

October 30, 2007

The East Lampeter Township Board of Supervisors met on Tuesday, October 30, 2007 at 7:00 p.m. in the Township offices located at 2250 Old Philadelphia Pike, Lancaster, PA 17602. The meeting was scheduled and advertised as a public hearing regarding the petition to create an Agricultural Security Area (ASA) in East Lampeter Township. The hearing was called to order by Chairman Glenn L. Eberly and was followed by the Pledge of Allegiance. Other Supervisors present were Mr. Buckwalter, Mr. Sollenberger, Mr. Landis and Mr. Rutt. Also present was Mr. Ralph M. Hutchison, Township Manager.

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

Mr. Irl & Mrs. Lois Duling, 824 Stumpf Hill Drive
Mr. Fred Daum, 2142 New Holland Pike
Mr. Robert & Mrs. Barbara Hayward, 2083 Creek Hill Road
Mrs. Lynne Kirsch, 3721 Lowana Avenue, Downingtown, PA
Mr. Don Robinson, 2153 Colleens Way
Mr. Harold Mohler, 2465 Bluegrass Lane
Mr. Robert Mohler, 2465 Bluegrass Lane
Ms. Caroline Nunan, 2171 New Holland Pike
Ms. Caroline Hill, 2066 Pine Drive
Mr. James Frederick, III, 2266 Porter Way
Mr. Mike Frederick, 2266 Porter Way
Mrs. Nellie Ahl, Millcross Road
Mr. Jim Pratt, 2164 Colleen's Way
Ms. Susan Snyder, 435 Mt. Sidney Road
Mr. Matt Knepper, Executive Director, Lancaster County Agricultural Preserve Board

Chairman Eberly asked Mr. Hutchison to review what has happened to date with the processing of the petition to create an Agricultural Security Area in East Lampeter Township.

Mr. Hutchison then reviewed the information pertaining to the petition with respect to its submission, acknowledgment, advertising, reviews completed by the County Planning Commission, Township Planning Commission and Agricultural Security Area Advisory Committee. He then indicated that the Public Hearing had been properly advertised and posted throughout the Township. He also indicated that the Board of Supervisors has one-hundred and eighty days from the submission of the petition to take action on it. He further reviewed the requirements for creation of an Agricultural Security Area under state law.

Mrs. Lois Duling, 824 Stumpf Hill Drive requested clarification to confirm that the action of the Agricultural Security Area Advisory Committee was to recommend adoption of the

Agricultural Security Area including all of the farms on the petition. Mr. Hutchison indicated that she was correct.

Mr. Ken Denlinger asked about the Planning Commission's recommendation to exclude his property, located at the corner of Strasburg Pike and Millstream Road, from their recommendation to adopt an Agricultural Security Area. Mr. Hutchison indicated that the Planning Commission's concern with respect to his farm and other farms located near Route 30 was related to possible future road improvements in the area.

Chairman Eberly then indicated that the Public Hearing will be continued to Wednesday, November 14, 2007 beginning at 7 pm in order to provide additional time for public comment on the proposal for those who were unable to attend due to other obligations.

Public Hearing re: Agricultural Security Area Petition

Chairman Eberly then opened the public hearing and requested that all persons providing comment identify themselves and their home address before they make comment.

Mr. James Tupitza, Esq. indicated that he was in attendance as counsel for the applicants. He then requested that the Board continue the hearing to a date other than November 14, 2007 due to a conflict that he has on that date. Chairman Eberly indicated that November 14 was selected by the Board members because it was an available date on the Township calendar and that Mr. Tupitza could have someone else present on that date. Chairman Eberly further indicated that Mr. Tupitza can make his presentation to the Board right away since he is present for the beginning of the hearing. Mr. Tupitza asked if any dates in December would be available for this hearing. Chairman Eberly indicated that the public hearing dates have been established. Mr. Tupitza then asked if the hearing was being recorded in order to prepare a transcript of the hearing. Chairman Eberly said that a transcript of the hearing would not be prepared. Mr. Hutchison indicated that the hearing is being recorded for the purpose of preparing minutes of the meeting. Mr. Tupitza asked how an appeal could be made if there is no transcript prepared for the hearing. Mr. Hutchison indicated that the Board is required to issue a written decision on the application. Mr. Tupitza stated that the Agricultural Security Area law permits persons aggrieved by the decision of the Board to appeal the decision and that there will then be a need to review the evidence presented during the hearing. He further stated that without a transcript, the case will then be remanded so that a hearing can be conducted where a transcript is prepared. Mr. Tupitza then requested that the Board continue the hearing immediately to a date, other than November 14 and that a court reporter be in attendance in order to keep a record of the hearing and to prepare a transcript.

