

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SESSION  
Wednesday, October 21, 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  
Mary Beth Smedley, Secretary/Treasurer

**Absent:**

Matthew T. VanLew, Roadmaster

The East Brandywine Township Board of Supervisors meeting of Wednesday, October 21, 2009 was called to order by Chairman Voltz at 7:30 P.M. at the East Brandywine Township Municipal Complex. Also in attendance were three 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 – September 16, 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 September 16, 2009 minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

**Minutes: Board of Supervisors – October 1, 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 October 1, 2009 minutes as presented. Mr. Fischer seconded the motion, with all voting Aye.

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

Chairman Voltz asked if there were any additions or correction to the October 7, 2009 Planning Commission Minutes. There were none. Mr. Fischer moved to approve the minutes as presented. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

### **Treasurer's Report**

Mrs. Smedley read the account balances as of October 21, 2009. Chairman Voltz asked for clarification on check #12744. Mrs. Smedley explained that this was a pass-through check from the Commonwealth for the Police Pension fund. 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**

PennDOT recently installed the stop signs on Creek Road and Hopewell Road to create an all way stop intersection there. The Township had requested this safety consideration on January 15<sup>th</sup> of this year, and this work was finally completed earlier this month.

PennDOT has scheduled a site meeting for the final inspection of the East Reeceville Road bridge project for Monday, November 5<sup>th</sup> at 2:00 PM. The project was scheduled to be completed by October 31<sup>st</sup>, but a significant difference in the elevation of the bridge structure versus the intersection of East Reeceville Road and Zynn Road was noted. This section of East Reeceville Road should reopen to traffic in mid-to-late November.

East Brandywine and Upper Uwchlan Townships will be meeting PennDOT representatives on Thursday, November 5<sup>th</sup> at 10:00 AM to discuss the Lyndell Bridge ownership. Representative Curt Schroder's office was able to schedule this meeting after PennDOT declined our request to meet to discuss the Department's contention that they abandoned the bridge to both municipalities in 1971 as part of the Marsh Creek State Park project. The Townships are planning to repair the bridge surface soon. We are concerned about the lack of a wing wall to protect the adjacent Lyndell Country Store building and the Lyndell Post Office from the continued scouring action of the water as it turns underneath the bridge, and the cost of installation of this structure, which we feel should have been done as part of the original contract. Mr. VanLew has contacted a firm we have dealt with who could do this work to provide us with an estimate for the work to secure the embankment near the Post Office, and was provided a range of \$50,000 to \$65,000 for gabion baskets. This is much less expensive than the anticipated price of installing a fourth wing wall, which could be several hundred thousand dollars. We are going to suggest that PennDOT underwrite the cost of this installation, and we will discuss assuming ownership of the bridge at that time.

Mr. Piersol recently attended a PECO seminar on their response to PA Act 129 on Energy Efficiency & Conservation. This seminar is part of the Commonwealth's reaction to the end of deregulation of electrical services with the removal of the rate caps. This act has created some very aggressive goals for energy conservation throughout the Commonwealth. PECO has submitted 18 different plans to the PUC to review and approve which include various incentives and grants aimed at energy conservation by reducing energy consumption and by our businesses and residents. PECO hopes the PUC will approve these programs later this month. PECO will underwrite a significant portion of the cost of changing from incandescent lights to compact fluorescent lights for their residential customers. PECO will provide grants for changing interior and exterior light fixtures to more efficient types. This would include use of LED lighting in municipal traffic signals and street lights. Grants will be available for energy audits to identify

ways to save energy. PECO will be communicating with their customers to indicate how they can prepare to participate in these programs over the next several months, as well as planning on how to shop for energy when the transition period ends. They will also be providing information to the municipalities for their newsletters and web sites. Interested persons can go to the PUC web site at [www.puc.state.pa.us.org/utilitychoice](http://www.puc.state.pa.us.org/utilitychoice) to learn more about choosing an energy provider, and to PECO's site at [www.peco.com/myusage](http://www.peco.com/myusage) to obtain information about their individual energy usage, and [www.peco.com/know](http://www.peco.com/know) on the electric deregulation. We will put links to these sites on the Township web site.

