

March 19, 2013

The East Lampeter Township Board of Supervisors met on Tuesday, March 19, 2013, 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. In addition to Mr. Buckwalter, supervisors present were: Mr. John Shertzer, Mr. John Blowers, and Mr. Glenn Eberly. Also present was Mr. Ralph Hutchison, Township Manager. Mr. Mike Landis was absent.

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

Matthew J. Crème Jr., Nikolaus & Hohenadel LLP, 212 N. Queen Street, Lancaster, PA 17603,  
representing Millcross Properties  
John Weese, Harbor Engineering, Inc., 41 S. Main Street, Manheim, PA 17545, representing Ephraim Esch  
David Keens, 342 Woodcrest Drive, Lancaster, PA 17602, representing Lafayette Fire Company  
Wayne Beaner, 10 Horseshoe Drive, Lancaster, PA 17601  
Hugh Cadzow, ELA Group, Inc., 743 S. Broad Street, Lititz, PA 17543, representing Quality Centers  
Barry Fitzgerald, Jr., 310 Laurel Oak Lane, Lancaster, PA 17602  
Tom Matteson, Diehm & Sons, 15 Toll Gate Road, Lititz, PA 17543, representing Neff/Millcreek Fence  
Robert Neff, Old Mill Lane, LLC  
Lynn Commero, representing Lancaster Newspapers  
Dr. Mohammed Mazaheri, 657 Millcross Road, Lancaster, PA 17601  
Laura Hartlaub, 671 Millcross Road, Lancaster, PA 17601  
Justin Kulp, 634 Millcross Road, Lancaster, PA 17601  
John Yoder, 445 Millcross Road, Lancaster, PA 17601  
Henry Yoder, 455 Millcross Road, Lancaster, PA 17601  
Scott Bradbury, US Commercial Realty, 1650 Crooked Oak Drive, Lancaster, PA 17601, representing  
Ephraim Esch  
Peter Scudner, 2117 Waterford Drive, Lancaster, PA 17601  
Cary Ahl, 651 Millcross Road, Lancaster, PA 17601  
Nellie Ahl, 651 Millcross Road, Lancaster, PA 17601

Chairman Buckwalter indicated that copies of the agenda and minutes from the previous meeting were available in the back of the room for review. He also announced that an executive session was held on March 12, 2013 to discuss a personnel issue and an executive session was held prior to tonight's meeting dealing with The Waterfront Restaurant appeal Zoning Hearing Board decision.

Minutes of March 4, 2013 Regular Meeting:

Chairman Buckwalter asked if there were any additions or corrections regarding the minutes of the March 4, 2013 regular meeting as prepared. There were no comments.

A motion was made by Mr. Shertzer to dispense with the reading of the March 4, 2013 minutes and approve the minutes as presented. Mr. Blowers seconded the motion and it was passed by unanimous voice vote.

## Bills:

Chairman Buckwalter indicated that bills to be paid from various funds in the amount of \$313,822.01 were presented for payment. Chairman Buckwalter noted that some of the larger items included in that amount was a payment of \$122,632.43 for debt service to Fulton Financial Advisors for East Lampeter Sewer Authority, a payment of \$53,654.40 to Wyoming Electric & Signal for the Rt. 30 at Greenland Drive traffic signal, and a payment of \$4,650.00 to the Lancaster County SPCA for addressing the stray dog issue in the Township.

A motion was made by Mr. Blowers and seconded by Mr. Eberly to approve payment of the bills as listed in the amount of \$313,822.01. The motion was passed by unanimous voice vote.

## 2012 Annual Report – Lafayette Fire Company: Chief Dave Keens

Chief Dave Keens of the Lafayette Fire Company introduced himself and reviewed the report of the fire company's activities for 2012. He stated that the fire company responded to 480 calls for the year and reviewed the types of calls. He also mentioned the number of hours spent training, contributions and fund raising, and repair costs to the apparatus.

The Board members thanked Chief Keens for the report.

## Old Business:

### a. Request for Reduction of Financial Security: Devon's Creek – New Holland Pike

Chairman Buckwalter stated that Devon's Creek on New Holland Pike is requesting a reduction of financial security. He asked if anyone was present for this item. No one was present. Chairman Buckwalter explained that the township engineer, David Miller Associates, reviewed the request and noted several items that have not been completed in a letter dated March 13, 2013. It is their recommendation that the financial security be reduced in the amount of \$49,501.55, which will leave a new outstanding financial security balance of \$535,935.89.

