

October 1, 2007

The East Lampeter Township Board of Supervisors met on Monday, October 1, 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, Chairman, Mr. David Buckwalter, Vice Chairman, Mr. Michael Landis, Mr. Roger Rutt and Mr. Wilbur Sollenberger. Also present was Mr. Ralph Hutchison, Township Manager.

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

Mr. Irl & Mrs. Lois Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601  
Mr. Don Hess, Esq. representing Country Club Apartments  
Mr. David Ober, 35 S. Willowdale Drive, Lancaster, PA, representing Rockvale Square  
Mr. Abner Beiler, Jr., 2040 Pine Drive, Lancaster, PA  
Mr. Andrew & Mrs. Audrey Gilger, 2076 Stonecrest Drive, Lancaster, PA 17601  
Mr. Timothy Zehr, 1172 Penn Grant Rd., Lancaster, PA 17602, representing Metzler Home Builders  
Mr. Pete N. Skiadas, 2291 Pullman Road, Lancaster, PA 17601, representing S & K LLC  
Ms. Susan Snyder, 435 Mt. Sidney Road, Lancaster, PA 17602  
Mr. Paul Huffman, Harrisburg, PA, representing Gannett Fleming Engineers  
Mr. John W. Shertzer, 135 Oakview Road, Lancaster, PA 17602  
Mr. Roger Fry, 21 S. Hershey Avenue, Leola, PA 17540 representing Fry Surveying

Chairman Eberly announced that the Conditional Use Hearing for the proposed Warrington development along New Holland Pike had been scheduled to begin on Monday, October 8, 2007 at 7 pm and that the Public Hearing on the proposed Agricultural Security Area had been scheduled for Tuesday, October 30, 2007 beginning at 7 pm.

**Minutes of August 27, 2007 Public Hearing:**

Chairman Eberly indicated that copies of the minutes of the August 27, 2007 Public Hearing regarding the proposed liquor license transfer were available for review. He then asked if there were any comments regarding the minutes as prepared. There were no comments.

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

**Minutes of September 10, 2007 Regular meeting:**

Chairman Eberly indicated that copies of the minutes of the September 10, 2007 regular meeting were available for review. Chairman Eberly asked if there were any comments regarding the minutes as prepared. There were no comments.

A motion was then made by Mr. Buckwalter 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 Eberly also indicated that bills represented by various funds in the amount of \$769,385.99 were presented for payment, copies of which were available for review. He also noted that the bills include the Township's annual deposits to the pension plans, a debt service payment and state aid distributions to the Township fire companies. After review of the bills list, a motion was made by Mr. Buckwalter and seconded by Mr. Rutt to approve payment of bills as listed in the amount of \$769,385.99. The motion was passed by unanimous voice vote.

**Old Business:**

- a. Request for Financial Security Release – Daniel & Stephen King:  
Millcreek Road

Chairman Eberly noted that the Township Zoning Officer has recommended a release of the Financial Security for the King Subdivision. After a brief discussion, Mr. Sollenberger made a motion to approve the release of the Financial Security for the King Subdivision on Millcreek Road as recommended by the Township Zoning Officer. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

- b. Request for Financial Security Release – John Speicher: Mt. Sidney Road

Chairman Eberly noted that the Township Zoning Officer has recommended a release of the Financial Security for the Speicher subdivision. Mr. Rutt made a motion to approve the release of the financial security for the Speicher subdivision on Mt. Sidney Road as recommended by the Township Zoning Officer. The motion was seconded by Mr. Landis and passed by unanimous voice vote.

- c. Request for Financial Security Release – John's Home Sales: Rt. 30

Chairman Eberly noted that the Township Engineer has recommended a release of the Financial Security for the John's Home Sales lot add on project on Rt. 30. Mr. Landis made a motion to approve the release of the financial security for the John's Home Sales lot add on along Rt. 30. The motion was seconded by Mr. Buckwalter and passed by unanimous voice vote.

d. Request for Financial Security Reduction – Rosewood Terrace: Old Philadelphia Pike

Chairman Eberly noted that the Township Engineer recommended a reduction and to retain one thousand dollars (\$1,000) in the letter of credit for the project. After a brief discussion, Mr. Landis made a motion to approve of the financial security reduction for Rosewood Terrace as recommended by the Township Engineer. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

e. Public Hearing re: Proposed Liquor License Transfer – Olive Garden Restaurant

Chairman Eberly reopened the public hearing which the Board had started on August 27, 2007 and continued at that time. Mr. Stan Wolowski, Esq. representing the applicant, Olive Garden Restaurants, indicated that he wished to provide the Board with testimony from four witnesses regarding the application and their activities with respect to efforts to acquire a liquor license for the proposed location.

