

**EAST GOSHEN TOWNSHIP  
BOARD OF SUPERVISORS MEETING  
1580 PAOLI PIKE  
May 12, 2009 – 7:00pm  
FINAL APPROVED MINUTES**

**Present:** Chairman Marty Shane, Vice-Chairman Carmen Battavio, Joe McDonough, Don McConathy and Thom Clapper. Also present were Township Manager Rick Smith, Assistant Township Manager Joe Gill, Kathryn Yahraes (Historical Commission), Jim McRee (DMC), George Martynick (Planning Commission), and Township Solicitor Skip Brion.

**WORKSHOP**

**Minutes**

The revised draft minutes of April 28 were reviewed. The Board agreed to hold the May 5 minutes until the next meeting as the Supervisors received them late and did not have time to review them.

**Bills**

The Treasurer's Report and Expenditure Register Report were reviewed.

**Comcast Generators at Boot & Wilson Roads**

Rich Werner showed the Board the revised landscaping plans for screening the generators. Comcast proposes planting the following trees and shrubs:

- 8 Serbian Spruce (8-10 ft tall)
- 14 White Pine (8-10 ft tall)
- 6 Upright White Pine (12-14 ft tall)
- 7 Leatherleaf Viburnum shrubs (5 ft tall)

Jeff Gill from Comcast asked the Board if they might be interested in having the Philadelphia Mural Arts (PMA) program paint the generators in a creative way rather than painting them a plain drab brown. Mr. Gill passed out some examples of work the PMA has done to show the Board some possibilities. Carmen said he would not be interested in having the generators painted in a busy, colorful design that would make them a focal point for the area. While the idea is interesting, this open area of East Goshen is not the right place for such a project. Carmen said he would consider the idea if the generators could be painted with a nature scene to make them blend into the background. Don agreed and said the idea of painting the generators in the first place was to hide them, not to make them stand out even more. Joe said he likes the idea (as shown in the handout) of painting the generators to resemble trains or ships. Thom said he would be open to the idea if the chosen painting pattern had a historical or nature-inspired theme. Marty said he would prefer the generators be painted in such a way to help camouflage them.

Carmen asked Mr. Gill if the PMA would have criteria for their projects that would limit them to only painting something showy. He said he would not like to partner with them and later find out they are unable to paint something unobtrusive.

Marty asked how long it would take to get the generators painted, if East Goshen decides to work with the PMA. Rich Werner said he estimated the generators could be painted by the fall. In the meantime the landscaping would proceed. Marty asked if Comcast could check with the PMA to make sure of the timeline. Mr. Gill said the PMA likes to work closely with the communities where their projects are located to develop their design ideas, which takes time.

Carmen asked resident Bill Egan, a neighbor of the Comcast site in question, for his opinion on a possible partnership with the PMA. Bill said he wouldn't mind if the generators were painted with a nature scene, such as evergreen trees, to blend into the surroundings.

*Public Comment: John Schorn, Larch Lane* – Suggested the PMA create a scene on a “wrap,” such as the type used on buses, to wrap the generators. Doing so would allow the Township to pre-approve the design before it gets put onto the generators, plus it would be economical.

Joe McDonough expressed concern that the process of working with the PMA could take a very long time. Rick noted that it has taken six months of working with Comcast just to get to the point of painting the generators plain brown, and they have still not been painted.

Marty asked Rich Werner and Jeff Gill to get some additional information from the PMA on their criteria, timeline, ideas for the site, etc.

#### **National Bank of Malvern Bank – Zoning Variance Request**

Don briefed the Board on the variances being requested by Malvern Bank for their location at Paoli Pike & Airport Road.

#### **Richard Miller, 16 Reservoir Road – Use Variance Request**

Don briefed the Board on the variance request from resident Richard Miller, who would like to put two apartments on his property as a way to generate income.

#### **Resolution 09-49, Regarding Collateralization of Township Deposits**

The Board reviewed this draft resolution. Joe Gill made one change. Thom asked if the collateral could be held in the Township's name, but Rick said it is not done that way. The collateral gets held by independent third-party institution(s).