Mr. Shertzer made a motion to reduce the financial security for Devon's Creek on New Holland Pike by \$49,501.55, as recommended by David Miller Associates, leaving a new outstanding financial security balance of \$535,935.89. The motion was seconded by Mr. Eberly and passed by unanimous voice vote.

### b. Settlement Agreement re: Waterfront Restaurant Appeal of Zoning Hearing Board Decision

Chairman Buckwalter turned the meeting over to Theresa Mongiovi, Esq., who is council and solicitor for East Lampeter Township. Ms. Mongiovi explained that she was before the Board to present an agreement which would address the appeal of the Zoning Hearing Board decision for Millcross Properties, LLC/ Waterfront Restaurant. She further reviewed the matter for the Board. She introduced in the audience Mr. and Mrs. Ahl who are one of the parties involved in this settlement and Mr. Matthew Crème, Esq. who is counsel for Millcross Properties.

Mr. Crème introduced himself and discussed the plan with it being displayed on the projection screen.

Chairman Buckwalter suggested that Mr. Crème address comments from the audience.

Dr. Mohammed Mazaheri, 657 Millcross Road, Lancaster, PA 17601, expressed his opposition to having the parking lot expanded. He stated that the owners of the Waterfront Restaurant should have known about the parking limitations before they purchased the property.

Mr. Wayne Beaner, 10 Horseshoe Drive, Lancaster, PA 17601, stated that he opposes any expansion to the parking lot. He told the Board members to take a drive over to the area and see why it is such a special place. He also told them to park in the parking lot of the restaurant and see how this is probably one of the most unattractive restaurants in the county from the parking lot.

Mrs. Laura Hartlaub, 671 Millcross Road, Lancaster, PA 17601, stated that she actually owns the land that they are considering paving. They have tried to get the easement removed, but have been unsuccessful. Her biggest concern is for the safety of her house in regards to flooding. At the Zoning Hearing Board meeting, her biggest question was if an expert could guarantee her that the pavement that the restaurant wants to put in would not change the flood water. When she read the zoning ordinances, everything seemed so clear and specific to save her house. She never thought this plan would go through because it breaks tons of the Township ordinances. She asked for a copy of the plan to present to her lawyer to make sure that everything in there is in agreement with the easement. She knows the easement does not allow the removal of trees on the property and the previous plan showed a lot of trees being removed.

Attorney Chris Underhill introduced himself as representing the Ahls. He reviewed the history on prior appeals and failure of the restaurant owners to file a brief in support of their position which was ordered by the court. Mr. Underhill filed a rule to show cause on these parties why the appeal should not be dismissed. He then received a brief stated from Ms. Mongiovi and Mr. Crème saying they don't want the appeal dismissed because there might be a settlement that they want approved by the court. If a court approves a settlement in a zoning dispute, even though it bypasses all the normal procedures that it takes to get zoning approval, it's binding. If this agreement is approved tonight and the court approves it, it would bypass all the safeguards that are in the Municipality Planning Codes. They are asking the Board to make them follow the Municipality Planning Code procedures. Millcross Properties knew there were only sixty (60) parking spaces and that it was in a floodplain when they bought the property. They bought it and should live with it.

Mr. Crème responded that this is a lawfully pre-existing non-conforming use. Mr. Underhill is completely correct stating that it is not permitted to be there by the township zoning ordinance. It is permitted to be there by our nation's constitution and the constitution of our commonwealth. They are not bypassing the law.

Mr. Underhill stated it is a lawful bypass because they want to bypass the normal procedures. The condition of the restaurant, its parking, its profitability was known to them. They should be made to go before the Zoning Hearing Board and make their case.

Dr. Mazaheri again expressed his opposition to the expansion of the parking area and asked the Board to not feel sorry for the owners because they invested in the wrong way.

