

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
WORK SESSION
Thursday, March 2, 2006
7:30 AM**

Those in Attendance:

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

The Board of Supervisors met in Work Session on Thursday, February 2, 2006. There was one visitor present.

Opening of Meeting

Chairman Fischer opened the Meeting at 7:40 A.M.

Public Comment for Non-Agenda Items

Chairman Fischer asked if there were comments on non-agenda items. There were none.

Building Committee Report

Mr. VanLew reported that the plumbing and electrical contractors have almost completed the under slab work in the administration building. The concrete floor should be poured next week and then framing of the exterior walls can proceed.

The maintenance garage roof was completed this week. The electrician has started installation of conduit for lighting, receptacles and motors. It is anticipated that the steel for the mezzanine should be set within two weeks so the fit-out for the kitchen/locker room area can begin.

Chairman Fischer wanted to make sure that there is documentation, including photographs and measurements, of the cracks in the floor. Mr. Piersol assured him that Mr. VanLew has this documentation.

Bondsville Mill Property

In June of last year, the Township received an engineers report on both bridges at the property. The report included recommendations to preserve the structures, re-point the stone foundations, and install rip-rap stone to protect the bridge footings and bridge deck repairs.

The Township Road Department has removed most of the trees around the bridges and wing walls, and is planning to clean the bridge decks next week.

Prior to installation of rip-rap stone in the waterway for foundation protection, the Township needs permission from PADEP, the Chester County Conservation District, the Army Corps of Engineers, and the Pennsylvania Fish and Board Commission. The Township has received a

General Permit from PADEP and had a project meeting with the Chester County Conservation District on February 8th. The Conservation District requires a description of work prior to installation of foundation protection. Mr. VanLew has been communicating with Jim Boyer of the Army Corps of Engineers and he will review information after the Conservation District has given approvals.

After obtaining the applicable permits, The Township will be placing rip-rap stone in the waterway to protect both bridge foundations. We will need approximately 100 tons of stone with a cost of \$20.00 per ton, or an estimated cost of \$2,000.00. This work will be completed by Township staff and should take one day.

Spring Road Inspection

Mr. VanLew has scheduled a road inspection with the Board of Supervisors and Mr. Piersol for Sunday, April 2, 2006 at 8:00 A.M. Mr. VanLew wanted to remind the Board that this was the first day of Daylight Savings Time.

The inspection will include the roads scheduled for improvements such as drainage and overlay of Crawford Road, widening of North Buck Road, and overlay of Pancoast Lane in the Echo Dell Development. Mr. VanLew also hopes to include a stop at the Bondsville Mill. Although Mr. VanLew had originally scheduled Elston Drive and Echo Dell Road for improvements this year, he feels that they don't need to be overlaid at this time, and he would rather overlay Osborne Road.

Recommendations to Update Hearing Fee Schedule

Mr. Piersol reported that Mrs. King and Mrs. Smedley surveyed various municipalities to determine their respective hearing fees. Currently, the Township fee schedule covers the costs for only the simplest hearings, so often a substantial portion of the hearing costs are absorbed by the Township. The Township would like to make sure the applicant is responsible for the costs, as much as possible. The Municipalities Planning Code does not currently permit recovery of attorney's fees for these issues. The Board of Supervisors reviewed the recommendations and agreed to the following schedule:

Variances and Special Exceptions

\$500 escrow* for Resident uses, plus ½ of the stenographer's fee, plus engineering review reimbursement

\$1,000 escrow* for Commercial/Industrial/Subdivision Uses, plus 1/2 of the stenographer's fee, plus engineering review reimbursement

* If costs go beyond escrowed amount they will be billed to the applicant.

Conditional Use Hearings

\$2,500, plus \$500 for each additional hearing, plus ½ of the stenographer's fee, plus engineering review reimbursement

Appeals from the Zoning Officer's Decisions

\$1,500, plus ½ of the stenographer's fee for Residential uses, plus \$500 for each subsequent hearing

\$2,500, plus ½ of stenographer's fee for Commercial/Industrial/Subdivision Uses, plus \$500 for each subsequent hearing

Validity Challenges, Curative Amendments, and Miscellaneous Appeals

\$2,500, plus ½ of the stenographer's fee, plus \$500 for each subsequent hearing

Demolition Permit Hearings for Historic Resources

\$2,500, plus ½ of the stenographer's fee, plus engineering review reimbursement

Hearing Postponement

\$500 for each postponements requested by the applicant, plus out-of-pocket Township costs (i.e., advertisement, mailing, administrative costs, etc.)

