

August 4, 2008

The East Lampeter Township Board of Supervisors met on Monday, August 4, 2008 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. Michael Landis, Mr. G. Roger Rutt and Mr. John Shertzer. Also present was Mr. Ralph Hutchison, Township Manager. Mr. Glenn Eberly was absent.

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

Irl and Lois Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601

Larry Alexander, Intelligencer Journal

Warren and Carolyn Eachus, 351 Morgan Drive, Lancaster, PA 17601

James Tupitza, Attorney

Al and Sara Frank, 907 Hornig Road, Lancaster, PA 17601

G. Jack Brignola, 2165 Jarvis Road, Lancaster, PA 17601, representing Horseshoe Heights

Susan Snyder, 435 Mt. Sidney Road, Lancaster, PA 17601

Fred Daum., 2142 New Holland Pike, Lancaster, PA 17601

Dorothy Killebrew, 89 Strasburg Pike, Lancaster, PA 17602

Robert G. Neuhauser, 89 Strasburg Pike, Lancaster, PA 17602

John Blowers, 102 Strasburg Pike, Lancaster, PA 17602

Jake Bare, 422 Millcreek Road, Bird-In-Hand, PA 17505

#### Announcement of Executive Session Held on July 23, 2008

Chairman Buckwalter announced that an Executive Session was held on July 23, 2008, to address an issue of litigation related to the Ag security area.

#### Minutes of July 14, 2008 Regular Meeting:

Chairman Buckwalter indicated that copies of the minutes of the July 14, 2008 regular meeting were available for review. Chairman Buckwalter asked if there were any comments or corrections regarding the minutes as prepared. There were no comments. A motion was 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 \$237,019.54 were presented for payment. Chairman Buckwalter mentioned that of the total amount, \$24,921.00 was paid for the general construction of the smoke enclosure in the public works building, \$15,000.00 for semi-annual debt service administration transfer, \$19,211.00 was paid to LASA for quarterly sewer flow charge, \$20,066.00 for the first installment on the Township insurance package, and approximately \$15,000.00 for the painting of Township roads. After review of the bills list, a motion was made by Mr. Landis and seconded by Mr.

Rutt to approve payment of bills as listed in the amount of \$237,019.54. The motion was passed by unanimous voice vote.

Old Business:

- a. Financial Security Reduction Request – Rockvale / Olive Garden: Rt. 30

Chairman Buckwalter noted that the request letter was requesting for the entire balance to be released. The Township Engineer recommended a reduction of the financial security for Rockvale / Olive Garden in the amount of \$289,474.43, which will leave a new outstanding financial security balance of \$29,618.44. Mr. Shertzer made a motion to approve the financial security reduction for Rockvale / Olive Garden in the amount of \$289,474.43, leaving a balance of \$29,618.44, as recommended by the Township Engineer. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

New Business:

- a. Value Place Motel Final Land Development Plan #08-18: Lincoln Highway

Chairman Buckwalter asked if anyone was in the audience for this particular project. There was no one present. Chairman Buckwalter stated that this project had verbally been withdrawn from consideration, but that the Township had not received anything in writing. He continued that since the Township wants to avoid a deemed approval, he would like a motion to reject the land development plan #08-18. Mr. Landis made the motion and it was seconded by Mr. Rutt. The motion was passed by unanimous voice vote.

Other Business:

- a. Consideration of Appeal Re: Common Pleas Decision on ASA Appeal

Chairman Buckwalter explained that the Board received the decision from two (2) judges Judge Margaret C. Miller and President Judge Louis J. Farina, from the Court of Common Pleas of Lancaster County stating that they have overturned the decision that the East Lampeter Township Supervisors had made to deny an Agricultural Security Area petition submitted in 2007.

Chairman Buckwalter stated that the decision before the board this evening was whether they would appeal or leave the decision stand as it is. Chairman Buckwalter then asked Mr. Hutchison if there was anything he would like to add. Mr. Hutchison offered to review how this decision had gotten to this point.

Mr. Hutchison explained that an Ag Security application had been submitted approximately a year ago. There is a required process the township must go through with an ag security committee and reviews by planning commissions. The Board of Supervisors then make the final decision whether to adopt an Agricultural Security Area as petitioned for or as modified by the Board. The Board made their decision to reject the creation of an Ag Security Area in

November of 2007. This decision was then appealed and went to the Court of Common Pleas in Lancaster County.

