

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
WORK SESSION
April 4, 2019**

Those in Attendance:

Kyle P. Scribner, Chairman
Jay G. Fischer, Esquire, Vice-Chairman
Jason R. Winters, Member (arrived at 8:04 A.M.)
Scott T. Piersol, Township Manager
Luke Reven, Assistant Township Manager
Mark Kocsi, Chief of Police
Matthew VanLew, Roadmaster
Kristin S. Camp, Esquire, Township Solicitor
Mary Kemble Slade, Secretary/Treasurer

The East Brandywine Township Board of Supervisors meeting of Thursday, April 4, 2019, was called to order by Chairman Scribner at 8:00 A.M. at the East Brandywine Township Municipal Complex.

Opening of Meeting

Chairman Scribner announced that this morning's meeting is being audio and video recorded.

Public Comment on Non-Agenda Items

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

Chairman Scribner asked if there were comments on non-agenda items. There were no public comments.

Minutes: Board of Supervisors – March 21, 2019

Chairman Scribner noted the March 21, 2019 minutes were offered for consideration. Vice-Chairman Fischer made a motion to approve the minutes as presented. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 2-0.

Minutes: Planning Commission – March 6, 2019

Chairman Scribner noted the March 6, 2019 Planning Commission minutes were offered for consideration. Vice-Chairman Fischer made a motion to accept the minutes as presented. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 2-0.

Old Business

Results of Street Tree Survey at Estates at Dowlin Forge

Assistant Manager Reven provided the Board with an update on the results of the tree survey for this development, initiated after the March 21st Board meeting where several property owners were present to express their concerns. He noted that the developer is Metropolitan Development Group (MDG) and the builder is D.R. Horton. Assistant Manager Reven explained that D.R. Horton sold enhanced landscape packages to some new home buyers as part of their agreement of sale, which have already been installed. The developer is now ready to install the street trees required by the Land Development Plan, and there are some conflicts with the number and locations of these trees as many residents are satisfied with amount of trees already located on their property as part of their purchased landscape enhancement package. Assistant Manager Reven advised that a meeting is being coordinated between him, a representative of D.R. Horton, and a representative of the HOA in an effort to develop an as-built plan for review. Solicitor Camp noted that if the amount of trees to be discussed is small, then it may be able to be addressed as a field change. If it is a larger amount of trees, then any changes will need the Board of Supervisors' approval. Vice-Chairman Fischer pointed out that it is the developers' obligation to the Township, as per the plan, to install a certain number of street trees and expressed his opinion that if trees are deleted from the plan they should still be provided and placed at another location such as the Community Park or Bondsville Mill Park, to which Solicitor Camp concurred. After further discussion, it was agreed by consensus that the Board would like to review the as-built plan that is being developed before making a decision on what approach to take for the potential land development plan changes. Assistant Manager Reven will present the amended plan at the next meeting.

New Business

Discussion on Components of 2020-2024 Waste Hauler Contract

Assistant Manager Reven noted the current waste hauler contract is in its last year, and advised that Staff has begun to prepare a bid document for a new contract for the period beginning January 1, 2020. Staff is anticipating advertising in June with a selection of the lowest bidder in September. Assistant Manager Reven provided a table of comparisons of the current contract with the anticipated new contract, and discussed three specific variables with the Board. He noted this was for informational purposes and decisions were not expected this evening.

First, he discussed the ownership of recyclable materials. The current contract provides for the hauler to have full ownership, where the hauler takes title at curbside and the profit or loss is at the hauler's risk. Staff's suggestion for the new contract is the Township will pay tipping fees at the landfill for the processing and marketing of the recyclables (currently \$32.30 per ton) or to the hauler owned recycling facility, whichever is less. Second, Assistant Manager Reven suggested the new contract have an option of trash container purchase spread over the first three years. Chairman Scribner noted the hauler may offer containers at no charge. Vice-Chairman Fischer suggested the bids could be structured to allow for a price for the containers to be provided as an alternate. Assistant Manager Reven stated that he would like to see the containers branded with an ID and the Township logo. Third, Assistant Manager Reven noted the current contract allows

for an escalation in fees after 10% of growth in stops occurs with no limit on number of requests by hauler. He suggested the new contract allow for adjustments to be made at intervals no more frequently than quarterly.

