

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
WORK SESSION
Thursday, May 7, 2009**

Those in Attendance:

Hudson L. Voltz, Chairman
David A. Kirkner, Vice-Chairman
Scott T. Piersol, Township Manager
Mark Kocsi, Chief of Police
Matthew T. VanLew, Roadmaster
Joseph Boldaz, Municipal Authority Engineer

The East Brandywine Township Board of Supervisors meeting of Thursday, May 7, 2009 was called to order by Chairman Voltz at 7:30 A.M. at the East Brandywine Township Municipal Complex. Also in attendance were Milemarker Editor George Holmes and 4 visitors.

Public Comment for Non-Agenda Items

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

Announcements:

Mr. Voltz announced that the Board of Supervisors and Planning Commission met in Executive Session to discuss the Applecross development on Wednesday, April 29th at 8:00 AM. Mr. Voltz also announced that the Supervisors would meet in Executive Session immediately after this meeting to discuss dissolution issues regarding the Brandywine Regional Police Commission.

Trethewey request for access to Guthriesville public sewer collection system

Ann and Ted Trethewey presented their idea of creating a café at the former Moore residence, located at 1220 Horseshoe Pike. Currently, there are two apartment units in this dwelling. The café would be located on the first floor of the dwelling. They plan on hosting numerous special events which would benefit the Township. Mrs. Trethewey provided a photographic rendering of the property to the Supervisors.

The Tretheweys investigated an on-lot septic system to serve their needs. Although the disposal area did perk, the beds were located too close to their neighbor's well location to the west.

Mr. Boldaz provided a site plan showing the proposed sewer line routing to serve the Trethewey property, and possibly the five properties located immediately west of 1220 Horseshoe Pike. He reported that three alternatives for public sewer were reviewed with Evans Mill Environmental. The option of a gravity line along Horseshoe Pike was deemed financially infeasible. Option #2 was upgrading the existing grinder pump serving the Township's Public Works facility, and using a gravity collection system to serve the Trethewey property, and the other five properties to the west.

The third alternative is the installation of a low-pressure sewer system, where each property would be provided with a grinder pump, and pump into a small force main to the collection system on the Township property. Either of the latter two alternatives would require an easement from the Township, since the sewer collection lines would cross Township property.

Trethewey - access to Guthriesville public sewer collection system (continued)

Mr. Boldaz reported the least expensive alternative is alternative #3, the low pressure sewer system. This type of system would require additional maintenance of the pumps and lines, but is feasible. Maintenance of the grinder pumps would be the responsibility of the individual property owner(s). Mr. Boldaz did explain that any sewage overflows would still be the responsibility of the Township Municipal Authority as the operating entity. For their proposed use, Mr. Boldaz estimated that 4 to 5 EDUs would be necessary, based on his estimation of the flows.

Mr. Kirkner asked about the Municipal Authority's position on the preferred system. Mr. Boldaz reported the Authority's preference is construction of a gravity system, with an upgrade to the existing grinder pump at the Public Works facility. Mr. Boldaz still needs to determine whether the existing grinder pump needs to be upgraded, and if so, to what extent.

Mr. Voltz suggested that the Tretheweys would pay what they need to now, and other potential connections would need to share in future costs.

Mr. VanLew indicated his concern that a gravity system may not be feasible, based on the potential for rock along the proposed sewer line and his involvement with the construction of the Public Works portion of the site. There was a significant amount of rock that was blasted, and rock was the reason that a grinder pump was installed instead of a gravity sewer connection as originally planned.

Mrs. Trethewey indicated she was concerned about the costs associated with the sewer system installation. She stated that once the café was operational, those costs would be more easily handled.

Mr. Boldaz explained that planning approval from PA DEP would be required, since this property was not included in the Special Study for the Village of Guthriesville and surrounding area. An exemption is possible if a gravity sewer system is chosen.

Mr. Trethewey offered to construct the sewer line across the rear of the Public Works property, and to the end of their property where it joins with the Mertz property. Further extension of the sewer line would be across the properties of the other property owners, or possibly the Weaver / Downingtown Area School District property. Again, with additional connections, a possible upgrade to the existing grinder pump would need to be investigated.

The Supervisors supported the idea of providing the easement to the Tretheweys for connection to the public sewer collection system, and preferred the gravity system for ease of maintenance. The Supervisors suggested the Tretheweys attend the May 12th Municipal Authority meeting to provide an update. Mr. Boldaz will review the design of the pump station at the Public Works facility to determine if it can handle 6 EDUs.

