

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS**  
**AM SESSION**  
**April 7, 2022**

**Those in Attendance:**

Kyle P. Scribner, Chairman  
Carl K. Croft, Vice-Chairman  
Jason R. Winters, Member  
Luke D. Reven, Township Manager  
Mark Kocsi, Chief of Police  
Matthew VanLew, Roadmaster  
Tom Oeste, Township Solicitor  
Lisa Taraschi, Township Secretary

The East Brandywine Township Board of Supervisors meeting of Thursday, April 7, 2022 was called to order at 8:00 AM at the East Brandywine Township Municipal Complex.

**Opening of Meeting**

Chairman Scribner opened the meeting by announcing that this meeting is being recorded.

Township Manager Reven asked the Board to consider amending the agenda. He stated Act 65 of 2021 requires municipalities to post agendas for public meetings on their websites 24 hours prior to the meeting. He added the Act provides a mechanism for amending agendas by majority action of the Board after first stating the reason for the amendment. Mr. Reven respectfully asked the Board to consider amending as agenda item 7D Resolution No. 7 of 2022 Rescinding Resolution 3 of 2021 which authorized the return of excess condemned land and authorizing Township administration and consultants to comply with the court order dated April 4, 2022. Mr. Reven stated the reason for this late addition to the agenda is the recent court order requires immediate action and that the Resolution in question was not prepared in time to appear on the agenda.

Vice-Chairman Croft made a motion to amend the agenda for the meeting on April 7, 2022 to include the recommend resolutions. Chairman Scribner seconded the motion. With all members voting Aye, motion passed 2-0.

**Public Comment on Agenda Items**

Roadmaster VanLew introduced Road Crew Forman Derrick Claas to the Board explaining he has been recently promoted to the Forman position. Supervisors Scribner and Croft congratulated Mr. Claas on his new position.

**Approval of Minutes**

Chairman Scribner asked for a motion to approve the Board's meeting minutes from the March 17<sup>th</sup> PM session. Vice-Chairman Croft made a motion to approve the minutes. Chairman Scribner seconded the motion, with all members voting Aye. Motion passed 3-0.

**Reports**

There were none.

## **Old Business**

### **Proposal for facilitating Planning Commission review of Applications for Variances or Special Exceptions and Planning Commissions Request to Testify before the Zoning Hearing Board.**

Mr. Reven summarized that this is a request to amend the procedures of processing applications for the Zoning Hearing Board. He added prior to 2021 every applicant appeared before the Planning Commission, Board of Supervisors and Zoning Hearing Board. In January of 2021 the procedure was revised, the applicants no longer appeared before the Planning Commission or the Board prior to the scheduled zoning hearing. The Planning Commission is seeking an opportunity to review these applications at one of their public meetings prior to the zoning hearing and when appropriate ask the Board for permission to intervene and present evidence at the Zoning Hearing on behalf of the Township. Mr. Reven expressed concern that this process will take more time for the applicant to appear before the Zoning Hearing Board. If the Board approves this request Mr. Reven suggested restructuring the meeting times to foster a faster review.

Mr. Tom Oeste stated the Township is automatically a party to every Zoning Hearing. The Board on behalf of the Township has the right to participate or not participate in every Zoning Hearing board application. He added in his experience in order for the Board to make that determination you need to know what the application is about in order to do that someone needs to make a presentation this is typically the applicant. He also added in some municipalities the applicant makes the presentation to the Planning Commission and they make comments or recommendations to the Board. Mr. Oeste states that MPC requires the Zoning Hearing to be scheduled within sixty days of the filing of the application adding this is why we have time constraints. He added Mr. Reven's goal is if you approve this request that the Township expedite the process as much as possible so the applicant is not delayed for the full sixty days.

The discussion continued resulting the Board granting the Planning Commission's request.