#### **Resolution 09-50, Authorizing Participation in the West Chester Area Regional Emergency Management Group**

The Board reviewed this draft resolution and made one minor editorial change.

## **FORMAL MEETING**

### **Call to Order & Pledge of Allegiance**

Marty Shane called the meeting to order at 8:04pm and led everyone in the Pledge of Allegiance to the flag.

### **Recording of Meeting**

Resident Abbas Rahbari of 1613 Manley Road said he would be recording the meeting and that he reserved the right to “record and transmit” the proceedings.

### **Moment of Silence**

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

### **Approval of Minutes**

Marty announced that the minutes of May 5 had not been reviewed by the Board and would be held until the next meeting.

Don moved to approve the revised draft minutes of April 28 as discussed in workshop. Carmen seconded the motion.

*Public Comment: John Schorn, Larch Lane* – Asked that some additional comments made by himself and Marty Shane be included in the minutes.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Stated that the Township should videotape its meetings to keep an accurate record of the proceedings.

There was no further public comment and no discussion by the Board. The Board voted unanimously to approve the motion.

### **Chairman’s Report - Announcement of the Board’s Decision on the Pennsylvania Leadership Charter School (PALCS) Conditional Use Application**

Representatives from PALCS were present, along with attorney Alyson Zarro.

Don moved to approve the Decision and Order, Findings of Fact, Conclusions of Law, Discussion, and Order regarding the Conditional Use Application of the Pennsylvania Leadership Charter School as prepared by the Township Solicitor and dated May 2009. Thom seconded the motion.

Township Solicitor Skip Brion stated that public input would not be appropriate at this time. The Board was giving notice of their decision on this application based on the numerous meetings and hearings during which this application was discussed, and during which meetings the public had opportunity to make comments.

There was no discussion by the Board. The Board voted unanimously to approve the motion.

**Public Hearing – Adoption of Ordinance on Automatic Protection Devices**

Marty announced that the public hearing on this ordinance would be postponed until the June 2 Board meeting due to the fact that the court reporter scheduled to take the transcript was not present.

**Treasurer's Report**

The Treasurer's Report for May 7, 2009:

	RECEIPTS	EXPENDITURES
<b>GENERAL FUND</b>		
Real Estate Tax	\$ 6,909.16	
Earned Income Tax	\$ 195,531.23	Accounts Payable \$ 25,496.29
LST	\$ 15,132.04	Electronic Payments \$ 1,000.00
Transfer Tax	\$ 0.00	Debt Service \$ 0.00
Codes, Park & Rec (2009)	\$ 31,612.47	Payroll \$ 40,000.00
<b>Total Receipts</b>	<b>\$ 249,184.90</b>	<b>Total Expenditures \$ 66,496.29</b>
State Fund	\$ 333.12	\$ 0.00
Capital Reserve	\$ 1,706.57	\$ 17,830.55
Transportation Fund	\$ 270.34	\$ 0.00
Sewer Operating	\$ 105,134.96	\$ 8,155.09
Refuse	\$ 51,307.67	\$ 6,164.84
Sewer Capital Projects	\$ 0.00	\$ 0.00

Joe moved to accept the Treasurer's Report dated May 7, 2009 as recommended by the Treasurer in her May 8, 2009 memo to the Board, and the receipts, and to authorize payment of the invoices reviewed in workshop. Carmen seconded the motion. There was no discussion.

*Public Comment: Bill Egan, Mill Creek Drive* – Asked if the Board has an indication yet of how year-to-date expenses compare with the budget. Marty said the first quarter expenditures and income will be discussed at the May 28 meeting which will start at 9:00am. The meeting will be open to the public.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Asked who the Treasurer is. Marty told him Deb Beury. Mr. Rahbari then wanted details of her educational background. Mr. Rahbari was asked to put his request in writing. Mr. Rahbari requested that the Treasurer’s Report provide more details so the Township can operate more transparently.

There was no further public comment. The Board voted unanimously to pass the motion.

