

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
REGULAR SESSION
Wednesday, June 17, 2009**

Those in Attendance:

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

The East Brandywine Township Board of Supervisors meeting of Wednesday, June 17, 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 eight visitors.

Opening of Meeting

Chairman Voltz opened the meeting with a Salute to the Flag.

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 – May 7, 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 May 7, 2009 minutes as presented. Mr. Fischer seconded the motion, with all voting Aye.

Minutes: Board of Supervisors – May 20, 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 May 20, 2009 minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

Minutes: Board of Supervisors – June 4, 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 June 4, 2009 minutes as presented. Mr. Fischer seconded the motion, with all voting Aye.

Minutes: Planning Commission – May 6, 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 May 6, 2009 minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

Minutes: Planning Commission – June 3, 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 June 3, 2009 minutes as presented. Mr. Fischer seconded the motion, with all voting Aye.

Treasurer's Report

Mrs. Smedley read the account balances as of June 17, 2009. After Review of the report, Vice-Chairman Kirkner made a motion to approve the Treasurer's Report and authorize payment of bills. Mr. Fischer seconded the motion, with al voting Aye.

Report: Township Manager's Report

Our Park and Recreation Board has scheduled two important events for later this month.

Next Thursday evening, June 25th, a dedication of the Memorial Garden will be held, beginning at 7:00 PM. Over the past several years, the Township has been the beneficiary of several donations in honor of community members who have passed away. Many of those gifts have been used to construct the Memorial Garden. This ceremony will also recognize the Millicent Krapf Fails Memorial, and a tree and plaque to honor the generosity of Lucille and Ellis Brown III.

Family Day in the Community Park is scheduled for Sunday, June 28th from 10 AM until 3 PM. The Cruisin' Classics Car Club of Chester County expects over 100 antique and classic cars to attend this year's event. Several fun events for children young and old are planned by the Park & Rec Board. Hopewell Troop 8 will be on hand, along with other food vendors. We are hoping to include tethered balloon rides this year, although the breeze in the Park have prevented past attempts. The public is invited to attend and share a fun day of family activities.

The Supervisors awarded a contract to Rettew Associates for the development of a master site plan for the Bondsville Mill site at their June 4th public meeting. A kick-off meeting with the project manager from Rettew is scheduled for Wednesday, June 24th. We are excited to begin this next phase of development of the Bondsville Mill Park. With the demolition of Buildings G & H completed, it should be easier for our residents to see the progress being made at this site. Because there are still a few unstable areas, we continue to ask our residents to keep out of this site, and continue to keep the no trespassing signs posted.

Work is continuing on the open space acquisitions of portions of the White Acres Farm property from the Whittaker family. Jack Stefferud and Mr. Piersol continue to work out details of these two acquisitions, and answer concerns the family has expressed during their review of the draft documents. Due to the delay in the settlement date, time extensions for the Chester County and DCNR grant deadlines have been requested and approved. These settlements are scheduled for July 15th.

Mr. Piersol has received one proposal for grant writing assistance from Brandywine Conservancy for open space acquisition of the remaining 19.4 acres of the Brown farm, adjacent to our Community Park. Mr. Piersol is waiting for a proposal from Natural Lands Trust. Once we have reviewed the proposals, a meeting will be scheduled with the Browns to discuss the revised plan to obtain funding for this acquisition.

Later this evening, the Board will consider an ordinance authorizing the Township's participation in the Western Chester County Uniform Construction Code Appeals Board. Although these appeals are typically infrequent, the time frame for municipalities to respond is fairly short. This is a multi-municipal effort to create a pool of qualified persons to hear appeals from the building code, and administer the requirements of this part of the Uniform Construction Code. Rather than have each municipality for its own appeals board, it was agreed long ago that pooling our resources for this purpose made good sense.

Codes Official Jeff Cantlin and Mr. Piersol will be meeting with an official from the Insurance Services Office next week to discuss their Building Code Effectiveness Grading Schedule. The information from a survey and meeting will be used to measure the effectiveness of our building code enforcement efforts in limiting damage from natural hazards, which ultimately can be used by insurance companies to provide property insurance discounts to our residents and businesses. Mr. Piersol has participated in similar discussions with ISO, which primarily pertain to the effectiveness of the Fire Department in our community. We are hopeful we can lower our classification as a benefit to our property owners.

The detour due to the closure of East Reeceville Road at Zynn Road to replace the bridge there has created a few concerns for the Township. Although the detour designates only state roadways for this use, motorists are finding their way onto our more narrow secondary roadways. Hadfield Road has seen a significant increase in traffic, and the narrow roadway is evident as vehicle tracks are seen in the grass road shoulder.

