

EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
REGULAR SESSION (REMOTE)
October 15, 2020

Those in Attendance:

Jason R. Winters, Chairman
George W. Scherbak, Vice-Chairman
Kyle P. Scribner, Member
Scott T. Piersol, Township Manager
Luke D. Reven, Assistant Township Manager
Mark Kocsi, Chief of Police
Marc D. Jonas, Township Solicitor
Zachary A. Sivertsen, Township Solicitor
Lisa Valaitis, Township Secretary

The East Brandywine Township Board of Supervisors meeting of Thursday, October 15, 2020 was held via teleconferencing. The meeting was held in this manner due to the current State and Federal regulations in place during the Coronavirus COVID-19 pandemic for the purpose of protecting the health and safety of Township Officials and residents.

Opening of Meeting – Instructions for Public Participation

Assistant Manager Reven, serving as the online meeting moderator, opened the meeting at 6:30 p.m. by announcing that this evening's meeting was being audio and video recorded. He noted that the meeting would be rebroadcast on the Township's YouTube channel. Assistant Manager Reven reported that a Public Notice of this meeting was advertised on the Township's website on September 1, 2020 consistent with Act 15 of 2020. The agenda for tonight's meeting was also posted on the Township's website (www.ebrandywine.org/AgendaCenter) prior to the meeting and appeared on viewers' screens during the meeting. The Public Notice provided instructions on how to submit questions through email to the Board in advance of the meeting. Assistant Manager Reven noted that the Board of Supervisors, Manager, and himself were present at the meeting. Assistant Manager Reven explained how the remote meeting worked and how the public would be able to participate in the meeting. Assistant Manager Reven turned the meeting over to Chairman Winters who called the meeting to order.

Public Comment on Non-Agenda Items

Chairman Winters reminded those in attendance of Resolution 2001-08, Rules for Conduct at Public Meetings, stating, "The time allotted to each individual making comments shall be three minutes, unless otherwise set by the presiding officer under 4c. Additional public comment may be granted by the presiding officer at the conclusion of the meeting."

Mr. Bruce Rawlings, 566 Reeds Road, discussed the Board of Supervisors Special meeting, which was held on Saturday, October 10, 2020 at 1:00 p.m. He noted that the meeting advertisement was posted on the Township's website on Friday, October 9, 2020. Mr. Rawlings reported at the October 10 Special meeting, the Board of Supervisors appointed Attorney Bruce Clarke as special solicitor to handle the Carlino litigation. Attorney Clarke charges a rate of \$275 per hour. Mr. Rawlings asked Supervisor Scribner if he had a chance to be part of the special solicitor selection process since he was not present at the Special meeting. Mr.

Rawlings also asked if newly appointed Township Solicitor Marc Jonas could handle the Carlino litigation or if the Township needed to hire a second attorney. Supervisor Scribner noted that the Special meeting on October 10 was originally scheduled for 10 a.m. and he could attend at that time. Chairman Winters commented that the Special meeting time was changed to 1 p.m. to comply with the requirement that public meetings be advertised 24 hours in advance. Supervisor Scribner reported that he could not attend the Special meeting at 1 p.m. Chairman Winters explained that due to the history of the Carlino litigation, and to prevent distractions from other Township business, it was recommended that the Board of Supervisors hire a separate solicitor to handle the Carlino litigation. Supervisor Scribner reported that he was informed about the Special meeting the afternoon before the meeting. Mr. Rawlings asked Supervisor Scribner if he had a say in who was being appointed as special counsel? Supervisor Scribner reported that an Executive Session occurred prior to the October 10 Special meeting and he provided his input to Chairman Winters and Vice-Chairman Scherbak.

Mr. Rawlings asked if progress had been made regarding the Township's Traffic Impact Committee. He commented that the Traffic Impact Committee needs to start meeting because the Planning Commission is addressing the McCausland Plank Farm sketch plan and one proposed sketch plan includes the Reeceville Extension. Chairman Winters commented that the Traffic Impact Committee is an important part of the subdivision and land development process and is required to be part of this process according to the Township Code. Supervisor Scribner asked Manager Piersol what the quorum requirement is for the Traffic Impact Committee. Manager Piersol reported that five members must attend a meeting to meet the required quorum. He noted that he has not been able to schedule a meeting that met quorum. Manager Piersol reported that he is working on scheduling a Traffic Impact Committee meeting before Thanksgiving. Supervisor Scribner asked if Supervisors are voting members of the Traffic Impact Committee and would be counted towards the required quorum. Manager Piersol commented that the Board of Supervisors are voting members on this Committee and count towards meeting quorum. In response to Manager Piersol's comment, Supervisor Scribner noted that he could attend future Traffic Impact Committee meetings. Mr. Rawlings expressed an interest in joining the Traffic Impact Committee and he will submit a volunteer application to the Township. Chairman Winters also requested that staff advertise openings on the Traffic Impact Committee on the Township's website.