First, Mr. David Orkin, a real estate broker testified that he had been in contact with Mr. Joe Derin, another real estate broker, regarding the availability of a liquor license in East Lampeter Township and was working on behalf of Olive Garden Restaurants. He indicated that a written offer had been given to Mr. Derin to purchase the license for \$145,000 as authorized by representatives of Olive Garden Restaurants. He stated that this offer was not accepted. Mr. Orkin also stated that the owner of the license indicated, through Mr. Derin, that they would accept \$165,000 plus \$20,000 per year and the return of the license at the end of Olive Garden's use at the proposed location. He indicated that he was authorized by Olive Garden Restaurant representatives to provide a counter offer of \$165,000 and a willingness to resell the license to the current owner when Olive Garden was no longer using the license. Mr. Orkin said that there was no response to this counteroffer.

Next, Mr. Steve Andrews, Real Estate Director of Darden Restaurants then testified that an offer of \$200,000 was made to purchase the license available in East Lampeter in September, 2007. He also indicated that it is always his preference to purchase an available license from within the municipality rather than to transfer one in. He stated that a counteroffer was received from the owner of the license to sell it for \$425,000. Mr. Andrews also said that Darden Restaurants was unwilling to pay the amount requested because they believe it to be unreasonable. In addition he indicated that the proposed project is considered to be high risk and so additional opening cost would make the project too risky. He said that if the proposed license transfer is denied that Olive Garden will not build a new restaurant. In response to a question, he stated that Darden Restaurants has not paid more than \$400,000 for a license in Pennsylvania.

Next, Mr. Gary Garda, a Commercial Real Estate Broker who specializes in liquor license transactions in Pennsylvania testified on behalf of the application. He indicated

that generally the purchase of a license to be used within the same municipality will cost \$10,000 to \$20,000 more than one which must be transferred. He also said that based upon past sales in Lancaster County, he would expect an East Lampeter Township license to cost between \$165,000 and \$175,000. Mr. Garda also stated that when he was contacted regarding a license for the proposed East Lampeter Township location, no East Lampeter Township licenses were available and he therefore made efforts to locate a license which could be transferred in. He said that he was then successful on locating and brokering an agreement to purchase a license for \$145,000. He also indicated that licenses in Cumberland and Chester Counties generally are more expensive than in Lancaster County.

Finally, Mr. Robert J. O'hara, Esq. testified regarding his experience as a liquor law specialist in Pennsylvania. He indicated that the highest price paid by one of his clients for a liquor license was \$325,000 and that the highest price that he was aware of in Pennsylvania was \$330,000. Mr. O'hara also indicated that it was his opinion that an arrangement which requires annual payments for a liquor license is not legal in Pennsylvania. In response to questions, Mr. O'hara said that licenses may be kept in safe keeping by their owners indefinitely so long as the owner pays the required fees.

Mr. Wolowski concluded his presentation by indicating that, in his view, the applicant has made good faith efforts to attempt to purchase an East Lampeter Township restaurant liquor license for the proposed Olive Garden Restaurant and that although reasonable offers were made, they have been unable to acquire it. Therefore, he asked the Board to approve of the proposed license transfer.

Mr. Irl Duling, 824 Stumpf Hill Drive said that he did not feel that justification was given for transferring a liquor license into East Lampeter as proposed.

Mr. David Ober, General Partner of Rockvale Square Outlets, asked the Board to approve of the proposed transfer because in his view the applicant is a solid company and a good restaurant operator, that the business is a restaurant and not a bar and that the restaurant will help to meet the needs of shoppers at Rockvale Square.

Mr. Pete Skiadas, representative of 2323 Lincoln Highway East, the owner of the currently available East Lampeter Township restaurant liquor license, indicated that their license has been available for over one year. He also stated that during the communication process regarding the sale of the license he was at times confused as to who the proposed buyer was. In addition, Mr. Skiadas said that in 1996 the license was purchased for \$275,000.

Chairman Eberly then closed the public hearing. There was then a discussion among the Board members regarding the requested transfer. At the conclusion of the discussion, a motion was made by Mr. Buckwalter to deny the request to transfer a restaurant liquor license into East Lampeter for the proposed Olive Garden Restaurant at Rockvale Square Outlet center. The motion was seconded by Mr. Landis and passed by unanimous voice vote.

- f. Samuel Blank Revised Land Development Plan #05-52: 655 Hartman Station Road

Mr. Roger Fry, Surveyor was in attendance to represent this plan. He indicated that the proposed use of the property will be one or two construction supply operators. He further described the plan as including the demolition of an existing dwelling, the construction of a new industrial use building and the improvement of the frontages of the property along Hartman Station Road and Norman Road. After a brief discussion, Mr. Sollenberger made a motion to conditionally approve the Samuel Blank Land Development Plan and requested waivers subject to the applicant satisfying the review comments of the Township Engineer and to the revision of the frontage improvements to address the protection of the existing railroad gate and the curbing radii at the driveways. The motion was seconded by Mr. Landis and passed by unanimous voice vote.

