

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SESSION  
Wednesday, December 21, 2005**

**Those in Attendance:**

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

The East Brandywine Township Board of Supervisors meeting of Wednesday, December 21, 2005 was called to order by Chairman Kirkner at 7:30 P.M. at the East Brandywine Fire Company.

**Opening of Meeting**

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

**NOTICE**

The 2006 annual reorganization meeting will be held on Tuesday, January 3, 2006, because Monday, January 2, 2006 is a legal holiday. The Auditor's annual reorganization meeting will be held on Wednesday, January 4, 2006.

**Public Comment for Non-Agenda Items**

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

**Minutes: Board of Supervisors – November 16, 2005**

Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Mr. Voltz made a motion to approve the November 16, 2005 minutes as presented. Vice-Chairman Fischer seconded the motion, with all voting Aye.

**Minutes: Board of Supervisors – December 1, 2005**

Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Vice-Chairman Fischer made a motion to approve the December 1, 2005 minutes, as presented. Mr. Voltz seconded the motion, with all voting Aye.

**Minutes:                    Planning Commission Minutes – December 7, 2005**

Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Mr. Voltz made a motion to approve the minutes as presented. Vice-Chairman Fischer seconded the motion, with all voting Aye.

**Minutes:                    Planning Commission Minutes – December 14, 2005**

Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Vice-Chairman Fischer made a motion to approve the minutes as presented. Mr. Voltz seconded the motion, with all voting Aye.

**Minutes:                    Municipal Authority Minutes – November 8, 2005**

Chairman Kirkner asked if there were any additions or corrections to the above minutes. There were none. Mr. Voltz made a motion to approve the minutes as presented. Vice-Chairman Fischer seconded the motion, with all voting Aye.

**Minutes:                    Municipal Authority Minutes – December 13, 2005**

The December 13, 2005 minutes will be available for review at the January 18, 2006 Board of Supervisors meeting.

**Treasurer's Report**

Vice-Chairman Fischer made a motion to approve the Treasurer's Report for the period ending December 21, 2005, and authorize payment of the bills. Mr. Voltz seconded the motion with the exception of check #9279, a medical reimbursement check. Chairman Kirkner seconded the motion for check #9279, with all voting Aye.

**Report:                    Township Manager – Report for November/December**

Construction of our municipal campus is proceeding. Construction of the salt shed has been completed. Because the building was under roof prior to the onset of cold weather, pouring the concrete pad was able to be done earlier this week. The steel frame for the public works building is nearly complete. The manufacturer is currently working with the construction firm to resolve an issue on the roof with the alignment of the 4-foot overhang which needs to be resolved before the roof can be installed. Unfortunately, due to the late start by the site contractor, and the early arrival of cold weather, the public works area will not be accessible for storage of Township equipment. Response to road maintenance issues will continue from the Community Park for the winter.

Footings for the administration building were completed, and concrete block is currently being laid to construct the base for the walls panels. Expect to see the building walls being erected soon, and the outline of the building taking shape.

The resident survey was mailed in early December. We have already received nearly 400 mailed responses. The early response is very encouraging, and some of the feedback received is interesting. This information will help guide our Ordinance and Planning Task Force in the revisions to our Comprehensive Plan, which will now include our Open Space and Recreation Plan within this planning document. We also have received six responses through our Township web site.

Brandywine Regional Police Secretary, Roxanne DeCarlo is compiling the responses as they arrive. Mr. Piersol expects to have a summary of those responses for initial review by the January 25<sup>th</sup> Task Force meeting. The date for the public meeting to discuss those responses will be Monday, February 20<sup>th</sup>, Tuesday, February 21<sup>st</sup>, or Wednesday, February 22<sup>nd</sup>. An announcement of the actual meeting date will be made early in January, in our Winter 2006 Newsletter and our website.

