

PENSION COMMITTEE
AGENDA
September 11, 2013
1:00 PM

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE
2. CHAIRMAN WILL ASK IF ANYONE IS GOING TO RECORD THE MEETING
2. APPROVAL OF MINUTES
 - a. May 1, 2013
3. OLD BUSINESS
 - a. Discuss which pension fund Tom Anderson's fees should be deducted from
4. NEW BUSINESS
 - a. Consider Investment Policy Statement – OPEB Trust
5. CORRESPONDENCE
 - a. Acknowledge letter from State Ethics Commission in response to Rick's letter requesting an advisory about whether, pursuant to the Ethics Act and Regulations of the State Ethics Commission, certain Township Entities would be considered purely advisory boards.
6. PUBLIC COMMENT
7. ADJOURNMENT

Draft
EAST GOSHEN TOWNSHIP
PENSION COMMITTEE MEETING
May 1, 2013

The East Goshen Township Pension Committee met at the East Goshen Township Building on Wednesday May 1, 2013 at 1:00 pm. Committee members present were: Giulio Perillo, Jon Altshul, Marty Shane and Tim O'Reilly. Others present were: Rick Smith, Township Manager.

1. Call to Order, Pledge of Allegiance and Moment of Silence

Giulio called the meeting to order, led those present in the Pledge of Allegiance, and asked for a moment of silence to remember our troops and the victims of the Boston bombing.

2. Recording of Meeting

Giulio asked if anyone present would be recording the meeting. There was no response.

3. Minutes

Giulio noted that the minutes of the February 6, March 13 and April 17, 2013 meetings were approved as corrected.

4. Old Business

1. InR – The committee members reviewed the 1st quarter reports for the following plans:

a. Defined Contribution – The return for the quarter was 2.58% and the market value was \$223,800.37. There was discussion about international stocks which did not perform well and are 21% of the portfolio. Marty noted that it was difficult to tell which report was for which plan because there was no mention of the plan name until page 3. Also, on page 4 under "CASH" Marty would like to have a line item for fees.

b. Defined Benefit – The return for the quarter was 5.11% and the market value was \$513,643.28. This plan is invested solely in indexed funds.

Giulio feels that both plans are on target for the goal this year.

2. Key Financial, Inc. – The Committee members reviewed the 1st quarter reports for the following plans:

a. Non-Uniformed Pension – The return for the 1st quarter was 5.28% and the Ending Value was \$1,881,462.61. This plan was started in 1999 and is fully funded.

b. Fire Company Pension – The return for the 1st quarter was 5.56% and the ending value was \$841,011.72.

1 Marty asked about written policies. Rick explained that the Pension Committee
2 has a written policy with both firms.

3 Giulio mentioned that this is the first full year for the Defined Contribution Plan.
4 Contributions are made at the end of the year. Jon explained where the funds
5 come from for the contributions.

6 Jon reported that the funds with Raymond James have not been transferred yet.
7 He will notify the committee when that is completed.
8

9 6. Adjournment

10 There being no further business to discuss, Giulio made a motion to adjourn the
11 meeting. Marty seconded the motion. The motion passed unanimously. The
12 meeting was adjourned at 2:15 pm. The next meeting will be held on
13 Wednesday, September 11, 2013 at 1:00 pm.
14

15 Respectfully submitted,
16
17
18

19 Ruth Kiefer, Recording Secretary

Jon Altshul

From: Patti Brennan CFP [pbrennan@keyfinancialinc.com]
Sent: Tuesday, July 16, 2013 11:45 AM
To: jaltshul@eastgoshen.org
Subject: RE: East Goshen Twp

Hi Jon,

We can be totally flexible on those items. On the precious metals, we can invest in ETF's that give you wide commodity exposure right now, but we do tend to stay away from the single metal bets....As for Limited Partnerships – this is more of an issue with valuation, internal fees/ costs, as well as liquidity needs but we can certainly revisit any asset class at any time. My philosophy is to give you the pros and cons of any investment or strategy so that you and the trustees can make a prudent decision....Amending the Investment Policy Statement is easy.

I hope this helps, Jon.

