

EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
REGULAR SESSION
May 16, 2019

Those in Attendance:

Kyle P. Scribner, Chairman
Jay G. Fischer, Esquire, Vice-Chairman
Jason R. Winters, Supervisor
Scott T. Piersol, Township Manager
Luke Reven, Assistant Township Manager
Kristin Camp, Esquire, Township Solicitor
Mary Kemble Slade, Secretary/Treasurer

Absent:

Mark Kocsi, Chief of Police
Matthew VanLew, Roadmaster

The East Brandywine Township Board of Supervisors meeting of Thursday, May 16, 2019 was called to order by Chairman Scribner at 7:30 P.M. at the East Brandywine Township Municipal Complex.

Opening of Meeting

Chairman Scribner opened the meeting and announced that this evening's meeting is being audio and video recorded. He then led the Salute to the Flag.

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.

Mr. Dennis Whitely, owner of 1199 Horseshoe Pike, attended the meeting to follow-up on comments he made at the Board meeting last fall regarding the need to promote business opportunities in the community. Mr. Whitely suggested that the Township Board and staff members should take a more active role to encourage and enhance business enterprises, and recommended that if necessary, staff be increased to assist in accomplishing this. He further noted several local businesses which have been recently lost, and spoke in favor of allowing liquor sales which would draw new businesses to the community. Mr. Whitely suggested the creation of a business group to discuss new ideas for success, and offered his willingness to assist.

Chairman Scribner acknowledged Mr. Whitley's ideas as positive, noting the Township is always in need of volunteers, and that in order to hire additional staff members the cost must be well justified. He also noted that it is a challenging time to be a government official, and that staff members are currently inundated and working at maximum capacity. Mr. Whitely thanked the

Board for their time, and expressed his hope that further conversation would take place on this topic in the near future.

Commander Glenn R. Gilbert of American Legion Charles F. Moran Post 475 presented a donation to the East Brandywine Foundation in the memory of Jesse Edwin Davies. Commander Gilbert noted Mr. Davies was a long time member of the Post, serving as a Merchant Marine in World War II, and with the U.S. Army during the Korean Conflict. With the Post receiving substantial donations in Mr. Davies memory, Commander Gilbert presented \$500.00 to the East Brandywine Foundation in his honor, to be used for the purchase of flags for the East Brandywine Township Park Veterans Memorial.

Chairman Scribner expressed the Township's support of all veterans, and extended the Township's sincere thanks to Mr. Davies family, Commander Gilbert and the American Legion Post 475, for this generous donation to the East Brandywine Township Foundation.

Chairman Scribner turned the meeting over to Solicitor Camp for the purpose of a public hearing.

Public Hearings:

Public Hearing to Consider an Ordinance Amending the Code of East Brandywine Township, Chapter 182, entitled "Parks and Recreation Areas"

Solicitor Camp announced that this is a public hearing on an ordinance amendment that will amend and retitle the Township Park Rules, which are incorporated into Chapter 182 as an attachment. She indicated the purpose of the draft prepared for consideration is to clarify and summarize the rules related to Township Parks. Solicitor Camp noted the amendment was advertised in the Daily Local News on May 9, 2019 and sent to the Chester County Law Library on May 8, 2019, providing the proposed amendment for public inspection. Assistant Manager Reven noted the changes were formulated by the volunteers of the Park and Recreation committee, and extended his thanks to this group for their efforts. Chairman Scribner asked if there were any questions or comments on the proposed ordinance. There were none. Vice-Chairman Fischer made a motion to adopt the Ordinance as presented. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

The Public Hearing was closed.

Minutes: Board of Supervisors – May 2, 2019

Chairman Scribner noted the May 2, 2019 minutes were offered for consideration. Vice-Chairman Fischer made a motion to approve the minutes as presented. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Minutes: Pension Committee – October 4, 2018

Chairman Scribner noted the October 4, 2018 minutes were offered for consideration. Vice-Chairman Fischer made a motion to approve the minutes as presented. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Treasurer's Report

Secretary Treasurer Slade read the account balances as of May 16, 2019 and informed of checks in need of approval for the General, State, Police Capital, Referendum Open Space, and the Open Space Funds. After reviewing the financial reports, Vice-Chairman Fischer made a motion to approve the Treasurer's Report and authorize disbursements. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Township Manager's Report

Manager Piersol noted the Township and Municipal Audit Reports for 2018 have been completed and submitted to the DCED, and to the Bond Reporting Agencies as required. Copies of these reports are now available on the Township website.

