

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
SPECIAL MEETING
Thursday, December 30, 2004**

Those in Attendance:

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

The East Brandywine Township Board of Supervisors meeting of Thursday, December 30, 2004 was called to order by Chairman Kirkner at 7:35 A.M. in McCausland Hall.

Public Comment for Non-Agenda Items

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

Discussion of Proposed Ordinances

Dr. Richard Whitaker, his wife Margaret Whitaker, and his sister-in-law Harriet Whitaker addressed the Board of Supervisors regarding the proposed steep slope amendment to Section 399-14 of the Zoning Ordinance. The Whitaker Family is concerned that the proposed amendment reducing the minimum slope requirement from 20% to 15% will have a considerable negative impact on their property. Mr. John Shelton, another property owner in East Brandywine Township also attended the meeting to voice his concerns regarding the proposed amendment.

Ms. Sheila Fleming from Brandywine Conservancy was invited to attend the meeting to discuss how the Conservancy should be able to do a review of the slope issues as part of their revised proposal to review the Whitaker property as approved by the Board of Supervisors. Mr. Conrad was asked to attend to provide some guidance on the slope issue relative to their specific property.

Dr. Whitaker thanked the Board of Supervisors for allowing his family to comment on the steep slope amendment. He provided some history on the property, stating it has been a working farm since the 1700's. In recent year the Whitakers have had discussions with different developers and the East Brandywine Township Open Space Committee regarding either developing the property or placing part of the property in conservation easements. It is Dr. Whitaker's position that the proposed amendment will have a significant financial impact on the farm. Mrs. Whitaker stated they were not notified of the ordinance amendment and considered the steep slope ordinance a significant land use change. The Whitakers have been asked by the Open Space Committee not to make a commitment to any developer until at least March when they expect to have a concept plan from the Brandywine Conservancy.

Vice-Chairman Fischer explained that the amendment is part of a proposed series of minor adjustments suggested by the Ordinance Task Force over a year ago. The Amendments have been reviewed by the Planning Commission and Board of Supervisors prior to this meeting. The

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amendment is not targeted towards a specific parcel of land; rather it is part of the Township overall plan to protect environmentally sensitive areas.

Dr. Whitaker was concerned that a change in the Steep Slope Conservation District might limit access to his property from Rt. 282. Vice-Chairman Fischer asked if there was access to the property from East Buck Road. There is access, but only one access to the property could still limit the development of the top portion of the property.

The Ordinance Task Force is constantly reviewing Township Ordinances. The Ordinances that are being considered at this meeting have been completed under the County's Vision Partnership Program. Once the items are completed, the Township is eligible to be reimbursed for a percentage of the costs. The Board expressed concern that if this Ordinance was not enacted the Township may not be eligible for some of the expected reimbursement. Mr. Shelton suggested that work on this Ordinance might still be reimbursed from the County even if we don't enact it. It was explained that each Ordinance is assigned a value by the County. Generally, if an item isn't completed, the municipality will not get paid for that work element.

Mr. Shelton stated that the property he owns along Dowlin Forge Road and Creek Road will be severely impacted by this Ordinance change. He stated that it could mean the difference between being able to develop 13 lots vs. only 6 lots. He suggested that the Township might consider changing the formula use to calculate net tract area so that density on parcels with steep slopes is not affected. Vice-Chairman Fischer stated that had been addressed when the Township passed regulations for clustered residential development in 2002. Mr. Shelton asked that the Ordinance not be enacted today.

Ms. Fleming said that Brandywine Conservancy has proposed to develop a conceptual plan for development of the Whitaker property. She stated there are creative ways to do this that would allow for a clustered residential development along the back of the property and offer the financial and tax benefits of conservation easements.

Mr. Piersol stated the United States Geological Survey (USGS) maps currently designate steep slopes as those slopes of 15% or greater. He also stated that many municipalities currently use 15% as the lower limit for their steep slope designations. Mr. Conrad stated that a detailed plan of the property would need to be studied before any determination could be made on density. Looking at the USGS map he stated there were slopes of 25% in the area of Dowlin Forge and slopes of approximately 11% near the McQueen property.

