

March 20, 2007

The East Lampeter Township Board of Supervisors met on Tuesday, March 20, 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, 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 present:

Mrs. Lois Duling, 824 Stumpf Hill Drive, Lancaster, PA 17601
Mr. Irl 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. San Stoltzfos, 2225 Old Philadelphia Pike, Lancaster, PA 17602
Ms. Elaine Stoltzfos, 2225 Old Philadelphia Pike, Lancaster, PA 17602
Mr. Harvey Heller, 751 Willow Road, Lancaster, PA 17601
Mrs. Barbara Heller, 751 Willow Road, Lancaster, PA 17601
Ms. Nancy LeFerve, 2134 Creek Hill Road, Lancaster, PA 17601
Mr. Ed LeFerve, 2134 Creek Hill Road, Lancaster, PA 17601
Mr. David Pinkerton, 2224 Harmony Hill Drive, Lancaster, PA 17601
Ms. Kathleen Rogers, 903 Hornig Road, Lancaster, PA 17601
Ms. Roberta Beeley, 909 Hornig Road, Lancaster, PA 17601
Mr. Donald Rogers, 903 Hornig Road, Lancaster, PA 17601
Mr. Charles Smith, 44 Highland Drive, Lancaster, PA 17601
Mr. Lance Watt, 335 Enterprise Drive, Bird-in-Hand, PA 17505
Mr. John Wenger, 2255 Porter Way, Lancaster, PA 17601
Mrs. Elaine Wenger, 2255 Porter Way, Lancaster, PA 17601
Mr. Al Franks, 907 Hornig Road, Lancaster, PA 17601
Mrs. Sara Franks, 907 Hornig Road, Lancaster, PA 17601
Mr. Jim Fenton, 275 Edgemore Drive, Lancaster, PA 17601
Mr. Matthew Fenton, 275 Edgemore Drive, Lancaster, PA 17601
Mr. Pete Skiadas, 2291 Pullman Road, Lancaster, PA 17601
Ms. Barbara Hayward, 2083 Creek Hill Road, Lancaster, PA 17601
Mr. Samuel Beiler, 2040 Pine Drive, Lancaster, PA 17601
Mr. Amos Beiler, 2040 Pine Drive, Lancaster, PA 17601
Mr. Daniel Beiler, 2040 Pine Drive, Lancaster, PA 17601
Mr. Abner Beiler, Jr., 2040 Pine Drive, Lancaster, PA 17601
Mr. John Beiler, 2040 Pine Drive, Lancaster, PA 17601
Mr. John Bare, 422 Millcreek Road, Bird-in-Hand, Pa 17505
Ms. Janis Atkinson, 2091 Creek Hill Drive, Lancaster, PA 17601
Mr. Mike Kuhn, 2091 Creek Hill Drive, Lancaster, PA 17601
Ms. Angela Richards, 730 Willow Road, Lancaster, PA 17601
Mr. Jim Pratt, 2164 Colleens Way, Lancaster, PA 17601
Ms. Kelly Bidlespacher, 1917 Creek Hill Road, Lancaster, PA 17601
Mr. Joseph Esh, 2151 Forry Road, Lancaster, PA 17601

Minutes:

Chairman Eberly indicated that copies of the minutes of the March 5, 2007 regular meeting were available for review. Mr. Tupitza, Esq. stated that in the minutes it does appear that the public hearing was reopened, since there were numerous comments by numerous people and counsel of the developer. He stated that the Board had closed the public hearing and the record and he has seen nothing in the record that readvertised the hearing and reopened the hearing. He stated that he was not present at the March 5, 2007 meeting and he had asked to have the matter left open for one more meeting and that action was denied. He stated that it appears to him that in the March 5th minutes the record was reopened and he was not present. He asked if the record was reopened that it should have been readvertised. Chairman Eberly replied that the public hearing was not reopened and that people at the meeting insisted that they be able to speak, but the hearing was not reopened. Mr. Buckwalter stated that the sequence of events was that the Board made a motion and the motion was seconded and there was comment made before the motion was voted on. Mr. Tupitza stated that when the counsel for the developer spoke the hearing was reopened. Mr. Buckwalter asked Mr. Tupitza if the public hearing was being reopened since he is the counsel for the opposing side and decided to speak at this meeting. Mr. Tupitza replied that no that does not mean that a public hearing is being opened, because the Board is not considering the passage of any ordinances this evening. Mr. Dan Rogers from Hornig Road stated that he did not attend the last meeting, because the Public Hearing was officially closed, but comments were taken again at that meeting. A motion was by Mr. Sollenberger 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.

