

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SESSION  
November 16, 2016**

Those in Attendance:

Arnold M. Kring, Vice-Chairman  
Kyle P. Scribner, Member  
Scott T. Piersol, Township Manager  
Luke D. Reven, Assistant Township Manager  
Mark Kocsi, Chief of Police  
Matthew T. VanLew, Roadmaster  
Mary Beth Smedley, Secretary/Treasurer

Absent: Jay G Fischer, Chairman

The East Brandywine Township Board of Supervisors meeting of Wednesday, November 16, 2016, was called to order by Vice-Chairman Kring at 7:30 PM at the East Brandywine Township Municipal Complex. Also in attendance were Bob Pringle, the MileMarker Editor and twelve other visitors.

**Opening of Meeting**

Vice-Chairman Kring opened the meeting with a Salute to the Flag.

**Public Comment on Non-Agenda Items**

Vice-Chairman Kring asked if there were comments from the public on non-agenda items. There were no public comments.

**Minutes: Board of Supervisors – October 19, 2016**

Vice-Chairman Kring announced that the Board of Supervisors minutes of October 19, 2016 were not yet available for approval.

**Minutes: Planning Commission – November 2, 2016**

Vice-Chairman Kring noted that the Planning Commission minutes of November 2, 2016, were not yet available for approval.

**Treasurer's Report**

Mrs. Smedley read the account balances as of November 16, 2016. After reviewing the financial reports, Mr. Scribner made a motion to approve the Treasurer's Report and authorize payment of the bills. Vice-Chairman Kring seconded the motion, with both voting Aye.

### **Township Manager's Report**

Kidde Manufacturing recently announced a recall of their Nighthawk Combination Smoke & Carbon Monoxide detector units. The units can fail to chirp when the units reach the end of their 7-year life cycle even if batteries are replaced. Unlike smoke detectors, a carbon monoxide detector has a life cycle of 5 to 7 years. Replacing the battery does not mean these units will work properly if a smoke or carbon monoxide event occurs. These units were sold by electrical distributors, Home Depot and Amazon.com from June of 2004 through December of 2010. Kidde may replace the units for free, based on the date of manufacture. The units subject to this recall are white, approximately 5 to 6 inches round. It is possible these units have been installed in many new homes in the Township over the past several years. Additional information has been posted on the Township website.

Our Park & Rec Board will again hold a Tree Lighting Ceremony in our Community Park on Sunday, December 4<sup>th</sup> from 3 to 5 PM. Attendees young and old are invited to take part in making ornaments for the tree, enjoy light refreshments and seasonal music, and bring donations of food items to benefit the Lord's Pantry. Last year's event was well attended, so come join us for a fun, family event. One lucky young person will have the honor of lighting the tree at 4:30 PM. The tree will remain lit in the Gazebo until New Year's Day.

This summer, the Township, along with 3 other municipalities, entered into a class action lawsuit against Verizon for their failure to cooperate in franchise fee audits which our Verizon franchise agreement authorizes us to conduct. Verizon's motion to dismiss was denied by the United States District Court. Depositions of Verizon employees will continue through December. Our legal counsel in this matter, Natausha Horton from the Cohen Law Firm has asked that each municipality designate one individual to be deposed. Mr. Piersol requested that the Board designate him for that duty, since he was the primary person for the Township involved in the franchise discussions. Vice-Chairman Kring made a motion to designate Scott T. Piersol to act on behalf of East Brandywine Township in all matters related to the Verizon Class action lawsuit. Mr. Scribner seconded the motion, with both voting Aye.

Later this evening, the Board will consider the request of the Municipal Authority to execute a Limited Mutual Release as part of the dedication of the Applecross Treatment Plant. This document was approved by the Municipal Authority at their public meeting on November 15th. This is the final document needed to finalize the facility dedication process.

The Board will also consider amending their approval of the Alessandra Properties, LLC project known as The Learning Experience. The approval granted on November 3rd did not include a requirement from the Conditional Use Decision of December 16, 2015 whereby the Applicant was required to install a sidewalk along Hopewell Road from Ferndale Lane to the Sunoco, or contribute the cost of construction to the Township's Open Space Fund if the Applicant could not obtain an easement from the Hopewell Homeowners' Association. Our Solicitor recommended this issue be discussed in a public meeting, prior to issuance of a letter to the Applicant, outlining the conditions of preliminary and final plan approvals.