Take Care,

Patti



Patricia C. Brennan CFP®, CFS
President



**2010 FEATURED
LEADING WEALTH ADVISOR**

Key Financial, Inc.
1560 McDaniel Drive
West Chester, PA 19380
Ph: 610-429-9050
Fax: 610-429-9279
Website: www.keyfinancialinc.com
E-Mail: pbrennan@keyfinancialinc.com

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If you do not wish to receive marketing emails from this sender, please reply to this email with the word REMOVE in the subject line.

From: Jon Altshul [mailto:jaltshul@eastgoshen.org]
Sent: Tuesday, July 16, 2013 11:22 AM
To: 'Patti Brennan CFP'
Subject: RE: East Goshen Twp

Thanks Patti:

To clarify, I think we'd exchanged emails a couple months about the fact that while things like LPs and precious metals are probably not anything we're eager to have you invest in now, a day may come when that will change. Does the IPS allow for that or would we need to do an amended one at a later point in time.

Thanks,
Jon

From: Patti Brennan CFP [mailto:pbrennan@keyfinancialinc.com]
Sent: Tuesday, July 16, 2013 10:38 AM
To: Altshul, Jon
Subject: East Goshen Twp

Hi Jon,

Attached please find an investment policy statement and trade recommendations for your review and approval. For security purposes it is password protected (use the last 4 digits of the tax ID number to open). If everything looks acceptable to you and Rick, please sign where indicated and return to us. You can scan and send via email, with original in the mail.

In the meantime, I hope you all manage to stay cool this week.

Take Care,
Patti

INVESTMENT POLICY STATEMENT

TARGET 70 EQUITY

East Goshen TWP OPEB Trust
Jon Altshul and Louis "Rick" Smith, TTEEs

July 1, 2013



1560 McDaniel Drive
West Chester, PA 19380
Phone: 610-429-9050
Fax: 610-429-9279
www.KeyFinancialInc.com



FINANCIAL ADVISORS, INC.

30 S. 17th Street, Suite 1620
Philadelphia, PA 19103
Phone: (215) 557-3800
Fax: (215) 557-3814
www.rtdfinancial.com

INVESTMENT POLICY DISCUSSION

WHAT IS AN INVESTMENT POLICY?

An investment policy outlines and prescribes a prudent and acceptable investment philosophy and sets out the investment management procedures and long-term goals for the investor.

THE NEED FOR A WRITTEN POLICY

A written investment policy allows our clients to establish standards that they want the investment process to maintain. The net effect of the written policy is to increase the likelihood that the portfolio will be able to meet the financial needs of the investor through the development of specific portfolio objectives.

INTRODUCTION

The purpose of this Investment Policy Statement is to establish a clear understanding between East Goshen TWP OPEB Trust (Jon Altshul and Louis "Rick" Smith as Trustees) ("Investor") and Key Financial / RTD Financial Advisors, Inc. ("Advisor") as to the investment objectives and policies applicable to the Investor's investment portfolio. This Investment Policy Statement will:

- establish reasonable expectations, objectives and guidelines in the investment of the portfolio's assets;
- set forth an investment structure detailing permitted asset classes and expected allocation among asset classes;
- encourage effective communication between the Advisor and the Investor;
- create the framework for a well-diversified asset mix that can be expected to generate acceptable long-term returns at a level of risk suitable to the Investor;

This Investment Policy Statement is not a contract. It is intended to be a summary of an investment philosophy that provides guidance for the Investor and the Advisor.

OVERVIEW/SUMMARY OF CURRENT SITUATION

The approximate investable assets to be considered under this Investment Policy Statement are:

Owner(s)	Account(s)	Approximate Value
East Goshen Twp.	OPEB Trust	\$745,677

Type of Plan:	Other Post-Employment Benefits Trust
Current Liability:	None
Liquidity/Cash Needs:	Low. Future, ongoing contributions are anticipated.
Time Horizon:	Greater than 10 years
Spending Rate:	No current spending required
Targeted Return:	7.8%
Tax Constraints:	<i>The custodian is required to report tax activity to the client, however, taxes are not a constraint to the management of this portfolio due to its tax-exempt status.</i>

Target 70 Equity

INVESTMENT OBJECTIVES

The Investor has no expected immediate need of the assets in this account and is therefore willing to accept moderate to high, short-term volatility to achieve higher rates of return over the long run.