Bills:

Chairman Eberly also indicated that bills represented by various funds in the amount of \$1,382,784.17 were presented for payment, copies of which were available for review. After review, a motion was made by Mr. Buckwalter, seconded by Mr. Landis to approve payment of bills as listed in the amount of \$1,382,784.17. The motion was passed by unanimous voice vote.

Swearing in of Fire Police for East Lampeter Township Fire Companies

Chairman Eberly swore in the fire police for the fire companies. Chairman Eberly also thanked the volunteers for the valuable services that they provide to the community.

Informational Presentation on Agricultural Security- Lancaster Farmland Trust

Ms. Karen Martynik made the presentation on agricultural security areas. Ms. Martynik stated that this is the third time in front of the Board, the other two times the Board made a decision that it was not time to have an agricultural security in the Township. She stated that there were five Townships in the County that do not have agricultural security. She stated that they have collected signatures that account for 550 acres. The agricultural

security is important to the Township and they add to the quality of life. The security area adds an extra layer of protection for farmers from nuisance ordinances. She stated that this is important to the Board as well, it shows the residents that the Township does feel that farmland is important. She stated that there is currently 664 acres in the Township that are under protection. She stated that if an agricultural security was placed on the 664 acres there would not be much change. She stated that in order to place protection for farms in the future the Board would need to do everything that you can. She asked out of the four remaining Townships why East Lampeter does not have an agricultural security area. She stated that they would like to work with the Township to provide agricultural security areas.

Mr. Matt Knepper the executive director for the Agricultural Preserve Board then spoke. Mr. Knepper stated that there needs to be a strategy to deal with the land use and agricultural preserve and transportation needs. He stated that East Cocalico is going through this process, and that they have had the same questions and concerns as East Lampeter Township. He stated that the Lancaster County Planning Commission is offering their assistance with the process of agricultural security area preserve.

Ms. Martynik handed out maps and brochures concerning preserving farms and farmland trust. Chairman Eberly asked her to describe the difference between agricultural security and farmland trust. She stated that an agricultural security area is a measure that the Board can take that adds a layer of protection for the farmers against nuisance ordinances, and farmland trust conserves farms with conservation easements through the farmers. She stated that they are a non-profit organization that raises their money from private contributions and from the County. In order for a farmer to preserve their farm through the County program they are required to have their farm in an agricultural security area. Chairman Eberly stated that he personally likes our zoning because fifty years from now all our grandchildren in this room they all might have different ideas on how that land should be used. She replied that there is a big difference in temporary zoning to preserve farms and allowing landowner to do as they chose with their land. Chairman Eberly replied that the individual landowner does have the final say on how their farm is preserved. Mr. Buckwalter asked can preservation programs can be overturned in court. She replied that she is not aware of any preservation programs that have been overturned. Mr. Sollenberger asked if farmers could join with another Township agricultural security program. She replied that they can join another Township's agricultural security program. She also added that there had been a discussion about having a joint program with Upper Leacock and West Lampeter Township. Mr. Landis asked who were the other three Townships that do not have agricultural security areas. She replied that it was Paradise, Upper Leacock, Leacock and East Cocalico Township is in the process, and these areas have the richest soils in the world. Mr. Tupitza stated that there are a significant number of farmers that have an interest in this program. He also stated that using zoning to persevere farmland is an accident waiting to happen. He also stated that the Township should pick the farms that should be in the agricultural security area.