Chairman Buckwalter then asked if any of the Board members had any comments before he opened it up to the public for comments. There were no comments from the Board. He then asked the audience if anyone had any comments on this issue.

Mr. James Tupitza, Esq., attorney for the petitioners, stated that he did not supply a copy of the letter that he wrote to the Township solicitor to the newspaper, but some how they had gotten a copy of it. In the letter he mentioned that he would be at tonight's meeting to ask for Mr. Eberly's apology. He said that he did not intend to do so because his clients are not the type of people who would want to come to the meeting and be confrontational in that fashion.

He said that he had spoken to a gentleman face to face that day who was involved in the conversation and views it simply that if Mr. Eberly wants to apologize to them and ask forgiveness, they will accept that apology immediately. He added that the men who asked the Township to create an Agricultural Security Area would like the Board to seriously consider to not appeal this any further and cause any more division within the community.

Mr. Robert Neuhauser, 89 Strasburg Pike, Lancaster, PA 17602, stated that he feels that we need to preserve as much farmland as we can and asked the Board for their support.

Mr. John Blowers, 102 Strasburg Pike, Lancaster, PA 17602, asked Mr. Hutchison how many times this has been presented to the Board for their approval. Mr. Hutchison replied three (3) times.

Mrs. Carolyn Eachus, 351 Morgan Drive, Lancaster, PA 17601, asked why this request has been denied three (3) times and if there was different reasons for each time. Chairman Buckwalter replied that he was not part of the Board for the first time it was denied, so he could not comment on that decision. For the other two (2) times he was part of the Board and there were concerns about where the farms were located and what might have been considered for Route 23 and Route 30 improvements. He added that there are ordinances protecting the farmland.

Mrs. Eachus continued that there are a lot of people stirred up about this decision who are not present this evening and that she just doesn't understand why the Board would not want to preserve this land.

Chairman Buckwalter commented that there is no one on the Board who wants to pave over farmland and that the Board has not rezoned any agricultural land to residential or other uses. He added that for people to say that the Board does not care about preserving the farmland is really incorrect and that the Board has provided protection through ordinances.

Mrs. Lois Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601, thanked Mr. Landis for always voting in favor of the farmers. She added that the farmers are having a difficult time and that they need cash to maintain their farms and to pass onto their children.

Mr. Tupitza expressed again the reasons he believes the Township should have an Agricultural Security Area. He stated that this is the most important case he has ever had and that he strongly recommends that the Board not overturn the decision.

Mr. Blowers questioned whether there would be a discussion among the Board members. Chairman Buckwalter responded that he did not see this as a public hearing to discuss whether or not Agricultural Security Areas were good or bad. He said they could make their comments to the Board, but the Board must decide whether or not they stand by the decision that they had made several months previous.

Susan Snyder, 435 Mt. Sidney Road, Lancaster, PA 17601, asked that the Board not appeal. She stated that farmland is precious and that we have already lost forty-two (42) acres to eminent domain.

Mr. Shertzer asked where the forty-two (42) acres were located. She replied Spikers Farm. Mr. Hutchison stated that the farm was not taken by eminent domain.

Mr. Albert Frank, 907 Hornig Road, Lancaster, PA 17601, questioned the petition on High Density Ordinance. Chairman Buckwalter responded that the petition was related to an ordinance for increased density on a residential zoned property and that it has nothing to do with the Agricultural Security Area.

Mr. Shertzer made the motion to appeal the decision made by the Court of Common Pleas of Lancaster County on the Agricultural Security Area and to appeal this to the Commonwealth Court. The motion was seconded by Mr. Rutt and passed by a vote of three in favor and one opposed. Mr. Landis voted no.

b. Review of Proposed Upper Leacock Ordinance for Comp Plan Consistency

Chairman Buckwalter asked Mr. Hutchison to comment on this item. Mr. Hutchison explained that under the implementation agreement for the Conestoga Valley Regional Plan, the partners in the region review any ordinance that is going to be adopted by the others that would impact land uses or some other land use regulation. Upper Leacock has forwarded a proposed ordinance for East Lampeter Township to review. The purpose is to indicate whether or not we feel that the ordinance would be consistent with the comp plan of the plan. The proposed ordinance to be reviewed involves providing an exemption for the first new dwelling or lot within an agricultural zone when a subdivision occurs in the ag area. It would be an exemption from their park land fees in lieu of dedication requirements in the current ordinance.