We have also seen a significant increase in the traffic on Horseshoe Pike in the AM and PM peak travel times. Because the detour was a PennDOT issue, Roadmaster VanLew contacted George Dunheimer from PennDOT to ask what could be done to alleviate the traffic delays being experienced on Horseshoe Pike. We assumed a traffic study would be required, which would delay changes to the timing until the Department analyzed the reports, and made a decision on revision to the signal timing.

To our surprise, the Department's response was immediate, and the red tape was minimal. Mr. VanLew and Mr. Piersol met with Paul Lutz from the PennDOT Traffic Division, who was agreeable to a 20-second increase in the green time during the peak periods in the AM and PM rush. Signal Service made the timing changes on June 12th at the Hopewell / Bondsville Roads intersection, and at the Springton/Culbertson Run/Little Washington Roads intersection at the West Brandywine Township boundary line. The side streets of Bondsville and Hopewell Roads are still generally clearing within two cycles. These timing changes have made a noticeable difference in moving traffic more efficiently through the Township. Mr. Piersol is hopeful we will be able to make these changes permanent once the East Reeceville Road Bridge re-opens in November or December of 2009. Mr. Piersol commended Matt for his immediate recognition of this problem, and his coordination of the solution.

Vice-Chairman Kirkner remarked that he has had two recent complaints about Hadfield Road, both related to increased traffic, due to the East Reeceville Bridge Opening. Mr. Piersol said that he and Mr. VanLew have noticed that the shoulder of the road is deteriorating. They will contact PennDOT.

Finally, Mr. Piersol said that his thoughts and those of the Board of Supervisors, Police Department and employees of the Township are with Lt. Ronald Marshman, whose mother died this week, after an illness.

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

Mr. Piersol read the Building Inspector/Zoning Officer's Report for May, 2009. In May there were eight permits issued, twelve use and occupancy permits issued, and seventy-one inspections conducted during the month. The total fees collected were \$2,141.00.

East Brandywine Township Police Chief's Report

John Williams was sworn in as a Police Officer for East Brandywine Township on Tuesday, May 26, 2009. John was formerly an officer with the Brandywine Regional Police. He has begun patrol duties with Corporal Leifholt's squad.

Officers Sean Gregory has accepted the Township's offer of employment as a part-time Police Officer. He will assume his part-time duties on July 1, 2009.

Officer Joseph Glasgow has submitted his resignation from the Police Department effective July 1, 2009. Joe is leaving for a position with the Conshohocken Borough Police Department, located in Montgomery County. Joe did a great job while here, and Chief Kocsi and the Board of Supervisors wish him well in all his future endeavors.

The Police Department participated in the Fire Company's Kids Festival celebration on June 6, 2009. Chief Kocsi said they had a great time interacting with the kids and their parents. Chief Kocsi thanked the Fire Company for allowing the Police Department the opportunity to participate in the Festival and they look forward to coming up with some new, fun ideas for next year.

The Police Department has a lot of ongoing projects and has recently received several grants. As an update for the Board, the Department has received its \$5,000 DCED grant for ballistic shields and they have been ordered. The Department also received the District Attorney's grant for \$42,526.00 this past week. These monies have been awarded for the purchase of ICOP mobile video cameras for the police vehicles. These also have been ordered. Chester County has completed its installation of the modem and routers needed for the implementation of the State's LEJIS system. The Department expects to be online with LEJIS by August. The upgrades to our reporting software program, ALERT 2 have been completed. This past week the majority of officers participated in a two hour training class on the new system and so far everyone seems to be adjusting to it nicely. We are still waiting to receive the Recovery Grant monies for the purchase of the new ballistic vests for the officers.

Officers Steven Tyree and Officer Daniel Orris are working hard to redesign and upgrade the department's new web site. Some of the site is up and running and can be accessed at www.ebtwp.org. The site is an ongoing project, but everyone is encouraged to check the new features they are adding. One of these is the PennDOT live feed traffic camera link, which shows traffic conditions on major area highways.

Police Activity Report – May 2009

Incidents Reported	163
Criminal Arrests	8
Summary Arrests	4
Accidents Investigated	10
Traffic Citations Issued	206
Warnings Issued	39
Vacation House Checks	53

Training Completed: Officers Jim Ferraro and Sean Gregory completed the Taser Instructor Recertification course.