Vice Chairman Croft made a motion to change the Planning Commission meeting dates and institute we get anything we need into the Zoning Hearing Board and require applicants to appear before the Planning Commission and the Board of Supervisors to review Zoning Hearing applications. Chairman Scribner seconded the motions. With all members voting Aye, motion passed 3-0.

### **Demonstration and Proposal for Electric Meeting Packets**

Mr. Reven stated at the last meeting the Board directed him to provide a recommendation on a manner to facilitate an electronic meeting packet. He added for this meeting staff has provided a demonstration via the Township's website under the agenda center module. Mr. Reven provided the Board with directions on how to access the digital packet. Mr. Reven added the mechanism in providing the packet is only one part of the proposal, the second part would be how would the Board use the electronic packet. Mr. Reven stated that he would recommend that every seat at this Board have a tablet or small PC installed so that every Board or Committee that meets here can access to them to navigate the packet. He asked the Board to consider the following items, our IT Consultant is not a fan of cheaper tablets you are looking at approximately one thousand dollars per seat. Second even though he is a fan of technology he feels this is a very clunky experience, many

people that are on our boards take notes on their packets and flip back and forth through the packets this is not easily done with the electronic format. He added he does not see an easy alternative to having a large printed packet for every member of the Board before the meeting. The discussion continued. Chairman Scribner stated he is leaving the decision up to Mr. Reven, perhaps you do not include the minutes in the packet, the minutes are on line. We are trying to be transparent. Mr. Reven responded to the Board with the following; in light of the feed back provided he is proposing the following: what is already established is the Friday before the meeting the Board received the draft agenda on Monday prior to the meeting the agenda is made available on our website. He added the entire packet should be available on the Wednesday before the meeting on the website however, he suggested not having the packet information available until 24 hours prior to the meeting. He stated the adding and subtracting of the items is time consuming and we don't always have all the items of the packet until 24 hours prior to the meeting. He added that we will exercise degression in what we print out in the paper packets for the Board. The Board is in agreement with Mr. Reven's suggestions.

**Contract Amendment #1 to Chester Count Grant Program Contract 18829: Bondsville Mill Park Improvements Phases 1 and Phase 2**

Mr. Reven explained to the Board that in their packet is a letter written by Mr. Hud Voltz regarding Bondsville Mill Park improvements. He added that the garden project at the Mill is the recipient of both County and State grants. This letter is a request to consolidate material from one round into the other round. He added he is sure the grant administrator has reasons why these grants should be combined. Mr. Reven request the Board allow the Chairman to execute the letter in your packet.

Vice Chairman Croft made a motion to consolidate the two grants into one package for the Bondsville Mill Park improvements. Chairman Scribner seconded the motion. With all members voting Aye, motion passed 3-0.

**Proposal to Change Parking, Mailbox Placement, and Stormwater Management in Phase III Maplevew**

Mr. Don Sample presented the Board with revised parking for the Maplevew Subdivision. He stated they are eliminating of the off-street parking lot located on the east side of the proposed development in Phase 3 of construction due to the fact that they are changing the underground stormwater basin to an above ground rain garden. They would be removing 21 parking spots. He added they are proposing to add 27 parallel parking spots in cul-de-sacs and along the main strip of Glory Maple in addition to the placement of the Phase 3 mailboxes. This also will affect the mailbox configuration. He also added the current configuration has the mailboxes located on Sugar Maple Square and Paper Bark Square once construction is complete. The Phase 3 mailbox was intended to be located in the parking lot that is now being removed.

The discussion continued with residents of Maplevew voicing concern regarding the parking situation in the community. Supervisor Winters made a motion to grant Mr. Samples request. There was no second to this motion. Vice Chairman Crofts stated he is leaning on the recommendation of the Township Solicitor to have the new plan reviewed by the Planning Commission. Chairman Scribner directed Mr. Sample and team to present their revised plan to the Planning Commission for their review based on Vice Chairman Crofts comments. He added the builder can continue to work with the current plan that is already approved.