Chairman Buckwalter questioned if our Planning Commission has recommended approval of this proposed ordinance. Mr. Hutchison replied that both the Planning Commission and staff feel the ordinance is consistent with the plan.

Chairman Buckwalter then asked if there were any comments or questions from the Board or audience. Mrs. Duling questioned what exactly all of this meant. Chairman Buckwalter and Mr. Hutchison further explained the proposed ordinance.

Mr. Landis made a motion to indicate that the proposed Upper Leacock ordinance is consistent with the CV Region Comprehensive Plan. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

c. Appointments to LIMC Land Use Advisory Board – Township Representative and Alternate

Chairman Buckwalter explained that this is a comprehensive plan that East Lampeter Township is a part of. It's called "Growing Together" and involves eleven (11) municipalities. Part of the agreement is to form a Land Use Advisory Board that will review projects of regional significance. They are asking East Lampeter Township to appoint a Township representative and an alternate.

Chairman Buckwalter asked the Board members if they knew of anyone who has expressed interest in this type of appointment. Mr. Hutchison responded that he was not aware of anyone.

Chairman Buckwalter mentioned two (2) new appointees to the Planning Commission that he thought might be interested. They are Mr. Randall Ranck and Mr. Daniel McCuen.

After a brief discussion among the Board members, Mr. Rutt made the motion that subject to their positive response to approach, Mr. Randall Ranck as Township representative and Mr. Daniel McCuen as an alternate to fill the positions on the new Land Use Advisory Board. Mr. Landis seconded the motion and it was passed by unanimous voice vote.

d. Consideration of Bids for Flory Park Strasburg Pike Entrance Construction

Chairman Buckwalter explained that the staff has had plans prepared for the entrance into Flory Park off of Strasburg Pike and that bids had been received for the construction. He then asked Mr. Hutchison to further explain.

Mr. Hutchison stated that seven (7) bids were received for the construction. The project was bid with a base bid which was the items that the staff and the Park Board recommended be constructed as minimum needed to result in a positive project. Alternates were also bid that if the pricing was acceptable to the Board would enhance the project. Mr. Hutchison then displayed and explained the plans.

Chairman Buckwalter asked if there were any questions or comments from the audience. Mr. Robert Neuhauser, 89 Strasburg Pike, Lancaster, PA 17602, stated that he is in favor of the park but not in changing his driveway for numerous reasons. He mentioned he would have to walk further to get his mail and newspaper and put his trash out. He also mentioned the

trees along his driveway would have to go. He requested that his driveway remain unchanged in the proposal.

Chairman Buckwalter responded to Mr. Neuhauser's concerns. He stated that the post office was contacted and that they would be willing to deliver back to the cul-de-sac. Mr. Hutchison also commented that the Township is willing to work with him on finding solutions to his concerns.

Dorothy Killebrew, 89 Strasburg Pike, Lancaster, PA 17602, Mr. Neuhauser's wife, also mentioned how upsetting it is to her about changing the driveway and losing the trees along it.

Mr. John Blowers, 102 Strasburg Pike, Lancaster, PA 17602, asked if trash receptacles would be part of the plan. Mr. Hutchison said that those amenities would be in place as soon as it is opened up to the public. Mr. Blowers commented that he was supportive of Mr. Neuhauser's request to leave the driveway unchanged.

Mr. Shertzer stated that he was not part of the process of getting it to this point, so he was not exactly clear on what component you would take out of this or what would be left in it. He asked if the suggestion was to keep both driveways.

Chairman Buckwalter expressed that he was confused by the reasons that Mr. Neuhauser mentioned, because they have all been addressed with solutions. Mr. Neuhauser indicated that he will pursue an injunction to stop the work.

Mr. Hutchison mentioned that the removal of the two (2) driveways would be some of the last work done. The new access would have to be constructed before any of the old is removed. This will allow some time between the start of construction and the end of construction to reconsider and further discuss whatever the Board would like to do to try and work with Mr. Neuhauser.

Chairman Buckwalter stated that if the Board made a motion to approve this, they would be committed to reaching a common ground with Mr. Neuhauser. However, if Mr. Neuhauser's position remains adamant that he will not work with them, it will be difficult to do this. He asked Mr. Neuhauser if he had any suggestions on how he would like to work through this.

Mr. Neuhauser stated that he would like to meet with the Park Board and Supervisors on the site to see if there is an agreement with the Park Board.

Mr. Hutchison explained that if you get more than two (2) supervisors and two (2) park board members together, you must advertise and open the meeting up to the public.

