

AGENDA
EAST GOSHEN TOWNSHIP
CONSERVANCY BOARD MEETING
June 12, 2013

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE
2. APPROVAL OF MINUTES – May 8, 2013
3. CHAIRMAN’S REPORT
4. OLD BUSINESS
To be determined
5. NEW BUSINESS
To be determined
6. SUB DIVISION / LAND DEVELOPMENT REVIEW
7. BOARD MEMBER CONCERNS
8. LIAISON REPORTS
9. CORRESPONDENCE
10. DATES OF IMPORTANCE

June 4, 2013	Board of Supervisors	7:00 PM
June 5, 2013	Annual Planning Session	10:00 AM
June 5, 2013	Planning Commission	7:00 PM
June 6, 2013	Farmer’s Market	3-7:00 PM
	Township Park	
June 6, 2013	Park & Rec Commission	7:00 PM
June 10, 2013	Municipal Authority	7:00 PM
June 11, 2013	Zoning Hearing Board	7:30 PM
	Nicholson, 10 Broad Street	
June 12, 2013	Volunteer Orientation for Summer Camp	4-5 PM
	Make-up Meeting	
June 12, 2013	Conservancy Board	7:00 PM
June 13, 2013	Farmer’s Market	3-7:00 PM
	Township Park	
June 13, 2013	Historical Commission	7:00 PM
June 13-Aug 22	Town Tours & Village Walks	5:30 PM
	(Chester County) Thursdays	

June 17, 2013	Commerce Commission	7:00 PM
June 18, 2013	Board of Supervisors	7:00 PM
June 19, 2013	Police Commission	5:30 PM
	WEGO Police Dept	
June 20, 2013	Farmer's Market	3-7:00 PM
	Township Park	
June 22, 2013	East Goshen Community Day	5:00 PM
	(June 23-raindate)	
June 24, 2013	Comp Plan Task Force	7:00 PM
June 25, 2013	Municipal Authority – Special Meeting	8:00 AM
	Award Reserve Pump Station Diversion Bids	
June 27, 2013	Farmer's Market	3-7:00 PM
	Township Park	
July 1-Aug 2, 2013	Youth Recreation Day Camp	8:45-12:00 PM

11. PUBLIC COMMENTS

12. ADJOURNMENT

draft
**EAST GOSHEN TOWNSHIP
CONSERVANCY BOARD MEETING
May 8, 2013
7:00 P.M.**

The East Goshen Township Conservancy Board met for their regularly scheduled meeting on Wednesday, May 8, 2013 at the East Goshen Township Building. Board members present were: Chairman Sandra Snyder, Bryan Del Monte, Rachael Burgos, Scott Sanders, Virginia Newlin, & Walter Wujcik. Others present: Erich Meyer, Park & Recreation Commission.

CALL TO ORDER

Chairman Sandy Snyder called the meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE

The Chairman led the Pledge of Allegiance and a moment of silence to remember our troops and first responders.

APPROVAL OF MINUTES

The Chairman noted that the minutes of the April 10, 2013 meeting were approved as corrected.

CHAIRMAN'S REPORT

1. Budget – There is no change. The total remaining is \$4,500.
2. Sandy reported that they planted the Osier dogwood cuttings that Bryan received along the banks in Supplee Valley. They walked the area and pulled grass away from the trees that were planted last year. She is going to ask Public Works to make cages for the trees.