- g. Proposed Private Sewer facilities maintenance agreement re: Country Club Apartments

Mr. Don Hess, Esq. was in attendance to represent this proposed agreement. He indicated that he had several originals of the agreement which had been signed by the owner. Mr. Hutchison indicated that the DEP was requiring the developer to submit a maintenance agreement in order to obtain approval of their planning module due to the fact that the development will be served by a private sewer pumping station. Mr. Hutchison also stated that the Township Sewer Authority had previously reviewed and approved of the proposed agreement.

Mr. Buckwalter then made a motion to approve of the proposed private sewer facilities maintenance agreement with Country Club Apartments. The motion was seconded by Mr. Sollenberger and passed by unanimous voice vote.

**New Business:**

- a. Waiver of Land Development Planning Request - J & J Merck: Colonial Village Lane

Mr. Paul Huffman of Gannett Fleming Engineers was in attendance to represent this request. He indicated that the purpose of the project was to install additional fire protection equipment to the existing J & J Merck manufacturing facility. He reviewed the design of the new building with the Board and indicated that they are currently in the process of preparing a storm water management plan for the project. Mr. Hutchison asked about the water discharge from the pumping equipment when the equipment is exercised. Mr. Huffman stated that the design provides for the recirculation of water rather than the discharge of the water onto the ground. He further indicated that on an infrequent basis a live test of the equipment will require the discharge of water from the pumping facility

and that this anticipated discharge will be designed into the storm water management plan for the facility.

After a brief discussion, Mr. Buckwalter made a motion to approve of the waiver of land development planning for the proposed fire protection system at the J & J Merck plant on Colonial Village Lane conditioned upon the applicant's compliance with the Township Storm water Management Ordinance. The motion was seconded by Mr. Landis and passed by unanimous voice vote.

b. Request for new ECHO agreement – Gilger: 2076 Stonecrest Drive

Mr. Andrew Gilger was in attendance to represent this request. He indicated to the Board that they wished to expand the size of the existing ECHO unit on the property used for his family member and therefore needed to enter into a new ECHO agreement. He further indicated that the proposed expansion had been approved by the Township Zoning Hearing Board.

After a brief discussion, Mr. Sollenberger made a motion to approve of a new ECHO agreement for the Gilger property located at 2076 Stonecrest Drive to permit the expansion of the existing ECHO unit. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

**Other Business:**

a. Ordinance establishing speed limit on Pitney Rd. between Millcross & Greenfield

Mr. Hutchison explained that the Township had received a written request to establish a speed limit for this section of Pitney Road since it was not posted with a speed limit presently. He further indicated that the Police Department had conducted a study of that section of Pitney Road and recommended that the speed limit be established at thirty-five miles per hour (35 MPH). There was a discussion regarding the speed limit for the remainder of Pitney Road in the interest of consistency.

At the conclusion of the discussion, a motion was made by Mr. Landis to adopt Ordinance number 271 establishing a thirty-five mile per hour (35 MPH) speed limit on Pitney Road between Millcross Road and Greenfield Road. The motion was seconded by Mr. Sollenberger and passed by unanimous voice vote.

b. Authorization to complete preconstruction work for Strasburg Pk. / Windy Hill Rd. intersection improvements: Special Twp. Engineer – ELA Group

Mr. Hutchison explained that Township staff has been working with West Lampeter Township on a project to improve this intersection. He indicated that West Lampeter had required that one of the developers in West Lampeter to fund engineering work for the

study and design of improvements at this intersection and that the ELA Group as West Lampeter's Township Engineer has been doing this work. Mr. Hutchison further stated that he has been successful in having this project added as a safety project to the County's Transportation Improvement Plan (TIP) which will provide for the construction costs to be paid for by PA DOT. He indicated that the Township would be responsible for all of the preconstruction costs of engineering design, right of way acquisition, etc...and would then hand over the project to PA DOT for bidding and construction. He said that the cost of construction is estimated to be one million dollars (\$1,000,000) and that the Township's preconstruction costs are estimated to be one-hundred thousand dollars (\$100,000). He then called the Board's attention to the proposal from the ELA Group for the completion of the required engineering would at an estimated cost of \$94,000. He stated that approximately \$30,000 of this cost would be paid for by the developer from West Lampeter and that the remainder would be East Lampeter's obligation.