A revised Resolution will be prepared for the March 15th Board of Supervisors meeting.

Mama Lena's/Wawa Meeting and Discussion

Wawa has scheduled a meeting at PADEP in Norristown to include the Army Corps of Engineers, PennDOT, Pulte Homes and several other agencies to discuss their project. The meeting is scheduled for Monday, March 13th at 1:00 P.M. Wawa is trying to separate the widening of Bondsville Road from the project, stating this road work needs to be done whether Wawa builds at this location or not. Mr. Boyer of the Army Corps of Engineers contacted Mr. Piersol about this meeting with Wawa; he stated that PennDOT was in fact requiring Wawa to widen Bondsville Road to create a dedicated left turn lane, with a through/right turn lane. Because these are State roadways, it is not the Township's responsibility to make these traffic improvements, though the Township agrees it must be done to improve the traffic flow through this intersection. PennDOT has agreed general with the Township's conceptual plans for traffic improvements along Horseshoe Pike in the Guthriesville area.

At the last Board of Supervisors meeting, Mr. Bill Inslee who along with his brother owns an antique store next to the Mama Lena's offered to move one of his buildings so that access to Wawa could be provided without demolishing Mama Lena's. The Board feels this is a private matter between Mr. Inslee and Wawa.

Verizon Cable TV Franchise Agreement

Solicitor Stacey Fuller has spoken with Andy Rau and Daniel Cohen about their Verizon negotiations. She would like to know if the Board agrees to continue to hold firm on the three previous remaining issues regarding the audit provision, bankruptcy/fraud and the hearing provisions and the indemnification provisions and the “side letter” she will prepare to make it enforceable. The Board agreed that they would not negotiate on the three outstanding issues.

Mrs. Fuller also had six other items she wanted the Board to consider:

1. PEG Channels – Each of the agreements provided for the reservation of at least two and sometimes three PEG channels. The Board agreed that two PEG channels would be sufficient.
2. Comcast provided a fully-funded Public Access Facility, including a full-time employee, to operate the Tredyffrin Public Access Channel. The Board suggested that we work with other municipalities in the Downingtown Area School District on this.
3. Mrs. Fuller suggested adding a provision to the agreement which provides that “nothing in the agreement is intended to confer third-party beneficiary status of any member of the public to enforce the terms of this agreement”. This will avoid any member of the public forcing the Township to operate a PEG channel or take any other action under the agreement (i.e., activating a PEG channel, revoking the agreement).
4. The Board may wish to revise section 3.3 regarding Cable Service to Public Buildings to provide service to non-public schools, as well as any future schools that are established in the Township.
5. Several of the agreements provide for liquidated damages in the event of a breach by the cable provider.
6. Several of the agreements provided for “side letters” whereby the cable company made a “donation” or paid a grant fee to the municipality. The Board would like to investigate receiving a donation.

The Supervisors would like to include #3, #4 and #5 in the agreement.

Municipal Liens

It was previously recommended that municipal liens be filed for accrued delinquencies of not less than \$500.00. The concern was the amount of money the Township would front in hopes of recovering these delinquent fees for services provided. Mr. Piersol discussed this issue with Mrs. Fuller. The revised charges will be as follows:

Filing fee – Prothonotary’s office	\$31.00
Paralegal’s time to file (\$75/hour for .4 hours is typical)	\$30.00

The paralegal’s time would be based on filing the fees at the courthouse; when done in bulk, the fee would not be \$30 for each lien. Mr. Halsted will not charge his time executing each lien, so we will not pay an up-front cost for his authorization. The attorney’s fees and other costs are recoverable from the property owner once the lien is satisfied, and payment would be made at that time. A small charge for mailing the recorded lien documents to the Township would be

incurred. The Tax Collector would then serve notice on each property owner that a lien has been filed against their property, as required by statute.

There are between 75 and 80 delinquent refuse and recycling accounts, with accumulated fees of roughly \$17,000. The delinquent accounts range from \$46 to \$1,768, with a majority of the amounts between \$250 and \$600.

Mr. Piersol recommended the Board reconsider the previous motion, which would affect only a handful of delinquent accounts. He thinks we need to send a message to these residents that have been provided service yet do not pay for the service. We could also send certified letters to those with small delinquent amounts, making the threat that liens will be filed if their accounts are not made current before June 1st, for example. An article in the newsletter will also suggest the Township intends to collect these debts. The Board unanimously authorized Mrs. Piersol to file liens against all property owners with delinquent accounts of \$250.00 or more.

