

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
REGULAR SESSION
Wednesday, October 19, 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
Mary Beth Smedley, Secretary/Treasurer

The East Brandywine Township Board of Supervisors meeting of Wednesday, October 19, 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.

NOTICES

1. The Chester County Board of Elections is changing the polling place location in the East Brandywine North 2nd Precinct.

From: East Brandywine Township Bldg.
1214 Horseshoe Pike

To: Culbertson Run Development Clubhouse
200 Hedgerow Drive

2. 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 – September 21, 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 September 21, 2005 minutes as presented. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Minutes: Board of Supervisors – October 6, 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 October 6, 2005 minutes, as presented. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Minutes: Planning Commission Minutes – October 5, 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 – September 13, 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 – October 11, 2005

The October 11, 2005 minutes will be available for review at the November 16th Board of Supervisors meeting.

Treasurer's Report

Vice-Chairman Fischer made a motion to approve the Treasurer's Report for the period ending October 19, 2005, and authorize payment of the bills. Mr. Voltz seconded the motion. Vice-Chairman Fischer and Mr. Voltz voted Aye. Chairman Kirkner recused himself from voting on check #9149, a medical reimbursement check. Mr. Voltz made a motion to authorize payment of check #9149. Vice-Chairman Fischer seconded the motion, with both voting Aye.

Report: Township Manager – Report for September/October 2005

Work is progressing on our new municipal building. The heavy rains caused us to lose all of last week for site work. The site did fair well in those heavy rains on October 7th & 8th, and no mud or concentrated storm water left the site, which indicates our storm water management plan worked well. Despite all the rainfall, we had some complaints today of dust from the earthmoving on the site, which we are addressing. We have had some problems with rock in our public works area, and in the area of the stormwater basin. These items are unplanned costs, which we do not believe will be significant.

We hope to see construction of the public works area beginning the middle of next week, which we want to complete prior to the onset of the winter months, to allow us to house our maintenance vehicles and road salt out of the elements.

Mr. Piersol showed various artists' renderings of the Horseshoe Pike building face, and the rear of the municipal building, which faces East Reeceville Road. We are pleased with how this building design has evolved, and look forward to its completion, hopefully in the fall of 2006.

During their Work Session on October 6th, Michael Wolf of Boenning & Scattergood, Inc., who is our bond agent, provided three options for the Supervisors' review on financing the additional cost of the municipal building. After review and discussion, the Supervisors elected to borrow \$3.9 Million on a 2005 Bond issue, with a projected initial interest rate of 2.90% for a 20 year term. This amount will cover the shortfall for the building construction, outfitting with furniture, the telephone and security systems, and \$200,000 toward our match for the construction of Phases III and IV of our Community Park.

The majority of the principal of this bond issue will be payable beginning in 2024, once the 2003 Bond issue payments are completed. This back-end principal payment schedule does increase the average interest cost over the term of the bond, but helps to spread the payment load over a period to allow the many new residents who will be moving into our community to share in the repayment of this debt, since they too will have the advantage of the new municipal building. This procedure is done frequently by school districts for their on-going projects, which helps to maintain a level payment schedule. The projected tax impact for this borrowing is .41 mills. Mr. Piersol is preparing our 2006 Budget draft at this time for public presentation at the November 16th Supervisors' meeting, and the Supervisors will decide at that time what the final tax increase will be for 2006.

The construction at our municipal complex caused one minor problem. McCausland Hall is the voting location for those residents in our North 2 Voting Precinct. The new polling place for those residents will be the Clubhouse at the Hedgerow/Culbertson Run development, off Hawthorne Drive. We have added this information, including an aerial map, to our website, and on the front page of our fall newsletter, which will be mailed the latter part of next week, to advise residents of this polling place change. This change will remain effective until our new municipal building is completed, and will likely cover the May and November 2006 elections. Vice-Chairman Fischer asked that a sign be placed at the municipal complex driveway on Election Day directing residents to the Culbertson Run Development Clubhouse.

Our Ordinance Task Force is hoping to mail a resident survey in November, as part of our review and update of our Comprehensive Plan and our Open Space and Recreation Plan. We are encouraging our residents to take time to complete and return the questionnaires. The results will be tabulated and published in a future newsletter, and on our web site. We are asking our residents to provide input for planning for the future of their community. The Supervisors asked to see a copy of the survey before it is sent to residents.