Our Planning Commission made a motion at their December 7<sup>th</sup> meeting to recommend to the Board amendments to our Mobile Home Park and Zoning Ordinances. These amendments were originated by the Chester County Planning Commission during their review of various ordinance amendments in October, and are as follows:

- Replace the existing definition of Common Open Space in our Mobile Home Park Ordinance to be consistent with the definition used in our Subdivision and Zoning Ordinances;
- The Keeping of Animals section of our Zoning Ordinance will be revised to include a sentence on “a wild, exotic or dangerous animal,” in the Keeping of Livestock and Keeping of Small Domestic Animals subsections.
- For any Continuing Care Development, a traffic impact study will be required, and a provision will be added to permit a live-in care giver who is less than 55 years old.

Lastly, our Subdivision Ordinance is proposed to be amended to require an applicant submitting revised land development plans to the Township to also submit a written narrative explaining specifically how the plans were revised, and how the revisions address previous recommendations or review comments from any agency. This revision was suggested by Mrs. Smedley to help the Township, and especially our consultants, track and manage plan changes more easily.

Mr. Piersol respectfully requested the Board’s permission to submit these items to the County Planning Commission for their Act 247 review, and to advertise these amendments once we receive and review the County’s comments.

Vice-Chairman Fischer made a motion to submit the above items to the County Planning Commission for their review and to advertise the amendments, including the following:

1. Mobile Home Park Ordinance – Section 325-2 regarding Common Open Space.
2. Zoning Ordinance – Section 399-9 regarding “Small-Scale Keeping of Livestock”.
3. Zoning Ordinance – Section 399-85 Subsection [1] regarding “Keeping of Small Domestic Animals.

4. Zoning Ordinance – Section 399-102c- Subsection [14] regarding “Continuing Care Development”.
5. Zoning Ordinance 399-102c-D - regarding the age of residents of a continuing care development.
6. Subdivision Ordinance Section 350-14 and 16 pertaining to revisions to plans submitted for review.

Mr. Voltz seconded the motion, with all voting Aye.

Roadmaster VanLew has recommended we advertise for sealed bids for one of the Township dump trucks. The truck is currently used as a spare vehicle. The unit is a 1982 Ford LN 800, with a 427 cubic-inch gasoline engine, 5 speed transmission with 2-speed rear axle, 5 cubic yard dump body, rear hydraulic couplings, front plow hoist and plow frame and interior hydraulic controls for the plow lift and spreader. The truck’s body and mechanics are in good shape. The sale will also include an 11-foot one-way snow plow and 4.4 cubic yard salt spreader. The unit and equipment will be sold “as is.”

Bids will be accepted until 4 PM on Wednesday, January 18, 2006, and may be mailed to the Township at 1214 Horseshoe Pike, Downingtown, or hand-delivered up until the deadline to our current temporary office at the Laird Professional Building, 110 Hopewell Road, second floor. Bids will be opened and announced at the Board of Supervisors’ meeting the evening of January 18, 2006 at 7:30 PM at the East Brandywine Fire Company.

With the Board’s permission, a legal ad will be placed in the Daily Local News, and notices will be mailed to others who have previously submitted bids for or expressed interest in Township equipment. Mr. Piersol respectfully requested the Board approve a motion to advertise for sealed bid sale of this vehicle. Chairman Kirkner asked if the truck mileage needed to go into the ad. Mr. VanLew will add the mileage to the advertisement. Vice-Chairman Fischer made a motion to advertise the 1982 Ford LN 800 dump truck for sale. Mr. Voltz seconded the motion, with all voting Aye.

Since we are in temporary quarters, our Christmas tree drop-off will be located at the Community Park, 440 Dilworth Road, across from the Brandywine-Wallace Elementary School. Trees may be deposited in the area designated and clearly marked in the Park, possibly near the fenced in area where our maintenance equipment is stored. The trees will be recycled into mulch by chipping. Mr. Piersol wanted to remind our residents that Christmas Trees will not be collected at curbside, either by our Public Works staff, or our refuse hauler. Signs will be placed at the Fire House and the Municipal Complex so residents will know where to dispose of the trees.