K. Hovnanian Meeting with PADEP

Mr. Piersol received notice of a meeting at PADEP for Tuesday, March 7th to discuss the K. Hovnanian subsurface recharge beds/trench system. Municipal Authority Engineer, Joseph Boldaz will also attend. We have not received any additional information on the K. Hovnanian development relative to a revised plan showing more detail to support the draft settlement agreement, but it is expected early next week.

Applecross Development AKA Overlook Road Farm

There have been discussions between Mr. Piersol and Pulte Homes about their interest in purchasing the Weaver Tract from K. Hovnanian. Instead of constructing a 55+ community, Pulte would like to extend their townhouse community to the western side of the Weaver tract and leave the eastern portion of the property as open space. The Board would prefer to see the Weaver property developed as a 55+ community.

Mr. Piersol stated that he and Chairman Fischer, Municipal Authority Chairman Michael Corbin, Stacey Fuller, John Spangler and Joseph Boldaz recently met with representatives of Pulte Homes, to discuss outstanding comments and concerns raised by the Municipal Authority with regard to the Construction and Operations Agreement. Most of the outstanding items related to the agreement have been resolved. There were concerns about the Township being solely responsible for unused capacity at the treatment plant. The Township and Municipal Authority would like the excess capacity to be paid for on a pro-rata basis by all users of the treatment plant.

At the meeting to discuss the Construction and Operations Agreement, it was mentioned that West Brandywine Township would like to close the Kimberwick Treatment Plant. There is a possibility of treating and disposing of the flows from that treatment plant to the Little Washington Wastewater Treatment plant and diverting the Guthriesville flows to the Applecross treatment plant. If that is the case, disposal fields would need to be provided in West Brandywine Township for the Guthriesville sewage.

The Supervisors asked if there would be reduced fees for East Brandywine Township residents for use of the golf course. Mr. Piersol said this hasn't been discussed, but the golf course is to be open approximately four times a year to non-members. Vice-Chairman Voltz will discuss this issue with the East Goshen Township Manager where there is a golf course similar to the one proposed for the Applecross development.

Acceptance of Jonathan's Inslee's Resignation from the Open Space Committee

Chairman Fischer made a motion to accept Mr. Inslee's resignation, with regret. Vice-Chairman Voltz seconded the motion, with all voting Aye.

Draft Property Owner Request for Services – Schwartz Property at 1000 Horseshoe Pike

Mr. Piersol reviewed the "Property Owners' Request for Services" document with the Supervisors that states Mr. and Mrs. Schwartz and the Township agree to explore options whereby the Township may acquire an open space interest in the Schwartz property.

The Township will engage the services of a conservancy to develop the terms of an easement to acquire the development rights of the property. Mr. Piersol was asked to revise the second line in the second paragraph regarding engaging the services of a real estate appraisal. The Supervisors would like to have the Conservancy give Mr. and Mrs. Schwartz an idea of what could be done with the property. If they are still interested in having the Township acquire an open space interest on the property, an appraisal can be done at that time.

Mr. VanLew stated he thought there might be some sort of deed restriction on the property. Mr. Piersol thinks there is a copy of the deed at the Township and will look to see if there are any restrictions.

County Tax Lien on the Bondsville Mill Property

The Township has received a notice of delinquent taxes due on this property. Mr. Piersol contacted the Tax Claim Bureau today, and was forward to Kathy Jackson, who coordinates the County Assessment Appeals Board. The Township's appeal is tentatively scheduled for Wednesday, April 5th. Once the Township is granted an exemption, these taxes will be exonerated. The total due is \$7,237.42, due by March 17th. Mr. Voltz will make sure that this property isn't on the Judicial Sale List and if the property is on the list a letter will be sent asking for it to be removed.

Roundabout Presentation

Dee Durham who is with the Save Route 41 group will attend the April 6th Work Session to discuss roundabouts. The presentation will begin at 8:15 A.M. The Planning Commission has been invited to attend the meeting.

Additional Public Comment

Chairman Fischer asked if there were additional comments from the audience. There were none.

Adjournment

There being no further business, Vice-Chairman Voltz moved to adjourn the meeting. Mr. Kirkner seconded the motion, with all voting Aye. The meeting was adjourned at 9:20 A.M.

Respectfully submitted,

Mary Beth Smedley
Secretary/Treasurer
East Brandywine Township