**Update: Award Contract of Purchase of Plants for Bondsville Mill**

Mr. Reven stated the Township advertised the purchase of plants for Bondsville Mill through an advertised competitive bid. The Board in March of 2022 voted to award the contract to the low bidder. He added it has since become apparent that the contract that called for the delivery of those plants in September of 2022 is not a time line that can be met. Due to the delivery of the soils and construction of the hardscapes in the garden area. Mr. Reven respectfully asked the Board to reject all bids for the purchase of plants at Bondsville Mill. He added that project will again be bid out for spring of 2023 delivery.

Mr. Jim Buczala added the reason for the adjustment of the time line is the requirement for a bridge repair. He stated that bridge is critical in providing access for the stone and soil that need to be delivered to the park for this project. He added the reasonable completion date is May 1<sup>st</sup> to have the bridge repaired. This pushes the phase 2 work back beyond the planting season.

Vice Chairman Croft asked for a motion to reject all bids for the purchase of plants at Bondsville Mill Phase 3. Supervisor Winters stated so moved. Motion passed 2-0.

**New Business**

**East Brandywine Baptist Church to Host Fireworks Display in the Community Park per East Brandywine Township Code Exhibit A Chapter 182 and Chapter 160**

Ms. Janet Doane and Mr. Brian Fuller from East Brandywine Baptist Church expressed to the Board that the church would like to host a food truck festival at the Community Park on July 10<sup>th</sup> with a rain date of July 17<sup>th</sup>, from 5 PM in the evening to 9:30 PM. Mr. Fuller added this event would be open to the community and would be honoring the East Brandywine Township Police and Firefighters. The evening would end with a 5K run and fireworks display. Mr. Fuller asked the board for guidance on the next steps in securing the park for this event. After further discussion the Board advised Mr. Fuller and Ms. Doane that their next steps would be to speak with EBYA for field availability, EBT Fire Department regarding fireworks, the EBT PD regarding security requirements and the Township for the large gathering permit application.

**Escrow Release No. 21 Hide-A-Way Farms Phase 1 (Final) & Escrow Release No. 16 Hide-A-Way Farms Phase 3 (Final)**

Mr. Reven explained the releases to the Board. Mr. Reven respectfully asked the Board to approve release 21 of Phase 1 and release 16 of Phase 3. Mr. Reven respectfully asked the Bard to approve the escrow releases as approved by the Township Engineer.

Vice Chairman Croft made a motion to approve Release 21 of Phase 1 and release 16 of Phase 3 of Hide-A-Way Farms. Chairman Scribner seconded the motion. With all members voting Aye, motion passed 3-0.

### **Subdivision & Zoning Applications**

There were none.

### **Ordinances & Resolutions for Consideration**

**Ordinance 1 of 2022: An ordinance of the Township of East Brandywine, Chester County, PA, amending chapter 182 of the East Brandywine Township code entitled "Parks and Recreation Areas" in order to amend the Township Park rules which are incorporated into chapter 182 as exhibit A.**

Mr. Reven presented the Ordinance to the Board. He stated this represents changes to the park rules as stated within the Township code. The amendments were to smoking and the park and the maximum number of people that can use the fields before a permit is required. Mr. Reven also stated that he recommended the dollar amount to all park amenities or rentals be removed from the ordinance and incorporated in tot the Townships fee schedule. He respectfully asked the Board to adopt the Ordinance 1 of 2022.

Vice-Chairman Croft made a motion to adopt Ordinance 1 of 2022 to amend the Townships Park rules to incorporate in to Chapter 182 of the Township Code. Chairman Scribner seconded the motion with all members voting Aye, motion passed 3-0

**Resolution 5 of 2022: A Resolution of the Township of East Brandywine, PA, adopting a master fee schedule for various permit and application fees.**

Mr. Reven presented the Resolution to the Board stating this is the Townships complete fee schedule has been compiled into one document. Adding that the only change is the Stormwater Management flat fee which was configured by taking the medium expense of the simplified and engineered plans to come up with the flat fee.