Vice-Chairman Fischer questioned why the suggested contract items reflected the hauler's choice of days as limited to Mondays, Tuesdays, and Wednesdays. Assistant Manager Reven responded that when holidays rearrange the hauler's overall schedule, the Township collection day falls on Friday. If there is a missed stop or other customer service issue, the resident does not have the ability to contact the Township to have the problem corrected until Monday morning.

Road Improvements at Horseshoe Pike & Bondsville Road

Solicitor Camp asked about the status of the improvements to this intersection, given the lack of this work being completed is impacting all other Highway Occupancy Permits (HOP) along US 322. She noted that Pulte's settlement agreement with the Township required them to provide a \$750,000.00 contribution for the improvements but placed the responsibility of obtaining any needed easements and rights-of-way on the Township. Chairman Scribner opined that he was not in favor of seeking eminent domain to secure these items and felt PennDOT should be responsible. Vice-Chairman Fischer asked what gives PennDOT the authority to require improvements to an off-site area, remote from the project. Township Traffic Engineer Heinrich noted that they are able to do this upon review of the overall corridor affected by a given application.

Township Traffic Engineer, Andy Heinrich, P.E., was present and noted that PennDOT has approved other HOP's with the understanding that work contemplated in previously approved HOPs will be completed. Discussion was held on the Burns' Property and the required access changes and right of way needed, and it was decided that a meeting with McMahon, Traffic Planning & Design (TPD) (on behalf of PennDOT) and Township Traffic Engineer Heinrich be held to see what the status of the Burns Property plans are and if the previously discussed comments from the Burns have been incorporated into the latest plans. Township Traffic Engineer Heinrich noted that if the Burns Property does any future development, PennDOT could require them to implement these improvements at their sole cost. Chairman Scribner stated that a meeting should be held between McMahon Associates, Township Traffic Engineer Heinrich, a representative from the Burns Property, and TPD to sort things out. Township Traffic Engineer Heinrich suggested an interim meeting be held with him, TPD, and McMahon to see where things stand, then coordinate a meeting with him, TPD, a representative of the Burns Property, McMahon, and a member of the Board. Chairman Scribner asked Township Traffic Engineer Heinrich to coordinate said meetings.

East Receville Road Extension from Bondsville Road to Horseshoe Pike

Township Traffic Engineer Heinrich noted the Township's Act 209 Study includes, among other items, the US 322 Bypass Road running from US 322, through the NVR property, and continuing to Bondsville Road even though the plans from NVR Homes does not account for this road. He also noted that the US 322 Bypass Road is planned to continue across Bondsville Road, partially through Pulte property, for which the Township received a right-of-way from Pulte to build a portion of the US 322 Loop Road. There was discussion about the potential for a round-about at

the Bondsville/East Reeceville Intersection. Solicitor Camp mentioned the lack of NVR's plans including provisions for the upper/northern leg of the US 322 Loop Road, and Township Traffic Engineer Heinrich noted the Township is still collecting monies for this potential roadway as part of the Act 209 Study. Planning Commission Member Mike Wagoner asked if the Township could use the monies collected for the eastern part of the US 322 Loop Road. Township Traffic Engineer Heinrich stated that the Act 209 Study will need to be revised if that is desired. Planning Commission Member Wagoner stated that he thought the Township had abandoned the upper/northern leg. Vice-Chairman Fischer concurred and indicated that this was conveyed to NVR Homes. Township Traffic Engineer Heinrich indicated that the Act 209 Study would no longer be valid if that is in fact the case. Solicitor Camp asked if the Planning Commission had a deliberate discussion about the US 322 Loop Road and a decision made to not require NVR Homes to do the extension through their land. Planning Commission Member Wagoner indicated the Planning Commission decided years ago that the upper/northern leg was not viable. Solicitor Camp asked if there was any discussion at last night's Planning Commission meeting, or at any prior Planning Commission meeting about this US 322 Loop Road, to which Planning Commission Member Wagoner replied there was not. Township Traffic Engineer Heinrich noted the Township's Traffic Committee did reconvene a year or two ago and did not resolve the issue, as there are no alternatives to the US 322 Loop Road except for widening US 322. Solicitor Camp asked if the Act 209 Committee needs to be reconvened to compare what was, versus what is, and see how to address items in the future. Vice-Chairman Fischer agreed. She added that she is simply interested in understanding the related facts, but ultimately, the Board is the entity that makes the decision on what to build in terms of a loop road or any alternatives. Township Traffic Engineer Heinrich stated he would feel more comfortable if he knew what the alternative is to the US 322 Loop Road.