After a brief discussion, a motion was made by Mr. Landis to appoint the ELA Group as special Township Engineer for the engineering work related to the Strasburg Pike at Windy Hill Road intersection improvement project. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

- c. PA DOT HOP Conditions Statement re: Flory Park Strasburg Pike driveway

Mr. Hutchison indicated that PA DOT now requires that Highway Occupancy Permit (HOP) applicants enter into Conditions Statement agreements in order to obtain their requested permits. He said that the Township had applied for a permit to create a new driveway into Flory Park from Strasburg Pike and that the proposed conditions related to the issuance of that permit will become the responsibility of the contractor who will complete that work.

After a brief discussion, Mr. Sollenberger made a motion to approve of Resolution #07-11 to accept the Conditions Statement agreement from PA DOT for the HOP related to the Strasburg Pike driveway into Flory Park. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

- d. Request to use Township Roads re: Corporate Run for Spina Bifida

Mr. Hutchison indicated that a request to use Township Roads for this event to be held on October 8, 2007 was received and that they had provided the required Certificate of Insurance to the Township. He also indicated that no Township Roads would be closed for this event.

After a brief discussion, Mr. Sollenberger made a motion to approve of the use of Township Roads for the Corporate Run for Spina Bifida as requested. The motion was seconded by Mr. Rutt and passed by unanimous voice vote.

e. DCED Grant application for Flory Park Concessions / Rest Room Building

Mr. Hutchison indicated that the Township had been invited to submit an application for \$20,000 in grant funding support for this project from the Pennsylvania Department of Community and Economic Development. He also indicated that the Township had previously been granted up to \$40,000 from Lancaster County for this project which has been estimated to cost \$120,000 for the materials to build the facility. He further noted that the facility is to be constructed by students from the Lancaster County Career and Technology Center.

Mr. Landis then made a motion to approve of the grant application for \$20,000 from DCED in support of the Flory Park Concessions / Rest Room Building. The motion was seconded by Mr. Buckwalter and passed by unanimous voice vote.

f. Approval of 2007 Urban Enhancement Fund Grant Agreement

Mr. Hutchison reminded the Board that an application had been submitted to the County under this program to support the Flory Park improvements to be constructed on the Strasburg Pike side of the property. He said that the Township applied for \$150,000 and was awarded \$75,000 by the County. He further indicated that the Township must enter into a grant agreement with the County in order to receive these grant funds. He also said that the project involves the creation of an access drive into the park including a bridge over a tributary to Mill Creek, parking areas and walkways.

Mr. Sollenberger then made a motion to approve of the 2007 Urban Enhancement Fund Grant Agreement with Lancaster County. The motion was seconded by Mr. Buckwalter and passed by unanimous voice vote.

**Public Comment:**

Mr. Mal Brubaker of Fernbrook Circle thanked the Board for their communication with Upper Leacock Township regarding the repair of their Lap Pool in the Township Park. He also asked Mr. Hutchison if the County grant program might help in that effort. Mr. Hutchison indicated that the County has not yet decided whether or not to continue that grant program and that Upper Leacock would have to determine whether or not it would qualify.

Mrs. Lois Duling, Stumpf Hill Drive spoke to the Board regarding the effort to create a "Heritage Byway" designation on Old Philadelphia Pike in Leacock Township. She indicated that Mr. Scott Standish of the County Planning Commission will be contacting the Township at some time in the future in order to make a presentation about this effort. She also said that the Leacock Township portion is being used as a pilot project. Mrs. Duling then gave each Board member a book which she felt would be of interest to the Board members. She also thanked the Board for the Horseshoe Road speed limit study

completed by PA DOT and indicated that she felt that it represented progress in her efforts related to safety for the Amish buggies in the Township. Mrs. Duling then expressed concern for the date of the Agricultural Security Area Public Hearing due to the date conflicting with Amish weddings planned for that date.

Ms. Susan Snyder thanked the Board for their vote to deny the requested liquor license transfer earlier in the meeting. She also asked about the operation of the signals at the recently improved intersection of Oakview Road and Old Philadelphia Pike. She indicated that she would like to see a left turn arrow provided for west bound traffic. Mr. Hutchison indicated that PA DOT would not permit a left turn arrow until there was more traffic making that movement.

Mrs. Duling then told the Board that a safety video regarding Amish buggies was being added to various web sites and that she hoped that the Township would provide a link to those locations on its own web site. Mr. Hutchison said that he would follow up on that possibility.

Mr. Mal Brubaker indicated that the traffic signals located at Horseshoe Road and Hartman Station Road provide short cycles at times which doesn't allow for the effective movement of traffic. Mr. Hutchison said that he would have those signals checked.

Ms. Snyder indicated that the left turn arrow for east bound traffic on Old Philadelphia Pike turning left onto Horseshoe Road fails to come on at times when traffic is waiting in the turning lane. Mr. Hutchison said that he would have that signal checked.

**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 scheduled meeting is to be held on Tuesday, October 16, 2007 beginning at 7:30pm.

Respectfully submitted,

Ralph Hutchison  
Township Manager