Minutes and Reports

At the July 16, 2020 Board of Supervisors meeting, the Board instituted the procedure of grouping the routine staff reports together to be approved as a consent agenda item. The reports for the October 15, 2020 Board of Supervisors meeting, which were posted with the meeting agenda on the Township website at ebrandywine.org/AgendaCenter, are as follows:

- 1. September 17, 2020 Board of Supervisors Meeting Minutes**
- 2. October 1, 2020 Board of Supervisors Meeting Minutes**
- 3. September 2, 2020 Planning Commission Meeting Minutes**

Vice-Chairman Scherbak made a motion to approve the September 17, 2020 Board of Supervisors meeting minutes, the October 1, 2020 Board of Supervisors meeting minutes, and the September 2,

Old Business

Amendments to Chapter 300, Definitions, Chapter 399, Zoning, Forestry/Timber Harvest, § 399-102.1, § 399-13 Flood Hazard District, § 399-13

Manager Piersol reported that the ordinance amendments to Chapter 300, Definitions, Chapter 399, Zoning, Forestry/Timber Harvest, § 399-102.1, § 399-13 Flood Hazard District, § 399-13 were made due to a complaint filed by a forester working on the Whitaker Tract on Creek Road. Manager Piersol reported that the existing language in the Township's Forestry/Timber Harvest Zoning Ordinance was found to be in violation of the ACRE Law which is designed to protect agricultural operations. The Ordinance Task Force, with the assistance of the Brandywine Conservancy, previous Township Solicitor Kristin Camp, and Deputy Attorney General Robert Willig, have worked for over three years on this Ordinance. Manager Piersol reported that he is waiting for Deputy Attorney General Willig to review this latest version of the ordinance in which the amendments mimic the Brandywine Conservancy's language. Manager Piersol requested that the Board of Supervisors approve the advertisement of this Ordinance amendment. When Deputy Attorney General Willig approves the language, the Township will be able to move forward with adopting the amended Ordinance. Manager Piersol also noted that the Ordinance amendments were reviewed by the Chester County Planning Commission and the only comment was for East Brandywine Township to ensure that the Ordinance amendment complied with the ACRE Law regulations.

Vice-Chairman Scherbak made a motion to advertise the amendments to Chapter 300, Definitions, Chapter 399, Zoning, Forestry/Timber Harvest, § 399-102.1, § 399-13 Flood Hazard District, § 399-13. Supervisor Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

New Business

Authorize Advertisement of Block Party Amendment to Chapter 105 – Public Assemblies

Manager Piersol presented the Block Party Ordinance amendment to Chapter 105 – Public Assemblies, which the Ordinance Task Force drafted. He noted that this amendment does not need to be submitted to the Chester County Planning Commission for an Act 247 Review. The Ordinance Task Force reviewed the existing Ordinance when the Township received a request from a resident for permission to hold a block party on a street in Hideaway Farms. That street has not been dedicated to the Township as of this time. The Ordinance Task Force looked at the Township's current large gathering ordinance, and the Ordinance was overkill for what was being proposed. Consequently, the Ordinance Task Force developed the presented language to be inserted into the Large Gathering Section of the Township Code in Chapter 105. Manager Piersol asked the Board of Supervisors to approve advertisement of the Ordinance amendment presented. If the Board approves advertising, then the Ordinance amendment would be considered by the Board of Supervisors for approval at the November 19, 2020 Board of Supervisors meeting. Manager Piersol also noted that this Ordinance amendment was recommended by both the Ordinance Task Force and the Planning Commission.

Vice-Chairman Scherbak made a motion to authorize the advertisement the Block Party Amendment to Chapter 105 – Public Assemblies. Supervisor Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Comments on Uwchlan Township’s Comprehensive Plan Update

Manager Piersol reported that he circulated Uwchlan Township’s proposed Comprehensive Plan for review to the Ordinance Task Force, the Planning Commission, and the Board of Supervisors. He requested that comments be returned to him before the October 21, 2020 Ordinance Task Force meeting. Manager Piersol noted that he has reviewed the document and it is well-done and includes wise content. Manager Piersol reported that this document may serve as a guidance document for updating East Brandywine Township’s Comprehensive Plan. Manager Piersol also reported that the Township will be informed about the Vision Partnership Program Grant award on November 10, 2020.