Mr. Piersol was pleased to report that during a recent meeting with the developer of the proposed Watters residential tract, we began to make positive headway on the intersection improvements for Bollinger Road and Horseshoe Pike. Plans are being created which allow for certain improvements to be completed without waiting for the legal issues of the Giant land development plan to be resolved. He is hopeful at this point, based on a recent conversation with the traffic engineer for the project, that plans may be submitted to PennDOT either between the holidays or in January of 2017. Construction could commence in late summer of 2017 if the reviews proceed quickly. PennDOT indicated this could occur since the Department has reviewed the plans previously.

The public is invited to the final Historical Commission's Fall Speaker's Series featuring Keith Smith, local historian and author of *That's Going to Leave a Marker... Historical Markers in Chester County*. Mr. Smith's program will discuss the process of historical marker placement, along with information specific to East Brandywine Township. The lecture will begin at 3:30 PM on November 20<sup>th</sup> in the Meeting Hall.

From the Supervisors, Township, and Police Staff, Mr. Piersol wished everyone a wonderful Thanksgiving holiday.

**Report: Building Inspector/Zoning Officer – Report for October 2016**

Mr. Piersol read the Building Inspector/Zoning Officer's Report for the month of October as submitted by Mrs. Norann King. There were 20 building permits issued, 7 zoning permits issued, 12 use and occupancy permits issued, and 504 inspections conducted during the month. The total fees collected were \$10,245.00

**Report: Roadmaster's Report**

The 2016 Road Project, which included the overlay of East Buck Road, Buck Road and North Bailey Road, has been completed. Mr. VanLew said that he has not received the final invoice yet and the Township Engineer is currently reviewing weight slips for the project. PennsySupply completed the work on behalf of the Township. Mr. VanLew has received many positive comments about the work. Vice-Chairman Kring thanked Mr. VanLew and said he thought the contractor did an excellent job. Mr. Scribner asked if the road issues near Sandra Moser's property had been resolved. Mr. VanLew said it was resolved.

**Hopewell Open Space "D" Trail Conceptual Design Project – Revised Scope of Services**

McMahon and Associates submitted a supplemental proposal for services for trail segments across the Hopewell Homeowner's Association Space C and D. This proposal is to provide additional survey and conceptual engineering services for a trail connection and easement across Open Space C. The scope of services was developed in response to input received during the public review and comment prior for the conceptual plan for the proposed trail across Hopewell HOA Open space D. This trail will connect to the East Brandywine Township Community Park.

Mr. Scribner made a motion to amend the original scope of services as outlined in the November 10, 2016 McMahon and Associates proposal. Vice-Chairman Kring seconded the motion, with both voting Aye.

### **Historical Commission**

Mr. Reven reported that Carol Schmidt has submitted her letter of resignation from the Historical Commission effective November 5, 2016. However, Carol has graciously agreed to continue organizing the historical education series of events and act as ad hoc member of the committee. Mr. Scribner made a motion to regretfully accept Ms. Schmidt's resignation and thanked her for her service. Vice-Chairman Kring seconded the motion, with both voting Aye.

### **East Brandywine Township Police Chief's Report for October 2016**

#### Monthly Statistics

Recorded Incidents	1857
Investigations Completed	200
Criminal Arrests	5
Summary Arrests	0
Juvenile Petitions	1
Accidents Investigated	11
Traffic Citations Issued	134
Warnings Issued	24
Vacation House Checks	49
Patrol Miles Logged	9,105

Officer Maureen Rae was recently called back to her former employer, Coatesville Police Department, to receive two commendations for outstanding work while she was employed with them. The first was for assisting Office Paul Antonucci with a suicidal person who they had tried to extricate from a vehicle and perform emergency medical care to stop severe bleeding. The second commendation was for her participation in helping to save the life of a person who was attempting to jump off a bridge. Our congratulations to Maureen.

The Toys for Tots and Lord's Pantry collection campaigns have started and will run through Wednesday, December 7<sup>th</sup>. The collection boxes for both are located in the Township lobby.