Manager Piersol stated that the Township's Act 537 Plan survey was closed on April 26th, with over 48% of Township property owners responding to the survey by mail or online. He noted this is a phenomenal response rate. Staff is currently reviewing the results, and those who responded will be plotted on a map, which is an important part of the process. Staff is also reviewing the comments provided with the surveys, and additional information will be provided in a future edition of the Township's Milemarker. The Committee suggested that letters be sent to all those who responded to the survey to thank them for participating.

Manager Piersol stated that the Western Chester County Council of Governments formed a Route 322 Corridor Task Force, comprised of representatives from Honey Brook Borough, and Honey Brook, West Brandywine, East Brandywine and Caln Townships. The primary purpose of this group is to use the February, 2010 Route 322 Corridor Study, completed by the Delaware Valley Regional Planning Group, with input from these municipalities, as a basis to gain support from PennDOT, the State Legislature's Transportation Committee, the Chester County Planning Commission's Traffic Planning Division, and other local organizations looking at traffic improvements, to begin the process of implementing some or all of the recommended intersection and road widening improvements, and other municipal ideas for moving traffic more efficiently along the 322 Corridor. Manager Piersol noted the County Commissioners indicated their support for improvements along this developing corridor, which was the initial impetus for the COG to form this study group. The Study Group's goal is to have a report and/or PowerPoint presentation prepared for one of the County Commissioners' meetings in July of this year. The Committee is hopeful that getting support to implement the improvements in the DVRPC Report will position our region for the Route 30 Bypass improvements, which are currently anticipated to begin construction in 2025.

Manager Piersol noted Staff is also working to re-instate the Township's Traffic Impact Committee and hopes to hold a meeting later this summer to review the Township's existing Act 209 Traffic

Impact regulations and Capital Improvements Plan, which identified certain roadway and intersection improvements along the Route 322 Corridor. Township Traffic Consultant Andy Heinrich will be assisting the Committee in revising the Act 209 study. Manager Piersol indicated the Committee last met in the fall of 2014, and could not reach a consensus on what revisions to make to the Capital Improvements plan in order to revise our Traffic Impact Fee.

Assistant Township Manager's Report

Assistant Manager Reven reported on a host of Township events planned before the Board's next Regular Session Meeting. He reminded the audience that the Township's full event schedule can be found at www.eBrandywine.org/calendar or by visiting the Parks and Recreation Committee's website to see all twelve planned events for 2019. Assistant Manager Reven outlined the following events:

- 1. Final Historical Commission Spring Speaker.** Greg Huber presents "The Special Barns of Chester County" on May 2019. Our speaker specializes in pre-civil war era house and barn architecture of Holland Dutch and Swiss-German influence. He has documented more than 8,000 vernacular buildings that include more than 5,000 homestead barns. We'll look at records of barns built 1750 to 1900.
- 2. Memorial Day Display and Ceremony.** Join us at 6:00 PM on May 21 at the East Brandywine Community Park as we install a display of 1,700 small American Flags near the Veterans' Memorial. At 7:00 pm, following the installation of the display, the American Legion will lead us in a short ceremony including the raising of an American Flag in memory of Jesse Davies, WWII and Korean Conflict Veteran.
- 3. Free Summer Concerts 1 & 2 of 3.** The Parks and Recreation Committee will be hosting the classic rock band DNR on June 1 and the talented local students from the School of Rock on June 15. Both free events begin at 6:00 PM—don't forget a lawn chair or a blanket!
- 4. Family Movie in the Park 1 of 3.** Make plans to enjoy a free family-friendly movie at the Community Park on June 7. Bring your chairs and blankets and join us at dusk for an evening of fun under the stars. Popcorn will be provided! Our first movie is *Hotel Transylvania 3*. Both the movie and concert series is sponsored by Bonds Eye Care, Hughes & Hughes Family Dentistry, and DNB First. Be sure to check for weather updates on eBrandywine.org! Fliers for the events are available at the back of the room.
- 5. "Fore" the Parks Golf Outing.** This event will be on June 24, but now is the time to put together a team or consider sponsoring this event that benefits our parks. Brochures are available online and at the back of the room.
- 6. Red Cross Blood Drive.** Our next blood drive will be June 6 from 2:00 PM to 7:00 PM. Appointments are strongly encouraged due to outstanding turn-out at our events. Register online at RedCrossBlood.org and use the sponsor code "ebrandywine."