Report: Fire Company's Activity Report for May 2009

Mr. Piersol read the Activity Report for the month of May 2009, as submitted by Fire Chief Michael Conlan. There were forty-five total incidents. In East Brandywine Township there were seven fire calls and sixteen QRS calls. In West Brandywine Township there were five fire calls and thirteen QRS calls. The Fire Company provided assistance in Wallace Township, Caln Township and Honeybrook Township.

Mr. Piersol said that the Kids Festival was very successful and was attended by approximately 2,000 people.

Chairman Voltz commended the Fire Company on behalf of the Board of Supervisors for a very successful event. He said it was well organized, diversified and that it was getting some well deserved regional recognition.

Resolution 13 of 2009 – Appointing Delegates to the Chester County Tax Collection Committee

Mr. Piersol explained that Act 32 § 505(b) requires that governing bodies of school districts, townships, boroughs, and cities appoint one voting delegate and one or more alternate delegates to their Tax Collection Committee. Vice-Chairman Kirkner will be the primary voting delegate and Mr. Piersol will be the alternate. Chairman Voltz asked if there were any questions or comments. There were no questions. Chairman Voltz made a motion to adopt Resolution 13 of 2009 and appoint David A. Kirkner as the primary voting delegate and Scott T. Piersol as the first alternate voting delegate to the Chester County Tax Collection Committee. Mr. Fischer

seconded the motion, with all voting Aye. Vice-Chairman Kirkner said that Committee will begin meeting in the fall.

Ordinance 03 of 2009 – An Ordinance of East Brandywine Township, Chester County, Pennsylvania, Enacted Pursuant to the Terms of the Intergovernmental Cooperation Act, 53 Pa.C.S.A., Section 2301, ET SEQ., Authorizing its Board of Supervisors to Enter into an Intergovernmental Cooperation Agreement.

Chairman Voltz closed the regular meeting and opened the hearing on Ordinance 03 of 2009.

Exhibits

The following exhibits were marked and entered into the record:

- B-1 Notice and Proof of Publication from the Daily Local News. The notice was printed in the Daily Local News on June 3, 2009.
- B-2 June 1, 2009 correspondence from Gawthrop Greenwood to the Chester County Law Library and certification.
- B-3 The Intergovernmental Cooperation Agreement to Create the Western Chester County Regional UCC Board of Appeals.

Board of Supervisor's review of the Ordinance

Mr. Piersol said that he and Ms. Fuller have been working on the Intergovernmental Cooperation Agreement since July of 2007. Originally, seventeen municipalities expressed interest in forming a joint UCC Appeals Board, with thirteen municipalities expected to adopt a similar Ordinance. Initially, each municipality will pay a \$600 participation fee; annual dues will be set at a later date. The Appeals Board will allow the municipalities to pool their resources so that a municipal appeals board can hear matters under the Uniform Construction Code.

Ms. Fuller pointed out that the first page in the Ordinance before the Board isn't the most recent version. She said that the only difference is the participating municipalities identified in the Ordinance.

Chairman Voltz asked if there were any questions from the Board. There were no questions.

Public Comments

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

Chairman Voltz reopened the regular meeting.

Mr. Fischer made a motion to adopt Ordinance 03 of 2009 with the amended first page showing the correct participating municipalities and sign the Intergovernmental Cooperation Agreement. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

Ordinance 04 of 2009 – Amending Chapter 350, Subdivision and Land Development, of the Land Use Code, Section 350-14, Review of Preliminary Plan, and 350-16, Review of Final Plan

Chairman Voltz closed the regular meeting opened the hearing on Ordinance 04 of 2009.

Exhibits

The following exhibits were marked and entered into the record:

- B-1 Notice and Proof of Publication from the Daily Local News. The notice was printed in the Daily Local News on June 2, 2009 and June 9, 2009.
- B-2 June 1, 2009 correspondence from Gawthrop Greenwood to the Chester County Law Library and certification.
- B-3 April 2, 2009 letter to the Chester County Planning Commission and the Act 247 review form.
- B-4 The Chester County Planning Commission May 4, 2009 review letter.

Board of Supervisor's review of the Ordinance

Mr. Piersol explained that 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 has been modified to reflect the change in the Ordinance.

Chairman Voltz asked if there were questions or comments from the Board. There were none.

Public Comments

Chairman Voltz asked if there were public comments. There were no comments.

Chairman Voltz reopened the regular meeting.

Vice-Chairman Kirkner made a motion to adopt Ordinance 04 of 2009. Mr. Fischer seconded the motion, with all voting Aye.

