

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
WORK SESSION
Thursday, April 2, 2009**

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 Thursday, April 2, 2009 was called to order by Chairman Voltz at 7:30 A.M. at the East Brandywine Township Municipal Complex. Also in attendance were Eileen Amatrudo and James Mostyn from the East Brandywine Fire Company, and George Holmes, the Milemarker Editor.

Public Comment for Non-Agenda Items

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

Swearing in James M. Mostyn IV as a Special Fire Police Officer

The Special Fire Police Oath was administered by Chairman Voltz to Mr. Mostyn. Duties of the Special Fire Police include regulation of traffic and crowd control at the vicinity of any fire where the East Brandywine Fire Company is in attendance and performing other duties as directed by the Chief of Police. Mr. Mostyn was congratulated by the Board of Supervisors, Mr. Piersol and Chief Kocsi.

ATV Ordinance and Revisions to 399-84 Noise Standards Discussion

Chairman Voltz stated that both the Board of Supervisors and the Committee of interested residents have been discussing ATV regulations and noise standards since February of 2008. After several meetings and review of ordinances adopted by other municipalities, as well as regulations suggested by American Motorcycle Association. Chairman Voltz and Mr. Piersol offered a draft ordinance for the Board's consideration. Mr. Piersol also provided two video clips of the ATVs being ridden in the vicinity of Reeds Road and Delaney Drive.

The new language in the All Terrain Vehicle Ordinance includes a definition for "Immediate Family", and also areas where it will be illegal for a person to operate an ATV, including those considered environmentally sensitive. The ordinance limits the hours of use on Sundays and also prohibits their use on several major holidays. Although Committee members disagree on limits for riding ATV, some thinking the times are too restrictive and others thinking they aren't restrictive enough, it is generally believed that a reasonable compromise has been achieved. It is hoped that the ordinances will provide some relief that is predictable so residents can plan activities when ATVs aren't in use.

At last evening's Planning Commission meeting, the members recommended that the Board of Supervisors forward the All Terrain Vehicle Ordinance to the County Planning Commission for the Act 247 review and advertise it for adoption as written, with the exception that the hours of operation on Sundays be changed in subsection #5 from 11:00 A.M. to 4:00 P.M. to Noon to 4:00 P.M. Mr. Cushman, Mrs. Moser and Mr. Thomas voted Aye. Mr. Giordano voted no, stating he did not support the use of ATVs on Sundays. Mr. Rawlings recused himself from voting.

Additionally, the Planning Commission recommend the Board of Supervisors forward the Noise standards as last proposed to the County Planning Commission for their Act 247 review and advertise it for adoption as written with the exception of removing the word "agricultural" from the receiving land use category under Section B. Mr. Cushman, Mr. Giordano, Mrs. Moser and Mr. Thomas voted Aye. Mr. Thomas qualified his vote by stating that if fox hunting was affected he would vote no. Mr. Rawlings recused himself from voting.

Mr. Piersol explained that the Planning Commission thought there might be some confusion in the Noise Ordinance because agricultural sounds are exempted in #14, but included in the sound limit level. Although agricultural sounds are exempted, the use of ATVs on agricultural land for recreational purposes is not. The Supervisors would like both to remain in the ordinance.

The Planning Commission discussed concerns about prescribing an ordinance that can't be complied with. As an example, Mr. Piersol stated that during tests conducted decibel levels none of the ATVs were able to achieve 65 dBA at 25' from the property line and only one ATV was able to achieve it at 100'. The Supervisors thought that 70 dBA would be a more appropriate sound level limit during daytime hours and 55 dBA from 10:00 P.M. through 7:00 A.M. In addition, ATV operation is limited to no more than three cumulative hours in any eight hour period on any given day.

Mr. Holmes stated that the constant noise can be very irritating and that the use of recreation vehicles violates the peace and quiet valued by many residents.

