

**WEST BRADFORD TOWNSHIP
BOARD OF SUPERVISORS
BUSINESS MEETING
OCTOBER 16, 2019**

BOARD OF SUPERVISORS

William R. Christman III, Chairman
Laurie W. Abele, Vice Chairman
Jack M. Hines, Jr., Member

TOWNSHIP PERSONNEL

Justin Yaich, Manager
Karen Farra, Codes Clerk

PROFESSIONAL CONSULTANTS

Thomas Comitta, AICP, CNU-A, RLA
Jack Coyle, III, MAI, CRE
Michael Gill, Esquire
Erin Gross, RLA, ASLA, APA
Mark Zettlemoyer, CPA, CFI

Chairman Christman called the meeting to order at 7:06 p.m.

Chairman Christman disclosed that the meeting is being recorded for the purpose of minute preparation and that public comment would be taken at the end of the presentation by the Board of Supervisors and Township Professional Consultants. Mr. Christman announced that the Board met in executive session on Friday, October 11, 2019 from 11:30 a.m. to 12:30 p.m. and again on Monday, October 14, 2019 from 11:00 a.m. to 1:00 p.m. The purpose of those meetings was to discuss litigation.

INTRODUCTIONS

Mr. Yaich gave instructions and procedures for Public Comment. He advised that he would make himself available to residents by telephone, email and in person. He then introduced the Panel.

PRESENTATIONS

Litigation Update - Michael Gill, Esquire

Mr. Gill provided history of Embreeville litigation through present.

- All parties are currently awaiting decision of the Court of Common Pleas
- Embreeville Redevelopment Group filed new Zoning Hearing Board Appeal in Spring 2018 challenging Zoning Ordinance, stating it does not provide feasible use for Embreeville site.
- The Township and Embreeville Development have requested a stay of the hearing and the Zoning Hearing challenge pending settlement negotiations.

Property Settlement and Future Goals – Thomas Comitta, Landscape Architect and Planner

Mr. Comitta and Ms. Gross presented a slide show about the Embreeville site.

- Proposed redevelopment and uses (i.e., expansion of playing fields, closing of sewer facility, potential Township Campus with emergency services, parks/trails/open space)
- History - property location, topography, existing conditions, site analysis
- Importance of having identified the property on the February 14, 2012 Official Map with regard to first right to purchase and that the Official Map was identified during the trial process
- Zoning Map and Future Land Use Map as identified in the 2009 Comprehensive Plan indicating property as Institutional Mixed Zoning
- Developer's proposed use for property includes 800 apartments, 240 single family attached dwellings and 60 single family detached dwellings

- Mr. Comitta stated at the validity challenge hearings that Developer's proposed uses would not be in keeping with the nature of West Bradford Township
- Conceptual Master Plan of West Bradford Township for the property and return on Environmental benefits

Proposed Settlement Agreement – Michael Gill, Esquire

Mr. Gill presented the terms of the proposed Settlement Agreement under which West Bradford Township would purchase the Embreeville Property. A single integrated Agreement would have two components – (1) litigation settlement disposing of right to appeal; and (2) development of the SPCA lot.

- Development of the SPCA lot would consist of:
 - a. Up to 33 single family dwellings
 - b. Dwellings in keeping with the Tattersall Golf Community
 - c. All normal permit and land development fees paid, but the sewer tapping fee waived
 - d. Township shall grant certain needed relief to permit development of area consistent with the above; however, no relief shall be granted that would cause public risk or harm
 - e. Process to resolve any requested waiver that would cause unnecessary risk or harm
 - f. Easements on Embreeville property for stormwater management
 - g. Maximum Impervious area of 50%
- Litigation Settlement in addition to the above SPCA property requirements:
 - a. Developer shall relinquish rights to waste water discharge and fair share principle contests
 - b. 196 acres of the Embreeville property shall go to West Bradford Township at a cost of \$22.5 million, the appraised value
 - c. Bond for purchase of property would be supported by a 1 millage real estate tax
 - d. Transfer of ownership of property shall be dependent upon Developer remediating property and ACT 2 clearance being granted by the Pennsylvania Department of Environmental Protection (PA DEP). Process anticipated to be completed over 18-month period
 - e. Funds for purchase of property shall be placed into escrow account and progress payments made to the Developer throughout process upon completion of different phases of work
 - f. If funding not obtained, Agreement shall be null and void – property will revert to current status

OTHER PROFESSIONAL CONSULTANT PRESENTATIONS

Mr. Gill introduced Mr. Coyle, Appraiser on behalf of the Township, to ensure Township's due diligence. Mr. Christman explained sources of funding.