The investment specific objectives for these assets shall be to achieve an average annual rate of return of 4.9% above the inflation rate.

TIME HORIZON

For the purposes of planning, the time horizon for investments is to be in excess of ten years. Capital values do fluctuate over shorter periods and the Investor recognizes that the possibility of negative returns does exist. However, historical asset class return data suggests that the risk of principal loss over a holding period of at least five to ten years can be minimized with the long-term investment mix employed under this Investment Policy Statement.

RISK TOLERANCE

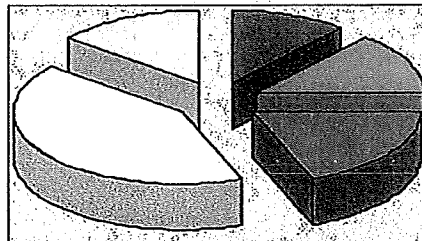
Target 70 Equity:

The Investor recognizes that higher returns involve increased volatility, and the Investor has indicated a willingness to tolerate declines in the portfolio's value up to -19.6% in any given year (based on 95% statistical likelihood).

The Portfolio will be managed in a manner that seeks to minimize principal fluctuations over the established horizon and is consistent with the stated objectives. Financial research has demonstrated that risk is best minimized by holding assets over time and through diversification of assets, including international investments.

ASSET ALLOCATION

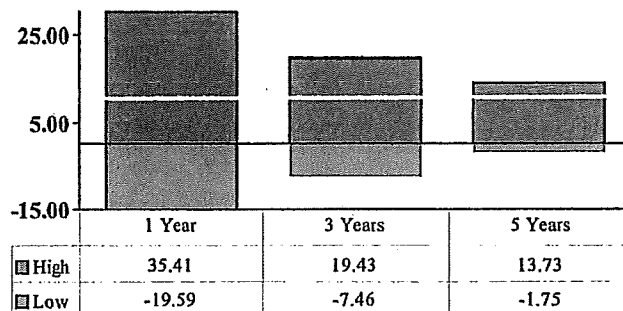
Academic research suggests that the decision as to how to allocate total assets among various asset classes will far outweigh security selection and other decisions that impact upon portfolio performance. After reviewing the long-term performance and risk characteristics of various asset classes and balancing the risks and rewards of market behavior, the following asset classes were selected to achieve the objectives of the Investor's Portfolio:



Target 70 Equity

ASSET CATEGORY/Class	Range
CASH	0 - 10%
DOMESTIC BONDS	9 - 45%
Core	
Short-Term	0 - 45%
Intermediate-Term	0 - 45%
Long-Term	0 - 45%
Inflation Indexed	0 - 45%
INTERNATIONAL BONDS	0 - 10%
DOMESTIC STOCKS	21 - 70%
Core	0 - 70%
Large Company	0 - 70%
Small Company	0 - 70%
INTERNATIONAL STOCKS	7 - 28%
Large Company	0 - 28%
Small Company	0 - 28%
Emerging Markets	0 - 28%
REAL ESTATE	0 - 14%
Equity REIT's	0 - 14%
OTHER	0 - 25%

For illustrative purposes *solely*, a portfolio of assets (exclusive of any investments which may be managed elsewhere) combined in a manner consistent with normalized weightings and using standardized figures for each represented asset class based on historical norms and adjusted for today's environment suggests that 95% of the time, performance results can be reasonably projected as follows:



Indicates average long-term expected rate of return (assuming 3.0% inflation) of 7.9%

Rolling Annual Periods Outside 95% Range		
Jan. 1998 – Dec. 2011	#	Ratio
Actual # Negative Periods	46/168	1 in 3
Actual Lowest ROR	-34.3%	

Past performance is no guarantee of future returns. This illustration is for conceptual purposes only and does not assume that Key/RTD maintained this allocation for the entire period represented here. Other factors such as taxes, new investments, fees, fund expenses or withdrawals have not been accounted for. The returns are based on indices and not individual investments.