Chairman Kirkner asked if there were any public comments on any of the other Ordinances to be considered for adoption today. Dr. Whitaker asked for clarification of Ordinance 04-16 pertaining to the Floodplain District. Vice-Chairman Chairman Fischer stated that in a boundary dispute of the Floodplain District the burden of proof, as demonstrated by clear and convincing evidence, shall be on the appellant.

Ordinance 04-05 – § 350-8 Terms and Definitions § 399-9 various revisions and additions

Mr. Voltz made a motion to adopt Ordinance 04-05. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Ordinance 04-06 - § 350-11 Sketch Plans

Ordinance 04-07 - § 350-50 Trails, with various references throughout the Subdivision Ordinance

Ordinance 04-08 - § 350-30-39 & 350-44 Street System

Ordinance 04-09 - § 350-40 Driveways

Ordinance 04-10 - § 350-43 Sidewalks & Paths

Ordinance 04-11 - § 350-47 Sewage Treatment & Disposal

Ordinance 04-12 - § 350-48 Water Supply

Ordinance 04-13 - § 350-18, 350-58 & 350-64 Dedication & Bonding of Site Improvements

Ordinance 04-14 - Create an Appendix within the Subdivision Ordinance for various construction details

Mr. Voltz made a motion to adopt the above Ordinances. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Ordinance 04-16 - § 399-13 Floodplain District

Ordinance 04-18 - § 399-15 Water Hazard Soils & Wetlands

Ordinance 04-19 - § 399-25-B-1 Minimum Tract Area for Cluster Development in the R-1 & R-2 Districts

Ordinance 04-20 - § 399-58-C-5 Common Open Space Standards

Ordinance 04-21 - § 399-93 Home Occupation Standards

Ordinance 04-22 - § 399-102.1 Forestry & Logging Standards

Ordinance 04-23 - § 399-107 Handicap Parking Standards

Mr. Voltz made a motion to adopt the above Ordinances. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Ordinance 04-17 - § 399-14 Steep Slope Conservation District

Mr. Voltz made a motion to table consideration of the above Ordinance pending further study. Vice-Chairman Fischer seconded the motion, with all voting Aye.

The Whitaker family and Mr. Shelton will be notified if this Ordinance is reconsidered at a later date.

Dr. Whitaker and Mr. Shelton thanked the Board for their consideration.

Ordinance 04-04 – Assessing the cost of fire protection on all properties within 780 feet of a fire hydrant.

Chairman Kirkner asked if there were comments from the audience. There were none. Vice-Chairman Fischer made a motion to adopt the above Ordinance. Mr. Voltz seconded the motion, with all voting Aye.

Conservation Planning Proposal for the Whitaker Tract

Mr. Piersol stated that the original proposal provided by the Brandywine Conservancy has been slightly modified. The total cost is estimated to be between \$8,800 - \$12,800. Brandywine Conservancy has offered the Township a \$5,000 grant to help defray these costs. Ms. Fleming stated that the Conservancy could provide a concept plan within 30 days. Vice-Chairman Fischer made a motion to approve the December 15, 2004 proposal. Mr. Voltz seconded the motion, with all voting Aye.

Request by Historic Commission to certify the Guthriesville Historic District

Mr. Piersol reported that the Historic Commission is recommending the Board of Supervisors approve continuing the process of designating Guthriesville as a certified Historic District. The major consequence of this is that Class II Historic Resources would become Class I Historic Resources. Also, requests for building permits for rehabilitation, enlargements or alterations would need to meet higher standards. The Board asked Mr. Piersol to contact Robert Wise from Robert Wise Consulting to determine the pros and cons of certifying the area as a Historic District. Mr. Voltz wanted to ensure that certifying the District would not negatively impact work already started by the Traffic Impact Committee under Act 209.

The Historic Commission has also raised issues regarding applications for demolition permits in a Historic District. These issues will be addressed by the Ordinance Task Force.