Old Business:

- a. Request for Financial Security Reduction- Bob's Automotive: Lincoln Hwy East

Chairman Eberly stated that Bob's Automotive is requesting a financial security reduction in the amount of \$65,166.24 with a remaining balance of \$17,426.44. The Township engineer is recommending the financial security reduction for Bob's Automotive. A motion was made by Mr. Landis, seconded by Mr. Sollenberger to approve the financial security reduction in the amount of \$65,166.24, with a remaining balance of \$17,426.44 per the Township engineer. The motion was passed by unanimous voice vote.

- b. Keystone Wood Specialties Request for Township Financial Participation

Mr. Sam Stoltzfus spoke on his request to the Board. Mr. Stoltzfus stated that at the March of 2005 Board meeting the discussion was about the storm water management concern, and that Chairman Eberly had stated at that meeting that Keystone Wood Specialties would do the storm water project and that the Township would reimburse Keystone. He stated that the entire project was planned on that fact that the Township would be repaying Keystone. He stated that somewhere along the line this guarantee of payment was stated to never have been said. He stated that there was a request from David Miller Associates for an estimate on the work, and there were letters sent to the residents on the South side of Old Philadelphia Pike that the Township was going to be doing work. Chairman Eberly stated that he can not spend tax payer's money without the Board's approval, and that Keystone gave the Township a developer's agreement that states that Keystone will make the improvements. Mr. Stoltzfus stated that he had asked to continue with his plans and be held up by the storm water issues on the south side of Old Philadelphia Pike. Chairman Eberly asked if Keystone was proposing to have the taxpayers pay for the piping between the houses and the clearing of brush that totals around \$30,000.00. He replied that the total would be around \$50,000.00 and he is offering to pay for the curbs and sidewalks and the Penn Dot applications. He stated that the invoices that the Board has covers work done on the South side. Mr. Stoltzfus stated at the Board meeting August there were two of his employees present at the meeting and a comment was made that taxpayers should not have to pay for these types of projects and developers should pay for these projects. Mr. Buckwalter stated that a non-residential land development agreement that was signed on March 22, 2006, is this agreement being discussed. He replied that agreement deals with them being able to work on their building plans. Mr. Buckwalter stated that there was problem on the south side before this started. Mr. Stoltzfus stated that there should be another agreement, but it never materialized. Mr. Buckwalter stated that this agreement does not cover the Township paying for the improvements covering the south side of Old Philadelphia Pike. Mr. Landis asked if there should have been a second agreement. He replied that there should have been a second agreement. Mr. Landis stated that there has not been a second agreement. Chairman Eberly stated that the agreement would have had to come from Keystone not the Township. He stated that his attorney had been trying to submit an agreement. Chairman Eberly stated that as the developer he is required to present the agreement to the Board. Mr. Sollenberger stated that it was his understanding that the Township would assist in

obtaining the permits from the residents to able to get in and accomplish the work. He also stated that the Board never agreed to pay for the improvements. Mr. Stoltzfus stated that the request for the Township to pay for the repairs was made at the March, 2005 meeting. Chairman Eberly stated that he could have made that recommendation, but the Board did not approve it in the minutes. Mr. Stoltzfus stated that he was asking for engineering costs in the amount \$12, 441.33 and the construction costs in the amount of \$19, 221.00 and the swale construction was in the amount of \$7,245.00 and cutting the trees is in the amount of \$8,085.00 He also stated that there are fees that he was billed for that amount for a couple thousand dollars. Mr. Sollenberger stated that the reason he was asked to get estimates was to establish the escrow account for the project. Mr. Hutchison stated that financial security was set up for the project and can be used to finish the project. Mr. Landis asked about the second agreement and was there contact from Mr. Stoltzfus's attorney to our staff and is there any record of this communication. Mr. Hutchison replied that there is no record of discussion about a second agreement about a shared cost. Chairman Eberly recommended sharing the cost of the project. Mr. Stoltzfus replied that anything along Old Philadelphia Pike should be paid for by the Township. A motion was made by Mr. Sollenberger, seconded by Mr. Landis to deny the request and have the job completed. Mr. Don Rogers from Hornig Road stated that the Township should stand up and take responsibility for what they have with water run off. The vote passed by a three in favor, one opposed and one abstained.