The Park and Recreation Board recently interviewed two persons interested in joining their group, and have asked the Supervisors to appoint Ian Plane of 108 Great Oak Drive, and Kirk Fuhrman of 104 School Lane to the Park and Recreation Board. The Board asked Mr. Piersol if there was a limit to the number of members, and he could find no such limit. Also, Mrs. Smedley suggested the Supervisors consider adding John Carrigan of 1160 Osborne Road as an alternate member of the Zoning Hearing Board. The Board will consider these appointments at the January 3, 2006 Reorganization Meeting.

On behalf of the Board of Supervisors, staff members and volunteers of the township, Mr. Piersol wished the Township residents a very and happy and safe Holiday season.

**Report: Building Inspector/Zoning Officer – Report for November 2005**

Mr. Piersol read the Building Inspector/Zoning Officer’s Report for November 2005. There were nineteen building permits issued, four use and occupancy permits issued, and sixty inspections conducted during the month. The total fees collected were \$18,136.20.

**Report: Brandywine Regional Police Commission**

Chairman Kirkner reported that the Brandywine Regional Police approved their 2006 budget at their November 28, 2005 meeting.

In order to calculate a more accurate budget, Chief Kocsi asked that the preliminary budget proposal date be extended as necessary on a year-to-year basis. This was approved by the Commissioners.

**Report: Police Chief - Police Activity Report for November 2005**

Chief Kocsi reported on the Regional Police Activity Report for November 2005

Investigations	168
Traffic Citations	214
Traffic Warnings	35
Traffic Accidents	14
Criminal Arrests	1
Summary Arrests	6

Chief Kocsi also provided a breakdown on criminal investigations for the month of October.

Burglary/Criminal Trespass	3
All Assaults	0
Theft/Fraud	0
Disorderly Conduct/ Harassment	5
Disturbances	2
Suspicious Activity/ Persons	8
Domestics	1
Criminal Mischief	3
Missing Persons/ Runaways	0
Driving Under the Influence	0

Fugitive Warrants	3
Drugs	1
Other	2

Chief Kocsi stated the Police Department received a \$4,000 grant to purchase night vision equipment to help with the Drug Task Force. They will be receiving the equipment in January.

**Report: Fire Company's Activity Report for November 2005**

Mr. Piersol read the Activity Report for the month of November 2005, as submitted by Fire Chief James Witmer. In November there were fifty-nine total incidents. In East Brandywine Township there were seven fire calls and thirteen QRS calls. In West Brandywine Township there were thirteen fire calls and twenty-three QRS calls. Estimated fire damage for the month was \$1,700.00.

Mr. Piersol stated that Christmas tree sales have gone very well for the Fire Company and the annual fund drive started earlier this month.

West Brandywine Township will be implementing a Fire Tax of .22 mills for 2006 that will be dedicated solely for fire protection including paying for fire hydrants, workmen's compensation insurance, and operating contributions to the three fire companies serving their Township.

**Subdivision Extensions:**

Brandywine Village – The Planning Commission is recommending the Board of Supervisors accept an extension to review this land development application until January 31, 2006. Mr. Voltz made a motion to accept this extension. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Overlook Road Farm AKA Applecross – The Planning Commission is recommending the Board accept an extension to review this subdivision until January 19, 2006. Vice-Chairman Fischer made a motion to accept this extension. Mr. Voltz seconded the motion, with all voting Aye.

Mr. Piersol reported that Pulte Homes has applied for a permit to construct a temporary sales trailer. Mr. Grochowski from Pulte Homes said he expected earthmoving activity to begin in the spring of 2006. According to Mr. Grochowski, State law allows the developer to begin to do this prior to receiving all necessary permits for final plan approval. Mr. Piersol will investigate this.