REBALANCING PROCEDURES

From time to time, market conditions as well as Investor deposits or withdrawals may cause the Portfolio's investment in various asset classes to vary from the established allocation. To remain consistent with the asset allocation established by this Investment Policy Statement, the Advisor shall periodically rebalance within the acceptable ranges set by the policy.

ADJUSTMENT IN THE TARGET ALLOCATION

The approved asset allocation displayed previously indicates a range for each broad investment category. From time to time, based on changing economic circumstances and the various relative investment opportunities as perceived by the Advisor, it may be desirable to make changes in the normal allocation. The Advisor may determine such changes, as long as they are within the acceptable ranges listed previously.

No guarantees can be given about future performance, and this Investment Policy Statement shall not be construed as offering such a guarantee. It should be recognized that the Portfolio will be invested in actively managed mutual funds and bonds, that the actual weightings of these investments can and will vary and, as a result, actual returns can be higher or lower than those presented above.

LIQUIDITY

The Investor intends to contribute funds on an annual basis and does not intend to request withdrawals for several years. The Investor does not need to maintain cash balances among these assets, except as may be dictated for investment reasons.

FREQUENCY OF PORTFOLIO REVIEW

The Investor recognizes that all investments go through cycles and therefore there will be periods of time in which the investment objectives are not met or when the portfolio fails to meet the expected performance targets. Recognizing that good years help to make up for bad ones, the Investor acknowledges the principal that the portfolio must be given an opportunity to make up for periods of underperformance. Unless there are extenuating circumstances, patience will often prove appropriate when performance has been disappointing.

On an overall portfolio basis, the Investor established a goal of achieving the stated investment return objectives over a five to ten-year period of time. A shorter time frame would contradict the principal that portfolios should generally be given the opportunity to overcome poor performances in subsequent years.

FUND MANAGER REVIEW

Mutual fund managers shall be *selected* using the following criteria:

- Past performance, considered relative to other investments having the same investment objective. Consideration shall be given to both performance rankings over various time frames and consistency of performance.
- The historical volatility and downside risk of each investment.
- The investment style and discipline of the manager.
- How well each investment complements other assets in the portfolio.
- The current economic environment.
- The likelihood of future investment success, relative to other opportunities.
- Manager expenses.

The following criteria will be considered in *replacing* mutual funds:

- The manager has had a “style drift” (e.g., a small cap value manager has become a large cap growth manager due to his/her investment decisions).
- Below average performance relative to peer managers.
- Above average risk factors relative to peer managers.
- A significant increase in manager expenses.
- A manager change in the fund.
- A change in the fund company’s corporate culture.
- The size of the fund.

DIVERSIFICATION

Direct investment of the funds shall be limited as follows:

A. Permitted Investment Categories

1. Cash and cash equivalents, including money market funds
2. Individual bonds (municipal, corporate, or U.S. Treasuries)
3. Certificates of Deposit
4. Exchange Traded Funds
5. Mutual funds
6. Annuities

B. Excluded Categories for Investment

1. Private Equity
2. Limited Partnerships
3. Precious Metals
4. Hedge Funds
5. Non-Liquid Assets

C. Minimum Number of Investment Categories

At all times there must be a minimum of five investment categories represented among the assets. There shall be no maximum limit to the number of categories.

DUTIES & RESPONSIBILITIES

The Investor

The Investor shall provide the Advisor with all relevant information on financial condition, and risk tolerance and shall notify the Advisor promptly of any changes to this information. The Investor should read and understand the information contained in the prospectus of each investment in the Portfolio.

Key Financial / RTD Financial Advisors, Inc.

The Advisor is responsible for assisting the Investor in making an appropriate asset allocation decision based on the particular needs, objectives, and risk profile of the Investor. The Advisor is a Registered Investment Advisor and shall act as the investment advisor to the Investor until the Investor or Advisor decides otherwise.

The Advisor shall be responsible for:


1. Advising the Investor about selecting and allocating of asset categories.
2. Identifying specific assets and investment managers within each asset category.
3. Monitoring the performance of all selected assets.
4. Recommending changes to any of the above.
5. Executing changes.
6. Periodically reviewing the suitability of the investments for the Investor.
7. Being available to meet with the Investor at least once each year, and being available at such other times within reason as the Investor requests.
8. Preparing and presenting appropriate reports.