Later this evening, the Supervisors will consider adoption of two amendments to our Mobile Home Park and Zoning Ordinances. We recently received comments from the County Planning Commission, suggesting a few minor changes to these proposed amendments. We agreed with most of the suggestions, and submitted these to our Solicitor for review and approval prior to making the changes to the amendments. We were advised that a recent Commonwealth Court decision will now require municipalities to submit all proposed zoning changes, even minor revisions which were recommended by the County Planning Commission, to the Planning

Commission for review. Otherwise, the zoning change could be ruled invalid. We decided that, rather than wait another 45 days to submit these minor changes to the County for review, we would hold the changes for a future date, when other zoning amendments will be advertised for consideration.

Representatives of Verizon met with Township Solicitors John Halsted and Stacey Fuller and Mr. Piersol on Tuesday morning to discuss a franchise agreement with Verizon, which is required to permit them to provide cable television service in our community. They reviewed their proposed agreement, in comparison to our present agreement with Comcast, which was approved in July of 1996. Our Solicitors have requested some changes to their draft agreement, which will be returned for our further review early in November. Verizon is anxious to have some of these agreements approved, so they can begin to decide where they will initially allocate funds for deployment of their new cable television services.

Verizon has indicated that the electronics necessary to provide Internet service is available in our community now; the equipment for cable television service is anticipated to be available here in the latter part of 2006. This will bring competition to the marketplace, where, at least in our area, there has been no competition. Competition should control price increases, since the vendors will look at how to get a return on their infrastructure investment. The Township is not favoring one vendor over another; this will give the consumer a choice which they did not previously have for cable television, Internet and voice services, as Comcast is also entering the telecommunications industry. Verizon will likely provide cable television and Internet services in some areas with lesser population not presently served by Comcast, where Verizon is currently providing telephone services. This will also give persons who are using satellite dishes to receive cable channels a choice. Vice-Chairman Fischer asked if our Comcast agreement provided for public access channels. These channels would not only be beneficial for the East Brandywine Township and other municipalities, but might also be used by the school district.

Chairman Kirkner and Mr. Piersol attended a very informative seminar on Working with Your Volunteer Fire Company October 6th, along with Kevin Shaffer and Bob Zynn from the East Brandywine Fire Company. The presenter provided a great deal of information in a short time period, and stressed the need for municipalities and the volunteer emergency service agencies to look at new ways to form partnerships, which ultimately benefit everyone, particularly those in our community. This information has been shared with West Brandywine and Wallace Townships, and we hope to explore ways to share resources on a regional level, to help control the cost of this necessary service, being provided by our volunteers.

Report: Building Inspector/Zoning Officer – Report for September 2005

Mr. Piersol read the Building Inspector/Zoning Officer's Report for September 2005. There were nine building permits issued, nine use and occupancy permits issued, and thirty-eight inspections conducted during the month. The total fees collected were \$10,132.50.

Report: Brandywine Regional Police Commission

At the September 26, 2005 meeting, Chief Kocsi presented the 2006 preliminary budget and allocation chart to the Commission. The Commissioners will present the budget to their respective Boards and report back to the Commission.

Based on the most recent Brandywine Regional Police Commission actuary report, the officer's mandatory contribution will increase to 3% of their annual salary, effective January 1, 2006.

The Brandywine Regional Police approved the 2006 budget at their October 10, 2005 meeting. East Brandywine Township portion of the budget will decrease by \$16,000 for 2006.

As the new municipal complex is being built, a lease agreement will need to be executed with the Brandywine Regional Police and these costs will be incorporated into their budget.

Report: Police Chief - Police Activity Report for September 2005

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

Investigations	153
Traffic Citations	213
Traffic Warnings	41
Traffic Accidents	6
Criminal Arrests	1
Summary Arrests	4

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

Burglary/Criminal Trespass	3
All Assaults	1
Theft/Fraud	7
Disorderly Conduct/ Harassment	2
Disturbances	6
Suspicious Activity/ Persons	14
Domestics	7
Criminal Mischief	9
Missing Persons/ Runaways	0
Driving Under the Influence	1
Fugitive Warrants	2

Chief Kocsi said there would be extra police patrols on Mischief Night and Halloween. Police Officers will have a surprise for trick or treaters this year. Children should look for patrol cars as they cruise through neighborhoods.