CMR Development Corporation – The Planning Commission is recommending the Board accept an extension to review this subdivision until April 30, 2006. Mr. Voltz made a motion to accept this extension. Vice-Chairman Fischer seconded the motion, with all voting Aye.

DeCovny Subdivision – The Planning Commission is recommending the Board accept an extension to review this subdivision until January 31, 2006. Vice-Chairman Fischer made a motion to accept this extension. Mr. Voltz seconded the motion, with all voting Aye.

Forge Hill Subdivision – The Planning Commission is recommending the Board accept an extension to review this subdivision until February 16, 2006. Mr. Voltz made a motion to accept this extension. Vice-Chairman Fischer seconded the motion, with all voting Aye.

**New Business: Verizon Franchise Agreement Discussion**

Mr. Lincoln Janus and Mr. Shuck attended the Board of Supervisors meeting to discuss negotiations between East Brandywine Township and Verizon that have taken place over the past several months in order for a Cable Franchise Agreement to be adopted between the two parties. This Agreement would allow Verizon to provide cable television service to residents throughout the Township. Township Solicitor Stacey Fuller and Kristin Yohannan, attorney for Verizon have been working on finalizing the Agreement, but there are three issues that are not resolved to date. These issues are:

1. Indemnification for challenges to the franchise agreement.
2. The process involved in termination of the Agreement, particularly with regard to fraud and bankruptcy issues.
3. Audit procedures. The Township is allowed to inspect Verizon's records with not less than 30 business day's notice. The agreement permits a formal audit to occur not more frequently than every three years. The Supervisors are concerned about the possibility of underpayment of franchise fees.

The Supervisors feel an obligation to ensure that the best interests of the Township and residents are represented in the Agreement. Mr. Janus wanted to make sure that Verizon is not at a competitive disadvantage with the other cable providers in the area. Currently, the only other cable television provider is Comcast.

Mr. Janus thanked the Supervisors and Mr. Piersol for the opportunity to discuss the outstanding issues related to the Franchise Agreement. It is Verizon's intention to offer a competitive choice to residents in the Township for cable television. Mr. Janus said it has been his experience that when competition is offered, prices decrease by 15% to 20%. Verizon offers basic cable service that includes 180 channels for \$39.95 a month. Mr. Janus expects cable television service to be available to East Brandywine Township residents by 2007.

After discussion, it was agreed that a meeting would be scheduled to try and resolve the outstanding issues. The meeting will be attended by Mr. Piersol, one of the Township Supervisors, Mrs. Fuller, Mr. Janus, and Ms. Yohannan. Mr. Piersol stated that, since this meeting would be necessary, adoption of the franchise agreement could not occur at the January 18, 2006 meeting. Consideration of this Franchise Agreement will occur once all issues are resolved.

**Old Business:           2006 Final Budget**

Revenues

Last month, Mr. Piersol reported on the receipts and expenditures anticipated for 2006, and that, due to the projected cost of the new municipal building, he recommended a ½ mill increase in the real estate millage to 2.0 mills. The Township accepted a second bond issue in the amount of \$3.915 million to pay the additional costs of the new building, which would necessitate a .41 mill tax increase. The primary reason for this recommendation for the additional 9/100ths of a mill is to build a capital reserve; a recommended target for a reserve fund is between 10 and 12% of annual estimated revenues. With this final budget, Mr. Piersol's recommendation remains for a 2.0 mill real estate tax for 2006.

In his preliminary presentation, Mr. Piersol had an error in the line item for the repayment schedule for the 2003 Bond issue. He showed this annual repayment to be \$539,795.00 to the General Fund; this amount is now correctly shown as \$276,175.00 in the final budget. \$20,107.50 is allocated to pay on the Community Park note, and the difference of \$256,487.50 is allocated to the dedicated earned income tax specifically enacted for the \$3 Million portion of the 2003 Bond issue.

