Brandywine Regional Police to the East Brandywine Township Police Department. Other than some minor computer server problems, the transition went well. Officer Steven Tyree was on duty and maintains the computer system. He was able to correct all the problems quickly. Chief Kocsi thanked Officer Tyree for the work he does in maintaining the computer system.

On January 7<sup>th</sup> Chief Kocsi held a Departmental meeting with the Officers to discuss operational changes and other issues concerning the new Police Department.

The transitional paperwork and filings related to the Local, County, State and Federal agencies has been completed for the new Department.

Changes to the uniform badges, patches, vehicle and building graphics, and letters are completed, for the most part.

Vice-Chairman Kirkner and Chief Kocsi met with officials from Wallace Township on January 12<sup>th</sup> to complete the vehicle transfers and transfer of the approved dissolution assets to Wallace Township. Some of the items to be transferred to Wallace Township are still being held, at Wallace Township's request, until they have secured a proper storage location.

Chief Kocsi stated that the Police Department has purchased a Dodge Durango, which has been delivered and is in patrol service.

Police Activity Report – December 2008

Incidents Reported	172
Criminal Arrests	0
Summary Arrests	1
Accidents Investigated	16
Traffic Citations Issues	44
Warnings Issues	23

Training Completed: Sgt. Gene Babetski completed Advanced Crisis Intervention training.

**Report: Fire Company's Activity Report for December 2008 and Year End Summary for 2008**

Mr. Piersol read the Activity Report for the month of December 2008 and the Year End Summary, as submitted by Fire Chief Robert Zynn, Jr. There were seventy total incidents. In East Brandywine Township there were thirteen fire calls and fifteen QRS calls. In West Brandywine Township there were ten fire calls and twenty QRS calls. The Fire Company provided assistance in Wallace Township, Caln Township, West Caln Township, Valley Township, Coatesville City and Kennett Township. Estimated fire damage was \$7,500.00.

In 2008 there were a total of seven hundred and seventy five incidents. In East Brandywine Township there were one hundred and twenty-seven fire calls and two hundred and seven QRS calls. In West Brandywine Township there were ninety-nine fire calls and two hundred and twenty-five QRS calls. The total estimated fire damage for 2008 was \$478,700.00.

Mr. Piersol stated that Robert Zynn, Jr. has served as Fire Chief for the past three years and thanked him for his service to the community. Michael Conlan will serve as Fire Chief for 2009.

**Subdivision – Dilworth Tract**

The Planning Commission is recommending the Board of Supervisors accept an extension to review this subdivision application until May 1, 2009. Mrs. Smedley stated that the Planning Commission may recommend that the Board of Supervisors not accept further extensions unless the applicant shows some progress with the subdivision plan.

Mr. Fischer made a motion to accept this extension until May 1, 2009. Vice-Chairman Kirkner seconded the motion, with both voting aye.

**Ordinance 01 of 2009 – Restating the East Brandywine Township Non-Uniform Pension Plan**

Vice-Chairman Kirkner stated that the Non-Uniform Pension Plan has been amended in order to comply with the Pension Funding Equity Act of 2004, the Pension Protection Act of 2006, and the final regulations issued under Internal Revenue Code Section 415. Vice-Chairman Kirkner then asked if there were any questions. There were no questions. Mr. Fischer made a motion to adopt Ordinance 01 of 2009. Vice-Chairman Kirkner seconded the motion, with both voting Aye.

**Resolutions/Ordinance Task Force**

The Planning Commission is recommending that the Board of Supervisors forward changes in Section 350-14, 350-16, and 350-50 of the Subdivision and Land Development Ordinance to the Chester County Planning Commission for their Act 247 review.

Planning Commission Solicitor Tom Oeste noted certain inconsistencies in Section 350-14 with regard to the Municipalities Planning Code. Mr. Piersol asked Mr. Sweet to provide a revised draft of both Section 350-14 on preliminary plan approvals, and 350-16 on final plan approvals to make both consistent with the Municipalities Planning Code.

The amendment to Section 350-50 addresses the fee-in-lieu of open space issue with respect to non-residential subdivision and land development applications and provides a formula based on size of the property and gross floor area. This fee shall be calculated and paid at the time a building permit is issued. In addition, the language in Resolution 01-06 will be modified to reflect the change in the Ordinance.

