

May 7, 2007

The East Lampeter Township Board of Supervisors met on May 7, 2007 at 7:30p.m. At the East Lampeter Township Office, 2250 Old Philadelphia Pike, Lancaster, PA 17602. The meeting was called to order by Chairman Eberly and was followed by the Pledge of Allegiance. Supervisors present were: Mr. Glenn Eberly, Mr. Michael Landis, Mr. Roger Rutt, Mr. Wilbur Sollenberger and Mr. David Buckwalter. Also present was Mr. Ralph Hutchison, Township Manager.

The following persons signed in as being present:

Mr. Irl & Mrs. Lois Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601
Mr. Fred Daum, 2142 New Holland Pike, Lancaster, PA 17601
Ms. Susan Synder, 435 Mt. Sidney Road, Lancaster, PA 17602
Mr. Dale Schmitz, 256 Brook Farms Road
Mr. John Pogue, Lake Roeder Hillard, representing James Mark
Mr. John Bare, 422 Millcreek Road, Bird in Hand
Mr. Doug & Mrs. Belinda Clark, 2584 Old Philadelphia Pike, Bird in Hand
Mrs. Joyce Heberlein, 33 Spring Dell Road, Lancaster, PA 17601
Mr. Gordon Fritz, Smoketown, PA
Mr. Randy Harris, 233 N. Barbara Street, Mt. Joy, PA
Mrs. Molly Henderson, Lancaster County Commissioner
Metta Barbour, 313 W. Liberty Place, Lancaster, PA representing the Lancaster Coalition for Smart Growth
Mr. Scott Enterline, 533 Millcross Road, Lancaster, PA
Mr. Ken & Mrs. Susan Stoudt, 754 Willow Road

Minutes:

Chairman Eberly indicated that the copies of the minutes of the April 17, 2007 regular meeting were available for review. Mrs. Duling asked several questions about the preparation and content of the minutes. No changes were requested.

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

Bills:

Chairman Eberly also indicated that bills represented by various funds in the amount of \$223,077.69 were presented for payment, copies of which were available for review. After review, a motion was made by Mr. Rutt and seconded by Mr. Sollenberger to approve payment of bills as listed in the amount of \$223,077.69. The motion was passed by unanimous voice vote.

Presentation by Dee Durham, Exec. Dir. of S.A.V.E. Inc. – Kennett Square, PA

Mrs. Dee Durham the Executive Director of S.A.V.E., Inc. located in Kennett Square, PA was in attendance and gave a presentation regarding the activities of her organization related to Route 41 in Chester County. She indicated that S.A.V.E. has been successful in getting PADOT to change its plans for traffic congestion solutions in that area. S.A.V.E. has proposed the use of modern “roundabouts” instead of widening and relocation solutions initially offered by PADOT. She described roundabouts use and function as an effective, safe, attractive and less expensive alternative to traffic signals or other traffic controls. She also indicated that the acceptance of roundabouts in the United States is growing. She suggested that roundabouts may be an alternative for the community to consider instead of the proposed Route 23 bypass being discussed by PADOT. Mrs. Durham included a power point slide show as a part of her presentation.

At the conclusion of Mrs. Durham’s presentation there were a variety of questions and discussion about roundabouts, truck movements in the region and S.A.V.E. as an organization. Mr. Eberly thanked Mrs. Durham for her presentation.

Old Business:

- a. Time Extension re: Mark Properties Land Development Plan Review – Pitney Road

Mr. John Pogue of Lake Roeder & Hillard was in attendance to represent this request / offer of additional time to review this application. Mr. Pogue indicated that the applicant had been working on obtaining zoning approvals which took them some time and now having obtained the necessary zoning approvals they will proceed with the plan. Mr. Eberly asked if anyone had any comments or questions regarding the proposed time extension. There being none, Mr. Sollenberger then made a motion to approve and agree to the ninety (90) day time extension for the Mark Properties Land Development Plan. The motion was seconded by Mr. Landis and approved by unanimous voice vote.