The Planning Commission is recommending the Board consider submitting the following amendments to the Land Use Code for review by the County Planning Commission: in the Zoning Ordinance, Section 399-39 A Permitted Uses, remove daycare as a permitted use in the Village Commercial District; in Section 102-a, Supplemental Regulations, adjust and in the Subdivision Ordinance, Amend Section 350-24 to require the contour lines to be shown in two foot intervals unless otherwise approved by the Township. Mr. Piersol requested the Board approve a motion to submit these two amendments to the County Planning Commission for the Act 247 review. Mr. George Holmes said that Planning Commission member Carl Croft raised an issue about permitting daycares in the Village Commercial District. Mr. Croft thought that it should remain a permitted use and discussed one property in particular where he thought it might be appropriate. Mr. Holmes suggested it would be draconian to exclude their use altogether. Mr. Piersol explained that the Ordinance Task Force doesn't want to exclude daycare throughout the Township; they simply want to permit it in zoning areas where it makes more sense. Mr. Fischer said that the Village Commercial District applies to two different areas, the Village of Guthriesville and the Village of Lyndell. He went on to say that there may be provisions for daycares in Guthriesville as part of the Village Master plan, but as the Village is currently configured it's not really appropriate. If the Village expands it may be considered. Chairman Voltz asked if there were additional questions. There were no questions. Chairman Voltz made a motion to forward the above amendments to the Chester County Planning Commission for their Act 247 review. Mr. Fischer seconded the motion, with all voting Aye

The Open Space Committee is recommending the Township authorize a contract with Brandywine Conservancy to initiate discussions with Jane Kessler on the acquisition of a conservation easement on her 2022 Bondsville Road property. This property consists of three separate parcels, created by a 1977 subdivision by the previous owners. We worked with Kevin Anderson and the Brandywine Conservancy on the Thornbury & Robb acquisitions in 2008. The proposal estimates \$5,000 to \$6,000 to prepare the conservation and trail easement, and a one-time endowment contribution of \$8,200 for this project. A more detailed project proposal, prepared after a meeting with Mrs. Kessler, will be provided to the Township. On behalf of the Open Space Committee, Mr. Piersol requested permission to engage Brandywine Conservancy per the terms of their proposal. Vice-Chairman Kirkner questioned whether this was a desirable piece of property for the Township to acquire easements. Mr. Fischer said that part of the reason for acquiring the easements is because the Pulte development wraps around it and it may be a good location for a trail interconnection. At present, Mrs. Kessler just wants to investigate possibilities for her property and has made no commitment to the Township or the Open Space Committee. Chairman Voltz asked if there were other questions. There were none. Mr. Fischer made a motion to approve the Brandywine Conservancy proposal as outlined above. Chairman Voltz seconded the motion, with all voting Aye.

**Report: Building Inspector/Zoning Officer – Report for September 2009**

Mr. Piersol read the Building Inspector/Zoning Officer's Report for September, 2009. In September there were thirteen permits issued, five zoning permits, eight use and occupancy permits issued, and seventy-three inspections conducted during the month. The total fees collected were \$8,021.30.

**Historical Commission**

Historical Commission Chairman John Black attended the meeting to discuss establishing a Historical Preservation Award. Mr. Black suggested that this award be given annually and it would recognize owners of historic buildings for their efforts in saving, restoring and rehabilitating historic resources located within the Township. Recognition would be given for preservation of any structure that contributes to the Township's historical character such as a house, barn, springhouse, or store. Each year, preservation and restoration activities in the Township would be reviewed, and if, warranted, several owners, or none, could be given the award.

Recipients could be identified through requests for nomination in the Milemarker, on the web site or by word of mouth. The nominations would be reviewed by the Historical Commission, who would in turn forward their recommendation to the Board of Supervisors.

The award recipient would be presented with a letter of appreciation describing the history of the building, if known, along with an award or plaque from the Supervisors and Historical Commission. Mr. Black also suggested that a single plaque with the names of those receiving the award each year be displayed in a prominent location in the Township building.

Mr. Black also suggested that photographs of historical buildings within the Township be added to the web site. Mr. Black will speak to Mrs. Smedley about contacting the web master. After discussion, the Supervisors approved establishing the Historical Preservation Award.

**East Brandywine Township Police Chief's Report**

Police Activity Report – September 2009

Incidents Reported	158
Criminal Arrests	3
Summary Arrests	5
Accidents Investigated	10
Traffic Citations Issued	212
Warnings Issued	32
Vacation House Checks	32

Chief Kocsi reported that the Police Department will have extra patrols on Mischief Night and Halloween night. Police Officers will also be giving out candy at the East Brandywine Baptist Church festivities on Halloween.

**Report: Fire Company's Activity Report for September 2009**

Mr. Piersol read the Activity Report for the month of September 2009, as submitted by Fire Chief Michael Conlan. There were forty-seven total incidents. In East Brandywine Township there were seven fire calls and sixteen QRS calls. In West Brandywine Township there were ten fire calls and eighteen QRS calls. The Fire Company provided assistance in Wallace Township, Valley Township and East Nantmeal Township. Estimated fire damage for the month was \$100,000 for an electrical fire in West Brandywine Township.

