

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
REGULAR SESSION
Wednesday, April 15, 2009**

Those in Attendance:

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

The East Brandywine Township Board of Supervisors meeting of Wednesday, April 15, 2009 was called to order by Chairman Voltz at 7:30 P.M. at the East Brandywine Township Municipal Complex. Also in attendance were George Holmes, the Milemarker Editor and twenty-six other visitors.

Opening of Meeting

Chairman Voltz opened the meeting with the Pledge of Allegiance.

Moment of Silence – Beatrice Watters

Chairman Voltz asked the audience to join the Board of Supervisors in a moment of silence for Bea Watters, a longtime resident and member of the East Brandywine Township Planning Commission. The Board would like to have a remembrance of Mrs. Watters at the Community Park and asked Mrs. Watters children, Christine Kettlety, Katherine Kettlety and Frank and Tom Watters for suggestions. Chairman Voltz asked that they stay for a presentation by the Park and Recreation Board regarding the commemorative brick fund raiser they are proposing.

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 – March 18, 2009

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 March 18, 2009 minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

Minutes: Board of Supervisors – April 2, 2009

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 April 2, 2009 minutes as presented. Mr. Fischer seconded the motion, with all voting Aye.

Minutes: Planning Commission Minutes – April 1, 2009

Approval of the April 1, 2009 minutes was deferred until the May Board meeting.

Treasurer's Report

Mrs. Smedley read the account balances as of April 15, 2009. Mr. Fischer made a motion to approve the Treasurer's Report and authorize payment of bills. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

Report: Township Manager's Report

The controlled demolition of Buildings G & H at the Bondsville Mill site began Monday, April 13th. Contractor Chester County Site Contractors expects to be completed with the project in 7 to 10 days. The work will remove much of the hazardous areas of the mill buildings in those sections. The police are still finding persons trespassing on the site in spite of the signage around the perimeter of the site.

Bids for the work on development of a Master Site Plan for the Bondsville Mill site are due this Friday, April 17th at 4 PM. The bids submitted will be read aloud at 4:15 PM that afternoon, and provided to members of the Bondsville Mill Committee for their review. The bids will be discussed at the Mill Committee's April 23rd meeting. The Mill Committee will then make a recommendation for award of the bid. Cynthia Dunlap from the state Department of Conservation and Natural Resources must review the Committee's recommendation to confirm compliance with the DCNR guidelines before the award can be made by the Board of Supervisors. We are hopeful work to develop the master site plan can begin this summer.

Work on the audio-visual system is scheduled to begin on Monday, April 27th. Mr. VanLew and Mr. Piersol attended a proof of concept demonstration at the Allentown office of the contractor installing this equipment on April 13th. We anticipate installation will be complete by the end of May at the latest.

Work continues on the open space acquisition of the White Acres Farm easements. The property survey has been completed, and the second appraisal has been obtained. The value of the conservation easement is less than the original appraisal, and according to the agreement of sale, the sales price will be adjusted accordingly. The Township has not received any comment from the Whittaker family about this issue, so we are progressing toward settlement on this acquisition.

Mr. Piersol attended a presentation last week on Accessing Economic Stimulus Dollars. Over 75 federal programs received funding, some of which could benefit local governments directly or indirectly. The presentation focused on issues such as transportation, a great deal of focus was on energy conservation & the environment, community & economic development, water & infrastructure, rural development, and police & fire issues were discussed. Job creation or saving jobs with these programs is a critical element of the stimulus funding. Projects must be "shovel ready;" the funding timeframe indicates 75% of the funding is to be spent by September of 2010. There are also tax cuts to be provided within part of the stimulus program. This is a very

complex program, and some of the program information Mr. Piersol has reviewed is very confusing. We will be researching the websites established by the federal government and the Commonwealth of Pennsylvania to learn of potential funding sources which might directly benefit East Brandywine Township. The Police Department is part of a multi-municipal grant awarded as part of the Pennsylvania JAG Allocation, which Chief Kocsi will discuss in his report.

The County Park & Recreation Department has released preliminary information on its Round 22 Heritage Park Grant Program. Program information will be available May 15th, and applications are due July 17th. We will consider submission of a grant to purchase a portion of the Brown farm as a final piece of the Community Park. The program will not allow us to purchase the buildings, and the final use must be either open space or recreation uses, so those issues are considerations for the Township to locate additional funds for this purchase. Approval of these highly-competitive grants will not occur until 2010.