- b. Consideration of Ordinance re: Acquisition of Right of Way – 1651 & 1653 Old Philadelphia Pike

Mr. Hutchison indicated that the location of these properties is on the north side of Old Philadelphia Pike near the intersection of Campus Drive in the Bridgeport area. He further indicated that the developer of the Harrisburg Area Community College (HACC) Lancaster Campus had proposed improvements to this intersection but has been unable to acquire the right of way needed to make the improvements. He also stated that the Township has made attempts to acquire the right of way for these properties and has previously acquired the right of way needed from 1647 Old Philadelphia Pike by condemnation action. He indicated that Mr. Leaman is the owner of both 1651 and 1653 Old Philadelphia Pike. Finally, Mr. Hutchison indicated that should the Board approve of the ordinance, the Township would then control the right of way needed for the

completion of the proposed improvements and would then work with the developer of HACC to have the improvements completed. The developer has posted financial security for the improvements.

Mr. Eberly asked if Mr. Leaman had previously entered into an agreement with the developer to sell the right of way needed. Mr. Hutchison indicated that he had signed such an agreement but for some reason would not settle with the developer.

Mr. Eberly asked if there were any questions or comments on the proposed ordinance. Mr. Landis then made a motion to approve of the Ordinance to condemn right of way from 1651 and 1653 Old Philadelphia Pike as proposed. The motion was seconded by Mr. Buckwalter and approved by unanimous voice vote. (Entered into the Township Ordinance Book as Ordinance number 268)

- c. Authorization to appeal City of Lancaster Zoning Hearing Board decision re: Lowe's Development – Pitney Road

Mr. Eberly introduced this agenda item and asked Mr. Hutchison if a reply to the Township's settlement proposal had been received. Mr. Hutchison indicated that no reply had been received. Mr. Hutchison further indicated that since the time when the Township made the settlement proposal, the City Zoning Hearing Board took this additional action related to the proposed project. Mr. Hutchison also indicated that the earlier appeals taken by the Township related to the first decision made by the City Zoning Hearing Board and the City's amendment to their zoning ordinance are still pending. Mr. Hutchison then recommended that the Board authorize appeal of this most recent decision in order to maintain the Township's position of involvement with the project.

Mr. Eberly asked if there were any questions or comments regarding this proposal to appeal the City Zoning Hearing Board decision. Mr. Sollenberger then made a motion to authorize the appeal of the City Zoning Hearing Board decision regarding the proposed Lowe's development on Pitney Road. The motion was then seconded by Mr. Rutt and approved by unanimous voice vote.

New Business:

- a. None

Other Business:

- a. Reappointment to Park Board Term Ending 5/5/11 – Mr. Pieter Hegeman

Mr. Eberly announced that Mr. Hegeman's term on the Park Board has ended and that Mr. Hegeman has indicated his desire to be reappointed to serve another term which would end on May 5, 2011. Mr. Rutt then made a motion to reappoint Mr. Pieter

Hegeman to the Park Board for a term ending on May 5, 2011. The motion was seconded by Mr. Sollenberger and passed by unanimous voice vote.

Mr. Eberly also announced that there presently is a vacancy on the Park Board and invited interested residents to contact Mr. Hutchison if they would like to be considered for this position.

b. Approval of Township base Fire Company Activities for 2007

Mr. Eberly indicated that each of the four Fire Companies based in the Township provides a list of activities planned or anticipated for the year for approval by the Township. The purpose of the approval is to provide assurance to the Fire Companies that their volunteers engaged in these activities will be covered for Workers Compensation insurance purposes by the Township. Mr. Sollenberger asked Mr. Hutchison if these lists have been reviewed. Mr. Hutchison indicated that he has reviewed them and in addition the Emergency Services Committee has reviewed them and voted to recommend approval of the listed activities. Mr. Sollenberger then asked if there were any items that the Board should be concerned about. Mr. Hutchison stated that in his opinion there are some things that should be reconsidered in the future. He said that since Workers Compensation insurance is an expensive benefit to provide certain activities that might not fall within the primary mission of the fire companies may lead to undesirable insurance exposures if an injury would result. Mr. Eberly asked if these items could be reviewed by the Emergency Services Committee with the insurance carrier to see if there are some of these activities that should be excluded from coverage. Mr. Hutchison indicated that a review of that sort could be done but that it may be just as useful to add some further definition or limitation to these activities. Mr. Sollenberger asked if that was discussed by the Emergency Services Committee. Mr. Hutchison said that there was discussion of it but that the discussion was not very deep or specific. Mr. Landis asked if the listing of activities have been the same for a number of years. Mr. Hutchison said that they have been essentially the same. Mr. Sollenberger noted that one of the items listed was participation in private promotions. Mr. Hutchison was uncertain of what that particular item means and suggested that it might be one of the items that could use a better description or definition. Mr. Eberly noted that the Antique Carriage Auction listed for Bird in Hand appears to be a new activity.