Mr. Piersol also reviewed the increased tipping fee at the Lanchester Landfill and our hauler's second year contract fee, and is recommending the Board approve a \$20.00 increase in our Refuse and Recycling Fee to \$195.00. This increased amount will cover those costs, which are projected to be \$412,264.00. Our tax collector continues to work on recovering the delinquent refuse fees, which is also allocated for funding this service, with the goal of making it self-sufficient, along with the recycling performance grant we annually submit, which hopefully the State will continue to fund.

Revenues from all sources are projected to be \$3,490,407.50. These revenues are exclusive of proceeds from the 2005 bond issue, and the remaining funds from the 2003 bond issue.

Expenses

Public safety costs will remain nearly level in 2006, due largely to a correction in the allocation of the police budget with Wallace Township. Our share of the police budget next year will actually decrease by \$16,158.00. Legal and engineering fees for land development projects will continue as a significant expense in 2006 due to the amount of activity currently occurring and expected to begin next year. Developers reimburse the majority of these fees for engineering plan reviews. Health care costs will actually decrease approximately \$25,000 in 2006. The Road Department has three important projects which will be funded by the General Fund and the State Fund. Total expenses are projected to be \$3,311,556 net of the projected building project expenses to occur during 2006. We remain hopeful the construction project will be completed late in 2006.

### State Fund

#### Revenues

The State Fund Budget has remained unchanged since the preliminary presentation. An 8.5% increase in the State Liquid Fuels allocation is anticipated, which is the most significant increase in several years. The year-end State Fund balance is anticipated to be approximately \$200,000.00.

#### Expenses

Several projects are planned for 2006. The Crawford Road project will finally begin. This project will include drainage improvements, widening and repaving in the first phase. Also included in the 2006 road budget is widening of Hadfield Road from North Bailey to Zynn Road, and the overlay of the streets in the Echo Dell development. These costs are to be shared with the General Fund. Total projected expenses are \$176,350.00.

Chairman Kirkner asked if there were questions about the 2006 Budget. Mr. VanLew asked if the amount of trash collected versus the amount of recyclables has changed over the past few years. Mr. Piersol said that the amount of recyclable has decreased over the past several years, possibly because of how the hauler has reported recycling weights. There have been recent instances reported to the Township where the waste hauler hasn't picked cardboard up with the other paper recycling. Mr. Piersol will address this with the waste hauler since this affects revenues the Township receives from recycling grants and from Accurate Recycling, where the paper recycling is processed. It was suggested that another article be placed in the next Township Newsletter reminding residents that one way to keep trash and recycling fees reasonable is through recycling. The Township might also consider providing this information to residents with their refuse and recycling bills. Mr. Piersol will check with Berkheimer to see if that is possible.

Mr. Martin Weaver asked if the Township had ever considered using a bag system where residents would pay for the amount of trash bags used. Mr. Piersol said that he had investigated this in the past, but found it works better in an urban environment since there is extra administrative work that goes into managing such a program. Mr. John Carrigan said that the municipality where he last lived used the bag system (West Whiteland Township). Although initially he didn't like the system, he said that it encouraged residents to recycle so there were less trash bags to put out. At that municipality, it cost \$2.50 per trash bag. At that rate, it would still be less expensive to continue using the system we now have in place. Mr. Piersol stated that in comparing our trash costs to other municipalities in the area, East Brandywine Township's costs are approximately the same or lower.

Chairman Kirkner asked if there were other comments from the audience. There were none. Vice-Chairman made a motion to approve the 2006 Final Budget. Mr. Voltz seconded the motion, with all voting Aye.

**Additional Public Comments**

Chairman Kirkner asked if there were additional public comments.

**Adjournment**

There being no further business, Vice-Chairman Fischer made a motion to adjourn the meeting. Mr. Voltz seconded the motion, with all voting Aye. The meeting was adjourned at 8:55 P.M.

Respectfully submitted,

Mary Beth Smedley  
Secretary/Treasurer