OLD BUSINESS

1. Bryan attended the Annual CRC Stream Cleanup in the Ashbridge Preserve on May 4th. About 10 people participated. Willistown added wood duck boxes. They received a grant to make a shrub demonstration area. They fenced the area, cleaned it out and planted native plants.
2. E. Boot Road – Bryan commented that the white crab apple trees are in bloom and look good. Ginnie walked the area to check on the new dogwoods. She feels they need some pruning which she will do. She saw two beech trees that have been topped and doesn't know who did it.
3. Clymer's Woods – Ginnie reported that the under plantings are doing well except where the soil wasn't good. Sandy and Walter think there are 3-4 dead trees there. Sandy asked everyone to take a walk through this area before the next meeting.
4. Weeds Inc – Sandy is waiting for the quote from Brian. It should be higher since he was asked to spray in Supplee Valley if needed.
6. Rain Barrel – No report.
7. Newsletter – The next article is due on May 15th. Ginnie suggested using the article on lawns again. Bryan will write about the Ashbridge Preserve. Scott offered to write an article too.
8. Blue Bird Boxes - Bryan received a response from Betsy Williams. The Girl Scout troops that she contacted to help clean the boxes declined. She will contact some troops with older girls.
9. Goshen Meadows – Sandy signed the letter Mark Gordon wrote to the Planning Commission.

1 10. Comp Plan Update – Sandy explained that there will be a Visioning Session on Monday June 3 at
2 7:00 pm at the Township Building. This meeting is for the public to voice their ideas and concerns.
3 Sandy asked everyone to review the current Comprehensive Plan for discussion at the June 13th meeting.
4 They should think about redevelopment, and definitions of wooded lots, meadows and legacy trees.
5

6 **NEW BUSINESS**

7 1. This Saturday May 11, 2013 is the electronics recycling event at East Goshen Park.
8

9 **LIASONS REPORTS**

10 1. Park & Recreation Commission - Erich reported that the Summer Farmers Market will start
11 tomorrow Thursday May 9, 2013 in the East Goshen Park. Also, Community Day will be held on
12 Saturday June 22. They will need lots of volunteers. They will probably have the 2 hour time slots like
13 last year.

14 2. Municipal Authority – No report. This month their meeting is after CB meeting.

15 3. Historical Commission – Sandy mentioned that Living History Day is June 1, 2013. Contact
16 Kathryn Yahraes if you can volunteer. Bryan reported that there are several historic homes for sale
17 including the Clymer house in Bow Tree, Clocktower Farm and Sorrell Hill farmhouse. Bryan feels
18 some of these properties have trees that would fall under the Legacy category. He will ask Chris
19 Reardon to include the CB when they do any site walks.

20 4. Board of Supervisors – Erich reported that they selected a new auditor.

21 5. Planning Commission – Ginnie reported that she told the PC about a newspaper article by Thomas
22 Hilton, in which he relates that there are different ways to put wires on poles so trees don't have to be
23 chopped the way they are. There is a way to bundle the wires so the tree can grow around the wires.

24 **BOARD MEMBER CONCERNS**

25 1. Scott mentioned that one of the oak trees on the east side of the Township Building is showing signs
26 of stress, which is expected due to construction. Sandy will request that Public Works water the tree
27 regularly as needed.
28

29 **ADJOURNMENT** - There being no further business, Scott made a motion to adjourn the meeting. Walter
30 seconded the motion. There was no discussion or public comment. The motion passed. The meeting was
31 adjourned at 8:00 p.m.
32
33
34

35 Respectfully submitted,
36
37
38

39 Ruth Kiefer
40 Recording Secretary

BOARD OF SUPERVISORS
EAST GOSHEN TOWNSHIP

CHESTER COUNTY
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

FYI

May 28, 2013

Dear Property Owner:

The purpose of this letter is to inform you that the owner of 1637 Manley Rd., West Chester, PA 19380, has submitted a subdivision sketch plan for review and comment by the Township Planning Commission. The owner, Patricia O'Neill, proposes a 2 lot subdivision of her property. The existing parcel has an area of approximately 5.84 acres and has an existing single family home and accessory structures. The sketch plan proposes the subdivision of one new 1.23 acre lot to the east of the existing home for a new residential single family use.

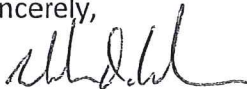
Pursuant to Township policy, property owners and residents within 1000 feet of the subject property are notified of sketch plan submissions.