At the conclusion of discussion, Mr. Sollenberger made a motion to approve the listings of activities for the Township fire Companies as presented for 2007. The motion was seconded by Mr. Rutt and approved by unanimous voice vote.

c. Request to use Township Roads for Bicycle Race – June 17, 2007

Mr. Eberly indicated that there is a request to use the Township roads located with the Greenfield Corporate center for a bicycle race on June 17, 2007. He further indicated that the event does not require the closing of any Township roads. Mr. Eberly also stated that the applicant has provided for traffic control, has communicated with High Associates and has provided the Township with a certificate of insurance. Mr. Hutchison indicated

that this event has been held annually for a number of years and that he does not recall having had any problems with it.

Mr. Eberly asked if there were any comment or questions about this request. Mr. Landis then made a motion to approve of the request to use Township roads for a bicycle race to be held on June 17, 2007 in the Greenfield Corporate Center. Mr. Buckwalter seconded the motion and it was approved by a unanimous voice vote.

d. Application for HOP re: Flory Park entrance from Strasburg Pike

Mr. Hutchison indicated that the Park Board has been working on the development of plans for improvements to the Strasburg Pike side of the Flory Park property and that these improvements would begin with the construction of a new driveway access from Strasburg Pike onto the property. He said that this new driveway would serve as the entrance to the park and would also serve as access for the Fertility sewer pumping station and the Neuhauser property. The existing individual driveways onto Strasburg Pike would be eliminated. Mr. Hutchison also said that the Sewer Authority as the owner of the pumping station has already approved of their Highway Occupancy Permit (HOP) application as well as the neighbors adjacent to the park property to the north.

Mr. Eberly asked if there were any questions or comments regarding this application. Mr. Buckwalter then made a motion to approve of the application for Highway Occupancy Permit for the new driveway entrance to Flory Park from Strasburg Pike. The motion was seconded by Mr. Landis and approved by unanimous voice vote.

Public Comment:

Mrs. Duling asked if the Board had considered hiring Mr. Wayne Grafton, Planner as she had suggested in a letter to the Board. She indicated that she had recently learned that the calculation used by the Township for density in the zoning ordinance is based upon gross acreage rather than net acreage. She said that she believes that using net acreage is the standard method used across the United States. She also stated that by using the gross acreage in the Township, the density is much greater.

Mr. Eberly suggested that this request may be something for the planning commission to consider if they feel that they need some assistance. Mr. Eberly indicated that he felt that the Township Planning Commission is capable of handling these questions without outside assistance.

Mr. Randy Harris a resident of Mount Joy Borough and a consultant in the area of Historic Preservation then addressed the Board. He indicated that he was recently made aware of the demolition of a stone structure in the area of Harmony Hill Drive. He stated that he was curious as to whether the Township would be considering the preparation of an historic resources inventory, as recommended by the Comprehensive Plan and the adoption of provisions in the new zoning ordinance which would protect historic

structures from demolition. He further commended the Township for the existing Historic overlay provisions of the Township's Zoning Ordinance. However, he said, the Township should be including things such as demolition review and design infill along with the completion of a basic inventory of historic resources. He further stated that the structure that was recently torn down was likely a farmhouse which was in the Brubaker or Landis family according to the 1864 atlas and may have been eligible for listing on the National Register. He suggested that perhaps the structure could have been incorporated into the development that is being proposed for that site.

Mr. Hutchison indicated that the task force that is working on the preparation of a new zoning ordinance has discussed and will be including recommended provisions to enhance the protection of historic resources in the community. Mr. Hutchison also indicated that the task force has discussed the comprehensive plan recommendation to complete an inventory of historic resources; however it has been concluded that that effort is beyond the scope of the task force and should be taken up as a separate effort by the Townships in the future.

Mrs. Molly Henderson, County Commissioner indicated to the Board that she attended the meeting in order to hear the presentation by Mrs. Durham and thanked the Board for including the presentation as a part of the meeting.

Mrs. Belinda Clark of Bird in Hand spoke to the Board about a serious problem that she and her family are having with a neighbor. She indicated that her neighbor is keeping two horses on a small residential property which are creating a very unsightly and malodorous condition. She asked about what the Township is doing to address this problem.