Ordinance 05 of 2009 – An Ordinance of East Brandywine Township, Chester County, Pennsylvania, Regulating the Operation of All Terrain Vehicles on Private or Public Property, Other than Public Highways; Prescribing Remedies and Penalties for Violation of Such Regulations, Including the Imposition of Fines and Penalties, the Seizure of Vehicles Violating Such Regulations and Enforcement by Actions in Equity

Chairman Voltz closed the regular meeting and opened the hearing on Ordinance 05 of 2009.

Exhibits

The following exhibits were marked and entered into the record:

- B-1 Notice and Proof of Publication from the Daily Local News. The notice was printed in the Daily Local News on June 3, 2009.
- B-2 June 2, 2009 correspondence from Gawthrop Greenwood to the Chester County Law Library and certification.
- B-3 April 2, 2009 letter to the Chester County Planning Commission and the Act 247 review form.
- B-4 The Chester County Planning Commission May 4, 2009 review letter.

Board of Supervisor's review of the Ordinance

Chairman Voltz said that a Task Force was formed in 2008, comprised of Township representatives, residents who were operator/owners of ATV and those residents affected by their use. He went on to say that this Ordinance represents not only a compromise, but the hard work by all members of the Task Force. He also recognized the efforts of Mr. Rick Bates and Mr. Bill King who were in attendance. It is the Supervisors' hope that this Ordinance will provide some relief for some residents, while allowing reasonable hours of operation for ATV owners. It specifies exemptions such as snow removal, emergency service work and agricultural uses. The Ordinance can be enforced by both the Township and Police Department.

Chairman Voltz asked if there were questions or comments from the Board. There were no comments.

Public Comments

Chairman Voltz asked if there were public comments. Mr. Rick Bates said that he had one question. He said that the ATV Ordinance references Title 75 of the Pennsylvania Consolidated Statutes, Chapter 77, entitled Snowmobiles and All-Terrain Vehicles. This Statute says that the sound intensity produced may not exceed 96 decibels when measured at 20 inches from the outlet of the tailpipe. He had some concerns about the Chester County Planning Commission comments. Ms. Fuller said that the Chester County Planning Commission had no official comments and no jurisdiction over this Ordinance. She thought Mr. Bates was referring to the Planning Commission's comments on the Noise Ordinance, which would be considered later in the evening. Mr. Bates' comment would be discussed then.

Mrs. Cathy Rawlings asked which sound measurement would prevail, 96 decibels at the tailpipe, or the sound level limits that are outlined in the Noise Ordinance. ATVs will be required to meet both measurements.

Chief Kocsi noted that page three was incorrectly numbered. Mr Piersol said that this was an error from a previous version and the numbering is the only change. He will provide the latest version for adoption.

Mr. Bates asked when the Ordinance was advertised. It was advertised June 3, 2009

Mrs. Rawlings questioned why Christmas Day wasn't a prohibited holiday. Chairman Voltz said that the Task Force didn't include it because generally the weather is cold and residents keep their windows closed. Mr. Bates said he thought it was one of the holidays that the Task Force negotiated. Mrs. Rawlings said there are times when Christmas Day is warm and residents ride ATVs.

Chairman Voltz asked if there were additional comments. There were no comments.

Chairman Voltz reopened the regular meeting.

Mr. Fischer made a motion to adopt Ordinance 05 of 2009, as renumbered. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

Ordinance 06 of 2009 – An Ordinance of East Brandywine Township, Chester County, Pennsylvania, Amending Chapter 399, Zoning, of the Land Use Code of the Township of East Brandywine, Sections 399-84 – Noise Standards

Chairman Voltz closed the regular meeting opened the hearing on Ordinance 06 of 2009.

Exhibits

The following exhibits were marked and entered into the record:

- B-1 Notice and Proof of Publication from the Daily Local News. The notice was printed in the Daily Local News on June 2, 2009 and June 9, 2009.
- B-2 June 1, 2009 correspondence from Gawthrop Greenwood to the Chester County Law Library and certification.
- B-3 April 2, 2009 letter to the Chester County Planning Commission and the Act 247 review form.
- B-4 The Chester County Planning Commission May 4, 2009 review letter.

Board of Supervisor's review of the Ordinance

Again, Chairman Voltz explained that this Ordinance is the product of the work done by the ATV/Noise Task Force over the past fifteen months. The group looked at many different kinds of noise, including mechanical and vehicular. The Task Force tried to come up with a reasonable ordinance that identified acceptable decibel levels at certain times of the day. The intention is to provide relief from excessive noise.

