

**EAST GOSHEN TOWNSHIP  
BOARD OF SUPERVISORS WORKSHOP  
1580 PAOLI PIKE  
October 28, 2008 – 7:00pm**

**Present:** Chairman Marty Shane, Vice-Chairman Carmen Battavio, Joe McDonough, Don McConathy and Thom Clapper. Also present were Township Manager Rick Smith, Jim McRee (Planning Commission & DMC), Kathryn Yahraes (Historical Commission), and Phyllis Marron (Park & Rec).

**Call to Order & Pledge of Allegiance**

Marty called the meeting to order at 7:00pm. He welcomed the audience and introduced the Supervisors. He then led everyone in the Pledge of Allegiance to the flag.

**Recording of Meeting**

No resident indicated that they planned to record the meeting.

**Moment of Silence**

Carmen called for a moment of silence to honor of the men and women serving their country in the armed forces, and their families.

**Hershey's Mill Dam**

Marty told the audience that the Pennsylvania DEP recently informed the Township that the Hershey's Mill dam is a "regulated dam" and that it would not be able to withstand a 100-year storm event. The Township hired Rettew Associates at the recommendation of Jane Fava from the Conservancy Board. Jane was concerned that the Township Engineer (Yerkes) was not experienced with dams, and thought the Township should hire a firm with significant dam experience for this project.

Marty introduced engineer Mark Metzler of Rettew Associates. Mr. Metzler showed a PowerPoint presentation of three options under consideration for the dam. (A copy of this presentation is appended to these minutes.) Options 1 and 2 involve adding additional spillway. Option 3 is to breach the dam.

Mr. Metzler said that East Goshen is now in the dam business, which can be costly. There are safety and liability issues associated with the dam, and it is expensive to dredge the pond when it fills with sediment. The dam will require regular maintenance inspections by an engineer, and any necessary repairs may be expensive.

Joe asked if the pond will have to be drained for Options 1 or 2. Mr. Metzler said definitely for Option 2, and possibly for Option 1.

Joe asked if Mr. Metzler could comment on any of the trees that will have to be cut down from the berm, such as what specimens they are, and if any are rare or noteworthy. Mr. Metzler said he did not notice anything of note among the trees. Joe asked if all the trees on the berm will have to come down for Option 3. Mr. Metzler said some of them will have to come down.

Joe asked Mr. Metzler what is the possibility of getting a grant to help cover the cost of breaching the dam (Option 3). Mr. Metzler said the possibility is very high; he would give it 9 out of 10.

Carmen asked if the historic significance of the dam ends up driving the Board's decision, and the Township asks DEP for extra time in order to conduct fundraising for the work on the dam, did Mr. Metzler think DEP would be amenable to that. Mr. Metzler said it is possible. He said he could not speak for DEP, but he would think it reasonable for them to grant East Goshen extra time. However, he said he believed DEP would probably want the tree issue to be addressed sooner rather than later.

*Public Comment: Peggy Schmitt, 1030 Hershey Mill Road* – Asked if the trees on the berm will have to be cut for Option 3. Mr. Metzler said only where the breach will occur.

Marty asked Mr. Metzler if it is unequivocal that the trees will have to be cut, or is it possible the Township can get some relief from that requirement. Mr. Metzler said it's pretty much a hard and fast rule of DEP that trees on a dam berm must come down. Marty told the audience that nonetheless, it wouldn't hurt to ask, and so the Township will at least try to get some relief from DEP.

*Public Comment: Robert Schaefer, 5 Hershey's Drive* – Asked if the Township owns the dam. Rick said yes. Mr. Schaefer asked if the Township owns the property all the way out to Greenhill Road. Rick said no. Mr. Schaefer asked if the dam was a gift to the Township. Rick said the Hershey's Mill HOA "sold" it to the Township for \$1. Mr. Schaefer asked if there were any strings attached to the sale. Rick said the dam was to be considered open space and subject to the Township ordinance for parks. Mr. Schaefer asked if it isn't the Township's job to make the dam safe for residents. Rick said yes. Mr. Schaefer then stated that he is an engineer and that by his calculations, it would be "stupid" to add 200 feet of spillway, as that would be excessive. He said whoever made that calculation "screwed up." Mr. Metzler then told him how the calculations were made, and that they were originally made by Yerkes but Rettew looked at the numbers and found Yerkes' recommendations to be valid. Mr. Schaefer then challenged a statement made earlier that the pond is full of sediment and is shallow. He said he has been swimming and fishing there for 15-20 years and can personally verify that parts of it are deep. Mr. Schaefer said he would hate to see residents lose the recreational opportunities the pond provides. Finally, he cautioned about losing wetlands if the dam is breached. He said that wetlands are very important to the ecosystem.