**Police Report**

Chief John Dumond was present, and he apologized that he had no reports to share. The reports are being prepared this week and are not ready yet. Marty asked if the father and son who were recently arrested for a string of robberies in Delaware County had anything to do with some of the East Goshen robberies, and Chief Dumond said yes. The Chief reported that an Emergency Response exercise was conducted May 6 on the campus of West Chester University, run by the University’s Department of Public Safety and the Chester County Department of Emergency

Services. WEGO participated in the exercise and everything went very well. He reported that a person has been arrested in connection with a robbery in Clocktower Woods. The person confessed to robbing the house when he went there to deliver a load of mulch. In addition, three juveniles have been apprehended in connection with thefts from school lockers at Rustin High School. Thom asked about the recent automobile accident in Birmingham Township. Chief Dumond said WEGO responded but he did not know any details.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Asked about the new cameras he has noticed installed in some of the police cruisers. Chief Dumond said one cruiser has been equipped with a camera so the police can test it out. They are awaiting some grant money that will allow them to equip more cruiser with cameras.

*Public Comment: John Schorn, Larch Lane* – Said he had a credit card stolen last month and would like to compliment Officer Kinch for his assistance.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Complimented Sgt. Cahill for his assistance when his identity was stolen.

### **Comcast Generators at Boot & Wilson Roads**

Rich Werner of Comcast showed the revised landscaping plans for screening the generators. Don said it appeared from the drawing that some of the white pines are going to be planted too closely together. Mr. Werner said it appears that way from the drawing, but the Planting Notes on the plan specify how the trees are to be spaced so they will grow properly. Don said he is not sure the spacing listed in the Notes is adequate for white pines and said he would like a recommendation from the Conservancy Board.

Don moved to accept the site exhibit from Comcast dated May 6, 2009 showing proposed additional plantings for the Comcast facility at Boot and Wilson Roads, with the caveat that Comcast ask the land architect and land planner to make sure the plant spacing and planting materials are adequate. Carmen seconded the motion.

Thom said he believes the professionals retained by Comcast, who drew up the plans, are best able to determine what will adequately screen the generators and how the plants should be spaced, rather than relying on the knowledge of the Board of Supervisors or a recommendation from the Conservancy Board. Don said there is an arborist on the Conservancy Board who can make a recommendation to the Board.

*Public Comment: John Schorn, Larch Lane* – Asked if Comcast will replace any of the trees that may die. Don said that stipulation is included on the plan. The trees are guaranteed for two years. Mr. Schorn said they should be guaranteed forever. Mr. Werner said Comcast will replace any trees that die.

Thom suggested the motion be amended to include a guarantee that any trees that die be replaced. Rick said Comcast has generously agreed to put in the trees as a good-neighbor gesture to the Township; they are not obligated to plant anything let alone replace it. Marty

asked if the motion could be amended to say that Comcast will replace any trees that die on the property as long as they occupy the building. Don and Carmen accepted this amendment.

*Public Comment: Bill Egan, Mill Creek Drive* – Asked if the plantings will create an adverse effects on the reserve parking. Mr. Werner said there will be no adverse impact.

There was no further discussion or public comment. The Board voted unanimously to approve the motion.

### **National Bank of Malvern Bank – Zoning Variance Request**

Bob Adams, Esq. was present for the applicant. He said his client plans to modify their application in time for the May 13 Zoning Hearing Board meeting. His applicant believes they can eliminate the parking intrusion onto the front yard of Airport Road, and also believes they can eliminate office space from the plan in order to avoid encroachment on the side yard setback. This would leave them with only one variance request, for the parking in the front yard on Paoli Pike. Mr. Adams said he could even argue that no variance is needed, as the bank has non-conforming rights to park in the front yard on Paoli Pike. The bank plans to do all the infrastructure work and to allow the YMCA to use the front yard for parking before the bank branch is constructed.

Joe asked why the bank is asking for the variance if it can be argued that no variance is needed. Mr. Adams said the situation could be argued either way. Skip Brion told Mr. Adams that by arguing for the variance the bank might be limiting itself. More would be gained by arguing the non-conforming rights. Mr. Adams said he plans to put forward the non-conforming rights argument first and then argue for the variance if necessary.