Mr. Fischer made a motion to forward the recommended changes to the County Planning Commission. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

**New Business – Appoint Neil Morris, Esq. as Special Counsel to the Board of Supervisors**

Mr. Fischer made a motion to appoint Neil Morris, Esq. as Special Counsel to the Board of Supervisors. Vice-Chairman Kirkner seconded the motion, with both voting Aye.

Mr. Ryan Scott, a resident from Spring Meadow Drive, inquired as to Mr. Morris' hourly rate. Mr. Fischer said that Mr. Morris' rate is \$250 per hour. Mr. Scott also asked if Mr. Morris was paid a retainer. Mr. Fischer said he wasn't. Mr. Morris is a labor attorney who will advise the Supervisors on the recently filed labor grievances. Mr. Scott asked how much money this will cost the Township. Mr. Fischer stated that it isn't certain at this time, but hopefully the litigation will be resolved soon. Mr. Fischer went on to say that the Township didn't originate the litigation, but the Supervisors do need to ensure that the Township had appropriate legal representation. Mr. Scott suggested that the Board reconsider this appointment because of the legal fees the Township will incur.

### **Additional Public Comment**

Vice-Chairman Kirkner asked if there were any additional public comments.

Mr. Alan Haldeman, the outgoing President of the Brandywine Regional Police Association and the current Vice-President of the Association thanked the residents for their support. He went on to say that he hopes the outstanding police issues get resolved as soon as possible and that East Brandywine Township can have the best police protection possible.

Mr. John Spencer from Wildbrier Road asked about Township fees that have been spent on the Wawa. He suggested that it could be as high as \$100,000. Mr. Piersol stated that almost all of the fees have been reimbursed by the applicant. There is approximately \$13,000 that remains to be paid.

Mr. Bob Arters stated that tax payers have a right to know what is going on in the Township. He said that the Supervisors don't have carte blanche to spend his money and he doesn't like what he sees.

Mrs. Norma Koth from Dilworth Road asked how the Chief of Police and Lieutenant were hired by the Township. Chairman Kirkner stated that the Chief and Lieutenant were laid off by the Brandywine Regional Police Commission at the same time as were all the other officers and employees. The Chief and Lieutenant were then hired by the East Brandywine Township Police Department. Mrs. Koth asked if the lay-off notices to the Chief and Lieutenant were given in writing. Vice-Chairman Kirkner stated that they were given in writing.

Mr. Jack Williams a resident from Dilworth Road stated that several years ago he sat in the old Schoolhouse and felt that he could trust the people sitting at the front desk, but that isn't the case now. He went on to say that he was just speaking for himself, but years ago there was the East Brandywine Township Police Department, then the Brandywine Regional Police Department and now the East Brandywine Township Police Department again. It is Mr. Williams' opinion that this isn't a new police department. Mr. Williams stated that one of the employees of the Police Department could retire, but hasn't done so. He doesn't feel that the Supervisors are being honest with the public.

Mr. Anthony Schuibbeo from Mackenzie Place stated that as a taxpayer in East Brandywine Township he would like to see something worked out with Mr. Neri, the President of the State Fraternal Order of Police.

Mr. Lou Marcelli from Lenora Lane suggested that these layoffs and terminations may not be done properly. He mentioned that Mr. Fischer was an attorney and indicated he should know about labor issues. Mr. Fischer stated that labor law isn't his area of practice and that the Supervisors have acted on the advice given to them by their consultants. Mr. Fischer went on to say that there is no clear-cut case law on the subject since there has only been one other regional police entity that previously dissolved in Pennsylvania.

**Notices**

The East Brandywine Township Board of Supervisors meeting scheduled for February 18, 2009 has been changed to Monday, February 23, 2009 at 7:30 P.M.

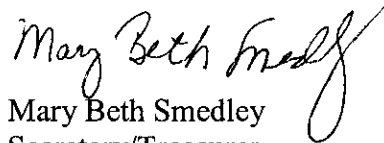
The East Brandywine Board of Supervisors met in Executive Session on January 5, 2009 and January 14, 2009 to discuss the dissolution of the Brandywine Regional Police Commission.

The East Brandywine Township Board of Supervisors will meet in Executive Session directly following this meeting to discuss the dissolution of the Brandywine Regional Police Commission.

**Adjournment**

There being no further business, Mr. Fischer made a motion to adjourn the meeting. Vice-Chairman Kirkner seconded the motion, with all voting Aye. The meeting was adjourned at 8:15 P.M.

Respectfully submitted,



Mary Beth Smedley  
Secretary/Treasurer