*Public Comment: Neil DeRiemer, 1034 Hershey Mill Road* – Stated that the dam's waterfall is on his property. He had a question for Mr. Metzler about the DEP calculations used to determine that the dam should be regulated. Mr. DeRiemer asked what is the size of the pond. Rick said the pond is 18 acre-feet. Mr. DeRiemer said 18 acre-feet is not 50 acre-feet, which is one of DEP's 3 criteria for determining whether a dam is regulated. Mr. Metzler said DEP's rules say that a dam must only meet 1 out of the 3 criteria. Mr. DeRiemer asked what is the upstream tow of the dam. Mr. Metzler answered him. Mr. DeRiemer asked if the pond has been sounded. Mr. Metzler said no. Mr. DeRiemer said DEP's interpretation of the criteria in this case is "not scientifically sound," since they think the pond is 15 feet deep. Mr. DeRiemer said he estimates

the pond to be 2.5 feet deep. Mr. DeRiemer then asked “so what” if the dam fails in a catastrophic event; who will get damaged? He asked if it’s possible to either raise the height of the dam or to put a stone wall along Greenhill Road, which already serves as something of a retention basin, and then let Mother Nature take over. Mr. Metzler said that raising the height of the dam would be a very significant engineering undertaking that would go way beyond the scope and cost of Option 1 or Option 2. It would open a Pandora’s Box of problems. Mr. DeRiemer disagreed and said it should be very cheap and simple to raise the height of the dam. Joe advised Mr. Metzler that it was not necessary for him to comment on speculative ideas.

Joe said it was becoming apparent that an Option 4 was now on the table – challenging DEP’s determination that the dam should be regulated. He asked Mr. Metzler if it would be possible for Rettew to do that, if Rettew had enough data and evidence to challenge DEP. Mr. Metzler said no, that based on drainage area criterion alone, this should definitely be a regulated dam. He said the drainage area of this dam is 1,152 acres. In response to Mr. DeRiemer’s suggestion, he said there is no way Rettew would consider any engineering work that would use Greenhill Road as part of drainage system for the dam.

*Public Comment: Jim Brandolini, 1200 Burning Bush Lane* – Asked if the dam is breached, can the pond still serve as a control for a 100-year storm event. Mr. Metzler said depending on how the dam is breached, it would be possible to get some storage from the pond area. Mr. Brandolini asked if the pond must be desilted if the dam is breached. Mr. Metzler went into a long explanation and said some desilting might be required. Mr. Brandolini asked what will control the silt from going downstream if the dam is breached. Mr. Metzler said there would be a stream restoration plan in place that would deal with that to the extent possible. Mr. Brandolini told Mr. Metzler that the cost for this project would not be known until the work is actually underway and the amount of silt that must be removed is known. He said he believes there to be 6-7 feet of silt in the pond. Mr. Metzler said he is confident it will be possible to get down to the original substrate. He noted that he has worked on 22 other dam projects before this. Mr. Brandolini said if the dam is breached the pond will not be usable for recreation anymore; it will turn into unusable swamp. He then asked if he could get a copy of the engineering calculations so that his engineer could review them. After some discussion the Board told him they should be able to get him a copy of the original Yerkes calculation worksheets to review. Mr. Brandolini asked if there are other alternatives for the dam that might not be so expensive as the three presented. Don told him the Township has not yet explored other options. He noted that Rettew was only asked to verify Yerkes’ findings and to provide renderings of the three options Yerkes recommended. Mr. Brandolini said that for the record he does not want the dam to be breached.