Mr. Justin Kulp, 634 Millcross Road, Lancaster, PA 17601, stated his concern about the stewardship of the area and how things are when it floods. In the last two years, there have probably been about 4 or 5 major flood events. Each time it takes out the fence, the trash cans and dumpsters. A dumpster was pulled out of the middle of the river the last time it flooded. All the plans that he has seen don't address this problem. He feels the overflow parking is only needed 8-10 times a year, because he can see the parking area from his home. He also addressed how the lighting shines across the neighboring backyards and asked if this was going to be corrected.

Mr. Carey Ahl, 651 Millcross Road, Lancaster, PA 17601, stated that he has lived at this address for 51 years. They have a very special property that dates back to 1733. If this extension of the parking area is granted, it will devalue his property.

Mr. Blowers commented that the restaurant is not going away and the parking has been an issue for many years. The Board is trying to work through this parking issue and be good stewards of the neighborhood.

Mrs. Nellie Ahl, 651 Millcross Road, Lancaster, PA 17601, stated that the issues here are the number of variances and it is her understanding that a variance cannot be granted because of revenue.

Mr. Eberly commented that the parking issue has been bad for years and the number of complaints that the Township police have had to deal with at this site in regards to the parking situation.

Mrs. Ahl added that there is no parking problem in reality. The only time it is a problem is in the summer time.

Mrs. Hartlaub feels the ideal situation is for the Board to give the variance to allow them to park in the grass area and put hedges in to control the traffic.

Mr. Eberly made a motion to approve the settlement agreement between the Waterfront Restaurant/ Millcross Properties appeal and the East Lampeter Township Zoning Hearing Board. The motion was seconded by Mr. Shertzer and passed by unanimous voice vote.

c. Settlement Agreement re: Appeal of Zoning Hearing Board Decision – 2160 Lincoln Highway East and Lancaster Mennonite Campus Property

Mr. Hutchison explained that the Board at the last Supervisor's meeting authorized the appeal of a decision of the Zoning Hearing Board related to a decision they made on an application from 2160 Lincoln Highway East and the Lancaster Mennonite School Campus. There was discussion at the last Board meeting about the decision to make the appeal. This discussion led to efforts to settle the appeal. Representatives of the properties submitted a proposed agreement to settle the appeal which was reviewed by Township Solicitor, Mr. Stephen Kraybill, Esq. Mr. Kraybill made recommendations for a few changes to the agreement. Based upon those changes being made, Mr. Kraybill and Mr. Hutchison both recommend that the Board consider approval of the settlement agreement. Mr. Hutchison reviewed the agreement.

Mr. Eberly made a motion to approve the settlement agreement between 2160 Lincoln Highway East and Lancaster Mennonite Campus. The motion was seconded by Mr. Shertzer and passed by unanimous voice vote.

d. Neff/Millcreek Fence Land Development Plan #10-29: 360 Mt. Sidney Road

Mr. Tom Matteson of Diehm & Sons, Inc. introduced himself and his client Mr. Robert Neff of Old Mill Lane, LLC. They are before the Board for approval of the final land development plan #10-29 for Old Mill Lane, LLC. The applicant is proposing to construct two (2) buildings on the property. One building will be for the manufacturing of vinyl coated fence materials and the second building will be for the sale of Millcreek Fence products. The two family dwelling, barn building and future barn building are no longer proposed with this submission. Mr. Matteson reviewed the letter from David Miller Associates dated March 14, 2013. There was a brief discussion about complying with the park and open space requirements.

A motion was made by Mr. Shertzer to grant conditional approval to preliminary/final land development plan for Old Mill Lane, LLC at 360 Mt. Sidney Road, granting the requested waivers and agreeing to the deferment of frontage improvements including curbs and sidewalks along both properties with an agreement to be recorded against the properties requiring the owners to complete these improvements in the future and meeting the other conditions listed in the letter dated March 14, 2013 from David Miller Associates, and eliminating item 5 under the Land Development in regards to the park and open space requirements. The motion was seconded by Mr. Blowers and passed by unanimous voice vote.

New Business:

a. Quality Centers Land Development Plan #12-18: 2495 Lincoln Highway East

Mr. Hugh Cadzow of ELA Group, Inc. introduced himself as representing Waterford QC Associates, LP, who are the owners of the Quality Centers at 2495 Lincoln Highway East. The applicant is proposing to revise the previously approved and recorded Final Land Development Plan, with a proposed parking lot expansion. Mr. Cadzow reviewed the plan and the letter dated March 18, 2013 from David Miller Associates listing the waiver requests. There was a discussion about sidewalks being installed along the frontage of Eastbrook Road and the issues it would cause.