Supervisor Winters asked if the southern leg would still be beneficial. Township Traffic Engineer Heinrich noted that portion still has its benefits, including the Bondsville to US 322 East movement and the left turn off of US 322 West, both movements ultimately reducing the traffic in the Bondsville/Hopewell/US 322 intersection. Chief Kocsi suggested improvements will need to be made to East Reeceville Road if the southern leg is constructed. Supervisor Winters asked if the recent granting of a building permit for the house on the northeast corner of Bondsville Road/East Reeceville Road intersection would prohibit the potential construction of the roundabout. Solicitor Camp advised that it would not prohibit the construction, but, the compensation would need to be adjusted to account for the increased property value.

Township Traffic Engineer Heinrich noted the roundabout was not part of the Act 209 study. He stated that the Save 41 group from southern Chester County suggested a roundabout at Bondsville/Hopewell/US 322 but there was too much right-of-way needed to construct one in that location. Solicitor Camp indicated that if the Act 209 Study is updated, it could include the roundabout. Township Traffic Engineer Heinrich suggested that a portion of NVR Homes Traffic Impact Fee could go into building the roundabout. Solicitor Camp asked if the Act 209 Study would need to be amended if the roundabout was desired to be paid for from the Act 209 monies. Township Traffic Engineer Heinrich indicated it would need to be updated to include the roundabout in order to use the monies for that purpose. Vice-Chairman Fischer asked Township Traffic Engineer Heinrich if he had previously communicated to the Board that any application for a new traffic signal requires the applicant to show a roundabout will not work before they can

install a new signal. Township Traffic Engineer Heinrich confirmed he had, and reiterated that PennDOT now requires an applicant to prove why a signal is a better alternative than a roundabout. He also stated that his review of the NVR Homes application recommends NVR Homes consider installing a roundabout at the Bondsville/East Reeceville intersection and that possibly funding from the Act 209 fees could be utilized, of which neither comment has been addressed by NVR Homes. He stated his belief that the issue of constructing a roundabout or the like could be worked out in Land Development; however, he suggested a condition be assessed as part of the Conditional Use process to require this item be addressed.

Chairman Scribner mentioned three possible direct routes from East Reeceville Road to US 322: the bottom of the Township Property, Bollinger Road, and an easement from the Weaver Tract closer to East Reeceville Road. Township Traffic Engineer Heinrich noted that any and all of these routes would still deposit traffic onto US 322. Solicitor Camp indicated that she did not want to miss an opportunity with NVR Homes to assist in addressing the traffic concerns. Vice-Chairman Fischer agreed and suggested a condition be stipulated to allow for the process of addressing traffic to start with this project. Solicitor Camp inquired whether the Township Engineer should attend the Hearing this evening. Vice Chairman-Fischer suggested that since his letter has been issued, the Board can simply assess a condition that NVR Homes complies with his letter.

Subdivision & Zoning Applications

Solicitor Camp confirmed that the East Brandywine Baptist Church Preschool Conditional Use Hearing is scheduled for May 2, 2019 at 7:00 P.M.