Marty told the audience that the Board wishes they did not have to deal with this issue; however, DEP informed the Township that the dam is regulated and it must be addressed. He said the Township had no idea the dam was regulated until DEP informed them, and that this whole issue was entirely unanticipated. He added that the Township has checked all possible sources and determined that there is absolutely no funding available to help keep the dam. The only money available is to help pay for breaching it.

*Public Comment: Don Stuard, 1507 Greenhill Road* – Said he owns the swimming pool near the dam and during a storm event four years ago his pool got filled one-third full of mud. He said

his property is at a low level, unlike Mr. DeRiemer's property, which is higher and therefore more protected from flooding. Mr. Metzler said if Option 1 or 2 are selected, the elevation variations would be rectified and Mr. Stuard's property would be more protected because the engineers would survey the area to create a good topo map, and the property would be graded. Mr. Stuard noted that the trees on the berm have been trimmed back so severely that they are not in very healthy condition. Rick said the trees have been pruned to prevent a "sail effect" and toppling during windy conditions.

*Public Comment: Ron McGill, 1050 Hershey Mill Road* – Gave the Board copies of photographs of his property taken during a storm in September 2004. He stated that even with Option 3, Greenhill Road will serve as a retention pond, and none of the 3 options solves the basic problem because no matter what is done, the same amount of water will be coming down to Greenhill Road. He asked how the dam tow could be lowered. He then drew a sketch of a suggestion he had on the conference room easel. Mark Metzler said that no matter how this problem is approached, DEP is still going to regulate this dam based on the drainage area criterion. Mr. McGill said one other suggestion would be to fill in the pond and turn it into a park.

Marty asked Mr. Metzler how the size of the culverts along Greenhill Road impact DEP's decision. Mr. Metzler said the culverts have no impact on the decision; they are not even a consideration to DEP. He said it is possible to breach the dam and use the pond to provide flood storage. Some residents pointed out that approach may solve the Greenhill Road flooding issue but would do nothing to keep the dam's aesthetic appearance.

*Public Comment: Joseph Dantonio, 1564 Mill Race Lane* – Had a question about how Rettew can be sure that breaching the dam would not flood the properties of nearby residents. Mr. Metzler explained.

*Public Comment: John Tulk, 1210 Burning Bush Lane* – Said the dam is a beautiful historic resource and an icon in the community. It would be a shame to lose it. Everything possible must be done to save it. He said he was disturbed that the Rettew presentation leaned toward a breach simply due to the cost factor. The presentation gave 9 pro's for breaching and only 1 con. He thinks that the 1 con carries more weight than several of the pro's. He also thinks the con list could be expanded. He said that based on the population of the Township, if every resident put in \$15 it would cover the cost of Option 2. He said he would be willing to contribute much more than that if it would save the dam. He then asked if the trees could be cut but their stumps left in place to help keep the integrity of the berm intact. Mr. Metzler said that leaving the roots would actually present additional problems – they would eventually rot, and small animals would burrow in there. Marty said for now the tree issue should be considered on hold until the Township decides what to do about the dam.

Marty told the audience they are welcome to attend the November 12 Board meeting where the 2009 budget will be discussed in detail. He said that due to the financial situation in the Township, money is of course a major factor when considering what to do about the dam. He said he liked Carmen's idea of fundraising to save the dam. Marty said the Supervisors want to accommodate the residents' wishes if at all possible, and they also want to hear all their suggestions.

*Public Comment: Mike Colitti, 1202 Bell Flower Lane* – Asked what can the state do if East Goshen ignores DEP's notice and does its own thing with the dam. Marty said they would fine the Township. Joe said the fine could reach as much as \$10K per day.

*Public Comment: Maureen Neuhaus, 1224 Foxglove Lane* – Expressed concern about her property value going down if the dam is breached. She likes the idea of fundraising. She then gave the Board a photograph showing the water view from her property. She asked if the state gave East Goshen a timeline, and Rick said yes. She said the residents in Hershey's Mill should have been notified about this. Marty explained that a letter was sent out to all residents within 1,000 feet of the property line of the dam. Rick said that in addition, he personally spoke to Ed McFalls about the issue. Marty then asked for a show of hands which revealed only three Hershey's Mill residents in the audience.