Carmen moved to recommend the Zoning Hearing Board support the variance request of the National Bank of Malvern to allow parking in the front yard on Paoli Pike based on the fact that parking currently exists there, but to oppose the Bank's request for a variance to allow parking in the front yard on Airport Road and to oppose the Bank's request for a variance to allow a side yard setback for a drive-thru. Thom seconded the motion.

*Public Comment: Art Polishuk, Grand Oak Lane* – Said the Board should support the Planning Commission's recommendation to reject all three variance requests. The Planning Commission carefully considered this application before deciding on their recommendation. This applicant has done the Township no favors. They cut down all the beautiful trees from their property and then put up a non-conforming structure on the site. This applicant's only objective is to create additional parking at this location in order to lease it to the YMCA so the YMCA can expand its membership and earn more money. Don told Art he didn't think the Planning Commission gave full consideration to the fact that parking already exists in the front yard on Paoli Pike.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Said the bank is owned by a reputable family. The Township should bend over backward to accommodate this applicant's request.

*Public Comment: Bill Egan, Mill Creek Drive* – Asked if the YMCA's driveway plan was modified. Rick said yes. Skip Brion said the YMCA's driveway issue had nothing to do with

the motion on the floor, and requested Mr. Egan take the matter up with Rick offline. He added that it is not unusual for minor field changes to be made to development plans. Mr. Egan asked if the driveway modification that occurred was legal, and Mr. Brion said yes.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Questioned Mr. Brion’s legal expertise. Mr. Brion said he is experienced and qualified to give legal opinions to this Board, and has been retained to do so.

Mr. Adams took exception to Mr. Polishuk’s comment that the bank is only interested in the parking spaces for the YMCA. He said his client wants to build a bank branch at this location.

*Public Comment: John Schorn, Larch Lane* – Said he agreed with Mr. Adams, and the bank purchased the property long before the YMCA ever considered moving to East Goshen. Mr. Schorn said the Township is responsible for creating the hardships this applicant is asking relief from, and said he does not know why the Board would not support the request for all three variances. Mr. Adams said he disagreed that the Township created the hardships.

There was no further discussion or public comment. The Board voted unanimously to approve the motion.

#### **Richard Miller, 16 Reservoir Road – Use Variance Request**

Mr. Miller was present along with his attorney, Richard Lipow. Mr. Lipow said his client is over 80 years old and is asking for a temporary variance or a permit to put two apartments on his property that he can rent out due to financial hardship. He said the financial hardship limitation in the ordinance is not applicable in this instance.

Joe told Mr. Lipow that he sympathizes with Mr. Miller’s plight but believes there are other avenues he could pursue, such as considering a reverse mortgage. Mr. Lipow said a reverse mortgage is not an option in Mr. Miller’s situation. Carmen said he cannot open the Township to this type of use because then he would have no basis to refuse anyone and everyone wanting to add a rental unit onto their property. He said he cannot support this request.

Don said in the past East Goshen has only allowed in-law suites to be built, with the condition that once they are no longer needed they are dismantled. Allowing this use requested by Mr. Miller would set a bad precedent for the Township.

Thom said he could not support this request for the same reasons cited by Carmen and Don.

Don moved to recommend the Zoning Hearing Board oppose the variance application for Richard Miller at 16 Reservoir Road. The standards for granting a variance have not been met by the applicant, the variance is not needed to enable a reasonable use of the property, no hardship has been presented and the variance, if granted, could alter the essential character of the neighborhood. Carmen seconded the motion.

*Public Comment: Art Polishuk, Grand Oak Lane* – Suggested the motion be modified to note

that the Township Solicitor will attend the Zoning Hearing Board meeting on the Board's behalf. Don and Carmen agreed to the addition to the motion.

*Public Comment: Abbas Rahbari, 1613 Manley Road* – Said the Board should support this application.

*Public Comment: John Schorn, Larch Lane* – Said the Board should support this application.

There was no further discussion or public comment. The Board voted unanimously to approve the motion.

#### **Resolution 09-49, Regarding Collateralization of Township Deposits**

Don moved to adopt this resolution with the correction made in workshop. Joe seconded the motion. There was no discussion or public comment. The Board voted unanimously to approve the motion.