Chairman Eberly asked Mr. Tupitza if he wanted to make any comment on the petition itself. Mr. Tupitza indicated that two of the applicants were in attendance and that he was going to ask them to identify soil maps of their farms for the Board so that these documents can then be made into exhibits. He further indicated that he would to present further testimony at a later time and that he would like to do that himself because he

doesn't know of anyone else who can do it. Mr. Tupitza also said that he couldn't expect an Amish farmer to put a soil scientist on the witness stand for a public hearing.

Chairman Eberly indicated that all of the farms have adequate soils in order to be considered for the Agricultural Security Area. Mr. Tupitza indicated that the farms are required to have Class I through IV soils and that he believed that nearly the entire Township has Class I soils. Mr. Tupitza then indicated that if the Board was willing to stipulate on that point then he does not need to make a record on that point. Chairman Eberly agreed that this would be a stipulated point.

Mr. Tupitza then indicated that he had a couple of additional issues to review with the Board. He indicated that it is also required that the agricultural use of the properties within an Agricultural Security Area be consistent with the Township's Comprehensive Plan. Mr. Tupitza then asked if the Board would agree that all of the farms included on the petition for Agricultural Security Area designation represent agricultural uses which are consistent with the Township's Comprehensive Plan. Chairman Eberly indicated that he thought that that was correct statement.

Mr. Tupitza then indicated that it is also required that the properties be viable farm properties. He asked if the Board would agree that all of the farms included on the petition are viable farm properties. Mr. Buckwalter asked Mr. Tupitza to define what he meant by "viable". Mr. Tupitza indicated that viable meant that they are agricultural operations from which the owners are making a living rather than just being a hobby. Chairman Eberly indicated that all of the properties are farms.

Mr. Tupitza indicated that if the Board was willing to stipulate to all of these points and that if Mr. Hutchison will make these stipulations a part of the minutes and the record of the hearing then he would have nothing further to present.

Mr. Don Robinson, 2153 Colleen's Way, indicated that his recollection was that during the process related to the previous petition to create an Agricultural Security Area that the Board indicated a desire to work on this issue with the other two Township's in the Conestoga Valley region. He then asked if the Board has done anything to pursue this joint effort. Chairman Eberly indicated that the Township's haven't reached that stage yet due to the efforts being made to prepare new zoning ordinances in the region.

Mr. Fred Daum, 2142 New Holland Pike, asked the Board if only a portion of the Denlinger farm could be excluded from the Agricultural Security Area in order to allow for future road improvements rather than excluding the entire farm. Mr. Hutchison indicated that he had posed that question to the Director of the County Agricultural Preserve Board who indicated that the entire farm had to be either included or excluded if the entire farm has been included on the petition. Mr. Daum indicated that he believed that a portion of the farm could be excluded by the Board. Mr. Tupitza indicated that the law indicates that "a landowner may propose to include all of his land". He further stated that he believes that this language would permit a landowner to exclude a portion of his

land, however in the case of the Denlinger farm he wishes to have the entire farm included in the Agricultural Security Area.

Mr. Irl Duling, 824 Stumpf Hill Drive, asked if the Board could include all of these farms in an adopted Agricultural Security Area and then in the future condemn the portion needed for road improvements. Chairman Eberly indicated that would be possible. Mr. Duling then said that he would strongly recommend that the Board proceed in that fashion.