The Advisor will not take title to any assets. Key Financial / RTD Financial Advisors, Inc. shall be responsible only to implement investment decisions congruent with this Investment Policy Statement.

ADOPTION

Adopted by the below signed Investor:

This 16TH day of July, 2013.

x 
Jon Altshul, TTEE

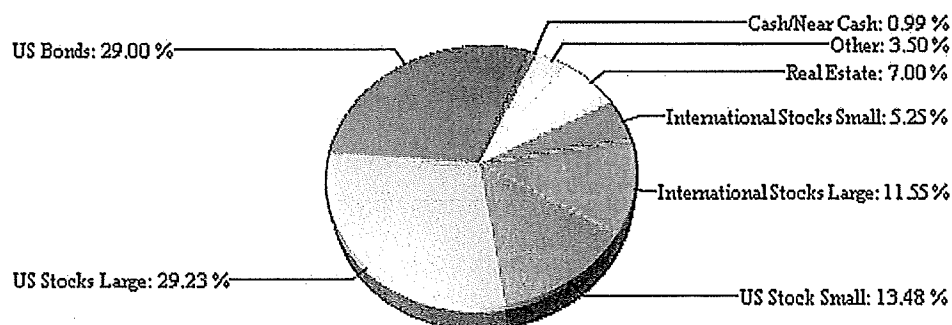
x 
Louis "Rick" Smith, TTEE

Target 70 Equity Allocation

As of 7/1/2013

East Goshen Twp. (OPEB Trust)

Class - Recommended



Key Financial

The dollar amounts recommended are based on Market Values as of the date of this report. We may have to make adjustments to the above amounts if there are material changes in the market between this date and the date we receive your response.

Target 70 Equity Allocation

As of 7/1/2013

East Goshen Twp. (OPEB Trust)

Allocation Details

Class	Current Value	Current Percent	Trade Amount	Post Trade Value	Post Trade Percent	Target Percent
Cash/Near Cash	\$186,488	25%	(\$179,093)	\$7,395	1%	1%
Cash	\$186,488			\$7,395		
Cash Lumped	\$186,488		(\$179,093)	\$7,395		
US Bonds	\$71,822	10%	\$145,278	\$217,100	29%	29%
Inflation Indexed Bonds	\$0			\$54,800		
PIMCO Real Return Bond Instl	\$0		\$27,400	\$27,400		
Vanguard Inflation-Protected Secs	\$0		\$27,400	\$27,400		
US Core Bonds	\$71,822			\$162,300		
Aflac Inc PFD 5.5%	\$10,502		(\$10,502)	\$0		
Saul Centers Inc C Pfd	\$51,440		(\$51,440)	\$0		
Individual Taxable Bonds	\$0		\$146,000	\$146,000		
Comcast Corp PFD 5.0%	\$9,880		(\$9,880)	\$0		
PIMCO Total Return Fund Instl	\$0		\$16,300	\$16,300		
US Stocks Large	\$107,542	14%	\$111,258	\$218,800	29%	29%
US Core Stocks (Large)	\$51,152			\$74,800		
Apple Computer Inc	\$51,152		(\$51,152)	\$0		
S & P 500 (iShares)	\$0		\$74,800	\$74,800		
US Large Cap Growth	\$18,608			\$72,000		
Artisan Mid Cap Instl	\$0		\$36,000	\$36,000		
Facebook Inc Class A	\$18,608		(\$18,608)	\$0		
T. Rowe Price Instl Large Cap Gr	\$0		\$36,000	\$36,000		
US Large Cap Value	\$37,782			\$72,000		
Artisan Mid Cap Value Instl	\$0		\$36,000	\$36,000		
DFA U.S. Large Cap Value	\$0		\$36,000	\$36,000		
Enterprise Products Partners LP	\$37,782		(\$37,782)	\$0		
US Stock Small	\$230,083	31%	(\$129,183)	\$100,900	13%	13%
US Core Stocks (Small)	\$43,838			\$35,300		
S&P SmallCap 600 (iShares)	\$0		\$35,300	\$35,300		
Pacific Premier Bancorp	\$22,838		(\$22,838)	\$0		
Vanguard Natural Res LLC	\$21,000		(\$21,000)	\$0		
US Small Cap Growth	\$86,920			\$32,800		
Bonanza Creek Energy Inc	\$26,430		(\$26,430)	\$0		
Russell 2000 Growth (iShares)	\$0		\$32,800	\$32,800		
Main Street Capital Corp	\$32,892		(\$32,892)	\$0		
Tesoro Logistics Lp	\$27,598		(\$27,598)	\$0		
US Small Cap Value	\$99,325			\$32,800		
DFA U.S. Small Cap Value	\$0		\$32,800	\$32,800		
Fifth Street Finance Corp	\$3,952		(\$3,952)	\$0		