2020 Police Vehicle Purchase

Police Chief Kocsi addressed the Board of Supervisors regarding the possibility of purchasing two police vehicles. Chief Kocsi explained that the Police Department has a vehicle rotation program under which they typically replace vehicles when they reach 100,000 miles. According to this schedule, the Police Department was due to replace two vehicles this year. However, they did not purchase any vehicles this year due to budget uncertainty. Chief Kocsi indicated that he and Budget Committee Chairman Ader reviewed the 2020 budget and what is left in the Police Department Capital Reserve account and discussed options. It was their collective opinion that pushing the two 2020 vehicle purchases into the 2021 budget and having to replace four vehicles in one year was not the best course of action. There are enough funds this year to purchase two vehicles. The cost estimate for purchasing two vehicles, accounting for the trade-in value of two vehicles and outfitting, is \$60,000 to \$61,000. Chief Kocsi noted that there is \$90,000 available in the Police Capital Reserve account. Additionally, the Police Department is 19% under budget for the year. Budget Committee Chairman Ader reported that he reviewed the vehicle schedule with Chief Kocsi, and they forecasted out useful life of each vehicle based on mileage and age of the vehicle. He also presented several possible scenario options such as buying one vehicle this year and three next year. The goal was to try to avoid purchasing four police vehicles in 2021. Budget Committee Chairman Ader indicated it was most ideal to evenly distribute annual vehicle purchases and cash disbursements across multiple years. Chief Kocsi confirmed the vehicles will be purchased through the COSTARS Program and he has gotten more than one cost quote.

Vice-Chairman Scherbak made a motion authorize the Police Chief to purchase two police vehicles. Supervisor Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Subdivision & Zoning Applications

Euler Zoning Hearing Application – Excess Impervious Surface

Mr. Mike Euler presented a brief explanation regarding his Zoning Hearing Board application for a variance for 181 Dowlin Forge Road. He reported that he and his wife purchased 181 Dowlin Forge Road and they are in the process of constructing a ranch style home on the property. They have submitted permits to the Township in the last few months. Mr. Euler noted that the building permit for a pole barn has been approved. They have also applied to the Zoning Hearing Board for zoning relief on the pole barn. For safety purposes, they would like to move the barn back 20 feet so that they have room on their driveway to back their cars out of the garage, turn around and pull out of the driveway onto Dowlin Forge Road. Backing out of the driveway onto Dowlin Forge Road is a safety hazard and without moving the barn back 20 feet, they will be forced to back out of their driveway onto Dowlin Forge Road. This change has increased their square footage of impervious surface above what is permissible. In addition to the 660 square feet due moving the barn back, they are also requesting 160 square feet for a small storage shed to be located behind the pole barn. They are both well within the required setbacks. The Eulers additionally wish to add square footage for small steps of two feet by three feet at the rear door that they did not anticipate. Assistant Manager Reven noted that this application will go before the Zoning Hearing Board. As a matter of courtesy, a similar presentation was also made to the Planning Commission. Assistant Manager Reven noted that the Planning Commission expressed support of the Euler's Zoning Hearing Board application for a variance. Planning Commission Chairman Rawlings commented that the Planning Commission was in support of Mr. Euler's request for a variance. Manager Piersol confirmed the Planning Commission supported the Euler's request for the additional impervious surface/relief of the zoning requirement of the R-1 Zoning District which permits not more than 10% of impervious surface. The additional impervious surface created by moving the pole barn back 20 feet, the additional turnaround area, and the 160 square feet for the storage shed, are all part of the Euler's Stormwater Management Plan. With the addition of the shed and the steps, they are still within the requirement which allows up to 1,000 square feet of additional impervious surface. Manager Piersol commented that Mr. Euler forgot to mention the additional steps to the Planning Commission.

Vice-Chairman Scherbak made a motion to support the Euler's Zoning Hearing Board application. Supervisor Scribner asked Mr. Euler if he understood that the Board of Supervisors may not officially approve the Euler's application. The official approval comes from the Zoning Hearing Board. Mr. Euler confirmed he understood the process. Supervisor Scribner seconded, with all members voting Aye. Motion passed 3-0.

Ordinances & Resolutions for Consideration

There were none.

Comments on Agenda Items

Mr. Matt Mabry, 230 Ferndale Lane, submitted the following question: What is the update on the Ferndale/Brookhaven traffic problem. Chairman Winters commented that the Township Traffic Engineer Andy Heinrich had conducted a traffic study right before the COVID-19 pandemic started. We are still waiting

for the official results of this study. Manager Piersol reiterated that he is working on setting up a Traffic Impact Committee meeting for either the last week of October or early November. Manager Piersol reported that Mr. Heinrich did conduct the traffic study in mid-February. It was basically a traffic count and speed study. The Police Department has already reported that speeding was not an issue. Manager Piersol discussed the possibility that Brookhaven Road be changed to a one-way street; however, then the road would no longer be Liquid Fuels eligible. Chairman Winters commented that other options such as eliminating through traffic need to be considered because the residents are concerned about all the through traffic in their neighborhood.

Notices

Chairman Winters reported that the Board of Supervisors held an Executive Session on October 8, 2020 for the purpose of discussing personnel matters.

Chairman Winters reported that the Board of Supervisors held a Special meeting on October 10, 2020 at 1:00 p.m. The meeting minutes will be available at the November 5, 2020 Board of Supervisors Work Session.

Chairman Winters reported that the Board of Supervisors will be holding an Executive Session immediately following this meeting for the purposes of discussing personnel and legal matters.

Adjournment

Vice-Chairman Scherbak made a motion to adjourn the Board of Supervisors meeting at 7:19 p.m. Supervisor Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Respectfully submitted,



Lisa Valaitis,
Township Secretary