The meeting dates and times scheduled for the review and discussion of this application are outlined below and subject to change.

June 5, 2013 - Planning Commission meeting (workshop at 7:00 pm, formal meeting @ 7:30 pm) **(Presentation of Sketch Plan)**

All meetings are held at the Township Building and are open to the public. The plans are available for review at the Township building during normal business hours. Please give me a call at or email me at mgordon@eastgoshen.org if you have any questions or need additional information.

Sincerely,



Mark A. Gordon
Township Zoning Officer

Cc: All Township Authorities, Boards and Commissions

Memo

East Goshen Township

1580 Paoli Pike

West Chester, PA 19380

Voice (610) 692-7171

Fax (610) 425-8950

E-mail rsmith@eastgoshen.org

Date: May 30, 2013

To: Planning Commission

Conservancy Board ✓

Historical Commission

Park Commission

Municipal Authority

Commerce Development Commission

From: Rick Smith, Township Manager

Re: Annual Planning Session Goals

At their meeting on February 5, 2013 the Board of Supervisor reviewed the goals presented by the each ABC at the Planning Session and determined that there may be a miscommunication in terminology. Some of the proposed goals would be typically considered a task or an action item that needs to be completed in order to achieve the "goal".

Attached are the "goals" as agreed to by the Board of Supervisors.

The Board requests that each ABC provide a brief quarterly report on their progress toward achieving their goals as listed on the attached.

It would be appreciated if you could review your respective "goals" and generate such report at your June Meeting. Thanks.

Goals for 2013

Conservancy Board

Continue control of invasive plants species in Township wetlands, while leveraging past work with the Park & Recreation Commission and Public Works Department on reforestation, understory and meadows efforts in Applebrook Park.

Create environmental education for residences around storm water control, such as rain gardens and rain barrels. Specifically, look at having rain barrels installed at the East Goshen Township building.

Historical Commission

Work with Chester County and the local townships to complete the state funded Battle of the Clouds project.

Complete entry of all Blacksmith Shop and Plank House historic items into the township's archival database.

Municipal Authority

Marydell Pump Station Elimination Project– Complete construction

Hershey Mill Pump Station Diversion Project – Complete construction

Reserve Pump Station Elimination Project – Complete construction

Park and Recreation Commission

Develop a marketing plan for East Goshen Park.

Expand and enhance East Goshen Farmers Market

Continue to increase revenue opportunities: for example:

- a. A ball field signage/sponsorship plan
- b. Mobile food vendors
- c. Community events

Develop a community health and wellness program that addresses the needs of our township's demographics. (Long Term Goal)

Planning Commission

Consider developing and implementing solar energy regulations that provide appropriate safeguards for screening, storm-water, setbacks, etc.

Finalize Zoning Ordinance Amendment recommendations made to the Board of Supervisors by the Commission as a result of the 2012 Zoning Ordinance review.

Commerce Development Commission

Update commercial business community directory list for inclusion on township website. To be rolled out in February 2013. Theme: Support businesses supporting EGT with their taxes.

Conduct fact finding interviews with landlords and develop recommendations to issues effecting shopping centers.



STATE ETHICS COMMISSION
309 FINANCE BUILDING
P.O. BOX 11470
HARRISBURG, PA 17108-1470
(717) 783-1610
1-800-932-0936

RECEIVED

MAY 23 2013

BY _____

ADVICE OF COUNSEL

May 21, 2013

Louis F. Smith, Jr., Township Manager
Board of Supervisors
East Goshen Township
Chester County
1580 Paoli Pike
West Chester, PA 19380-6199

13-535

Dear Mr. Smith:

This responds to your letter dated March 25, 2013 (received April 1, 2013), by which you requested an advisory from the Pennsylvania State Ethics Commission.