Report: Fire Company's Activity Report for September 2005

Mr. Piersol read the Activity Report for the month of September 2005, as submitted by Fire Chief James Witmer. In August there were sixty-three total incidents. In East Brandywine

Township there were nine fire calls and twelve QRS calls. In West Brandywine Township there were thirteen fire calls and twenty-one QRS calls. Estimated fire damage was \$150,000.

Mr. Piersol reported that last week fire prevention activities were held in various elementary schools, nursery schools and at Freedom Village. In addition, their annual Fire Prevention Open House was held at the Fire House, which was very successful and well attended.

Subdivision: DeCovny Subdivision

The Planning Commission is recommending the Board of Supervisors accept an extension to review this subdivision plan until December 31, 2005. Vice-Chairman Fischer made a motion to accept the extension until December 31, 2005. Mr. Voltz seconded the motion, with all voting Aye.

Subdivision: AWI Croppers

The Planning Commission is recommending the Board of Supervisors accept an extension to review this subdivision plan until December 31, 2005. Unless the applicant can come to an agreement with the adjacent property owner by December 31st, they have agreed to withdraw the plan. Vice-Chairman Fischer made a motion to accept the extension until December 31, 2005. Mr. Voltz seconded the motion, with all voting Aye.

Lyndell Pointe Subdivision

The plans depict a proposed 26-lot subdivision of an existing 52.86 acre tract located east of Corner Ketch Road and north of Waring Drive. The site is zoned R-2 and is being developed under the Cluster Development Option with a minimum lot size of 30,000 square feet. The plans indicate that each lot is to be served by on-site sewer and public water.

The Planning Commission is recommending that the Board of Supervisors grant final plan approval for this subdivision with the following conditions:

1. Yerkes Associates will perform a final review of Applied Environmental Management's letter of September 6, 2005 and compare it to their April 21, 2005 recommendations regarding remediation.
2. The applicant will comply with the items outlined in the April 21, 2005 Yerkes review letter.
3. One grab sample should be collected for every 500 cubic yards of material, rather than the 1,000 cubic yards outlined in AEM's September 6, 2005 letter.
4. Metal testing will be performed on-site
5. The geotextile material will extend 15 feet beyond the area of concern
6. In lieu of capping the site as outlined in the Yerkes April 21, 2005 letter, the applicant proposes to cap the site as outlined in AEM's letter September 6, 2005 and will provide environmental insurance for a period of 10 years.
7. The applicant pays \$50,000 fee-in-lieu of open space
8. Traffic Impact fees are off-set by the agreed upon improvements to Corner Ketch Road.

Mr. Townes said that the plan shows a 12 foot wide cartway with a dedicated 50 foot right of way that will be built to Township specifications as an emergency access road from the Lyndell Point Subdivision to the Keats Glen Subdivision. The Township will have the ability to widen this road if it is determined that it should be made a thru-street sometime in the future. A sign will be placed on the Lyndell Pointe side of the access that states it is for emergency vehicles and Lot 1 only – do not enter. The Keats Glen side will have a sign that states it is for emergency vehicles only – do not enter.

In lieu of providing environmental insurance Mr. Townes is proposing the following remediation measures. These measures have been reviewed and approved by Messrs. Corbin, Rawlings and Cushman on behalf of the Planning Commission, and Township Engineer Al Giannantonio.

1. With regard to erosion and sediment control, appropriate measures, including silt fence and hay bales will be utilized to control runoff from the disturbed areas within the identified Area of concern. Southdown will provide five days written notice to the Township prior to earth disturbance within the Area of concern.
2. The consolidated area will be covered with two feet of soil meeting the requirements of 25 PA Code 273.234(d) and (e). This initial two foot layer will be placed in eight inch lifts and compacted to 95% dry density of modified proctor.

To assure that the soils do not contain unacceptable contamination, one grab sample will be collected for every 500 cubic yards of material to be utilized for the initial two foot cover (estimated at 3,200 cubic yards). These samples will be submitted for analysis of volatile, semi-volatile organic compounds by USEPA method 8260B and RCRA metals by SW 846. Analysis will be compared to the PADEP's Clean Fill Concentration Limits for Organics and Inorganics.