Ordinance Task Force Update

Manager Piersol advised that the Planning Commission last evening recommended that the Board of Supervisors authorize the submission of the Wireless Communications ordinance amendment (Section 399-101) to the Chester County Planning Commission for the Act 247 review. He noted this amendment to the existing section on wireless communications is due to an FCC ruling which took effect in January, and the regulations include maximum time frames for approvals and maximum fees charged for initial applications and recurring fees. Also added were additional roads to provide reasonable accommodations for placement of mini cell towers (50' or less). Solicitor Camp inquired if the Planning Commission agreed with the updated road listing. Manager Piersol indicated that they did, noting the roads added are Bollinger Road, Creek Road, Hopewell Road, Little Washington Road, North Guthriesville Road and Rock Raymond Road. These were selected due to volume of traffic and coverage. Roadmaster VanLew pointed out that Bollinger Road does not have existing telephone poles. Solicitor Camp noted that if these are allowed, there is the potential that someone may want to install a utility pole type structure to erect these, which would currently require Conditional Use. Vice-Chairman Fischer commented that although it is anticipated these would be added to an existing pole, even if there are poles on one side of the street they would not be prohibited from placing their own tower on the other side. Solicitor Camp suggested it could be added that if there is an existing pole in the vicinity which would provide coverage then it must be used. Vice-Chairman Fischer suggested Bollinger Road be removed from the list for now and revisited at a future date, and this was agreed to by consensus.

Vice-Chairman Fischer motioned to submit the proposed Section 399-101 and 399-51 Wireless Facilities Ordinance Amendment to Chester County Planning Commission for Act 247 Review. Chairman Scribner seconded the motion, with all voting Aye. Motion passed 3-0.

Manager Piersol advised that the Planning Commission last evening recommended that the Board of Supervisors forward to the Chester County Planning Commission for Act 247 Review, an amendment to Chapter 300, Land Use, Section 300-17 to add a new definition for Consumer Fireworks, and Chapter 399, Zoning, Article X (CS/LI) Commercial Service/Limited Industrial District, Section 399-51, providing a location in an identified zoning district for a permanent structure for the retail sale of these items. Temporary structures will not be permitted.

Manager Piersol also offered a stand-alone Fireworks ordinance, creating a new Chapter 160 in the Township Code to regulate the use of Fireworks in compliance with Pennsylvania Statutes. He advised that the Planning Commission last evening recommended that the Board of Supervisors advertise this ordinance. Manager Piersol noted this ordinance does not require review under Act 247 by the County Planning Commission. Solicitor Camp added that the law has recently been changed and further modified by the Commonwealth Court, with the purpose of this ordinance being that everyone understands what the law is for consumer versus display fireworks.

Vice-Chairman Fischer motioned to submit the proposed amendments to Section 300-17 to the Chester County Planning Commission for Act 247 Review. Chairman Scribner seconded the motion, with all voting Aye. Motion passed 3-0.

Vice-Chairman Fischer motioned to advertise the adoption of the ordinance creating a new Chapter 160, titled, "Fireworks". Chairman Scribner seconded the motion, with all voting Aye. Motion passed 3-0.

Resolution 06 of 2019 - Disposition of Municipal Records - East Brandywine Township & East Brandywine Township Police Department

Vice-Chairman Fischer motioned to adopt Resolution 06 of 2019. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Resolution 07 of 2019 Supporting DCNR Grant Application for Bondsville Mill Park

Vice-Chairman Fischer motioned to adopt Resolution 07 of 2019. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Public Comment on Agenda Items

Planning Commission Member Mike Wagoner commented on the Estates at Downlin Forge tree survey underway, and recommended the Board involve Pennoni since it is a land development item. Chairman Scribner agreed and stated associated costs should be covered by the developer. Member Wagoner added that changes to the plan should go before the Planning Commission.

East Brandywine Township Board of Supervisors

April 4, 2019

Page 7

Vice-Chairman Fischer replied that if there are changes to the plan it will go through the proper process.

NOTICES

None this morning.

Adjournment

Vice-Chairman Fischer made a motion to adjourn the public meeting at 9:35 A.M. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Respectfully submitted,



Mary Kemble Slade
Secretary/Treasurer