Issue: Whether, pursuant to the Public Official and Employee Ethics Act (the "Ethics Act"), 65 Pa.C.S. § 1101 et seq., and the Regulations of the State Ethics Commission, 51 Pa. Code § 11.1 et seq., the following East Goshen Township entities would be considered purely advisory boards: (1) the East Goshen Township Park and Recreation Commission; (2) the East Goshen Township Planning Commission; (3) the East Goshen Township Historical Commission; (4) the East Goshen Conservancy Board; (5) the Commerce Commission; and (6) the Pension Committee.

Facts: You request an advisory from the Pennsylvania State Ethics Commission on behalf of the East Goshen Township Board of Supervisors. The narrow question that you have posed is whether, pursuant to the Ethics Act and the Regulations of the State Ethics Commission, the following East Goshen Township entities would be considered purely advisory boards: (1) the East Goshen Township Park and Recreation Commission ("Park and Recreation Commission"); (2) the East Goshen Township Planning Commission ("Planning Commission"); (3) the East Goshen Township Historical Commission ("Historical Commission"); (4) the East Goshen Conservancy Board ("Conservancy Board"); (5) the Commerce Commission; and (6) the Pension Committee.

(1) The Park and Recreation Commission.

You have submitted a copy of Chapter 51 of the Code of the Township of East Goshen ("East Goshen Township Code"), which provides, in pertinent part, as follows:

§ 51-5. Duties

The Park and Recreation Commission shall have the following responsibilities:

- A. Elect a Chairperson, Vice Chairperson, and Secretary from the Commission's members and establish a schedule of public meetings.
- B. Recommend rules and regulations to the Supervisors for the governance and use of park and open space facilities and equipment.
- C. Recommend and conduct approved educational and recreational programs and special events that are fun, safe, economical and generally accessible....
- D. Promote activities/events within the parks and open spaces that do not damage the environment, preserve natural resources and wildlife.
- E. Recommend additional facilities and uses for Township parks and open spaces.
- F. Stay current with trends in recreation by reading appropriate journals, magazines, etc., and/or attending workshops.
- G. Keep residents informed of Commission activities.
- H. Investigate, apply for and follow up on grant opportunities.
- I. Develop and sustain positive and cooperative relationships with other Township boards and commissions.
- J. Develop and sustain mutual and beneficial collaborative relationships with community businesses, organizations, civic groups, school districts, colleges and universities and other municipalities.
- K. Develop an ongoing plan to recruit and retain volunteers to help with recreation activities/events.
- L. Staff Park and Recreation Commission committees as directed by the Board of Supervisors and as adopted by resolution.
- M. Submit a suggested annual budget to the Supervisors by September 15 of each year.
- N. Recommend to the Supervisors a fee schedule for the rental of park facilities and recreational programs.
- O. Submit an annual report to the Supervisors indicating the progress toward current goals and formulation of future goals consistent with the Comprehensive Plan of the Township.
- P. Submit an annual report to the Supervisors that includes an analysis of the adequacy and effectiveness of the community recreation areas, facilities and leadership.

East Goshen Township Code, § 51-5.

(2) The Planning Commission.

You have submitted a copy of Chapter 63 of the East Goshen Township Code, which provides, in pertinent part, as follows:

§ 63-4. Qualifications of members; powers and duties.

The qualifications of members of the Commission and its duties and powers shall be as prescribed in the Pennsylvania Municipalities Planning Code Act of July 31, 1966, 247, Article II, Sections 201 through 211, provided that the Board of Supervisors may assign to said Commission such other duties as it may deem appropriate which are not inconsistent with the powers and duties provided by said Code.

§ 63-5. Expenditure of funds.

The Commission shall not have the power to obligate the township or expend township funds without the expressed consent, in writing, of the Board of Supervisors.

East Goshen Township Code, §§ 63-4, 63-5.

(3) The Historical Commission.

