

March 17, 2009

The East Lampeter Township Board of Supervisors met on Tuesday, March 17, 2009, at 7:30 p.m. at the East Lampeter Township Office, 2250 Old Philadelphia Pike, Lancaster, PA 17602. The meeting was called to order by Mr. David Buckwalter, Chairman and was followed by the Pledge of Allegiance. Supervisors present were: Mr. David Buckwalter, Mr. John Shertzer, Mr. Roger Rutt, and Mr. Glenn Eberly. Also present was Mr. Ralph Hutchison, Township Manager. Mr. Michael Landis was absent.

The following persons signed in as being present in the audience:

Irl N. Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601, representing CVC  
John Pogue, David Miller Associates, 1076 Centerville Road, Lancaster, PA 17601, representing D&E Properties  
Linford Good, High Associates, 1853 William Penn Way, Lancaster, PA 17608, representing D. A. Landis Trucking  
Joel Young, Rettew Associates, 3020 Columbia Avenue, Lancaster, PA 17603, representing High Real Estate  
Tom Clark, 31 Acorn Boulevard, Lancaster, PA 17602  
Harold Feerrar, PO Box 304, Smoketown, PA 17576, representing Bridgeport  
Ed Moran, 641 Barr Boulevard, Lancaster, PA 17603, representing Bridgeport  
Harvey Burkholder, 824 Fivepointville Road, Stevens, PA 17578  
Daniel Petersheim, 414 Mount Vernon Road, Gap, PA 17527, representing D&E Properties  
Rick High, 852 Stumpf Hill Drive, Lancaster, PA 17601

#### Announcement of Executive Session

Chairman Buckwalter announced that a brief Executive Session was held prior to the meeting to discuss some issues related to real estate.

#### Minutes of March 2, 2009 Regular Meeting:

Chairman Buckwalter indicated that copies of the minutes of the March 2, 2009 regular meeting were available for review and asked if there were any comments or corrections regarding the minutes as prepared.

A motion was then made by Mr. Shertzer and seconded by Mr. Rutt to dispense with the reading of the minutes and approve the minutes as presented. The motion was passed by unanimous voice vote.

#### Bills:

Chairman Buckwalter then indicated that bills represented by various funds in the amount of \$318,909.27 were presented for payment. Chairman Buckwalter mentioned that of the total amount, there was a payment of \$14,628.00 to H. L. Wiker & Sons for the work they have done at the Flory Park entrance project, and \$47,927.00 to F & S Supply for the purchase of a skid loader which was budgeted. Half of this amount for the skid loader will come out of the general fund and the remaining half will come out of the highway aid fund. Also presented was \$107,901.00 to Fulton Bank for debt service on a 2003 bond, a contribution to the Humane League in the amount of \$4,066.00 which is the 2009 Township agreement, and \$6,778.00 to the County's DA office which is half of the Township's 2009 contribution to the task force, a premium for workman's compensation in the amount of \$32,573.00, and also an insurance premium for property and casualty insurance in the amount of \$20,066.00.

After review of the bills listed, a motion was made by Mr. Rutt and seconded by Mr. Eberly to approve payment of bills as listed in the amount of \$318,909.27. The motion was passed by unanimous voice vote.

Old Business:

a. Financial Security Reduction Request – Bob’s Auto: Lincoln Highway

Chairman Buckwalter asked if anyone was there for this item. No one was in attendance to represent this item. Chairman Buckwalter noted that the owner of Bob’s Automotive Specialties is requesting the entire amount of the financial security be released. The township engineer, David Miller Associates, reviewed the project and noted items in a letter dated February 27, 2009, that still need to be completed. It is their recommendation to approve a financial security reduction in the amount of \$8,045.51, which will leave a new outstanding financial security balance of \$9,380.93. Mr. Rutt made a motion to reduce the financial security by \$8,045.51. The motion was seconded by Mr. Shertzer and passed by unanimous voice vote.

b. High Associates Land Development Plan #09-03: Independence Court

Chairman Buckwalter recused himself from participation in this agenda item due to his employment in the High organization and asked Mr. Rutt to chair the meeting for this agenda item.

Mr. Ken Hornbeck of High Associates introduced himself and Joel Young of Rettew Associates, the civil engineer for this project. Mr. Hornbeck explained that Mr. Young was before the Board at the previous meeting to address this land development plan that is along Independence Court. At that meeting, Mr. Hutchison stated that what is showing on the plan for Independence Court seems to indicate that Independence Court is not located within the right of way of Independence Court. It was then decided to table this item until the next meeting, so that more research could be done on the deeds of this property.

Mr. Hornbeck stated that unfortunately they have not been able to locate any further documentation as to the right of way of this property and thus this does not change the circumstance of the fact that the road exists the way it does today and has existed this way for the past twenty-seven (27) years since the Township took dedication of it.

Mr. Rutt then asked Mr. Hornbeck if he is researching the railroad documents.