Appraisal Process – Jack Coyle, III, MAI, CRE

Mr. Coyle shared his background and experience. He explained items taken into consideration to determine appraised value:

- Continued growth in multi-family housing throughout the region
- General decline in home size and rise in Homeowner Associations

- If the property *were* to be remediated, developed and restored to an environmentally feasible property, there could be a total of 1,100 units at \$20,000 per unit, consisting of a blend of townhomes, carriage houses, multi-family housing, apartments, etc.
- Big demand for this type of housing

Funding - Mr. Mark Zettlemoyer, CPA, CFE

Mr. Zettlemoyer disclosed that he has had no prior involvement in the Embreeville property matter. He performed a financial analysis for ability to purchase the property and available resources (i.e., bonds, Leids Park Capital Fund, Sewer Fund and Open Space fund).

- Debt Analysis - Bond funding would be subject to an interest rate of 2-4%
- Bond funded by institution of a 1 to 1.5 millage real estate tax (approximately \$176 - \$178 per year, per tax payor)

COMMENTS FROM THE BOARD OF SUPERVISORS AND MR. GILL

Mr. Gill explained that because appraisal was being conducted as part of a settlement, it was based on developability of the property verses “as is” and a fair market value was used. There are many uncertainties in litigation when the decisions reached are not in your hands. The Township considered likelihood of various outcomes to determine method of valuation of the property.

Mr. Hines thanked attendees for coming and explained his position on the purchase of the Embreeville property, history of the ownership and attempts to acquire the property.

Mrs. Abele explained her position on the purchase of the Embreeville property.

Mr. Christman explained his position on the purchase of the Embreeville property.

Mr. Yaich stated his appreciation to the Township staff and the Embreeville State Police and opened the meeting up to public comment.

PUBLIC COMMENT

- Eric Roe – 1332 W. Strasburg Road. Former State Representative here as a citizen and resident of the Township. Gave support of Township’s purchase of the Embreeville Property and his reasons for same.
- Robert Burleigh – 1639 S. Glenside Road. Asked if \$115,000/acre is appropriate. Mr. Coyle responded that he feels it is fair. Mr. Burleigh told the Board of Supervisors that the Township’s purchase of the Embreeville property is controversial in many ways, so excruciating transparency to the Public is needed going forward. Mr. Christman responded that residents have the right to view the financial information upon request. Mr. Hines responded that a condition of the settlement included oversight of spending and work progress and that purchase funds will be placed in escrow and not be paid until work is approved by PA DEP and Township Consultants. Mr. Gill expounded on schedule of work, oversight procedures and that Township will pay no more than the agreed upon cost for purchase of the property regardless of costs to Developer.
- John Bossong – 1651 Hemlock Circle. Expressed support of Township’s purchase and his reasons for same, and that once all is paid for, real estate tax should end. Mr. Hines responded that the Township cannot obligate a future Board of Supervisors, but the current Board will do its best to see that the tax is ended.