Mr. Piersol reported that the Fire Company's annual Fire Prevention Open House was held Wednesday, October 7<sup>th</sup> from 6:00 P.M. to 9:00 P.M. and was another very successful event. Also, Fire Company personnel visited several elementary and nursery schools during Fire Prevention Week. Vice-Chairman Kirkner commended Mr. Piersol and all those involved in the Fire Prevention Week activities. He said that he attended the Open House, which was very well presented and attended.

**Manley Zoning Hearing**

The Zoning Hearing Board is scheduled to meet on Monday, November 16, 2009 at 7:30 P.M. to hear the application of Gerald R. and Rebecca A. Manley and Jennifer Guy for a variance from the minimum lot area of 1.5 acres required by Section 399-29.A.(1)(a) of the Township Zoning Ordinance. The Applicants propose to subdivide a property that will result in a lot of approximately 1.39 acres. The properties are located at 1211 and 1213 Osborne Road in the R-2 Residential District.

The 3.022 acre parcel shown, on a diagram provided by Mr. Manley, was carved out of the Locust Knoll subdivision in the 1970's. Most of the land for that development was owned by Mr. Manley's father, who deeded the parcel to him. The lots in the Locust Knoll subdivision are at least once acre in size, or slightly larger; only two lots are 1 ½ acres. According to Mr. Manley, it was always the intention to subdivide the 3 acre parcel at some point.

Mr. Manley would like to relocate the property line between the two existing parcels since the garage on his property is only a foot from the property line. Mr. Manley stated that this will correct a non-compliance issue for his property.

The applicant also proposes to divide a three acre parcel into two lots. The original plan submitted by Mr. Manley shows a 46' access strip. The Planning Commission recommended that the access strip be widened to 50' and the proposed Lot #3 be accessed by a shared common driveway with Lot #2. Mr. Manley said that he would like to keep the access strip at 46' as originally proposed and does not want to install a common driveway. He is concerned about shared maintenance issues and that the existing driveway will be damaged by construction vehicles accessing proposed Lot #3. Planning Commission members were concerned that the driveways for Lots #2 and #3 would be very close together and may cause a site distance problem. In addition, two driveways will create more impervious cover.

Perc tests were done in 1995 for Lot #2, which Mr. Manley provided as part of the application. According to the tests there are 12% slopes near the location for a proposed septic system, and it would also be very close to the driveway. Manley said that there aren't 12% slopes in that area, but they are towards the back of the proposed Lot #3. The Planning Commission was concerned about water run-off from this area, but Mr. Manley said it is actually level and shouldn't pose a problem.

After review of the application, the Board supported the variance request for creating two lots, one of which will be less than the required 1.5 acres and for relocating the property line between Lot #1 and Lot #2. The Supervisors also supported creation of a 48 ft. access strip, with the condition that there be a single access driveway shared by Lot #2 and #3 for a minimum length of 20 ft. which can then split into two separate driveways.

Mr. Manley will attend the November 4<sup>th</sup> Planning Commission meeting to discuss the amended application.

### **Resolution 20 of 2009 – Authorizing the Temporary Transfer of Funds from the Open Space Referendum Fund to the General Fund**

This Resolution permits the transferring funds from the Open Space Referendum Fund to the General Fund. The funds must be re-deposited in the Open Space Referendum Fund no later than June 30, 2010, together with any lost interest. Chairman Voltz asked if there were any questions. There were no questions. Mr. Fischer made a motion to adopt Resolution 20 of 2009. Vice-Chairman Kirkner seconded the motion, with all voting Aye.

### **Announcements**

The Board of Supervisors met in Executive Session on Wednesday, September 30, 2009 at 3:30 P.M. with members of the Planning Commission and Municipal Authority to discuss legal issues.

The Board of Supervisors met in Executive Session on Wednesday, October 7<sup>th</sup> at 7:30 A.M. with their Solicitor and the Municipal Authority to discuss legal issues.

The Board of Supervisors met in Executive Session on Wednesday, October 7<sup>th</sup> at 9:00 A.M. with their Solicitor to discuss dissolution of the Brandywine Regional Police Commission

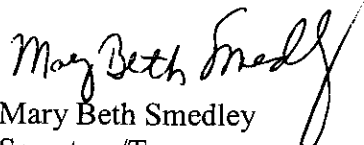
### **Additional Public Comment**

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

**Adjournment**

There being no further business, Chairman Voltz made a motion to adjourn the meeting. Mr. Fischer seconded the motion, with all voting Aye. The meeting was adjourned at 8:30 P.M.

Respectfully submitted,

  
Mary Beth Smedley  
Secretary/Treasurer