*Public Comment: Fran Beck, 1225 Foxglove Lane* – Said he doesn't think the residents of Hershey's Mill are aware of the issue. The Township's major problem is a lack of communication.

*Public Comment: Marcia Gordon, 3008 Valley Drive* – Stated that what everyone is referring to as "silt" and "mud" and "goose poop" is really topsoil, a valuable commodity.

*Lori Feidt, 1050 Hershey Mill Road* – Asked if the Township has looked into having an attorney challenge the DEP's findings. Marty told her it would be hard to challenge this because the dam must only meet 1 out of 3 criteria. Joe said Ms. Feidt had a valid point, and the Township should at least explore the possibility of a challenge.

*Public Comment: Maria Maccecchini, 1223 Foxglove Lane* – Said she agreed with Ms. Feidt that DEP's findings should be challenged.

*Public Comment: Bryan Pariseault, 928 Monte Vista Drive* – Said he was concerned with all the talk about challenging DEP when they may actually be acting in the public's best interest. He asked what would happen if the dam fails. In response, Don read aloud a quote from the DEP letter dated May 14, 2007 saying no occupied dwellings would be affected and there would be no loss of life in the event of a dam failure.

*Public Comment: Fran Beck, 1225 Foxglove Lane* – Asked about a study the Township conducted years ago on making a series of linked recreational trails. Marty told him that issue came to a dead end due to cost factors, right-of-way issues, and the controversy it caused.

*Public Comment: Bill Egan, 1422 Mill Creek Drive* – Asked Mr. Metzler how many of his 22 prior dam projects involved breaching. Mr. Metzler said most of them. Mr. Egan asked if Mr. Metzler had "before" and "after" pictures of his prior projects and Mr. Metzler said yes.

*Public Comment: Ed Goll, 1204 Burning Bush Lane* – Agreed with Mr. Tulk's previous comments that the "cons" in the "pro" and "con" list for breaching the dam should be expanded. One con that should be added is that the additional swamp land that will be created will become a breeding ground for mosquitoes.

*Public Comment: Maureen Neuhaus, 1224 Foxglove Lane* – Asked a question about the cost of a drainage system she was required to put in for her new sidewalk, and if the Township knew about the dam issue why did she have to pay for a drainage system. The Board explained about the state law in regard to added impervious coverage. Don told her that by law a property owner must keep their stormwater on their own property, and the issue had nothing to do with the dam's pond.

*Public Comment: Leo Andrew Sinclair, 317 N. Lochwood Lane* – Asked Mr. Metzler questions about his background, how long he has worked on the Hershey's Mill dam project, who his prior clients were, and his references and credentials. Mr. Metzler referred him to Rettew's website at [www.rettew.com](http://www.rettew.com).

*Public Comment: Ross Taylor, 1207 Burning Bush Lane* – Stated that all the residents are in favor of keeping the dam and not breaching it. The Township owns the dam and should be responsible for paying for the improvements; they should not be out fundraising for this. Marty told Mr. Taylor the Township has every intention of meeting their responsibilities in regard to the dam.

*Public Comment: Bill Egan, 1422 Mill Creek Drive* – Said Mr. Taylor did not speak for him, that he personally is in favor of breaching the dam.

*Public Comment: Robert Schaefer, 5 Hershey's Drive* – Asked the Board to please talk to Ed McFalls about this issue. Marty said he would do so.

*Public Comment: Neil DeRiemer, 1034 Hershey Mill Road* – Commended the Board on having this meeting and for doing a good job in running it fairly. He said that something more attractive than Option 1 is possible and suggested that several different levels of waterfalls be created to deal with different levels of storm events.

*Public Comment: Jim Brandolini, 1200 Burning Bush Lane* – Asked if the pond will be sounded before a final decision is made by the Board. Marty said yes.

*Public Comment: Kathryn Yahraes, Historical Commission* – Identified herself as Chairperson of the Township Historical Commission, and said that she and fellow member Ellen Carmody were present and purposely waited to the end of the meeting to speak. She then deferred to Ellen.