- James Bossong – 1651 Hemlock Circle. Asked how much of the property would be allocated for public works, sanitary sewer, emergency services, etc. Mr. Hines responded there were many options for use and discussed those. Mr. Christman stated the cost of services provided are more than what we would be collecting (spend \$1.11 for every \$1.00 collected).
- Karen Sklenar – 661 Spruce Drive. Disclosed that she is a member of the Township Land Preservation & Sustainability Committee, inquired as to how property would be zoned and commented she would like to be part of development of any trails. Mr. Christman responded that zoning will remain the same and that the waste water treatment plant on site would no longer be used. Mr. Hines stated if the Township purchases the property, it will be restricted to open space and municipal uses.
- Name Unknown – S. Glenside Road. Asked if the Developer is making money from the sale of the property. Mr. Gill responded that the Township is not privy to what the Developer would make from sale of the property but that the Township has capped the cost to the purchase price for the property, which cost is tied to the valuation of the property, not to the Developer's cost or profit. Mrs. Abele stated the Township did due diligence in having the property appraised and negotiating the purchase price, including looking at the cost to remediate the property. Mr. Hines stated there is no provision for a special assessment, the Township wishes to keep taxes as low as possible and reduce when possible.
- Neal Leidy – address unknown. Mr. Leidy had four questions:
 - (a) Will remediation of the property include the tunnels? Mr. Christman responded that cleanup of anything found is pursuant to Act 2 standards; this includes all facilities above and below ground other than some utilities.
 - (b) What are the fees and & costs in addition to the amount of the bond? Mr. Hines explained that bond fees are based on interest, rate and size of the bond at the time of issue. Mr. Zettlemoyer explained the bond will not be for the total purchase price and if bond is issued for \$19 million, the estimated bond costs would be \$105,000.
 - (c) What are the anticipated costs to maintain the property once it is acquired? Mr. Hines responded there will be costs to maintain the property that will be offset by WBYA who maintains the fields they use and Ryan Blvd. would remain and be improved upon to provide for liquid fuel funds. He doesn't anticipate a large increase in costs to maintain the property.
 - (d) Will the Township be seeking to use open space funds for the property? He thought these funds were earmarked for the purchase of private property. Mr. Hines responded that when the ¼% increase in the earned income tax was instated for the purposes of purchasing and preserving open space land, the purchase of the Embreeville property was not a consideration. However, he feels as long as portions of the property are maintained as open space it is okay to use a portion of these funds towards this purchase.
- Mary Roberts – 2029 Arrowhead Trail. Is \$22.5 million the price cap for purchase of the property? Mr. Gill responded yes, \$22.5 million is the maximum no matter what the cost is to the Developer to deliver the property clean pursuant to the Act 2 standards.
- Jim Roberts – 2029 Arrowhead Trail. He feels \$22.5 million is an exorbitant amount, asked what the Developer paid for the property and stated the Township should consider partial development of the property to offset the cost of purchase. Mr. Gill responded the Developer purchased the property for \$1 million from the Commonwealth of Pennsylvania. Mr. Christman responded there is no plan to develop the property. Mr. Roberts stated the Township should consider restricting development of the SPCA property until the

Developer obtains Act 2 certification for the clean-up of the Embreeville property. Mr. Gill responded that the proposed Settlement Agreement provides for an 18-month period for the Developer to completely clean-up the property, and the SPCA property still needs to go through the land development approval process with the Township and the County, which may coincide with or exceed the timeline set for the clean-up.

- Meg Kramer – 546 Groundhog College Road. Ms. Kramer disclosed she is a member of the Township Land Preservation and Sustainability Committee and expressed concerns over the short notice for the meeting and methods for informing the public. She asked if the Township considered having more than one appraisal completed and if the Board would be voting on this matter tonight. Mr. Gill responded there were two appraisals completed, one by the Township and one by the Developer. Ms. Abele commented the Developer's appraisal was significantly higher than the Townships'. All Board members responded that a vote would not take place this evening.
- Betsy DeMarino – 261 Brandywine Drive, Newlin Township. Ms. DeMarino inquired as to sewer service for the SPCA property. Mr. Gill responded that under the proposed Settlement Agreement, 33 EDUs connecting to the existing Strasburg Wastewater Treatment Plant are approved. Mr. Yaich explained there would be no new sewer plant/facility constructed to accommodate development of the SPCA property. He identified the area on the map showing the section the Township would utilize for new lagoons and future/back-up spray fields for the existing Strasburg sewer facilities.
- Scott Wendle – 208 Locust Drive, New London Township and Vice President of Natural Lands Trust. Mr. Wendle expressed support of purchase of the property as proposed.
- Kate Roby – 899 Stargazers Road, Newlin Township. Ms. Roby expressed concerns regarding clean-up of the property and provision for exclusion for certain underground utilities. Mr. Gill responded that the proposed Settlement Agreement contemplates what we know about now. Township is to engage an environmental specialist to conduct a Phase 2 assessment of the property to identify any other environmental areas of concern and the Developer will be required to clean-up whatever that specialist identifies as requiring remediation.
- Roberta Ekdahl – 1751 W. Strasburg Road. Expressed concerns regarding ownership and development of the SPCA lot and ambient lighting.
- Jim Tupitza – 300 Youngs Road, Newlin Township. Expressed support of purchase as proposed.
- Janet Sidewater – 1001 Brandywine Creek Road, Newlin Township. Ms. Sidewater suggested area of property be named for Indian Hannah.
- Susan Boswell – 1790 Beacon Hill Road. Expressed concerns with proposed Settlement Agreement, the SPCA property, remediation of the Embreeville property and taxes. She stated she would be better placed to ask questions once able to review the Settlement Agreement. She urged the Board not to vote on the matter until the public has had an opportunity to review this agreement. Mr. Christman assured her a vote would not take place at this time. Mr. Gill advised the Township will not go to closing without Act 2 certification. He further explained that payments to the Developer are structured so that there is no release of funds from escrow until each stage of work is completed, inspected, and confirmed by the Township.
- Erica Young – 649 Sugars Bridge Road. Expressed support of purchase as proposed and suggested proposed uses of the property. She relayed concerns regarding the structure of real estate tax and that it should not be in perpetuity. She asked that the Township do its due diligence during the clean-up process to ensure preservation of trees, the cemetery, and other natural characteristics of the property.
- Mark Slouf – 416 Cann Road. Mr. Slouf inquired who will own the 5-acre residual property and what it will be used for. Mr. Gill advised the Developer will own this area and they did