Mr. Fischer made a motion to submit the draft ATV Ordinance and Noise Ordinance Standards to the County Planning Commission for their Act 247 review as written, with the exception that the hours of operation on Sundays be changed in subsection #5 of the ATV Ordinance from 11:00 A.M. to 4:00 P.M. to noon to 4:00 P.M. In addition, Mr. Fischer made a motion the that decibel levels in the Noise Standards from 7:00 P.M. to 10:00 P.M. be changed to 70 dBA for the Residential, Agricultural or Institutional and Commercial Business categories and that "plus Sundays and legal holidays) be removed from the same categories under the hours of 10:00 P.M. to 7:00 A.M. Chairman Voltz seconded the motion, with all voting Aye.

These draft ordinances will be reviewed again at the April 15th Board meeting so that interested residents can be in attendance and the Board can consider whether to approve advertisement of them.

Roadmaster Report

NPDES MS4 New Permit

On March 25th Mr. VanLew attended a DEP Listening Session at the West Brandywine Township building. Sabrina Stanwood of DEP Harrisburg led the session to discuss the new round of NPDES MS4 permits. Approximately eighty people attended the session including Township Managers, Engineers, County representatives, and State Legislature Chris Ross.

The Municipal Separate Storm Sewer System (MS4) permit is required for all municipalities that discharge stormwater and are within the designated areas. East Brandywine Township is within one of these areas.

During the first round of the permit the Township was required to do six minimum control measures (MCMs). Part of those six measures was to map and monitor all outfalls owned by the Township, which has been a difficult task because of a lack of definition of an outfall.

The permit's second round involves the removal of sediment and pollutants from our streams. This is measured by Total Maximum Daily Loads (TMDL). DEP has measured the amount of sediment and pollution entering the streams and has a set percentage the municipalities must remove. Reducing the TMDL is accomplished by updating existing sediment basins, removal of storm sewers that discharge to our streams, stream bank restoration, installation of rain gardens and other means known as BMPs (Best Management Practices). EPA has published a Stormwater Best management Practices manual as a guide to improve quality and reduce the amount of stormwater. The municipalities have to document their accomplishments during this round or they will be in violation of their individual permit.

The County is working with DEP to change the permit from the individual municipalities to a watershed-based permit. This would allow the municipalities to pool all of their resources and make a difference in stream quality.

The permit document is currently in draft form. DEP anticipated it to be published April 4th in the Pennsylvania Bulletin, with a thirty day comment period.

Mr. Fischer asked if there was any discussion regarding the liability or responsibility on property owners who discharge into the stream. Mr. VanLew said that this was discussed with DEP officials, who couldn't seem to agree amongst themselves. This is one of the issues that has been very frustrating to municipalities. Some of the mandates may force Townships to do costly upgrades on property they don't own. Basins that DEP will require municipalities to upgrade were originally approved by the Chester County Conservation District and DEP. Landowners may be responsible to pay into a "Stormwater Authority", which will essentially levy a tax on property owners.

Vice-Chairman Kirkner asked if the County supported the watershed based concept. Mr. VanLew said that the County did support it. In fact, he said DEP even agreed it would be better to issue the permit based on the watershed, rather than by municipality. Representative Ross is working on legislation to allow this. Chairman Voltz suggested that the Township ask for Representative Schroder's assistance with this as well.

Mr. VanLew stated that DEP has provided a model ordinance for municipalities to review with regard to the NPDES MS4 permits. He stated that the Township has to pass this or a similar ordinance by 2011 or DEP will cease issuing permits.

855 Horseshoe Pike

Chairman Voltz asked for an update on the Mottershead property. Mr. Piersol stated that the Township sponsored, and received approval for, Federal grant money to repair the damaged culvert extension that has caused a large sink hole to the front and side of the property. He expects a box culvert to be installed within the next two weeks. Work on the property was delayed so the plans could be revised so they met all of the appropriate permit requirements.

Zynn Road and Caln Meetinghouse Road Intersection

The stop signs have been installed at the intersection of Zynn Road and Caln Meetinghouse Road making this an all-way stop intersection.

Previously, drivers on Zynn Road could continue through the intersection with stop signs only on Caln Meetinghouse Road. Although there were no accidents recorded at this intersection numerous near misses were reported to the Township. Hopefully, the changes made will improve safety at the intersection and reduce the number of near misses. The East Brandywine Township Police have been watching the intersection and enforcing the new traffic pattern.