Mr. Reven Respectfully asked the Board to adopt Resolution 5 of 2022.

Vice Chairman Croft made a motion to adopt Resolution 5 of 2022 adopting a master fee schedule for various permits and applications. Chairman Scribner seconded the motion with all members voting Aye, motion passed 3-0.

**Resolution 6 of 2022: A Resolution of the Board of Supervisors of East Brandywine Township adopting a policy for access to Township records by the Board of Supervisors.**

Mr. Reven presented the Resolution to the Board stating this last came up in the spring of 2018. He stated at the time he asked the Board to consider adopting a policy specifying the members of the Boards relationship to Township records located in the building. He added that he has not made any revisions to the 2018 proposal. The Board has asked that document be revised. He added there has been no revisions to the draft from 2018.

Mr. Reven respectfully asked the Board to adopt Resolution 6 of 2022.

Vice Chairman Croft made a motion to adopt resolution 6 of 2022 establishing a policy for Supervisors access to Township records. Chairman Scribner seconded the motion with two members voting Aye, motion passed 3-1. Supervisor Winters voted Nay.

**Resolution 7 of 2022: A Resolution rescinding Resolution 3 of 2021 which authorized return of excess condemned land and authorizing Township administration and consultants o comply with court order dated April 4, 2022.**

Mr. Oeste stated Carlino East Brandywine brought litigation against the Township in addition to BVA and L&R and other individuals suggesting that the transfer of some of the condemned land be conveyed back to L&R and Joh Cropper and also approved a settlement agreement on behalf of the Township. The court held a hearing on a request of a preliminary injunction by Carlino wherein Carlino requested both those actions be declared void. Mr. Oeste added that hearing was held in late January. On April 4<sup>th</sup> 2022 the Court entered an order granting all the relief requested by Carlino, including a declaration that the condemned land was void and illegal and also the settlement agreement is void and illegal. The order requires the Township to take immediate steps to undo resend, rewind or withdraw from any steps taken to implement the alleged settlement agreement within five days of the date of this order.

This Resolution 7 of 2022 before you is a Resolution rescinding Resolution 3 of 2021 which authorized return of excess condemned land and authorizing Township administration and consultants to comply with court order dated April 4, 2022. Mr. Oeste read the resolution to the Board. He added he received an email from the attorney for BVA and L&R indicating they are going to appeal the order. He advised the Board that that appeal does not stay this order or supersede this order from Judge Griffith unless the Judge grants a stay. Mr. Oeste recommended following the courts ruling and take the action requested.

Supervisor Winters did not feel it was a wise decision to sign the resolution if the order is over turned it would leave the Township open to trouble as it could be viewed as breach of a contract if the appeal is granted. Supervisor Winters stated he would be appealing the order as well. Chairman Scribner added a stay may or may not occur. The Judge has ordered this. Chairman Scribner then asked Vice-Chairman Croft for his thoughts. Mr. Croft stated the Judge ordered it and if down the road it's stayed then we will deal with it. The discussion continued. Mr. Oeste stated that the Township is under a court order to comply within five days. He added in his opinion we cannot delay that as the Township could possibly be held in contempt.

Vice Chairman Croft made a motion to adopt resolution 7 of 2022 in compliance with the court order dated April 4, 2022. Chairman Scribner seconded the motion with two members voting Aye, motion passed 3-1. Supervisor Winters voted Nay.

**Public Comment on Non-Agenda Items**

There was no public comment.

**Notices**

There will be a Foundation meeting directly following this Board meeting.

**Adjournment**

Chairman Scribner asked for a motion to adjourn. Vice-Chairman Croft made the motion to adjourn the public meeting at 8:30 PM. Supervisor Winters seconded the motion. With all members voting Aye, motion passed 3-0.

Respectfully submitted,

Lisa Taraschi,  
Township Secretary