Assistant Manager Reven noted that Staff has recently completed a substantial revision of our building and zoning permit packets to reflect two major recent changes: (1) the adoption of a simplified stormwater management procedure by this Board; and (2) the adoption of the 2015

International Codes by the Commonwealth of Pennsylvania. As before, our permit forms are online as fillable PDF files.

Assistant Manager Reven also noted that Staff has hosted a number of meetings with McMahon Associates regarding our transition to the cloud-based TRAISR platform that will be used to replace our current permit workflow management and for GIS layer inventory. He stated Staff is very close to going “live” with the permits tracking functionality.

Building Inspector/Zoning Officer – Report for April 2019

Manager Piersol noted that the Building Inspector/Zoning Officer’s Report for the month of April would be presented at the June meeting.

East Brandywine Township Police Chief’s Report for March 2019

Manager Piersol read the Police Chief’s report for April 2019 in Chief Kocsi’s absence.

Monthly Statistics

Recorded Incidents	2609
Investigations Completed	207
Criminal Arrests	6
Summary Arrests	1
Warrant Arrests	3
Juvenile Petition	0
Accidents Investigated	5
Traffic Citations Issued	187
Warnings Issued	85
Patrol Miles Logged	10,422

Manager Piersol noted that the first Copsicle (popsicles with cops) event was a success. Copsicle was hosted by Crops on May 8, 2019 and there was a great community turnout.

Fire Company’s Activity Report for April

The following is a summary of the April 2019 Fire Company Report as presented by Deputy Chief Joe Edwards. There were 33 fire incidents and 42 medical incidents in total for the month. In East Brandywine Township, there were 13 fire incidents and 21 EMS incidents. In West Brandywine Township, there were 8 fire incidents and 21 EMS incidents. In Upper Uwchlan Township, there were 0 fire incidents and 0 EMS incidents. During the month, the Fire Company also provided assistance in Honey Brook Township, Sadsbury Township, Uwchlan Township, Wallace Township, West Bradford Township, West Nantmeal Township, and West Whiteland Township. There were 4 training sessions, with an average of 21 personnel at each session. They averaged 14 volunteers for each emergency incident.

Deputy Chief Joe Edwards announced that the Fire Company had five working building fires in the month. He also noted that four members became national registered EMT's and the Company added seven new volunteers last month. Deputy Chief Edwards stated there will be a joint training with the Police Department to help train the police on what to do during the first five minutes of a fire. Lastly, Deputy Chief Edwards noted that Lawrence Schultz from Washington, DC will be present at the station to provide training on May 18, 2019.

Old Business

First Draft of Curbside Municipal Waste & Recycling Collection RFP

Assistant Manager Reven noted that the draft of this document was not fully prepared for this evening. That being stated, he pointed out the three major differences between the current contract and what he would like to propose for the future contract:

- (1) Ownership of Recyclables: Currently the Hauler owns the recycling material as soon as it is picked up from the curb. For the future contract, the Township will include a tipping fee for disposal of the recyclables.
- (2) Purchase and Distribution of Trash Carts: There will be an alternate included in the bidding to request pricing for the hauler to provide and deliver trash carts to all Township residents.
- (3) Adjustments to New Housing: 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. For the future contract, the adjustment due to new housing will be made at intervals no more frequently than quarterly.

New Business

Permission to Advertise: Bid Specifications for Construction of Trail Extension

Assistant Manager Reven presented a plan showing proposed trail extensions and repairs to the trail network in the Community Park. After presenting this plan, he requested permission to advertise the bid specifications. Vice-Chairman Fischer made a motion to allow the advertisement of the bid specifications. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Subdivision and Zoning Applications

NVR, Inc. / Weaver Tract -- Conditional Use

Solicitor Camp noted that NVR filed an application for Conditional Use in November of 2018, and the Township has held hearings for the proposed development of 295 units, consisting of 161 single family dwellings and 134 townhouses as part of an Age Qualified Residential Community. A draft order was prepared and shared with the Board for their initial feedback. Solicitor Camp incorporated their feedback and shared the proposed draft with Lindsay Dunn, Esquire,

Applicant's counsel, who in turn, had some suggested revisions. Solicitor Camp advised that she was not in a position to act on the suggested changes from Applicant's counsel and requested she attend to discuss some of the items directly with the Board, in an effort to work out language acceptable to both parties. Solicitor Camp noted the Applicant did grant an extension through June 6, 2019, to allow the Township to render a written decision upon the Application.