Calveresi Zoning Hearing

Ms. Kristin Camp appeared, representing David Calvaresi and his wife, who are the equitable owners of the property located at 918 Horseshoe Pike. This property is currently owned by F. Patrick and Gretchen Szustak. The Szustaks were previously granted three variances to restore the historic dwelling as a professional office for Mr. Szustak's architectural firm without the Szustak family living in the dwelling, using more than 25% of the dwelling for the home occupation (currently 964 square feet are used for office space, which is 55% of the floor space). The Szustak application also allowed for up to three non-resident employees. The third variance was granted for the sign which identified the historic resource as the Lewis Richter house, as well as Mr. Szustak's office. An apartment currently exists on the third floor, and would remain.

The Zoning Hearing Board granted these variances subject to a condition that any future applicant would need to return to the Zoning Hearing Board for approval of a similar business use should the property be sold to another party. Ms. Camp explained her presentation to the Planning Commission from the previous evening; the Calvaresi application requested relief from the allowable floor area (which would remain 964 square feet) and the non-resident status of the employees. The Planning Commission suggested the applicant include the right to have up to three employees report to this location. Ms. Camp indicated she would amend the application to include the additional employee provision.

Ms. Camp discussed the sign issue, which was also discussed with the Planning Commission. She explained that Mr. Calvaresi's business does not need the sign to identify his office. His business has little or no client traffic normally, and would have no deliveries to the site. Mr. Calvaresi was agreeable to either replacement or modification of the existing sign to identify this historic resource.

Ms. Camp explained that seven parking spaces exist at the sight, which is sufficient for the proposed office use, and meets the ordinance requirements.

After some additional discussion, Mr. Voltz and Mr. Kirkner agreed to support the Calvaresi Zoning Hearing Board application.

Police Department issues

Mr. Kirkner made a motion to accept the letter of resignation from Patrolman Gerald Cavanaugh, effective May 1, 2009. Mr. Voltz seconded the motion, with both voting Aye.

Chief Kocsi reported than Daniel Orris had completed all required field work, with his MPOTEC certification pending. Mr. Voltz made a motion to offer a part-time patrolman's position to Mr. Orris. Mr. Kirkner seconded the motion, with both voting Aye. Chief Kocsi will provide a letter offering the position to Mr. Orris, and will introduce him to the Supervisors at a later date.

Joint Uniform Construction Codes Appeals Board

Mr. Piersol provided the Board with an update on the Western Chester County Joint UCC Appeals Board. The interim Executive Board will meet on Monday, May 11th to make the final changes to the documents for circulation to the potential seventeen (17) participating municipalities. The remaining issues dealt with insurance for the Appeals Board, which was decided would not be obtained, since each municipality should extend their insurance to cover actions of the Appeals Board on their behalf, as well as the participating municipal representatives on the Appeals Board, a slight revision to the indemnification clause, and inclusion of all municipalities who have expressed interest in participating in this joint venture. The final drafts should be circulated within two weeks.

Whittaker Open Space Acquisition

Mr. Piersol informed the Board of his recent discussion with Jack Stefferud from Natural Lands Trust on the issue of Act 319 with regard to this acquisition. Mr. Stefferud explained this issue involves two parcels, one located in East Caln Township (6 acres) and a small piece in Uwchlan Township (.6 acre). Throughout the discussions, it was proposed the County was the most logical entity to own these two parcels, due primarily to their proximity to the Struble Trail. If we transfer the small portion across the Brandywine to Chester County right away, we will breach the Act 319 covenant.

Mr. Stefferud and Bill Gladden from the County Open Space Department have worked out a procedure which would avoid the Township's exposure to roll-back taxes, which apparently would be applicable to this transaction despite the fact that the owner would be a municipal entity, and the public purpose of the acquisition. This procedure would avoid the potential problem.

NLT and East Brandywine will purchase the property together. A transfer of the property will occur to only East Brandywine immediately afterward. NLT needs to be in chain of title to use Chester County and DCNR grants. If this joint purchase occurs, and transfer occurs afterward to the Township, we will not have to pay title insurance twice.

Chester County owns the Struble Trail and a couple of small parcels adjacent to the Whittaker tract in Uwchlan and East Caln. These parcels are not currently under Act 319. Mr. Gladden will try to get them listed in Act 319. Assuming he is successful, the Whittaker pieces can be transferred to Chester County without rollback tax consequence. The enrollment in 319 will not take formal place until after January 1, 2010. East Brandywine will need to be the formal owner for the six months or so between initial purchase and transfer to Chester County. It is likely that upon transfer to Chester County, East Brandywine will need to pay for title insurance on the two small parcels transferred to the County, which should be a small charge as the value of the properties will be small.

Mr. Piersol advised we are still expecting settlement will occur on or before June 30th.