Mr. Hornbeck then displayed the 179 page railroad document and added that there is nothing in it that speaks to whether or not of any easement that was granted to the two (2) property owners which at that time was High Properties and Pyrofax Gas Corporation.

Mr. Eberly asked how much of the current cartway is actually on the railroad property.

Mr. Hornbeck replied that they do not have an exact amount, but based on the plan where Independence Court meets Greenfield Road, it could be as wide as twenty (20) feet of the roadway/cartway of Independence Court and then it tapers down as you head back down into Independence Court.

Mr. Hutchison stated that staff took a look at the other plan which High Associates did recently at the end of the cul-de-sac of Independence Court. It does appear the actual cartway returns to being within

the right-of-way somewhere in that vicinity. The two plans may be able to be cobbled together to get most of Independence Court shown as far as current survey information.

Mr. Hornbeck believes that this issue that has been raised should not affect the decision before the Board about the land development plan they are requesting this evening because this condition has existed for the last ten (10) or twenty (20) years or more since the Township accepted dedication. He added that the Township has approved other plans on Independence Court in the past, most recently the self storage building that is currently under construction.

Mr. Hornbeck added that there are two (2) solutions that High is willing to work with the Township on if they can help in some way. The easiest and less costly solution is to contact Norfolk Southern and get an easement from them that allow Independence Court to exist within their right-of-way and record that document if they would be agreeable to this. If not, the Township must decide whether they want to reconstruct all of Independence Court and push that roadway back into the existing right-of-way.

Mr. Shertzer commented how Mr. Hornbeck keeps referring back to the fact how the Board kept approving things and now this has come up and reared its head. This is not reason enough for him to not want to solve this problem now. Mr. Shertzer would like to see an agreement to allow them to construct the building while in the meantime they also work at resolving this issue. The Township would hold the occupancy permit until all the options to solve this issue have been exhausted.

Mr. Rutt then asked if there was anyone in the audience who had an interest or a comment on this project. There were no comments from the audience.

Mr. Shertzer made a motion to approve the revised final plan as submitted with the condition of working through the Independence Court driveway issue allowing building to be constructed but not occupied and also subject to the Township engineer review comments. Mr. Eberly seconded the motion and it was passed by a vote of three in favor and one abstaining. Chairman Buckwalter abstained.

Chairman Buckwalter rejoined the Board at this time.

#### New Business:

a. D & E Properties Storm Water Facilities Maintenance Agreement

Mr. Hutchison explained that during the preliminary plan approval of this application, the Board set as a condition of approval the requirement that the owner enter into an agreement with the Township for the maintenance of new storm sewer facilities that are going to be installed in the PennDOT right of way as a part of this project.

Mr. Hutchison stated that Township Solicitor Stephen Kraybill prepared the Storm Water Management Agreement. Mr. Hutchison had talked to Mr. Kraybill earlier today and it was suggested that perhaps there should be more language added to deal with the future replacement of storm water facilities.

Chairman Buckwalter asked Mr. John Pogue of David Miller Associates, who is representing the applicant, if he had any questions or comments concerning the prepared document. Mr. Pogue stated he didn't see anything in it that can't be worked out.

Mr. Eberly made a motion to approve the D & E Properties Storm Water Management Agreement subject to Mr. Kraybill's final wording approval. The motion was seconded by Mr. Shertzer and passed by unanimous voice vote.

b. D & E Properties Final Land Development Plan #09-02: Lincoln Highway East

Mr. John Pogue of David Miller Associates, who is representing D & E Properties, explained the plan is essentially the same in terms as the building location as it was on the preliminary plan. There were some changes made to improve the storm water management. Mr. Pogue then outlined the changes that were made to the final land development plan.

Mr. Hutchison asked a question related to the billboard issue, that a curb depression is still showing along Route 30 near the billboard on the western side of the property. There was discussion about looking for some other way to access this facility other than having vehicles backing onto or off of Route 30.

Mr. Pogue responded that looking at the slopes that the property has, there really isn't any other practical way to do this.

Mr. Hutchison questioned Mr. Pogue about whether he had talked to PennDOT about having another point of access to this property.

Mr. Pogue responded that PennDOT saw the plans and had no comments.

Mr. Hutchison's other question was that a dwelling was shown on the property on the previous plan and it looks as though this dwelling has been removed. He suggests that this be marked on the cover sheet to be recorded that the dwelling is going to be removed.

Chairman Buckwalter asked if there were any questions or comments from the audience. There was no response from the audience.

Mr. Shertzer made a motion to grant approval of D & E Final Land Development Plan subject to meeting the conditions on Rettew's letter dated March 16, 2009 and adding a note to the plan of the dwelling to be removed, and also accepting the fee of \$14,338.30 for park and open space. The motion was seconded by Mr. Eberly and passed by unanimous voice vote.

c. Land Development Plan Waiver Request – D. A. Landis Trucking: 167 Greenfield Road

Mr. Michael Saladik of Herr & Low P.C. introduced himself as representing D. A. Landis Trucking of 167 Greenfield Road, requesting a waiver of land development plan. He also introduced the current owner, Doug Weidman of Shippen Realty Partners, the potential owner, Dean Landis of DMJ Partners and D. A. Landis Trucking, and Lin Good of High Associates.