*Public Comment: Ellen Carmody, Historical Commission* – Said the Historical Commission is in favor of keeping the dam. She asked if there are any endangered species living in the pond. Carmen said that has not yet been determined; the Township hasn't gotten that far into the process yet. Ellen asked if the PMHC has weighed in yet on this topic, and Rick said not yet.

*Public Comment: Kathryn Yahraes, Historical Commission* – Explained the charge of the Historical Commission for the benefit of the audience. She said the historic Hershey's Mill Village, especially at the intersection of Hershey Mill Road and Greenhill Road, is a significant

historic area that is National Register eligible. She said the Historical Commission has already contacted PMHC and ACOE on this subject, and the Historical Commission is ready to “go to bat” for the mill and the dam because of its historic value. However, it will take a lot of work and effort to save the dam, and the Supervisors and the Historical Commission can’t do it alone; the residents will have to help. She noted the dam is the last historic dam still in existence on the Ridley Creek. She said creative solutions are needed to help save the dam. She stated that the Historical Commission realizes the Supervisors have a fiduciary responsibility to the taxpayers, but the Historical Commission also has a responsibility to try and save the Township’s historic resources.

*Public Comment: Jane Fava, Conservancy Board* – Identified herself as Chairperson of the Conservancy Board, but said she was only speaking for herself. She said she works with streams and environmental issues in her career, and that from an environmental point of the view, the dam should be breached. She got Mark Metzler involved in the project because she knew that Rettew has lot of experience working with dams and stream restoration, and she wanted any stream work that had to be done to be done correctly. She said she is personally in favor of breaching the dam, and she wants the environmental aspects of the breach to be handled correctly.

### **Adjournment**

Their being no further public comment, the formal meeting adjourned at 9:45pm.

## **WORKSHOP**

### **Bills**

Current invoices were reviewed.

## **Treasurer's Report**

The Treasurer's Report for October 28, 2008:

	<b>RECEIPTS</b>	<b>EXPENDITURES</b>
<b>GENERAL FUND</b>		
Real Estate Tax	\$ 0.00	
Earned Income Tax	\$ 44,104.90	
LST	\$ 3,000.00	Accounts Payable \$ 226,739.22
Transfer Tax	\$ 0.00	Debt Service \$ 0.00
Codes, Park & Rec, Etc.	<u>\$ 2,600.00</u>	Payroll \$ 40,000.00
<b>Total Receipts</b>	<b>\$ 49,704.90</b>	<b>Total Expenditures</b> \$ <b>266,739.22</b>
Zoning Hearing Fund	\$ 0.00	\$ 0.00
State Fund	\$ 0.00	\$ 0.00
Capital Reserve	\$ 0.00	\$ 904.00
Transportation Fund	\$ 0.00	\$ 0.00
Sewer Operating	\$ 82,441.09	\$ 254,204.29
Refuse	\$ 40,987.40	\$ 4,993.48
Capital Projects	\$ 0.00	\$ 0.00

Joe moved to accept the Treasurer's Report as submitted, and the receipts, and to approve the expenditures just reviewed. Carmen seconded the motion. There was no discussion and no public comment. The Board voted unanimously to pass the motion.

### **YMCA Trees**

Jane Fava told the Board she does not want Park & Rec to plant Ash trees, as they are susceptible to Emerald Ash Borer infestation and will die. Marty said the Conservancy Board and Park & Rec should work this issue out on their own.

### **Malvern Library Funding**

Thom wants to know how much other Townships contribute to the Malvern Library to see if East Goshen's contribution is in line. Rick will find out and get back to the Board.

### **Next Meeting**

The Board agreed to have a workshop on Wednesday, November 5 at 7:00pm to discuss the budget. The budget will be formally adopted during the December 16 meeting.

### **Subdivision/Land Development/Conditional Use/Variance Applications**

Rick reported that the Malvern Institute has submitted their plan to convert their barn into office space. Kathryn Yahraes asked if they will be required to do an HRIS and Rick said no.

### **Adjournment**

There being no further business, the meeting adjourned at 10:10pm.

### **EXECUTIVE SESSION**

The Board met in Executive Session until 11:15pm to discuss a pending legal matter.

Respectfully submitted,

Anne Meddings  
Recording Secretary

*Attachment – Dam Presentation*