Mr. Piersol stated that the Task Force reviewed several Ordinances from other municipalities, as well as the decibel levels for a myriad of activities. As an example, he said that normal conversation would be about 55 decibels; depending upon the activity and the time of day, decibel levels for certain activities are limited to between 55 and 77 decibels. There are certain exemptions in the Ordinance that include public celebrations authorized by the Township and emergency work to provide electricity, water or other public utilities.

Chairman Voltz asked if there were questions or comments from the Board. Mr. Fischer stated that the Chester County Planning Commission suggested that the Township consider adopting the Ordinance under the provisions of the Second Class Township Code instead of the provisions

of the Pennsylvania Municipalities Planning Code. Ms. Fuller said that the Township can enact the Ordinance under either authority. Mr. Piersol said that this Ordinance expands on an existing Ordinance; the first portion of the Ordinance already exists. The Chester County Planning Commission was concerned about enforcement. Mr. Piersol stated that this Ordinance would be enforced by the Township, rather than the Police Department. The Police Department could respond to a complaint and provide information to the Township that can be used in issuing a zoning citation.

Chairman Voltz asked if there were any additional questions or comments from the Board. There were no comments.

Public Comments

Chairman Voltz asked if there were public comments. Mrs. Norma Koth asked who the Zoning Officer was. Mr. Piersol said that he would likely act as the Zoning Officer in these matters. Mrs. Koth asked if the Township was equipped to measure the decibel levels. Mr. Piersol said that the Township does have access to a decibel meter. It is fairly simple to operate and Mr. Piersol has been trained to use it. Mrs. Koth thought that events such as the Kids Festival and other activities held at the park may be in violation of this Ordinance and that the Ordinance itself might generate more complaints for the Township. Mr. Piersol said that the Township can issue temporary permits for special events.

Chairman Voltz responded that this Ordinance was created, in part, because of the inability of neighbors to cooperate with each other. This Ordinance is the byproduct of growth in the Township and trying to give some residents relief, but not putting an unreasonable burden on others. The Task Force tried to look at the problem objectively so that the Ordinance would be reasonable for all residents. Mrs. Koth wondered how many noise complaints the Township has received in the past month. Chief Kocsi said that there have been significant noise complaints in the past two years from parties, ATVs, and machinery operation.

Mr. Bates asked whether this Ordinance replaces or amends another Ordinance. Mr. Piersol said that this Ordinance expands on Ordinance 399-84. Mr. Bates also questioned the County Planning Commission Comments. It was explained that the Township did consider the County's comments. Their comments do not require the Township to make changes to the Ordinance, although the Township may consider doing so at a later date. Mr. Bates then asked when the Ordinance would become effective. The Ordinance will be effective five days after enactment.

Chairman Voltz asked if there were additional comments. There were no comments.

Chairman Voltz reopened the regular meeting.

Vice-Chairman Kirkner made a motion to adopt Ordinance 06 of 2009. Mr. Fischer seconded the motion, with all voting Aye.

Additional Public Comment

Chairman Voltz asked if there were any additional public comments. Mr. Bud Koth said he was concerned about a Township employee who was mowing on slopes near a basin at the Community Park. He wondered how that individual might communicate with the Township if there was an emergency situation. Mr. Piersol said that the employee has a cell phone. Mr.

Koth also said that the basin at the Community Park is full of water and it takes quite a long time to drain. He said that the basin holds approximately 4 feet of water and that someone could fall into the basin. Mr. Piersol said that the grades were set so that people could sit on the embankment. He said that without looking at the plans he isn't sure what the grade should be, but he will review the plans after this meeting.

Mr. Bates thanked the Board of Supervisors, and particularly Chairman Voltz and Mr. Piersol for their time and interest in developing the ATV and Noise Ordinance. Although they didn't turn out the way he hoped, he appreciated their time and commitment.

Chairman Voltz asked if there were additional comments. There were no comments.

Notices

The Memorial Garden at the East Brandywine Township Community Park on Dilworth Road will be dedicated Thursday, June 25, 2009 at 7:00 P.M. The rain date will be Friday, June 26, 2009 at 7:00 P.M.

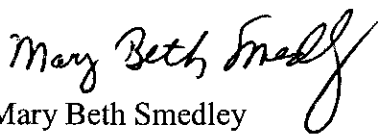
Community Day in the Park will be held Sunday, June 28, 2009 from 10:00 A.M. to 3:00 P.M. at the Community Park on Dilworth Road.

The East Brandywine Township Board of Supervisors met in Executive Session directly before this meeting to discuss Pulte Settlement Agreement issues and issues related to the Brandywine Regional Police Commission Dissolution

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 8:55 P.M.

Respectfully submitted,


Mary Beth Smedley
Secretary/Treasurer