New Business:

a. Dart Container Land Development Plan# 07-02: 110Pitney Road

Mr. Joe Gurney, D.C. Gohen Associates was present to represent the plan. Mr. Gurney stated that the existing Dart Container is located along Pitney Road. He stated that there are proposing an addition to the existing building that will contain additional warehouse and production facilities along with a minimum 24 foot access one way drive. There are also three proposed docks and three or four proposed loading docks on the west side of the building. Chairman Eberly asked if there was anything of concern on the David Miller Associates comment letter. Mr. Gurney stated that the there was a modification granted for the curbing, due to the fact that there is a guide rail located in this area and it is private access drive. He also stated that the timetable for the project, but as soon as the plan is approved the permits will be picked up and the project will begin. Mr. Sollenberger asked if this addition to the building would create new jobs. Mr. Gurney stated that currently there are 100 employees located at the site now, and there is a five year projection of a total of 250 employees. Mr. Hutchison stated that by the plans there would be no way for Dart to expand in the future. Mr. Gurney replied that the site is an odd shape and because of the flood plain there would be no future development. An audience member asked if they planned to plant trees or do landscaping on the site. Mr. Gurney replied that Dart has not asked him to do any landscaping proposals. A motion was made by Mr. Buckwalter, seconded by Mr. Sollenberger to approve the requested waivers #1 and #4 and plan subject to the David Miller Associates comment letter dated March 14, 2007. The motion was passed by unanimous voice vote.

b. Sonic Restaurant Land Development Plan #07-04: 2223 Lincoln Hwy East

Mr. Buckwalter abstained from the vote and discussion of the project due to having a relationship. Mr. Sandy Kine from David Miller Associates was present to represent the developer. Mr. Kine stated that the developer would like to place a Sonic Restaurant on the property. Mr. Kine stated that the Denny's has been demolished, the new building would be smaller than the old one, there would be 40 parking spaces and 29 canopy spaces and 28 of the spaces would be recognized for the employees. He stated that there is a traffic signal shared with Tanger Outlet located on the property and another exit drive on the western side of the property and there is also a connection of the driveway to Dutch Wonderlands property. There will existing paving will be trimmed back to conform to the ordinance. He stated that there are four waivers being requested one was for a waiver of the preliminary plan, second waiver was for curbing along the back parking area, the third waiver was the plan scale and the fourth waiver was for concrete monuments. He stated that there were no concerns for with the Subdivision and land development comments except for comment 5 and 6 concerning street construction with Rt. 30 and obtaining a joint access easement with Dutch Wonderland. He stated that the storm water comments that they have the conservation districts approval for the storm water management. He stated that under the traffic comments the traffic study, which there is a known traffic issue located here and there would be no reason to study this traffic signal. The developer has offered \$5,000 contribution to cover any costs done to that traffic area. He stated that the western driveway is a right way in and out and there not is any left turns allowed. Chairman Eberly asked if there would be issues with a delivery truck. He replied that the delivers would be when the business would be closed. Chairman Eberly asked about traffic back up. He replied that there are more parking spaces located at this property and there were direction issues also at the Brownstown property. Mr. Landis asked about the traffic compared to Denny's restaurant. He replied that the study varied each had different busy times. A motion was made by Mr. Rutt, seconded by Mr. Sollenberger to approve waivers and plan subject to the Rettew review letter and the \$5,000 contribution for traffic improvements. The motion was passed a 4 in favor and 1 abstained.

Other Business:

a. Community meeting re: 2007 Lancaster County Urban Enhancement Fund Grant Program- Proposed Township Project Application

Mr. Hutchison stated that the County requires all applicants conduct a "Community Meeting" regarding any applications to be submitted under the program and the applications are to be submitted no later than May 31, 2007. Therefore, the Board will have to make a decision at the April 2, 2007 meeting. The Park Board is looking for funding to create driveways and walking paths along the Strasburg Pike and a path that would connect both sides of the park. He stated that we would be requesting \$150,000 in grant money.