not advise of reason or how they will use the property; however, the area will remain zoned Industrial/Mix Use with allowable impervious area of 50% pursuant the existing non-conformity on the property. Mr. Slouf asked that if other development in the Township creates a burden on the schools resulting in a need for another school in the future, will the property and Township be protected from condemnation? If not, at what rate/cost will they purchase the property? Mr. Gill responded that the Township cannot possibly speculate nor opine on all of the potential scenarios.

- In response to multiple comments, Mr. Gill confirmed the Developer will relinquish its permit for the waste water facility.
- Ms. Martinez - Appleville Mobile Home Park. Inquired about anticipated length of time for paying the real estate tax, how much funding would come from the open space fund, and how much of the property would be maintained as open space. Mr. Zettlemoyer advised current projections are that the Township will obtain a bond amortized over 25 years and that it is not known how much funding will come from the open space fund, but generally, if one-half of the funding comes from the open space fund, one-half of the property would be maintained as open space. Mr. Yaich explained funding sources will determine land use.
- Janie Baird – 1236 Brandywine Creek Road, Newlin Township. Expressed thanks to the Township for the work done to bring this matter to a resolution and addressing the waste water facility in the negotiations and settlement.
- Eric Bennett – 1291 W. Strasburg Road. Thanked the Township for its due diligence and inquired about the ownership and sale of the SPCA lot. He wants more transparency regarding the SPCA lot and feels the Township should re-do the fair share assessment and do away with the assessment done by the Brandywine Conservancy. Mr. Gill responded as follows: (1) During the Zoning Hearing, the Township's position was that there is no fair share deficiency. Mr. Comitta looked at the Township's zoning districts and did his own fair share analysis – neither he nor the Township relied upon the Brandywine Conservancy assessment. (2) Ownership of the SPCA lot is not an issue before the Township, other than the Developer will need to establish ownership rights in order to submit a land development plan to the Township.
- Sharon Scott – East Fallowfield Township. Opined as to the cost to purchase property and costs paid for professionals. She feels the costs are too high, that the Township should purchase the Embreeville property, the residents should not have to pay for it – the State should have the property cleaned up and gift it to the Township. She voiced concerns regarding full transparency. Mr. Yaich responded that the total fees incurred for the Embreeville litigation is approximately \$400,000 over the last years.
- Michael Billings – 600 Jolene Drive. Expressed concern regarding costs to connect the homes to be constructed on the SPCA lot to the Township sewer system and how it will affect current customers. Mr. Hines responded that the proposed fields on the Embreeville property are for the current sewer system, the land will be reserved for future use in the event the current fields fail. He further stated the only fee being waived is the tapping fee – all other fees for service will remain the same.
- Name unknown, Delong Drive. Expressed concerns regarding provision of the SPCA property and stated taxes never reversed or minimized. Mr. Gill again advised that he cannot speak as to the ownership of the SPCA property, only that Developer will be required to follow normal land development procedures.
- In response to inquiry regarding management of clean-up of property, Mr. Gill advised the DEP manages the Act 2 plan., the Developer will be required to get approval from them and the PA DEP will oversee clean-up.
- Kate Cloyd – 1512 E. Sedona. Drive. Asked if there have been any comments from the School Board. Mr. Hines replied that the Township has encouraged DASD to consider putting a school at the Embreeville site, but they have not wanted to do that. The Township

has contacted DASD regarding their needs and desire to be involved, but they have shown no interest.