Mr. Hutchison indicated that he and Mr. Young, Township Zoning Officer have been discussing possible avenues to pursue under the Township's Nuisance Ordinance and Zoning Ordinance which address the conditions that have been created by Mrs. Clark's neighbor. He also indicated that an attempt had previously been made by the Township to prosecute under certain zoning ordinance provisions which was unsuccessful. Mr. Hutchison further indicated that Mr. Young will be working with the Township Solicitor's office to identify appropriate avenues to pursue and to then properly pursue them. He also stated that as a general matter an amendment or addition to Township Ordinances may be needed in order to better deal with these kinds of situations in the future. He indicated that he felt that this situation has been difficult to address because there are many property owners in the Township who have horses on their property which do not create undesirable conditions and so it is a delicate balance to strike where the Township will regulate those situations where bad conditions result and yet not those situations where it works fine. Mr. Hutchison finally stated that the staff is taking this seriously and understands that the odors will become worse as the weather changes. He said that the staff will continue to work until a solution is achieved.

Mr. Eberly asked if the neighbors have been able to talk with this property owner about their concerns. Mrs. Clark stated that her neighbor indicated that Mr. Young had suggested that the horses should be on the property before the ordinance is changed. Mrs.

Clark was not sure that this was a true statement. She also stated that the neighbor believes that there is no way that anyone can force her to get rid of the horses.

Mr. Eberly indicated that the neighbor is apparently taking advantage of the fact that the ordinance allows property owners to have horses for their primary means of transportation even though she does not use her horses in this way.

Mrs. Clark also indicated that she does not feel that it is safe to have these horses so close to others properties.

There was also discussion as to the size of the property where these horses are being kept and the concern for the possible health impacts that might result from the conditions on this property. There were also comments about how the Amish keep their horses stabled and that this property owner does not have the horses in a stable but rather they are just left out in the yard area.

Mr. Irl Duling of Stumpf Hill Drive reported to the Board that a neighbor on Hornig Road was negatively affected by a spraying operation conducted on the property now owned by Keystone Custom Homes. He indicated that the spraying was done without giving any notice to the adjacent property owners. He stated that the owners had to leave their home due to allergic reactions to the spraying and that some of their own vegetation had been killed by the spraying. Mr. Duling asked if there was a procedure which requires adequate notification to neighbors prior to a spraying operation and some legal limits on the weather conditions (wind conditions) which must be present at the time of spraying. He recognized that spraying is a common practice but said that he felt that there should be some control or approval process related to it.

Mr. Eberly indicated that he believed that the insurance company for whoever is spraying would be responsible for any damages that result from the spraying. Mr. Eberly asked if the property owner had talked with Keystone or the spray contractor. Mr. Duling indicated that they attempted to but were unsuccessful. Mr. Eberly asked Mr. Hutchison to contact Keystone to let them know that there may have been off site damages from spraying activity on their property for which they may be responsible.

Mrs. Lois Duling indicated that she believes that chemicals should not be sprayed when windy conditions exist. Mr. Eberly agreed that the chemicals are hazardous and that there are regulations about how they are to be applied which the contractor is responsible to follow. Mr. Buckwalter indicated that people who spray chemicals must be licensed to do so. Mr. Buckwalter also said that he was interested in knowing the amount of damage that these neighbors have had to their property from this spraying event and whether or not they have pursued a claim. He said that he would like to hear from the affected property owners. Mrs. Duling stated that they had called Lee Young the Township Zoning Officer who indicated that he had not been notified of the spraying. She further stated that she believes that normally the Township has to be notified. She also said that the land has been sprayed in the past but she believes that a call has been made to the Township in the past prior to the spraying in order to notify the neighbors about when the

spraying will take place. Upon notification, she said, these neighbors would then leave in order to avoid the health problems which they experience due to the spraying.

Mr. Hutchison stated that the Township has no regulation regarding this matter and does not need to be notified when spraying is planned. He further indicated that it sounded like a civil matter between property owners to him but that there may be some licensure matter to take up with DEP or another state agency.

Mrs. Snyder stated that she has seen classified ads in the newspaper which announce spraying activities periodically.

Mrs. Duling indicated that Mr. Hutchison's statement does not line up with what they were told regarding the history of spraying activity on this property.

Adjournment:

A motion was made by Mr. Sollenberger and seconded by Mr. Landis to adjourn the meeting. Mr. Eberly thanked everyone for attending. The motion was passed by unanimous voice vote. The next scheduled meeting is to be held on Tuesday, May 22, 2007 beginning at 7:30pm.

Respectfully submitted,

Ralph Hutchison
Township Manager