Mrs. Lois Duling, 824 Stumpf Hill Drive, indicated that she believed that all of the farms included on the Agricultural Security Area petition will be included in the Rural or Agricultural Zoning areas of the future zoning map and that there is no reason to delay action on the Agricultural Security Area in order to wait for the new zoning ordinance.

Mr. Don Robinson, 2153 Colleen's Way, said that his recollection was that the Board denied a previous Agricultural Security Area application partially upon the belief that the Township's strong Agricultural Zoning was preventing the development of farmland. However, he said, all but four or five Township's in the County have adopted Agricultural Security Areas (ASA) and also have strong Ag zoning. He also indicated that the zoning ordinance may be changed in the future by Supervisors who do not have the same desire to protect farmland. He further stated that all of these other Township's that have adopted an ASA have done so in order to provide the benefits and protections of ASA in order to support their farmers. He then asked if this was still a main reason for concern related to the adoption of an ASA. Chairman Eberly indicated that he was unable to answer this question until such time as the Board discusses the petition and makes a decision but that Mr. Robinson's recollection regarding the previous petition was correct. Mr. Buckwalter indicated that he believed that there were a number of concerns regarding the previous petition and that the protection of the zoning ordinance was only one of them. He further stated that another concern at that time was for the location of future road corridors in relationship to the location of the farms proposed for ASA at that time.

Mrs. Barbara Hayward, 2083 Creek Hill Road, recommended that the Board approve the petition to create an Agricultural Security Area and to include all of the farms submitted on the petition. She further indicated that she felt that this action would help the Township to balance off the Board's earlier action to permit higher density development within the Urban Growth Area of the Township. She also said that she felt that the adoption of an ASA would strengthen the Township's efforts to save farmland.

Mr. Jim Pratt, 2164 Colleen's Way, said that he was in attendance to speak in support of the Agricultural Security Area petition. He further indicated that he felt that the adoption of an ASA was preferred over other methods to preserve farmland because it addresses the issue head on. He also said that he felt that the willingness of the farmers to include their farms in an ASA should be supported by the Township. Mr. Pratt also indicated that he felt that the Township has a nice diversity of land uses existing at this time but that the Township might be lacking an historic district for farms. He also encouraged the Board to

include all of the farms in an ASA and to use the power of eminent domain in the event that portions are needed in the future for road improvements.

Mr. Harold Mohler, 2465 Bluegrass Lane, indicated that he has seen many farms developed into other uses and that he would like to encourage the Board to preserve as many farms as they possibly can.

Mrs. Beverly Denlinger, 231 Strasburg Pike, indicated that their farm has been in the Denlinger family for five generations and in the Diffenbach family for four generations prior to that. She said that passing the farm onto their son will be difficult financially for the family. She further stated that anything that can be done to make it easier to keep the farm in the family would be helpful.

Mr. Ken Denlinger, 231 Strasburg Pike, said that right now the Township has a Board of Supervisors who care about farmers but that this may not be the case in the future. He also said that he has received many letters from developers who would like to develop their farm. He then asked the Board if they would prefer to say no to the farmers or to the developers. He also asked the Board members would the decision would be made on this ASA petition. Chairman Eberly indicated that the earliest that it could be made would be at the conclusion of the public hearing on November 14, 2007 and that the decision would have to be made at a public meeting no later than December 24, 2007. Mr. Denlinger then indicated that he would like the Board to adopt the ASA but that he is unsure as to whether or not he would then preserve the farm. Chairman Eberly asked Mr. Denlinger if he felt that the financial help that would be available by preserving the farm would help him to turn the farm over to his son. Mr. Denlinger said that it would help.

Ms. Caroline Hill, 2066 Pine Drive, said that the Lancaster County economy is largely based upon agriculture and tourism and that tourism is largely based upon Amish farmers. She further indicated that she felt that the adoption of an Agricultural Security Area would help to preserve Amish farmland and the Amish way of life. Ms. Hill also indicated that she felt that not protecting these farms represents poor stewardship of this valuable resource. She further stated that she felt a moral obligation to help to preserve these farms. She indicated that she is strongly in favor of the Township adopting the proposed Agricultural Security Area.