Mr. Saladik explained that the building on this property is 140,000 + square feet on 17.2 acres of land. In 2004, a land development subdivision plan was approved and recorded. The storm water management was taken care of at that time. Therefore, they do not feel that a land development plan is necessary and are requesting a waiver since they are only proposing interior modifications to the building to allow for other tenants. D. A. Landis Trucking would use 40,000–60,000 square feet of the building.

Mr. Good then explained the history of the property and how they are having trouble marketing the site to other tenants. When they show the property to perspective tenants and then explain how they need to get land development plan approval from the Township, then the perspective tenants are not interested. They are trying to remove all of the obstacles that they can from the marketing objections people have

when they look at the property. They have just completed the Act 2 clearance on the property earlier this year which took about two (2) years to complete.

Mr. Hutchison stated the type of use that goes into the building has land development issues that deal with parking, access, fire service, etc. which should be looked at with each and every new user.

Mr. Shertzer stated the comment in the letter from David Miller Associates that mentions the applicant believes that the Township granted permission around 1993 to the previous owner to allow multiple tenants in the building at one time. However, the applicant cannot produce documentation to verify this claim. The Township also cannot produce any documentation to this fact.

It was stated that the Board of Supervisors meets twice a month and therefore this should not create a problem for the applicant to approach them each time they get a new tenant.

Mr. Shertzer commented that the Township currently has a problem with multiple uses in a large building that is out of control. For this reason, he is uneasy about granting approval for this plan. Mr. Shertzer added that as soon as the applicant is ready to come back with some potential tenants, he is in favor of moving ahead with this project.

Mr. Eberly made a motion based on the Township engineer's recommendation to deny the waiver of the requirement to file a land development plan. The motion was seconded by Mr. Shertzer and passed by unanimous voice vote.

#### Other Business:

- a. Consideration of Appeal of Zoning Hearing Board Decision re: 2394 Lincoln Hwy. East

Chairman Buckwalter asked if anyone in the audience was present for this item. There was no one present.

Mr. Hutchison explained that the Township Zoning Hearing Board had a hearing and approved a special exception and variance for a proposed home occupation for therapeutic massage business at this location. They had applied for a special exception for the home occupation. During the hearing process, they discovered that there were not enough parking spaces on the property to accommodate the number of dwellings that were in the property as well as the home occupation. The Zoning Hearing Board granted the variance without public notice.

Mr. Hutchison added that staff is concerned about this Zoning Hearing Board approval since they granted the variance without public notice, there are more dwellings than have been approved and too few parking spaces, and the hours of operation weren't defined as part of the decision. Mr. Hutchison recommends that the Board consider appeal of this decision, which will give the opportunity to work with the owner of this property to address these issues.

Mr. Shertzer made a motion to appeal the Zoning Hearing Board decision on 2394 Lincoln Highway East. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

- b. Discussion re: Body Art Ordinance Proposal – LIMC Area

Mr. Hutchison explained that the municipalities in the LIMC have been discussing this for several months. It was initially raised by the City of Lancaster as an opportunity to work together. The City of Lancaster has developed a Body Art Ordinance which deals with tattooing and piercing operations in the city, since there is no licensing or regulations for that type of operation through the state.

Mr. Hutchison added that Lancaster City has indicated that if we can come to an appropriate agreement, they would have their health officer do the licensing, permitting, and inspections that would be needed.

Mr. Shertzer made a motion for staff to work with LIMC in further investigating an ordinance on body art. The motion was seconded by Mr. Eberly and passed by unanimous voice vote.

c. Consideration of Changes to Treasurer's Bond

Mr. Hutchison explained that staff looked into making changes to the treasurer's bond per his request in order to save money. For the last several years it has been set at 1.2 million dollars, which is a bit excessive. The staff who handle money on a daily basis are covered by the bond for only \$10,000.00. Although this amount is rarely accessible for anyone, he feels it should be raised to \$25,000.00 for the Township's protection.

Mr. Hutchison added that PennDOT requires the Township to have a treasurer's bond to cover at least the amount available in the Highway Aid Fund, which is where the amount of \$551,000.00 came from. This change will save the Township about \$1,000.00 per year.

A motion was made by Mr. Rutt and seconded by Mr. Eberly to lower the Treasurer's Bond amount from 1.2 million dollars to \$551,000.00, and increase the coverage for staff to \$25,000.00. The motion was passed by unanimous voice vote.

Public Comment:

Chairman Buckwalter asked if there were any public comments. There were no comments.

Adjournment:

A motion was made by Mr. Eberly and seconded by Mr. Shertzer to adjourn the meeting. The motion was passed by unanimous voice vote. The next regularly scheduled meeting is to be held on Monday, April 6, 2009 beginning at 7:30 pm.

Respectfully submitted,

Ralph Hutchison  
Township Manager