Hopewell Road and Creek Road Intersection

We recently received word that PennDOT has approved an all-way stop at the intersection of Hopewell and Creek Roads. Although there have been only three reportable accidents in the past five years, many consider this intersection to be the most dangerous in the Township. The Township Road Department periodically cuts the weeds and brush to improve sight distance, but the alignment of Creek Road and steep embankments still limits sight distance, and makes it difficult to exit Hopewell Road.

Mr. VanLew thanked PennDOT for conducting the engineering study and approval of the all-way stop.

Historic Commission requested letter to Claudio DiGiamberardino

Mr. Piersol asked the Board if they would like a representative of the Historic Commission to attend a meeting to discuss their request that a letter be sent to Mr. DiGiamberardino regarding the Guthriesville General Store property. The Board decided that a representative is welcome to attend a meeting, but they don't want to be in the position of telling someone what can or can't be done on their property. They believe it is the responsibility of each property owner, and perspective buyer, to do their own due diligence and feel it would be setting a precedent to treat this property differently from any other in the Township.

Brandywine Ponds Resolution for Phasing

Mr. Piersol reported that Robert Bruce Homes would like to move forward with construction of the project. In December of 2007 the applicant discussed a phasing plan with the Planning Commission, but this wasn't reviewed with the Supervisors when the project was put on hold.

The applicant would like the Supervisors to enact a resolution to approve the concept of the phasing plan and also document compliance to date with the conditions of final approval. Mr. Piersol said that the Township still needs a copy of the most recent plan and is waiting for the applicant to submit an escrow breakdown for improvements. The first phase of the development will include the homes that will front along Dowlin Forge Road and installation of the dry hydrant. There are no planned roadway improvements until construction begins in Phase II. Chairman Voltz will contact the applicant's attorney to discuss this issue.

PSATS Resolutions for Spring Convention

Mr. Piersol provided a list of the 2009 proposed resolutions and bylaws changes for consideration at the PSATS' Annual Educational State Conference and Trade Show to be held April 19 through 22 in Hershey, Pa. He asked that the Supervisors review the information and comment if they choose to do so. One item of interest is that PSATS would like to see changes in the public advertising requirements so that notices can be posted on township websites rather than in a newspaper. This would be a great cost savings to all municipalities.

Audio-Visual Equipment Installation

We expect the audio-visual equipment for the large meeting room to be installed within the next several weeks. Mr. Piersol said that most of the work will be done during regular work hours and, for the most part, shouldn't interfere with scheduled meetings.

DASD Memorandum of Understanding

Chief Kocsi stated that the Downingtown Area School District has asked the East Brandywine Township Police Department to execute a Memorandum of Understanding. This agreement allows the Police Department to assist schools when needed with activities such as transporting children. The agreement has the same language as the agreement previously executed by the Brandywine Regional Police and has been reviewed by Township Solicitor Stacey Fuller. The Board gave Chief Kocsi permission to execute the agreement.

Notices

The East Brandywine Township Board of Supervisors met in Executive Session on March 18, 2009 to discuss the dissolution of the Brandywine Regional Police Commission.

The East Brandywine Township Board of Supervisors, Planning Commission and Municipal Authority met in executive session on March 19, 2009 to discuss the Downingtown Area School District's proposal to construct a middle school on the Weaver property.

East Reeceville Road will be closed from April 25th through October 23rd so that PennDOT can replace the bridge that is located between Bollinger Road and Zynn Road. Pulte homes is scheduled to install a water line and golf cart tunnel during the same period of time so that the road doesn't have to be closed again. Mr. VanLew said that the Township has not been given detour information yet. Detours on State Roads are generally routed on to other State roads

unless PennDOT receives a municipality's permission to use their road. To date, PennDOT hasn't approached East Brandywine Township about this.

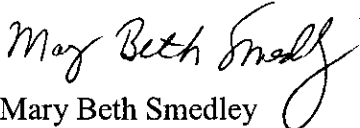
Comments from the Audience

Chairman Voltz asked if there were additional comments from the audience. There were no comments.

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 8:50 A.M.

Respectfully submitted,


Mary Beth Smedley
Secretary/Treasurer