Mr. Fred Daum, 2142 New Holland Pike, indicated that he hoped that the Board members would listen to the comments being made during the hearing rather than following the desire of building interests to preserve fewer farms.

Mr. Jim Frederick, 2266 Porter Way, expressed his appreciation for the difficult decisions that the Board of Supervisors face in their public service positions. He also indicated that he is in favor of the adoption of the proposed Agricultural Security Area. He said that he hoped that the Board's decisions would be mindful of the impacts upon future generations rather than the present.

Ms. Susan Snyder, 435 Mt. Sidney Road, requested that the Board support the Agricultural Security Area petition submitted by Township farmers. She indicated that she felt that the Township's farmland was an irreplaceable treasure and that once it is developed into other uses it won't help to feed the hungry. She further stated that Lancaster County is a very fertile location with a favorable climate for farming as well.

Ms. Karen Martynick, Executive Director, Lancaster Farmland Trust, said that she understands the concerns that have been expressed in the past regarding Agricultural Security Area but that she would ask that the Board think about the future of East Lampeter Township and the important long term plans of the Township to retain farmland into the future. She further indicated that ASA would not assure that Township that farmland is retained forever but it would send a clear message to the farmers that they are welcome in the Township. She said that the ASA would give the farmers additional protections from nuisance ordinances but still allows the Township to respond to the demand for services as the Township grows. Ms. Martynick said that she felt that the adoption of the proposed Agricultural Security Area is important to the Amish farmers in the Township for the continuation of farming.

Mr. Don Robinson, 2153 Colleen's Way, indicated that during the previous consideration of Agricultural Security Area, the Board members expressed concern that farmers were requesting ASA "for the money". He also indicated that Amish farmers have been working with the Farmland Trust to preserve their farms and do not need the ASA in order to do so. He also indicated that he believes that the Amish want some assurance that the land around their farms does not get sold for the development of houses. He also stated that he does not think that the farmers have requested ASA in order pursue "the money".

Mr. Matt Knepper, Executive Director, Lancaster County Agriculture Preserve Board, said that he was in attendance to represent the Ag Preserve Board and the Coalition for Smart Growth. He indicated that the County and the Ag Preserve Board support the establishment of an ASA in East Lampeter Township. He also indicated that the Coalition for Smart Growth believes that a balance among development and preservation interests is important for Lancaster County. He said that they believe that permitting increased density of development and the adoption of an ASA are actions which complement each other and that both help to serve the goal of farmland preservation. Mr. Hutchison asked Mr. Knepper regarding the issue of including a portion of a farm in the ASA rather than the entire farm. Mr. Knepper indicated that he had researched this question through the Department of Agriculture and has concluded that a portion of a farm could be excluded from the ASA so long as that portion is clearly defined and described by the Township.

Ms. Karen Martynick indicated that the Amish farmers included in the ASA petition would have been in attendance but are not due to the wedding being held for Mr. Esh's daughter. She also indicated that they would appreciate another opportunity to speak to the Board on this issue. Chairman Eberly indicated that he had announced at the beginning of the meeting that the hearing is being continued to November 14, 2007 beginning at 7 pm.

Mr. Jim Pratt, 2164 Colleen's Way, spoke regarding the rezoning of land in West Earl Township earlier in the year from Agriculture to Residential. He also said that he thought that the Agricultural Security Area sounds like something that "holds more water" than zoning.

Mr. Irl Duling, 824 Stumpf Hill Drive, said that he believes that houses are easy to build but that building an Amish community is very difficult or impossible. He also said that Lancaster County has a very special reputation around the world and that once the land is developed that it can't be replaced. Mr. Duling also stated that the area has a very special heritage and that the Board members are the protectors of this heritage and that the community relies on them to make wise decisions.

Chairman Eberly asked if anyone else wished to speak and upon seeing no one come forward indicated that the hearing was continued to Wednesday, November 14, 2007 beginning at 7 pm.

Ralph M. Hutchison
Township Manager