You have submitted a copy of East Goshen Township Resolution No. 94-21, which provides, in pertinent part, as follows:

Section 2. Duties and Responsibilities

The East Goshen Township Historical Commission (hereinafter referred to as "Commission") shall have the following duties and responsibilities:

a. To conduct a survey of historic resources for the purpose of determining those of historic and/or architectural significance and the pertinent facts about such resources; to act in collaboration with the Planning Commission of East Goshen Township and other groups with respect to such survey; to maintain and periodically revise a detailed inventory and map or maps of such historically and/or architecturally significant resources and the data collected concerning the said resources, appropriately classified.

b. To research and record the history of East Goshen Township.

c. To research significant historic objects, sites, structures, buildings and districts, and to recommend to the Board of Supervisors the nomination of same to the National Historic Register of Historic Places.

d. To propose from time to time to the Board of Supervisors the establishment of historic districts in

accordance with the then applicable statutes and rules and regulations of the Commonwealth of Pennsylvania.

e. To formulate regulations for the establishment of an appropriate system of markers for selected historic and/or architectural resources, including proposals for the installation and care of such historic markers and to recommend adoption of the same to the Board of Supervisors.

f. to prepare and publish books, maps, brochures, and descriptive materials about the Township's history and historic and/or architectural resources.

g. To cooperate with and advise the Board of Supervisors via the Planning Commission in matters involving historically and/or architecturally significant resources, during the review of zoning and/or subdivision and land development proposals, and to determine the extent to which the same have the likelihood of impacting upon historic and/or architectural resources.

h. To cooperate with and enlist assistance from the National Park Service, the National Trust for Historic Preservation, the Pennsylvania Historical Museum Commission and other local, state and national historic societies, conservancies and other agencies, public and private, concerned with historic and/or architectural preservation.

i. To advise owners of historic and/or architectural buildings and resources on problems in connection therewith and methods of preservation thereof.

j. To keep abreast of technical literature reports and documents relevant to historic and/or architectural preservation in East Goshen Township.

k. To promote public interest in the work of the Commission, by carrying on a public relations program by other appropriate means.

l. To advise the Board of Supervisors on the acquisition, whether by gift, purchase, grant, bequest, easement, devise, lease, or otherwise, and/or restoration of historic and/or architecturally significant properties and other resources, historical records and other data and material within the purview of the Commission.

m. To make plans for the establishment of a permanent archive of Township records and documents, and to make recommendations to the Board of Supervisors concerning the same.

n. To perform such other duties and undertake such other responsibilities as may be delegated to the Commission from time to time by the Board of Supervisors.

...

Section 7. Funding

The Commission may, with the consent of the Board of Supervisors, utilize any funds, personnel or other assistance made available by Chester County, the Commonwealth of Pennsylvania, or federal government or any of its or their agencies, or from any other private or public sources. Accounting for the receipt of such funds and for the expenditure thereof shall be pursuant to such regulations as the Board of Supervisors may adopt. Unless specifically authorized by the Board of Supervisors, the Commission shall not establish any separate bank or other account for the deposit or accumulation of funds. The Board of Supervisors may enter into agreements or contracts regarding the acceptance or utilization of such funds or other assistance as may be available. The Commission shall submit a plan of activities and a proposed budget to the Board of Supervisors during the regular Township budget process. Funds for the expenses to be incurred by the Commission shall, at the discretion of the Board of Supervisors, be appropriated by the Board of Supervisors. The Commission may expend monies for such administrative, clerical, printing and legal services as may from time to time be required to, but its expenditures shall be limited to the amount of funds appropriated to it by the Board of Supervisors or otherwise obtained from other sources as set forth above and, at all times, expenditures of the Commission shall be subject to the approval of and regulation by the Board of Supervisors.

East Goshen Township Resolution No. 94-21, Sections 2, 7.

(4) The Conservancy Board.

You have submitted a copy of Chapter 13 of the East Goshen Township Code, which provides, in pertinent part, as follows:

§ 13-2. Advisory duties of Board.