Officer Juan Lemus has completed his probationary period with the Police Department. There have been no issues and he is doing a great job. Chief Kocsi requested that the Board of Supervisors approve his employment to permanent status. Mr. Scribner made a motion to approve Officer Lemus' permanent status. Vice-Chairman Kring seconded the motion, with both voting Aye.

Corporal Glenn Mooney participated in NRA Firearms Instructor for Handgun and Shotgun training, Officer Beau Shephard attended Patrol Carbine Implementation training and all Officers attended Cultural Diversity Training.

Brandywine-Wallace Principal, Dr. Leib, sent a note of thanks for the Department's participation in their Halloween activities.

### **Fire Company's Activity Report for October 2016**

The following is a summary of the September 2016 Fire Company Report as presented by Kevin Shaffer for Fire Chief John Edwards. There were 36 fire incidents and 33 medical incidents in total for the month. In East Brandywine Township, there were 18 fire incidents and 13 EMS incidents. In West Brandywine Township, there were 9 fire incidents and 19 EMS incidents. In Upper Uwchlan Township, there were 3 fire incidents and 1 EMS incident. During the month, the Fire Company also provided assistance in Caln Township, East Bradford Township, Wallace Township, West Bradford Township and West Nantmeal Township. Estimated fire damage was \$3,000.00. There were 3 training sessions, with an average of 21 personnel at each session.

Approximately 1,000 people attended the Fire Company's Annual Open House., the Annual Fund Drive has just begun and Breakfast with Santa will be held Saturday, December 3<sup>rd</sup>.

### **Resolution 17 of 2016 – A Resolution Accepting the Dedication of Butterworth Court, Darian Court, Heatherwynd Farm Boulevard, Lammey Way, Terralee Lane and Waring Drive as Public Township Roads**

These roads, located in the Heatherwynd East and West Developments are being accepted for dedication as public Township Roads. The roads and as-built plans are now completed and have been inspected by the Township Engineer and Roadmaster and the maintenance bond has been approved by the Township Solicitor. Mr. Scribner made a motion to adopt Resolution 17 of 2016. Vice-Chairman Kring seconded the motion, with all voting aye.

### **Revised Preliminary/Final Plan Approval for Alessandra Properties, LLC/The Learning Experience**

Mr. Piersol explained that an issue with the Open Space contribution from the Conditional Use Hearing was not included in the list of conditions for the Preliminary and Final Plan approval. Solicitor Stacey Fuller recommended the oversight be resolved at a public meeting. Mr. Scribner made a motion to amend the original land development plan approvals for Alessandra Properties, LLC, for The Learning Experience Project, to include as a condition the contribution of an amount based upon the estimated cost of construction and installation of 309 feet of sidewalk, 4 feet in width. The estimated construction cost provided by the Applicant's Engineer has been reviewed by the Township Engineer. The amount of contribution in lieu of construction is

\$15,800. This contribution shall be made payable to the East Brandywine Township Open Space Fund. Vice-Chairman Kring seconded the motion, with both voting Aye.

### **Applecross Wastewater Treatment Plant – Limited Mutual Release**

As previously discussed by Mr. Piersol, this document releases the Township and Municipal Authority from litigation and mechanic's liens from contractors in accepting the Applecross Wastewater Treatment Plant and other sewer infrastructure. Mr. Scribner made a motion to execute the Limited Mutual Release. Vice-Chairman Kring seconded the motion, with both voting Aye.

### **Stewart Zoning Hearing – December 6, 2016**

Douglas and Barbara Stewart attending the meeting to discuss their application to the Zoning Hearing Board requesting a variance from the maximum impervious coverage requirement per §399.24.A.(5) of the Zoning Ordinance for the installation of an in-ground pool and patio on their property at 48 Blakely Road, which is located in the R-1 Residential District. Mike Neilio of Anthony Sylvan Pools was also in attendance to discuss the application. The pool and patio would increase the impervious coverage from the current 9.2% to 11.1%, exceeding the 10% maximum impervious coverage requirement. The remaining .08% of impervious coverage equates to 380 square feet, which is insufficient for the pool and patio, since the average size pool is 500 to 600 square feet. The applicant is proposing a 550 square foot pool that is 17 x 36 feet with a 3' walkway around the perimeter. The approximately 950 square feet of impervious coverage proposed exempts the project from the stormwater management requirements. The pool project meets the required setbacks and other stormwater management regulations.