East Reeceville Road between Bolero Drive and Zynn Road was proposed to close beginning April 25th for replacement of the one-lane bridge across the Beaver Creek. At a pre-construction meeting held this morning, Mr. VanLew learned that the contractor awarded the project had not been provided with the current construction plan set by PennDot's engineering firm, so the project start is likely to be delayed. The project is proposed to take 7 months to complete. During that time, Pulte Homes has proposed to install their golf cart tunnel under East Reeceville Road.

Report: Building Inspector/Zoning Officer – Report for March 2009

Mr. Piersol read the Building Inspector/Zoning Officer's Report for March, 2009. In March there were four permits issued, ten use and occupancy permits issued, and sixty inspections conducted during the month. The total fees collected were \$3,014.20

Park and Recreation Board

Mr. David Summers and Ms. Sandra Lammey from the Park and Recreation Board attended the meeting to discuss their plan for a commemorative brick campaign. Mr. Summers said that this would not only be a good fund raising event of the Park, but it would be an opportunity to memorialize a loved one, honor a special person, or preserve a special milestone in a long-lasting way. It is the Park and Rec Board's intention to replace the existing flagstone walk in the Memorial Garden with the commemorative bricks.

The cost of naming a brick will be \$50 each or two for \$80. Mr. Summers said that the cost to purchase and engrave the bricks isn't very expensive. The Park and Rec Board hopes to generate \$7,000 for the Park, after expenses. Another incentive to use the bricks is that the memorial plaques currently used at the Park are becoming a maintenance issue and some are being destroyed or disappearing. The Park and Rec Board hopes to replace those plaques with the Community memorial bricks, as needed. Ms. Lammey is currently working on a master map of the Park that shows the locations of each memorial plaque. The Board agreed that the brick campaign was a good idea and authorized Mr. Summers and the Park and Rec Board to proceed with it.

Chairman Voltz asked Mrs. Watter's family if they would like to have the Township plant a tree in their mother's memory or to honor her with a commemorative brick. They said that they would be honored by either gesture. Chairman Voltz made a motion to have a tree planted at the Community Park in memory of Beatrice Watters and to install a brick at the Memorial Garden in memory of Frank and Beatrice Watters. Mr. Fischer seconded the motion, with all voting Aye. The Watters family thanked the Board for their generosity.

East Brandywine Township Police Chief's Report

Chief Kocsi and Sergeant Babetski attended the 2009 Public Sector Labor Law and Personnel Management Training Conference that was sponsored by PELRAS. Some of the training classes they attended included employee ethics, workplace investigations, the Department's obligations under the new Open Records Act, the Pennsylvania Heart and Lung Act and topics of interest in police staffing. Chief Kocsi said they found the conference to be very informative and it was well attended by other area townships and police departments.

On February 17, 2009 President Obama signed the American Recovery and Reinvestment Act of 2009, which provides funding to the U.S. Department of Justice to assist state, local and tribal law enforcement agencies. Chester County was recently awarded \$387,329 in Recovery Act funding from the Commonwealth of Pennsylvania. Based on the selection criteria established by the State, it was determined that 14 municipalities in Chester County were eligible for the grant money. East Brandywine Township was one of the 14 municipalities and was awarded \$11,550. In order to receive the grant money each municipality is required to complete and sign an Inter-Municipal Agreement with Chester County and open a "Trust" fund account for the money. If approved by the Board of Supervisors, this grant funding is going to be used to purchase new ballistic vests for all of the police officers. Township Solicitor Stacey Fuller, Esq. has reviewed the agreement. Chief Kocsi respectfully requested that the Board of Supervisors accept this Justice Assistance Grant money, authorize the signing of the Inter-Municipal Agreement with Chester County and authorize Mrs. Smedley to open a trust account for the deposit of the money. Vice-Chairman Kirkner made a motion to authorize acceptance of the Justice Assistant Grant money, sign the Inter-Municipal agreement and authorize opening a trust account for deposit of the funds. Mr. Fischer seconded the motion, with all voting Aye.

Chief Kocsi reported that he recently completed the paperwork for a COPS hiring grant. He should know if the Police Department is awarded any funds by the September.

On April 11th Chief Kocsi received a letter from Jay Kolick, the Regional Park Ranger with Chester County Parks and Recreation, regarding a reckless driving incident on Rt. 322. Officer Kolick wanted to personally thank Officer Michael McBride for his quick response and his professionalism with this incident. Chief Kocsi commended Officer McBride for a job well done. The Board of Supervisors asked Chief Kocsi to pass along their thanks as well.