Mr. Hutchison mentioned concern for pedestrians crossing the parking lot. He feels that there should be some sort of crosswalk across the driveway area along Lincoln Highway East.

Mr. Cadzow agreed with Mr. Hutchison and said they could do something for the safety of pedestrians crossing the parking area.

Mr. Blowers made a motion to approve Land Development Plan #12-18 for Quality Centers at 2495 Lincoln Highway East with the understanding that waiver number 3 listed in the letter dated March 18, 2013 from David Miller Associates will be deferred with a legally bonded agreement. The motion was seconded by Mr. Eberly and passed by unanimous voice vote.

b. Esch Sketch Plan for 2985 Lincoln Highway East

Mr. John Weese of Harbor Engineering, Inc. introduced himself as representing Ephraim Esch. Mr. Esch is proposing to construct a 31,550 +/- square foot gravel display area along the front of the easterly portion of the existing 6.075 acre parcel. The site is currently the location of American Outback Buildings and is located at the corner of Leven Road and Lincoln Highway East. Mr. Weese reviewed the history of the

property and the sketch plan. They are asking for guidance about the note that is on the subdivision plan that in 2008 required land development plans within 2 years, which did not happen. This note was added before Mr. Esch bought the property and he was not aware of it. Mr. Esch has no problem with doing the road improvements and the stormwater management plan.

There was a lengthy discussion and Mr. Esch was advised that the next step is for him to return with a land development plan.

No action was necessary for this item.

c. Request for ECHO Agreement: Scudner – 2076 Stonecrest Drive

Mr. Peter Scudner of 2117 Waterford Drive, Lancaster, PA 17601 introduced himself. He explained that he recently purchased 2076 Stonecrest Drive, Lancaster, PA 17601 which currently had an ECHO Housing Agreement. Mr. Scudner would like to enter into an ECHO Housing Agreement with the Township to maintain the current building on this property for his elderly father to live in. He explained that he will own the property, but that his daughter will reside in the main house.

Mr. Blowers made a motion to grant the request for the ECO Agreement for Mr. Peter Scudner of 2076 Stonecrest Drive. Mr. Eberly seconded the motion and it was passed by unanimous voice vote.

Other Business:

a. Resolution: Setting Fees Under Solicitation Ordinance Requirements

Mr. Hutchison explained that this is consistent with Ordinance 294 that was adopted by the Board on February 19, 2013. There is a section in the ordinance that states that the Board can and should adopt a fee for administration of the solicitation ordinance. This resolution was prepared for this purpose. If adopted by the Board, it would require those submitting an application to submit a \$50.00 administrative fee plus \$25.00 for each individual who is applying for a license. They would also be required to submit a report obtained from the Pennsylvania Access to Criminal History system from the Pennsylvania State Police.

A motion was made by Mr. Shertzer to adopt the resolution setting fees under solicitation ordinance requirements. Mr. Blowers seconded the motion and it was passed by unanimous voice vote.

b. Ordinance re: Non Uniform Pension Plan

Mr. Hutchison explained that back when the Township was faced with budget difficulties in late 2009, the Board decided to slightly modify the non-uniform pension plan in order to provide an incentive of sorts to one of the employees to retire at that time. The Board adopted that modification via a resolution, which was felt to be the appropriate way to do that by staff and Township solicitor. During the last audit process, the auditor indicated that he felt that action should have been taken by ordinance rather than by resolution. This ordinance before the Board is re-adopting the contents of Resolution No. R-2009-32.

A motion was made by Mr. Eberly to approve the ordinance re-adopting the contents of Resolution No. 2009-32 in regards to non uniform pension plan. Mr. Blowers seconded the motion and it was passed by unanimous voice vote.

Public Comment:

There were no comments.

Adjournment:

A motion was made by Mr. Eberly and seconded by Mr. Blowers to adjourn the meeting. The motion was passed by unanimous voice vote. The next regularly scheduled meeting is to be held on Monday, April 1, 2013 beginning at 7:30 pm.

Respectfully submitted,

Ralph Hutchison  
Township Manager