- Larry (last name unknown) – Stargazers Road, Newlin Township. Asked if there is any consideration for a through road to alleviate traffic on Stargazers Road. Mr. Christman responded that this is not out of the question, but there is no formal plan for development of property at this time. When it comes time, the Township will be looking for input from its residents.
- Matt Downs – 1025 Appleville Road. Asked what will happen with the mass grave site and memorial markers for Indian Hannah. Mr. Christman responded that the Boy Scouts are currently cleaning up the cemetery and it will be maintained; however, the memorial to Indiana Hannah is in Newlin Township.
- Maryanne Gallucci – 1830 W. Strasburg Road. Asked if the 33 homes for the SPCA lot would be single family attached or detached homes. Mr. Christman advised they would be single family detached homes like the homes in the Tattersall community. Mr. Gill responded that the homes would be in keeping with the UDA zoning overlay requirements.
- Eric Eckenrode – 1113 Oak Hollow Drive. Expressed support of the purchase and inquired about potential for further lawsuits regarding the SPCA property and if a school qualifies as a municipal use. Mr. Hines advised schools are not a municipal use.
- Jackson – Romansville Road. Asked whether buildings will come down. Mr. Christman stated that building and tunnels will be removed. Mr. Hines added that property will be graded and seeded once clean-up is done, that tree removal will be limited and that some parking lots may be kept.
- Karl Klingmann – 772 Marshallton-Thorndale Road. Appreciates efforts of the Board and hopes this goes through.
- Resident Name Unknown – Address Unknown. Inquired whether the County was contacted for grants, timeline involved and thanked the Board for their efforts. Mr. Christman responded that they have reached out for funding but have no commitments until the deal is done. Mr. Gill stated that they are contemplating 18 months from the time agreement is approved and signed.
- Tim Vogel – 1368 Romansville Road. Asked why there is no referendum and what the process is. Mr. Gill replied that the Board will consider real estate tax proposal at their November meeting to implement January 1, 2020. Bonding will depend on this approval.
- Robert Burleigh – 1639 S. Glenside Road – Asked if Developer has to provide insurance/performance bond. Mr. Gill stated that this was not included in negotiation, but payment trails performance. We only pay if West Bradford consultant approves. Terms of acquisition will provide cross remedies. If Developer defaults, we'll go to court and force conveyance.
- Tattersall Resident. Stated it is a very good idea to make the SPCA lot included in the Settlement Agreement so nobody can develop until all else is completed.

ADDITIONAL BUSINESS OF THE BOARD

Mr. Christman called for a motion and stated that any new meeting regarding proposed purchase will be advertised. Mr. Hines requested final Settlement Agreement before vote, a new meeting will be called to vote. Mr. Christman tabled the decision to purchase the Embreeville Property as proposed.

NOTICES

Mr. Christman gave the following notices:

- The Board will next meet on Tuesday, November 11, 2019 at the Township Building, 7:00 p.m. unless a special meeting is called prior to this date.
- The Fall Family Fun Festival and Ghost Walk is Saturday, October 19, 2019 from 5 to 8 p.m. in the Village of Marshallton. Rain date is Sunday, October 20th.
- The Township office will be closed on Tuesday, November 5, 2019 for the General Election. Refuse and recyclable collection will be provided as per normal schedule.
- The Planning Commission (7 p.m.) meeting scheduled for November 5th has been rescheduled to Monday, November 4, 2019.

There being no additional business, at 10:11 p.m. Mr. Christman motioned to adjourn the meeting, second by Mr. Hines. Motioned carried 3-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin Yaich", written over a horizontal line.

Justin Yaich
Township Secretary

JY/kf