The Board shall advise the Board of Supervisors, the Planning Commission, the Park and Recreation Board and other agencies, officials and employees of East Goshen Township on matters dealing with conservation, management, protection and use of natural resources in the Township of East Goshen.

§ 13.3. Powers of the Board.

The Board shall have the power:

A. To make recommendations on the use and management of open land areas within the township to ensure that sound conservation concepts and ecological values are considered in decisionmaking. Particular emphasis shall be placed on the ecological evaluation of water and land resources (including meadowlands, woodlands and wetlands) in township parks and recreation areas and developing recommendations to the Park and

Recreation Board on ecological approaches to use and management plans for such areas.

B. To keep an index of all open areas, publicly or privately owned, including but not limited to flood-prone areas, lakes and ponds, wetlands, woodlands, unique geological features and other unique natural areas for the purpose of establishing open space preservation priorities, identifying appropriate land management and use plans and identifying existing or potential conflicts between such open areas and adjacent land uses, existing or proposed.

C. To identify methods by which priority open space areas or other property, real or personal, can be acquired (including by gift, purchase, grant, bequest, easement or lease) by the township or charitable conservation organizations and, as appropriate, provide such information to the owners of identified properties.

D. To identify important environmental or conservation issues requiring analysis or regulatory action and provide review and comment to the Board of Supervisors and the Planning Commission on any studies or regulations of such problems which may be initiated or developed by the township or other public or private entities.

E. To provide review and comment to the Board of Supervisors and the Planning Commission on the natural resources impact of subdivision and land development plans.

...

§ 13-7. Appropriation of funds.

Funds for the expenses incurred by the Conservancy Board shall be appropriated at the discretion of the Board of Supervisors. The Board may expend moneys for such administrative, clerical, printing and legal services as may from time to time be required, but its expenditures shall be limited to the amount of funds appropriated to it by the Board of Supervisors.

East Goshen Township Code, §§ 13-2, 13-3, 13-7.

(5) The Commerce Commission.

You have submitted a copy of East Goshen Township Resolution No. 2013-64, which changed the name of the "Commerce Development Commission" to the "Commerce Commission." It is administratively noted that East Goshen Township Resolution No. 2012-64 provides that the aforesaid Commission "shall be tasked with developing and recommending programs to the Board of Supervisors that support the growth and enhancement of existing business and encourage and promote the redevelopment and use of commercial properties in East Goshen Township."

(6) The Pension Committee.

You have submitted a copy of a memorandum ("Memorandum") dated March 24, 2011, from you to the Township Board of Supervisors, regarding the Township's defined

benefit pension plan ("Plan"). Attached to the Memorandum is a document (hereinafter referred to as "the Plan Document") which provides, in pertinent part, as follows:

**ARTICLE VII
ALLOCATION OF RESPONSIBILITIES – NAMED
FIDUCIARIES**

...

7.4 The Committee – Plan Administrator

The board of supervisors of the Township shall appoint an administrative Committee consisting of no fewer than three individuals who may be, but need not be, Participants, officers, supervisors, or Employees of the Township. If the board of supervisors does not appoint a Committee, the Township shall act as the Committee under the Plan. The members of the Committee shall hold office at the pleasure of the board of supervisors and shall service [sic] without compensation. The Committee shall be the Plan's "administrator" and shall be responsible for establishing and implementing a funding policy consistent with the objectives of the Plan. This responsibility shall include establishing (and revising as necessary) short-term and long-term goals and requirements pertaining to the financial condition of the Plan, communicating such goals and requirements to the persons responsible for the various aspects of the Plan operations, and monitoring periodically the implementation of such goals and requirements. The Committee shall publish and file or cause to be published and filed or disclosed all reports and disclosures required by federal or state laws.