Police Activity Report – March 2009

Incidents Reported	140
Criminal Arrests	9
Summary Arrests	7
Accidents Investigated	11
Traffic Citations Issued	189
Warnings Issued	27
Vacation House Checks	33

Training Completed: Chief Kocsi and Detective. Sgt Gene Babetski attended the Pennsylvania Employment Labor Conference.

Report: Fire Company's Activity Report for March 2009

Mr. Piersol read the Activity Report for the month of March 2009, as submitted by Fire Chief Michael Conlan. There were sixty-two total incidents. In East Brandywine Township there were six fire calls and seventeen QRS calls. In West Brandywine Township there were eleven fire calls and twenty QRS calls. The Fire Company provided assistance in Caln Township, Uwchlan Township, Valley Township, the City of Coatesville and Kennett Square Borough. Estimated fire damage was \$395,250.

For the first quarter of 2009 there were one hundred and eighty total incidents. In East Brandywine Township there were twenty-one fire calls and forty-eight QRS calls. In West Brandywine Township there were twenty fire calls and fifty-five QRS calls. The Fire Company provided assistance in Wallace Township, Caln Township, West Caln Township, Uwchlan Township, Valley Township, the City of Coatesville, Honeybrook Borough and Honeybrook Township. Total estimated fire damage was \$795,250.00 for a fire on Rock Raymond Road and the school bus fires in West Brandywine Township.

Draft Noise Ordinance/ATV Ordinance

Chairman Voltz said that the draft Ordinances are currently being reviewed by the Township Solicitor and the Chester County Planning Commission. Once those reviews are complete the Board hopes to have a final draft to consider, possibly at the May 20th Supervisors meeting. The Committee created to look at these issues had approximately six meetings and included representatives from the Board of Supervisors, Township administration and interested residents. Although not everyone was in agreement with all the provisions of the ordinances, there was general consensus with most of the terms as proposed with regard to limitations on hours, duration and days of the week.

Mr. Rick Bates, a resident of Delaney Drive and a member of the Committee said that he is strongly opposed to both ordinances. He feels that it is an invasion of government on individual rights. He went on to thank Chairman Voltz and Mr. Piersol for trying to resolve these issues. He thought that the main points of contention were the decibel level in the noise ordinance and riding on personal property. He didn't see how the

Township can enter personal property and tell property owners what they can and can't do. Mr. Bates said that Chapter 77 of the Pennsylvania Vehicle Code pertaining to Snowmobiles and All-Terrain Vehicles is very detailed and he wondered why the Township would want to enact a more restrictive Ordinance.

Mr. Steve Willenbrock, a resident of Corner Ketch Road, stated he and his family race motorcycles and, in fact, he attends 30 to 35 races a year. He has some concerns with the ordinances. Mr Willenbrock believes resolution of this issue should be based on noise, without singling out ATVs. He said that the AMA recommends a maximum decibel level of 96, which he thinks is reasonable. He also has some concerns about calibration and certification of the equipment.

Mr. Willenbrock said that he has a very narrow lot and that he can't meet the standard requiring a 25 ft. buffer from the property line. He asked if golf carts and electric motorcycles are included in the ordinance. He said that his children are very involved in racing and it keeps them out of trouble. He also said that he has never had a complaint about riding on his property.

Mr. Stephen Cushman a member of the East Brandywine Township Planning Commission said that the Planning Commission was mostly in agreement with the Ordinance, but that they would like to see the decibel lowered from what the Supervisors were proposing. He said that other township ordinances were reviewed and there were several that used 55 to 60 decibels rather than the 65 to 70 decibels proposed in the draft ordinance. Chairman Voltz said that many ordinances were reviewed, some with higher levels proposed and some with lower. He and Mr. Piersol considered all of them prior to making a recommendation. He said that the decibel levels are a compromise. More importantly, he thinks that the ATV Ordinance provides for some time restrictions, which gives residents opposed to the ATV use some relief.

Mrs. Sharon Richardson from Delaney Drive said that no one has ever come to her home to complain or discuss their concerns. She said that this issue is very frustrating for her. She is raising teenagers who are not in trouble. She also said that the children riding the ATVs are not in trouble, don't do drugs and are generally good kids. She feels the ordinances as written will exclude the use of ATVs and motorcycles. She said that chain saws run at 90 to 100 decibels levels and aren't excluded. She is also concerned about the environmental provisions to the ordinance.