- b. Request to Ratify Financial Support (\$5,000) for CVSD Transportation Grant Application

Chairman Eberly stated that the School District asked the Township to provide \$5,000 towards helping them to acquire a transportation grant. A motion was made by Mr. Sollenberger, seconded by Mr. Buckwalter to approve the request to ratify financial support in the amount of \$5,000 for the CVSD Transportation grant application. The motion was passed by unanimous voice vote.

- c. Request for Authorization to Participate in the City Zoning Hearing re: Lowe's

Chairman Eberly stated that the Board needs to authorize the staff to participate in the City Zoning Hearing concerning Lowe's. A motion was made by Mr. Buckwalter, seconded by Mr. Landis to approve the authorization to participate in the City Zoning Hearing concerning Lowe's. The motion was passed by unanimous voice vote.

Public Comment:

Mrs. Lois Duling stated that there was information circulated from the Lancaster County Planning Commission that states that the highest density of Amish is here in Lancaster County. She appealed to the Board to preserve the treasure of the Amish culture. She also stated that the comprehensive plan stands firm and that this treasure should be addressed in the comprehensive plan. She also stated that all residents should be treated fairly.

Mr. Irl Duling stated that are there some farms that are not suitable for preservation. Chairman Eberly replied that Ms. Karen Martjnik made that statement not the Board. Mr. Buckwalter stated that it has been reported that they will be focusing on farms that are located away from developed areas.

Mr. Kelly Beidelstorker from Creek Hill Road stated that her children attend Fritz Elementary School is overcrowded and how will the town homes effect this issue.

Mr. Fred Daum stated that there are over 1900 homes on the market for sale now, and this area is valuable and important to add more new homes. He also stated that the number one priority should be to preserve agricultural land.

Ms. Nellie Ahl stated that the Amish presents here in the County and they do desire agricultural security area. The Amish deserve a voice in this matter.

Mr. Fred Daum stated that the plain sect community is here to support the residents concerning their future in Eastern Lancaster County. Chairman Eberly stated that the Board is 100% in favor of keeping the farms in Lancaster County. Chairman Eberly stated that an Amish Bishop told him that Amish construction workers out number farmers by 5 to 1. The Bishop stated that if they closed down every farm in the County

that would have less of an impact on the Amish Community then if we stopped building. An audience member stated that they are paying taxes and have to work and she asked if there was an agricultural application. Chairman Eberly stated that in this Township farms are zoned for farming. Chairman Eberly stated that no resident would elect a Supervisor that would change the zoning to allow farms to be developed. Mrs. Duling stated that she does not agree with the density to save farms, and zoning can always be changed. She is fighting for the Township to not be developed and there should not be any options taken away from farmers. Mr. Buckwalter asked if there has been a change in the Plain sect in taking money from the County.

Mr. Joe Esh stated that a few of the Plain Sect have taken money from the County, but there are a few Amish that would like to preserve their farms through the County.

Mr. Pete Skiadas stated that the Amish should be surveyed concerning the Agricultural security area.

Mr. Jake Bare stated that the Amish are working in construction and their population will double in 20-25 years. If the construction business stopped and the Amish come back then they would not be able to build on their own land if it is preserved. He stated that this Township is in a catch 22.

Mr. Joe Esh stated that you can not develop on a farm that is preserved.

Mr. Jim Pratt stated that there is more dialogue needed for the agricultural security area. He stated that Rt. 23 would have happened 20 years ago that land would already develop and would create uncontrollable flooding. Chairman Eberly stated that the Amish are in favor of Rt. 23 for their safety.

Ms. Nellie Ahl stated that Rt. 23 is not heavily traveled.

Mr. Jim Pratt asked that a survey be done about the traffic on Rt. 23.

Mr. Cary Ahl stated that Rt. 23 traffic is not much different then 47 years ago.

Mr. Pete Skiadas stated that the businesses in East Lampeter Township praise the Board for being well represented.

Ms. Susan Synder stated that the quality of life is impacted by the Board and there should be voting referdums to make decisions.

Adjournment:

A motion was made by Mr. Sollenberger, seconded by Mr. Landis to adjourn. The motion was passed by unanimous voice vote. The next scheduled meeting is Monday, April 2, 2007 at 7:30p.m.

Respectfully submitted,

Ralph Hutchison