7.5 Committee to Construe Plan

(a) The Committee shall administer the Plan and shall have all discretion, power, and authority necessary for that purpose, including, but not by way of limitation, the full and absolute discretion and power to interpret the Plan, to determine the eligibility, status, and rights of all individuals under the Plan, and in general to decide any dispute and all questions arising in connection with the Plan. The Committee shall direct the Trustee concerning all distributions from the Trust Fund, including the purchase of annuity contracts, in accordance with the provisions of the Plan, and shall have such other powers in the administration of the Trust Fund as may be conferred upon it by the Trust agreement. The Committee shall maintain all Plan records except records of the Trust Fund.

(b) The Committee may adjust the Account of any Participant, in order to correct errors and rectify omissions, in such manner as the Committee believes will best result in the equitable and nondiscriminatory administration of the Plan.

7.6 Organization of Committee.

The Committee shall adopt such rules as it deems desirable for the conduct of its affairs and for the administration of the

Plan. It may appoint agents (who need not be members of the Committee) to whom it may delegate such powers as it deems appropriate, except that the Committee shall determine any dispute. The Committee may make its determinations with or without meetings. It may authorize one or more of its members or agents to sign instructions, notices, and determinations on its behalf....

7.9 Conclusiveness of Action

Any action taken by the Committee on matters within the discretion of the Committee shall be conclusive, final and binding upon all participants in the Plan and upon all persons claiming any rights hereunder, including Alternate Payees and beneficiaries.

...

Plan Document, at 1-3.

Discussion: It is initially noted that pursuant to Sections 1107(10) and 1107(11) of the Ethics Act, 65 Pa.C.S. §§ 1107(10), (11), advisories are issued to the requester based upon the facts that the requester has submitted. In issuing the advisory based upon the facts that the requester has submitted, the Commission does not engage in an independent investigation of the facts, nor does it speculate as to facts that have not been submitted. It is the burden of the requester to truthfully disclose all of the material facts relevant to the inquiry. 65 Pa.C.S. §§ 1107(10), (11). An advisory only affords a defense to the extent the requester has truthfully disclosed all of the material facts.

The definition of the term "public official" set forth in the Ethics Act excludes members of advisory boards lacking authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or a political subdivision:

§ 1102. Definitions

"Public official." Any person elected by the public or elected or appointed by a governmental body or an appointed official in the executive, legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or any political subdivision thereof.

65 Pa.C.S. § 1102 (Emphasis added).

The Regulations of the State Ethics Commission similarly define the term "public official" and set forth the following additional criteria that are used to determine whether the advisory board exception applies:

(i) The following criteria will be used to determine if the exception in this paragraph is applicable:

(A) The body will be deemed to have the power to expend public funds if the body may commit funds or may otherwise make payment of moneys, enter into contracts, invest funds held in reserves, make loans or grants, borrow

money, issue bonds, employ staff, purchase, lease, acquire or sell real or personal property without the consent or approval of the governing body and the effect of the power to expend public funds has a greater than de minimis economic impact on the interest of a person.

(B) The body will be deemed to have the authority to otherwise exercise the power of the Commonwealth or a political subdivision if one of the following exists:

(I) The body makes binding decisions or orders adjudicating substantive issues which are appealable to a body or person other than the governing authority.

(II) The body exercises a basic power of government and performs essential governmental functions.

(III) The governing authority is bound by statute or ordinance to accept and enforce the rulings of the body.

(IV) The body may compel the governing authority to act in accordance with the body's decisions or restrain the governing authority from acting contrary to the body's decisions.

(V) The body makes independent decisions which are effective without approval of the governing authority.

(VI) The body may adopt, amend and repeal resolutions, rules, regulations or ordinances.

(VII) The body has the power of eminent domain or condemnation.

(VIII) The enabling legislation of the body indicates that the body is established for exercising public powers of the Commonwealth or a political subdivision.

(ii) The term does not include judges and inspectors of elections, notary publics and political party officers.