Mr. Bruce Rawlings from Reeds Road said that he hadn't contacted his neighbors because he had been advised not to do that, but rather to contact the police department. He thought that the ATV ordinance was well written, although he would like to see Sunday riding prohibited and evening hours limited. He said that the vehicles are being ridden constantly and this has turned into a quality of life issue. Mr. Rawlings stated that the constant riding does impact him and his neighbors and he thinks they should be given some consideration.

Mr. Bates said that no one had ever contacted him about the riding and if the neighbors had spoken to him the problem might not have come to this.

Mr. Holmes wondered why the Township would enact an ordinance that required a 25 ft. buffer from the property line when most of the ATVs couldn't meet the proposed decibel

levels at a distance of 100 ft. Mr. Fischer explained that the 25 ft. mentioned in the ordinance is actually carried over from other ordinance standards which protect environmentally sensitive areas. In writing this provision the Committee used the same rationale.

Vice-Chairman Kirkner said that the Supervisors have reviewed the ordinance many times. With the ordinance as presented they have attempted to take a middle ground and respect both sides. He said the Supervisors understand that they can't make everyone happy.

Mr. Tod Pongia from Delaney Drive said he thought this was the only ordinance in Pennsylvania that is concerned about environmental issues. He said that children like to ride on steep slopes and in streams. He asked why the Township was stepping into an area which has not been addressed by other municipalities. The Supervisors were asked about what right Township representatives have to go onto private property. Mr. Fischer said that the Zoning ordinances allow Township representatives to enter properties and enforce the ordinances. Mr. Piersol said that the Chester County Conservation District and the Fish and Boat Commission can also enforce these ordinances, along with those of the Commonwealth. In addition, Mr. Pongia wondered who would give permission for someone to ride on their property if the property owner might be responsible to repair environmentally sensitive areas. Mr. Fischer said that it would be the property owners' responsibility to let riders know where they can and cannot ride.

Mr. Fred Richardson from Delaney Drive said that he was pleased that enactment of the ordinance is being delayed. He said that he understood a video had been shown at a previous meeting. He asked Mr. Piersol if he could obtain a copy. Mr. Piersol said that he would send it to him. Mr. Richardson asked how the decibel levels would be enforced. Mr. Piersol said that the Township has access to a decibel meter. Mr. Richardson said that there were many factors that could affect decibels levels including wind direction, and leaves on the trees. He thinks the decibel levels are too low. He also asked if there were an exception for electric bikes.

Mr. Richardson asked for clarification about the written permission provision. He wanted to know if he needed to give permission every time someone rode on his property or it could be open-ended. The Supervisors said that he could handle it any way he chooses.

Mr. Richardson asked if property owners could combine their acreage, thereby increasing the buffer areas. Mr. Piersol said that couldn't be done. He also said that the Township's involvement would be driven by complaints. Mr. Richardson then asked why there were restrictions about operating ATVs on Sundays when there are no restrictions for using equipment such as chain saws. He thinks the ordinance restricts ATVs, not noise in general.

Mr. Wesley Hatch from Reeds Road said that he is sorry that it has come to this. He said that he hears bikes riding 3 to 4 hours a day, 7 days a week. He said he never knows when it is going to start. He would like to see riding prohibited after 5 P.M. and on Sundays. He said the ATV operators ride in front of the houses on Reeds and have no respect for their neighbors. He also says that it has hurt property values in the area.

Mr. Rawlings said that he would like the Board to reconsider the decibel levels and to lower them at least to what the Planning Commission recommended. He said that listening to the sounds of ATVs hour after hour can make people crazy. He said Mr. Piersol has the information on 5 nearby municipalities where the decibel levels are lower.

Mr. Tod Pongia asked the Board to consider that the tamest dirt bike will likely be in violation of the noise ordinance. He also mentioned that other equipment like John Deere tractors probably cannot meet the noise ordinance levels.

Mr. Chuck Barr said that the noise ordinance isn't new territory. He suggested that the noise levels were a little high. Mrs. Betsy Barr recounted a story where she had a piano tuner who wasn't able to do his job because of the noise from the ATV riders. She also said that she never went to anyone's doors to complain because she wasn't sure where the riders lived.

Chairman Voltz said there is more work to do. This will be discussed again at a Board meeting once the County Planning Commission's comments are received.

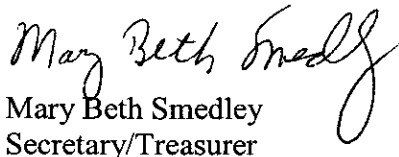
Additional Public Comment

Chairman Voltz asked if there were any additional public comments. 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 8:10 P.M.

Respectfully submitted,


Mary Beth Smedley
Secretary/Treasurer