3. A geogrid or geonet will be placed over the remedial area and extend at least 15 feet beyond that area on all sides.
4. Southdown agrees that the maximum slope for the crown of the fill area will be 3% to promote proper drainage. Side slopes will not exceed 33%.
5. Applied Environmental Management, Inc. (AEM) proposed that a 6-inch layer of topsoil (30 inch total cap) be screened to remove objects greater than 2 inches, and will fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam as defined by the Soil Survey Manual, per PADEP's landfill cover specifications. The topsoil will be seeded, fertilized and limed as requested.
6. Southdown agrees with the final survey and documentation requirements. Four concrete monuments will be placed, one at each corner of the Area of concern.
7. Southdown agrees with the maintenance requirements as stated.

8. The appropriate notice will be placed in the deed in accordance with PADEP's Act 2 policy for Site Specific Standards.
9. The Homeowners Association language will reflect the deed restriction and obligations to mow and maintain the area to prevent erosion, control the growth of deep-rooted vegetation and insurance that there is not disturbance of vegetative cover.

Vice-Chairman Fischer made a motion to grant final plan approval for the Lyndell Pointe Subdivision with the following conditions:

1. Yerkes Associates will perform a final review of Applied Environmental Management's letter of September 6, 2005 and compare it to their April 21, 2005 recommendations regarding remediation.
2. The applicant will comply with the items outlined in the April 21, 2005 Yerkes review letter.
3. One grab sample should be collected for every 500 cubic yards of material, rather than the 1,000 cubic yards outlined in AEM's September 6, 2005 letter.
4. Metal testing will be performed on-site
5. The geotextile material will extend 15 feet beyond the area of concern
6. The applicant pays \$50,000 fee-in-lieu of open space
7. Traffic Impact fees are off-set by the agreed upon improvements to Corner Ketch Road.
8. The applicant will follow the revised remediation plan as outlined above.

Mr. Voltz seconded the motion, with all voting Aye. The Supervisors commended Mr. Corbin for his work in brokering this remediation plan for the site.

Ordinances

Ordinance No. 3 of 2005 – An Ordinance of East Brandywine Township Amending Various Provisions of the Land Use Code of the Township of East Brandywine, Chapter 325, Mobile Home Parks, Concerning Off-Street Parking Spaces and Common Open Space

Ordinance No 4 of 2005 – Amending Various Provisions of the Land Use Code of the Township of East Brandywine, Chapter 399, Zoning, As Previously Amended

These amendments clarify the definition of Building Setback line, add definitions and specific sections on Day Care as a special exception in the Mixed Use and Village Commercial Districts, address vehicle towing issues, define Place of Religious Worship, expand on the regulations for keeping of animals, define various types of continuing care facilities and provide standards for these types of facilities, and make changes to definitions of Clear Cutting, Tract, Demolition, Common Open Space and Historic Structure or Site. There is also a proposal to modify the off-street parking standards in the Mobile Home Park Ordinance, and increase the parking space size to 10 feet x 20 feet (from 9 x 18).

Mr. Voltz asked if there were comments from the Audience regarding Ordinance No. 3 of 2005. There were no comments. Vice-Chairman Fischer made a motion to adopt Ordinance No. 3 of 2005. Mr. Voltz seconded the motion, with all voting aye.

Mr. Voltz asked if there were comments from the audience regarding Ordinance No. 4 of 2005. There were no comments. Vice-Chairman Fischer made a motion to adopt Ordinance No. 4 of 2005. Mr. Voltz seconded the motion, with all voting aye.

New Business

The Internal Revenue Service has increased the standard business mileage rate from 40.5 cents per mile to 48.5 cents per mile. Township Supervisors may authorize this increase by motion at a public meeting. Mr. Voltz made a motion to increase the standard business mileage rate from 40.5 to 48.5 cents per mile for the remainder of 2005. Vice-Chairman Fischer seconded the motion, with all voting Aye.

Additional Public Comments

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

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 8:30 P.M.

Respectfully submitted,

Mary Beth Smedley
Secretary/Treasurer