Mr. Landis made the motion to approve the low bid for Phase IV of Flory Park to H.L. Wiker and alternates 2 and 3 in the total amount of \$388,784.00 and to allow change orders as needed throughout the project. Mr. Rutt seconded the motion and it was passed by unanimous voice vote.

Public Comment:

Mr. Jack Brignola, 2165 Jarvis Road, Lancaster, PA 17601, stated that he had submitted a request to Mr. Hutchison to consider banning all truck traffic with the exception of local deliveries on Jarvis Road. There has been an increase in traffic with 18-wheel trucks making this a short cut to Greenfield Road.

Mr. Hutchison commented that the police department has been working on putting counters on Jarvis Road to gather additional information about the speed and the nature of traffic on that road. They do not yet have that information. They will also have to conduct an engineering study under PennDOT rules in order for the Township to restrict truck traffic.

Mr. Brignola said that he saw the police in the area one day only and has not seen them since.

Mr. Hutchison stated that the traffic counter that was put out was borrowed from Upper Leacock Township and that it had malfunctioned. It has been repaired and will have to be put out again to gather the information. The traffic and engineering study will have to be done by one of the designated engineering firms and will cost approximately \$1500.00 and will take about a month to get a report. If the Board would decide to establish a restriction on Jarvis Road, an ordinance would then need to be prepared and advertised and brought up at a public meeting to be voted on by the Board. All of this would take approximately three (3) months.

Mr. Brignola asked if he can expect something in the end of three (3) months as to which direction this will go. Mr. Hutchison said he would be happy to provide him with information as it proceeds.

Mr. Jake Bare, 422 Millcreek Road, Bird-In-Hand, PA 17505, commended the Board for appealing the ASA decision. He explained that there are many people in the township who are concerned with the fact that it seems to be the same group of people who have been promoting ag preservation that have been working hard to stop any new roads from progressing in the area. He said it appears to be all about the money. He doesn't believe it is about preserving the farmland, but about money and control.

Mrs. Lois Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601, stated that when the Board turned down the third appeal, they made the comment that they were concerned about the amount of money the taxpayers would have to pay. The CVC have had to pay a lot of money for legal services to bring this to court and to say they are in it for the money is a fantasy. She would like to appeal to the Board to reconsider their vote to appeal the ASA decision, because they are to represent the people. She asked where Mr. Bare's group was and stated that the Board knew her group and the people in it.

Chairman Buckwalter said he actually did not know who was in her group and that she has been rather secretive about the membership of her group. He asked if she had a membership list that she would like to present to the Board.

Mrs. Duling replied that she had an email list and a Board and would be happy to give the names of the people on the Board. She then gave the following names as Board members of CVC:

Caroline Nunan, Mondale Road  
Caroline Hill, Pine Drive  
Kenneth Stoudt, Willow Road  
Cary and Nellie Ahl, Millcross Road  
Angela and Robert Richards, Willow Road  
Fred Daum, New Holland Pike  
Irl and Lois Duling, Stumpf Hill Drive  
Jim Pratt, Colleen Drive  
Dana Chryst, Willow Road

She also mentioned that she has approximately 100 email addresses and that they are not secretive about their membership. She stated that Mr. and Mrs. Frank and Mr. and Mrs. Rogers are very active members and that there is a committee which collected the signatures that were provided.

She stated that many times when they make requests, they are denied repeatedly. She said that they are not challenging the Boards integrity in any way and that relationships are the most important things in life. She asked that the Board reconsider the appeal and vote again.

Chairman Buckwalter told Mrs. Duling that a motion was made and that this item is behind them. The decision was made and they were not going to vote on it again tonight.

Susan Snyder, 435 Mt. Sidney Road, Lancaster, PA 17601, asked when an appeal is made what impact is made on the budget. Mr. Hutchison agreed to prepare a comparison of budget and legal costs for the August 19 meeting. She then proposed referenda to make decisions.

Mr. Blowers, 102 Strasburg Pike, Lancaster, PA 17602, expressed that he does not believe the farmland preservation is about money. He also stated that he is not in favor of referendums.

Adjournment:

A motion was made by Mr. Landis and seconded by Mr. Rutt to adjourn the meeting. The motion was passed by unanimous voice vote. The next regularly scheduled meeting is to be held on Tuesday, August 19, 2008 beginning at 7:30 pm.

Respectfully submitted,

Ralph Hutchison  
Township Manager