Ms. Dunn addressed the Board and spoke about some of the proposed conditions that her client disagrees with. The following is noted:

- (1) Draft Condition #1: Ms. Dunn stated that this condition places an additional restriction on the definition of AQRC and would limit marketability of the project. She believes the Federal Statute definition governs, which allows up to 20% below the age of 55. Vice-Chairman Fischer noted that 20% is a large amount which is a concern for him. Chairman Scribner suggested the Applicant provide a few options for the Board's consideration as it relates to this proposed condition. Supervisor Winters asked if the Agreement of Sale specified all residents must be over 55, or if they could just follow the statute. Solicitor Camp stated she thought the Agreement of Sale required 55 and over. Ms. Dunn indicated she believes the Agreement was vague in this regard and left the issue open to compliance with the Federal Statute.
- (2) Draft Condition #6: Ms. Dunn stated this condition, requiring the number of off-street parking spaces be determined and approved by the Board as part of Land Development, is not preferable. She noted that during the Conditional Use process, her client revised the plans and added 42 spaces in the single family portion of the development and 27 spaces in the multi-family portion. Solicitor Camp noted that Township Engineer Cline was not able to review this in time for tonight's decision, therefore the condition was left to allow this item to be worked out at the time of Land Development. Vice-Chairman Fischer noted that Township Engineer Cline felt he would be able to resolve this if an extension was granted. Ms. Dunn indicated her team will work with Township Engineer Cline over the next three weeks to iron this item out.
- (3) Draft Condition #14: Ms. Dunn stated this condition requires the construction of the access easement for use by Township personnel as part of NVR's project, something her client did not intend to do. Ms. Dunn indicated her client was simply granting the easement at this time. Solicitor Camp read from the Transcript where NVR's engineer, Adam Brower, stated his expectation was that the easement would become a paved surface, which causes an inconsistency. Ms. Dunn indicated her client is willing to discuss some compromise, such as a contribution for the construction. Supervisor Winters asked about the purpose of the road. Manager Piersol noted this would allow for direct access by the Police to East Reeceville Road. Vice-Chairman Fischer noted that if there would be a major incident on US322, this paved drive would allow for an alternative exit at the municipal complex. Chairman Scribner indicated this would be discussed further.

Ms. Dunn advised that these three conditions were looked at collectively as those that her client feels can be worked out, to a compromise that satisfies both the Township and her client. She then indicated Proposed Conditions #23 and #7 are more problematic. Solicitor Camp noted that

Condition 23 has been softened to read “shall consider” as opposed to “shall comply” with the comments and recommendations of the Township’s Traffic Engineer. Ms. Dunn noted that Condition 7 contemplates placing an undefined, undetermined, and uncalculated contribution to the US 322/Bollinger Road intersection pursuant to a 2015 settlement agreement between the Township and Pulte Homes, of which her client was not a party to said agreement. Ms. Dunn noted that in her opinion, the condition being based on an agreement that did not include her client as a party is illegal. Chairman Scribner noted that he recalls her client being present when this item was discussed with the School Board. Ms. Dunn noted that she reached out to the partner of her law firm, who was previously representing her client and has since retired, and was told the settlement agreement between the Township and the prior equitable owner of the property, K. Hovnanian, did include some concessions by K. Hovnanian that would have tied the future development of the Weaver Tract to the US322/Bollinger Road improvements. However, consensus was reached before the NVR application was processed that the proposed NVR project would move forward with a clean slate and process a zoning ordinance amendment. Solicitor Camp asked Ms. Dunn if most of her client’s proposed traffic will go through this intersection. Ms. Dunn indicated she was not sure of the impact to that intersection by her client’s proposed development, but noted that the traffic impact fee can be used for that purpose and no additional monies should be sought from her client. She added that this condition, and the condition where her client shall comply with the February 13, 2019 letter from Township Traffic Engineer Andy Heinrich, were illegal based on Section 603.C.(2) of the PA Municipalities Planning Code which reads, in part, “may attach such reasonable conditions and safeguards other than those related to offsite transportation or road improvements, in addition to those expressed in the ordinance.” Ms. Dunn indicated Chapter 370 of the Township Code is for the purposes of assessing what the potential traffic impact costs will be as related to traffic generation for a given development, and that it is not legal to require an applicant to provide off-site improvements at a cost in addition to the traffic impact fee. Chairman Scribner disagreed to the extent that the improvements are warranted. Solicitor Camp noted the Board’s understanding of Ms. Dunn’s concerns and advised they will work on the matter over the next three weeks.