Memory of Bea Watters

Mr. Piersol reported that the Watters family has selected an American Sycamore tree to be planted in the Community Park in their mother's memory. Mr. Piersol, Mr. VanLew and Mr. Rawlings will

select a suitable location. Mr. Voltz made a motion to approve the purchase and installation of an American Sycamore tree. Mr. Kirkner seconded the motion, with both voting Aye.

Brown property acquisition

Mr. Piersol advised the Board of his recent meeting with Gwen and Ellis Brown IV to discuss the Township's interest in the final 19.4 acres of their farm. The Browns are ready to move forward, and have asked the Township to execute an agreement of sale to confirm a genuine interest. Mr. Piersol explained during their meeting that grant funding would not be available until 2010, and that the Open Space Committee was less than enthusiastic about acquisition of structures using Open Space funds.

Carl Croft met with Scott recently to discuss a different tactic, which would include a conservation easement across the entire property, a fee-simple acquisition of a small portion of the meadow nearest Ferndale Lane in the Hopewell development for a future trail connection to Phase II of the Community Park, acquiring the area of the existing driveway to eventually close that access and "re-connect the two phases of the Park, and create access to the remaining property from Wild Brier Road. The conservation easement could allow for one additional parcel to be created if desired.

After some additional discussion, the Board indicated they were in favor of proceeding with this concept, and drafting of a sales agreement once additional details can be worked out.

MBR Construction Services agreement

Mr. Piersol and Mr. VanLew advised the Board of their recent meeting with attorney Steve McDonnell of Gawthrop Greenwood, PC, and representatives of MBR Construction Services. A change order for additional drywall work was assessed against MBR, as they proceeded with installation of some of the HVAC system contrary to the schedule. The MBR claim for additional funds due to delay damages was for over \$46,000.00. Mr. Piersol reported on the negotiated settlement amount, which was \$22,500.00. Mr. Piersol indicated we were waiting for an executed General Release from MBR Construction Services, and a payment release, in order to process the final payment.

After some additional discussion, Mr. Voltz made a motion to approve the settlement with MBR Construction Services. Mr. Kirkner seconded the agreement, with both voting Aye.

ATV ordinance / Noise standards ordinance discussion

The Board discussed the review letters from the County Planning Commission. The primary concerns raised in the County review letters were the after hours availability of the Zoning Officer, the use of the sound meter, and issuance of temporary permits for uses that generate noise. Their letter suggested these regulations could be adopted under the terms of the Second Class Township Code.

Mr. Piersol reported on the Planning Commission comments from their meeting the previous evening, May 6th. The Planning Commission recommended the ordinances be adopted as currently proposed, other than they still are requesting consideration of reduction of the daylight noise standards from 70 dBA to at least 65 dBA. The Commission felt it was important to adopt these regulations, and if it was determined adjustments were needed, review the changes, and submit

another amendment to the County Planning Commission for the Act 247 review at a later date. Mr. Voltz commented that he felt it was not practical to reduce the decibel level, and that 70 dBA was practical.

ATV ordinance / Noise standards ordinance discussion (continued)

Chief Kocsi commented that he would need to have the police officers trained in the use of the decibel meter. Mr. Piersol indicated the meter was very easy to use.

After some additional discussion and comment, Mr. Voltz made a motion to authorize advertisement of the ATV Ordinance, and the proposed amendments to Section 399-84 Noise Standards from the Zoning Ordinance. Mr. Kirkner seconded the motion, with both voting Aye. Mr. Piersol will submit the final drafts of these two ordinances to Solicitor Stacey Fuller for her final review, and the advertisement.

Planning Commission request for the Township Engineer to oversee the Sentinel pipeline project

Mr. Piersol reported on the request from the Township Planning Commission for Yerkes Associates to oversee the construction activities which pertain to this proposed pipeline repair. The Planning Commission had requested engineer Michael Mayhew to write to PA DEP to request copies of all plans for this project. Supervisor Kirkner asked if the engineer's fees would be covered by the contractor. Mr. Piersol indicated they would not, as the project overview is ultimately controlled by the Federal Energy Regulatory Commission ("FERC"). Mr. Piersol stated the County Conservation District are the local authority given responsibility for oversight of the construction activities as they pertain to E & S issues. After some additional discussion, Mr. Voltz and Mr. Kirkner both indicated they were not in favor of having our Township Engineer oversee this project.

Bondsville Mill Committee report

Mr. Piersol provided a brief update of the Mill Committee's decision to choose the proposal of Rettew & Associates for creation of the Master Plan for the site. This proposal will be submitted to Cynthia Dunlap from the PA Department of Conservation and Natural Resources for her review and approval, which must occur before the Board of Supervisors can formally award the contract.

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. 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 A.M.

Respectfully submitted,


Scott T. Piersol, Township Manager