Mr. Neilio stated that the nonconforming lot creates a hardship for the Stewarts. Mrs. Stewart said that letters were sent to adjoining property owners asking for their support, but no responses have been received. Mr. Scribner suggested that they resend the letters certified with a return receipt requested.

The Planning Commission supported the variance request subject to the following conditions:

- A detailed plan showing the precise dimensions of the proposed pool, coping and patio with a detailed breakdown of the proposed impervious coverage shall be provided.
- If the impervious coverage exceeds 1,000 square feet, the applicants will proceed with stormwater management.
- Letters supporting the proposed use will be obtained from the neighbors.
- An as-built plan shall be provided following installation.
- The hard ship for the request is a nonconforming lot size.

It is Vice-Chairman Kring's opinion that a swimming pool is not impervious. Over the past several years he has checked with PADEP to determine their position and noted that they do not address this issue.

Mr. Scribner made a motion to support the variance with the conditions recommended by the Planning Commission and the addition that the letters sent to neighbors be sent certified. Vice-Chairman Kring seconded the motion, with all voting Aye.

### **Metropolitan Development Group Zoning Hearing – December 6, 2016**

Paul Bauer, Esq. attended the meeting to discuss their request for a variance from the sign permit regulations in §399-117 of the Zoning Ordinance to allow for two signs exceeding the maximum square footage allowed by ordinance. Mr. Bauer noted that Metropolitan is the equitable owner of the Hillendale Subdivision and barring further delays, will become the legal owner on Monday. Metropolitan is requesting a variance to erect two identical 32 square foot, double-sided signs, one at each of the two main entrances of the development. The site consists of approximately 139+/- acres located in the R-1 Zoning District with frontage along Creek Road and Township Road. The sign regulations in the R-1 District allow for a six square foot sign. Mr. Bauer indicated the hardship that exists is that it is difficult for persons driving along the roads and approaching the development to read a six square foot sign, particularly when they aren't familiar with the area. The contractor and building will invest close to \$25,000,000 for land development and improvements.

In addition to the signs proposed by Metropolitan Group it is expected that the builder, D.R. Horton will also erect signs. Mr. Scribner said he was concerned with the placement of the signs and whether the builder might also request relief from the size of their sign. Mr. Bauer said that he did not represent the builder, but he could make sure that the signs were placed at a safe distance from each other.

The Planning Commission supported a variance request for a twenty-one (21) foot temporary development sign for the Hillendale Subdivision subject to the following conditions:

- Compliance with the Township Engineer's review letter of October 31, 2016 and all other representations made in the November 2, 2016 Planning Commission minutes.
- The sign must be maintained annually.
- The sign shall be removed once construction is completed or no later than five (5) years from the date of installation.
- The builder cannot ask for a sign any larger than the size of the development sign as approved by the Zoning Hearing Board.

It was Mr. Bauer's opinion that a 32 square foot sign is not necessarily a large increase over what is appropriate. He said that ordinances don't always get revised to reflect what might be reasonable for each situation. Mr. Bauer also mentioned that Applecross has a 32 square foot sign at their development. Mr. Piersol said that they were permitted the larger permanent sign as part of a settlement agreement.

After review of the information, Mr. Scribner made a motion to support the variance request for a twenty-one (21) foot temporary development sign with the conditions recommended by the Planning Commission. Vice-Chairman Kring seconded the motion, with both voting Aye.

### **2017 Preliminary Budget**

Mr. Reven provided the Board with the 2017 Preliminary Budget. Copies of the Budget will be available for the public to review during regular business hours beginning Thursday November 17, 2016. Mr. Reven asked the Board if they have any questions. There were no questions or comments.

### **Public Comment**

Vice-Chairman Kring asked if there were public comments on non-agenda items. There were no additional comments.

### **Adjournment**

Vice-Chairman Kring made a motion to adjourn the public meeting at 8:25 PM. Mr. Scribner seconded the motion, with all voting Aye.

### **Executive Session**

The Board of Supervisors will meet in Executive Session directly following this meeting to discuss personnel issues.

Respectfully submitted,

  
Mary Beth Smedley  
Secretary/Treasurer