Key Financial

The dollar amounts recommended are based on Market Values as of the date of this report. We may have to make adjustments to the above amounts if there are material changes in the market between this date and the date we receive your response.

Target 70 Equity Allocation

As of 7/1/2013

East Goshen Twp. (OPEB Trust)

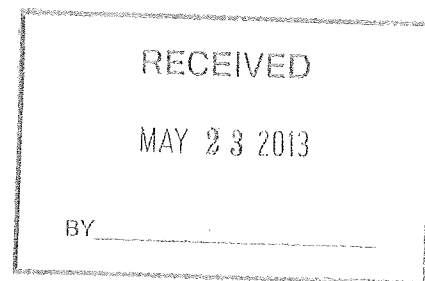
Class	Current Value	Current Percent	Trade Amount	Post Trade Value	Post Trade Percent	Target Percent
Legacy Reserves Lp	\$10,185		(\$10,185)	\$0		
Memorial Production Partners LP	\$29,565		(\$29,565)	\$0		
Ngl Energy Partners Lp	\$34,301		(\$34,301)	\$0		
Carrols Restaurant Gp	\$9,735		(\$9,735)	\$0		
USA Compression Partners LP	\$11,587		(\$11,587)	\$0		
International Stocks Large	\$2,993	0%	\$83,507	\$86,500	12%	12%
Emerging Intl Markets	\$0			\$21,700		
DFA Emerging Markets	\$0		\$21,700	\$21,700		
International Core Stocks	\$1,277			\$0		
First Trust DJ Global Select Div I	\$1,277		(\$1,277)	\$0		
International Large Growth	\$0			\$32,400		
UMB Scout Worldwide Fund	\$0		\$32,400	\$32,400		
International Large Value	\$1,716			\$32,400		
American Beacon Intl Eq Instl	\$0		\$16,200	\$16,200		
DFA International Value	\$0		\$16,200	\$16,200		
First Trust Stoxx European Select	\$1,716		(\$1,716)	\$0		
International Stocks Small	\$0	0%	\$39,300	\$39,300	5%	5%
International Small Growth	\$0			\$19,650		
T. Rowe Price Intl Discovery	\$0		\$19,650	\$19,650		
International Small Value	\$0			\$19,650		
DFA Intl Small Cap Value	\$0		\$19,650	\$19,650		
Real Estate	\$49,370	7%	\$3,030	\$52,400	7%	7%
Real Estate	\$49,370			\$52,400		
Agree Realty Corp	\$49,370		(\$49,370)	\$0		
Morgan Stanley Instl US RE	\$0		\$26,200	\$26,200		
Vanguard REIT Index ETF	\$0		\$26,200	\$26,200		
Other	\$100,297	13%	(\$74,097)	\$26,200	3%	4%
Commodities	\$56,574			\$26,200		
Access Midstream Ptrns	\$53,314		(\$53,314)	\$0		
Goldman Sachs Commodity Strat	\$0		\$26,200	\$26,200		
Market Vectors Gold Miners ETF	\$3,261		(\$3,261)	\$0		
High Yield	\$43,723			\$0		
Fidus Investment Corp	\$32,413		(\$32,413)	\$0		
Stellus Cap Invt Corp	\$11,310		(\$11,310)	\$0		
Total	\$748,595	100%	\$0	\$748,595	100%	100%

Key Financial

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



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