Final 2005 Budget

General Fund Revenues

Tax revenues are expected to continue to increase during 2005, due to the influx of new home construction that is expected to continue next year, and for several years. We have several sizeable development projects which are in various stages of review, and will keep the face of the Township changing well into the future. Earlier in December, the County Commissioners formally announced the Township was successful with its three Vision Partnership grants for a park construction project and two land acquisitions; a fourth grant in partnership with the Natural Lands Trust was for our first open space acquisitions which settled two weeks ago. We will have significant grant revenues in 2005 from open space acquisitions and the possible start of construction in Phase III of our Community Park. Due to the revisions of the municipal building project, it is likely that additional funding will be sought once we have a better handle on the final project cost.

During the budget review, the Supervisors agreed to have the millage rate remain at 1.5 mills. Due to a significant increase in the cost of curbside trash & recycling collection, the Supervisors approved a \$50 increase in the annual refuse fee to \$175.00, still less costly than many Chester County municipalities. With the projected recycling performance grant income, the anticipated \$400,000.00 cost for our trash and recycling programs should be fully covered. Revenues from all sources are projected to be \$4,854,300.00, with an anticipated year-end General Fund balance of \$417,000.00, an increase of \$143,000 from the anticipated year-end balance reported

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during the preliminary budget presentation. We did realize the proceeds from the sale of the Moore home last week, which is slated for the municipal building project.

General Fund Expenses

Public safety costs will increase by 10.89% overall, or \$147,464.00. This is partially due to a shift in cost allocation from Wallace Township due to the work done by the Police Department in East Brandywine Township. Legal and engineering fees for land development projects will continue as a significant expense in 2005. Developers reimburse the Township for its engineer's plan reviews fees. It appears that developers will also be required to reimburse for legal review fees, which were previously excluded by the laws. The Buck Road bridge replacement will hopefully occur in 2005, pending final approval from the State, with a projected cost of \$165,000.00. Total expenses are projected to be \$3,422,999 net of the portion of projected building project expenses expected to occur during 2005. We would anticipate our construction project would not be completed until mid-year 2006; the Supervisors have approved the contract for re-design of the municipal building and site; the initial meeting for our new project occurs early next week.

State Fund Revenues

The income and expenses for the State Fund remain unchanged from the Preliminary Budget Report. A 2.9% increase in the State Liquid Fuels allocation is anticipated, unless the Legislators increase the Gas Tax and share additional liquid fuels monies with the local municipalities, which is still an issue being discussed. We have been requesting restoring a 25% share of this tax for many years, since a majority of the roads are owned and maintained by local government, yet the funding to maintain the roads through this annual allocation is never sufficient to cover those costs. The Year-End 2004 State Fund balance is anticipated to be \$160,000.00.

State Fund Expenses

Several projects are planned for 2005. The Crawford Road project, to include drainage improvements, widening and repaving, and widening of North Buck Road are both planned to be completed in 2005. Engineering costs for the Buck Road Bridge will be paid from the State Fund. Plans are being made to widen the portion of Hadfield Road from North Bailey to Zynn Road, and milling and overlay of the development streets in the Echo Dell development for the fiscal year 2006.

Vice-Chairman Fischer made a motion to approve the 2005 Budget. Mr. Voltz seconded the motion, with all voting Aye.

Brantwyn Drive/Waring Drive Traffic Study

Chief Kocsi discussed the results from the recent traffic study recently conducted by the Brandywine Regional Police Department. He stated that the 85th and 95th percentile speed of the vehicles counted was 24 mph or less. That means that less than 5% of the vehicles counted were traveling at speeds over 25 mph, which is the posted speed limit. It is Chief Kocsi's recommendation that the speed limit be posted on Brantwyn Drive be posted at 30 mph. The speed limit on Waring Drive is currently posted at 25 mph, and will remain at that posted speed. Vice-Chairman Fischer made a motion to advertise the posting of Brantwyn Drive at 30 mph as a revision to Amendment 80-1. Mr. Voltz seconded the motion, with all voting Aye.

Additional Public Comment

Chairman Kirkner asked if there were additional public comments. There were none.

Adjournment

There being no further business, Mr. Voltz made a motion to adjourn the meeting. Vice-Chairman Fischer seconded the motion, with all voting Aye. The meeting was adjourned at 9:00 A.M.

Respectfully submitted,

Mary Beth Smedley
Secretary/Treasurer