(iii) The term generally includes persons in the following offices:

(A) Incumbents of offices filled by nomination of the Governor and confirmation of the Senate.

(B) Heads of executive, legislative and independent agencies, boards and commissions.

(C) Members of agencies, boards and commissions appointed by the General Assembly or its officers.

(D) Persons appointed to positions designated as officers by the Commonwealth or its political subdivisions.

(E) Members of municipal, industrial development, housing, parking and similar authorities.

(F) Members of zoning hearing boards and similar quasi-judicial bodies.

(G) Members of the public bodies meeting the criteria in paragraph (i)(A).

51 Pa. Code § 11.1.

In applying the above provisions to the narrow question posed, you are advised as follows.

Based upon the submitted facts, you are advised that, for purposes of applying the Ethics Act, the Planning Commission, the Historical Commission, and the Commerce Commission are purely advisory boards.

Based upon the submitted fact that the Park and Recreation Commission has the authority to investigate, apply for and follow up on grant opportunities, the Park and Recreation Commission is not a purely advisory board. The aforesaid authority exceeds a purely advisory function.

Based upon the submitted fact that the Conservancy Board has the authority to expend moneys for administrative, clerical, printing and legal services, the Conservancy Board is not a purely advisory board lacking authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or a political subdivision.

In considering the powers and duties of the Pension Committee, the necessary conclusion is that the Pension Committee is not a purely advisory board. Pursuant to the Plan Document set forth above, the Pension Committee has the authority to, inter alia: (1) establish and implement a funding policy consistent with the objectives of the Plan; (2) establish and revise short-term and long-term goals and requirements pertaining to the financial condition of the Plan; (3) administer the Plan, interpret the Plan, determine the eligibility, status, and rights of all individuals under the Plan, and decide any dispute and all questions arising in connection with the Plan; (4) direct the Trustee concerning all distributions from the Trust Fund, including the purchase of annuity contracts, in accordance with the provisions of the Plan; (5) adjust the account of any Plan participant to correct errors and rectify omissions; (6) adopt such rules as it deems desirable for the administration of the Plan; and (7) appoint agents to whom it may delegate such powers as it deems appropriate. Given the foregoing powers, it is clear that the Pension Committee is not a purely advisory board.

This Advice is limited to addressing the narrow question posed under the Ethics Act.

Conclusion: Based upon the submitted facts, the following East Goshen Township entities would be considered purely advisory boards for purposes of applying the Public Official and Employee Ethics Act (the "Ethics Act"), 65 Pa.C.S. § 1101 et seq.: (1) the East Goshen Township Planning Commission; (2) the East Goshen Township Historical Commission; and (3) the Commerce Commission.

Based upon the submitted facts, the following East Goshen Township entities would not be considered purely advisory boards for purposes of applying the Ethics Act: (1) the East Goshen Township Park and Recreation Commission; (2) the East Goshen Conservancy Board; and (3) the Pension Committee.

Pursuant to Section 1107(11) of the Ethics Act, an Advice is a complete defense in any enforcement proceeding initiated by the Commission, and evidence of good faith

conduct in any other civil or criminal proceeding, provided the requester has disclosed truthfully all the material facts and committed the acts complained of in reliance on the Advice given.

This letter is a public record and will be made available as such.

Finally, if you disagree with this Advice or if you have any reason to challenge same, you may appeal the Advice to the full Commission. A personal appearance before the Commission will be scheduled and a formal Opinion will be issued by the Commission.

Any such appeal must be in writing and must be actually received at the Commission within thirty (30) days of the date of this Advice pursuant to 51 Pa. Code § 13.2(h). The appeal may be received at the Commission by hand delivery, United States mail, delivery service, or by FAX transmission (717-787-0806). Failure to file such an appeal at the Commission within thirty (30) days may result in the dismissal of the appeal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robin M. Hittie".

Robin M. Hittie
Chief Counsel