Schaller 80 Highspire Road - Zoning Hearing Application

Mr. Jeffrey Schaller, 80 Highspire Road, was in attendance to discuss his pending Zoning Hearing Board application. Mr. Schaller noted he is currently over the 12% allotment for impervious coverage and would like to build a 417 square foot addition to his home, which will further add to the impervious cover overage. He is also seeking a second variance to validate the existing accessory structure currently in use as an art studio. Mr. Schaller noted he has received Cedarville Engineering Group’s stormwater management approval letter, and is prepared to install the necessary stormwater management system to accommodate the entire overage of impervious cover, which will be an increase from 12% to 13.25%. Solicitor Camp informed the Board that they can either (1) take a position to oppose the application, (2) take a neutral position, or (3) take a position to support the application, which is a rare position for a Board to take. Supervisor Winters asked if the neighbors found the proposal to be acceptable. Mr. Schaller indicated that they do. Solicitor Camp asked if there were any objections to the proposal from the Board members. Vice-Chairman Fischer saw no reason to object. Chairman Scribner noted there were no objections from the Board and wished the applicant good luck at the hearing.

Blackburn 345 Zynn Road-Zoning Hearing Application

Mr. Shawn Blackburn, 345 Zynn Road, was in attendance to discuss his pending Zoning Hearing Board application. Mr. Blackburn is requesting a variance to allow for up to 22% impervious coverage on his lot to allow for the construction of a pool, patio, cabana and an accessory structure (garage/office) at a later date. Mr. Blackburn noted he has hired D.L. Howell and Associates along with Mark Eberhardt, of MSE Landscape Associates, LLC, to assist with this project. Mr. Blackburn stated he is prepared to install the necessary stormwater management system to accommodate the entire coverage of impervious cover. Mr. Eberhardt noted the current setbacks for the accessory buildings. Manager Piersol advised that if there is any living space associated with the accessory structures, which there is, then a 40 foot setback would be required and will require a variance. It was noted that this variance can be added to the application as an amendment at the hearing. Vice-Chairman Fischer stated his concern that the impervious increases from 12% to 22%, which is significant. Mr. Eberhardt advised that the proposed stormwater management system is designed based on a 100-year storm event. Mr. Blackburn also noted that he has support letters from two adjoining neighbors. Chairman Scribner stated that he had no issue with the applicant going before the Zoning Hearing Board. Supervisor Winters noted the remoteness of the property and that stormwater management would be in place, and his opinion that the property should be able to be enjoyed. Therefore, he had no issue. The Board agreed by consensus to allow the applicant to proceed to the Zoning Hearing Board.

Ordinances & Resolutions for Consideration

Resolution Authorizing Roadmaster Matthew VanLew to sign PennDOT offer for a Temporary Construction Easement (0.006 acre) for Lot 30-6-22, also known as Whittaker Park

Vice-Chairman Fischer motioned to adopt the resolution authorizing Roadmaster Matthew VanLew to sign the PennDOT offer for a Temporary Construction Easement as explained. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

Public Comment on Agenda Items

Chairman Scribner asked for public comments on agenda items. There were no public comments.

Notices

Chairman Scribner stated that an Executive Session of the Board of Supervisors was held on May 15, 2019 in order to discuss legal matters.

Adjournment

Vice-Chairman Fischer made a motion to adjourn the public meeting at 9:00 P.M. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

East Brandywine Township Board of Supervisors

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Respectfully submitted,

Mary Kemble Slade

Mary Kemble Slade,
Secretary/Treasurer