#### **Resolution 09-50, Authorizing Participation in the West Chester Area Regional Emergency Management Group**

Thom moved to adopt this resolution with the change made in workshop. Joe seconded the motion. There was no discussion or public comment. The Board voted unanimously to approve the motion.

#### **Resolution 09-104, Appointing Delegates to the Chester County Tax Collection Committee**

Don moved to adopt this resolution appointing Joe Gill to the Chester County Tax Collection Committee, with himself and Marty as alternates. Carmen seconded the motion. There was no discussion or public comment. The Board voted unanimously to approve the motion.

#### **Resignation from the Deer Management Committee**

Marty announced that Tina Mussari has resigned from the Deer Management Committee.

#### **Correspondence & Reports of Interest**

Marty acknowledged receipt of the following:

- Letter from Wooldridge Construction of PA requesting an extension for the review period of the subdivision plans for Sullivan's Grove.
- Reports from the Fire Marshal and the Goshen Fire Company for the month of April.

#### **Meetings & Dates of Importance**

Marty noted there will be no Board meeting on May 19, Election Day, and that the Deer Management Committee meeting scheduled for May 18 has been rescheduled to May 20. Joe Gill announced that the Finance Committee meeting is scheduled for May 28 beginning at 9:00am.

Marty announced that the Board would be meeting in Executive Session this evening to discuss the police contract and a personnel matter.



## **Public Comment on Non-Agenda Items**

None.

## **Adjournment**

There being no further business, the meeting was adjourned at 9:25pm.

## **WORKSHOP (Resumed)**

### **Boot Road Restriping**

Rick said the Saints Peter and Paul Church/school is upset about the proposed elimination of the turn lane and the impact it will have on their 11 school buses. Rick said he suggested to PennDOT that one of the east-bound thru lanes be eliminated and made into a turn lane, and that the width of the turn lane be reduced to 11 feet. Rick said PennDOT was open to the suggestions. Marty asked if the proposed changes would affect the project cost, and Rick said probably not.

*Public Comment: Bill Egan, Mill Creek Drive* – Noted that the school buses will now have to cross two lanes of traffic to turn left into the school. Joe said that ideally, to protect the schoolchildren, the buses should only make left turns at the traffic light.

Don said he has safety concerns about narrowing the traffic lanes because tractor trailers and buses use the road. Rick said buses are only 8 feet wide, but Marty noted that does not include the side-view mirrors. Other than these concerns, the Supervisors were all okay with Rick's suggested changes.

The Board briefly discussed whether this project will include any improvements to the Greenhill Road intersection. Joe said West Goshen is still operating under the assumption that a future builder of the property near Route 202 will be responsible for making improvements to the Greenhill Road intersection. Carmen said he remembered opposing improvements to the intersection due to the high cost.

Joe, Thom, and Marty plan to attend the West Goshen meeting on May 14, where this matter will be discussed with residents.

### **Metered Billing Update**

Don gave an update on the metered billing project. Key points are summarized below.

*Billing Database* - The billing database is about 90% complete.

*Billing Process* - Once the billing database is complete the team will obtain 1<sup>st</sup> quarter 2009 data for all Aqua accounts and run a complete sample through AMS in early June. Any necessary refinements will be made and two additional dummy runs will be done for the 2<sup>nd</sup> and 3<sup>rd</sup> 2009 quarters prior to going live.

*Second Meters* - Aqua can install a second meter for properties where Aqua service currently exists. The second meter would be placed at the street and installed at the resident's expense. Aqua would read the second meter.

*Water Usage Data* - Aqua will provide the water usage data for the East Goshen account list and make it available the last week of the previous quarter in time for the East Goshen billing deadline.

*Billing Details* - The team recommends dividing the bill into two parts – a fixed monthly cost and a variable cost based on water usage. Bills will continue to include both sewer and trash charges as appropriate. The team is considering having commercial users pay a scaling fixed rate based on their water usage over the previous two years. The team is investigating the option of including some base water usage as part of the fixed rate. They are also considering how best to compensate users for water used for outdoor gardening and swimming pools.

*Communication* – Don has drafted a short article for the upcoming newsletter. A letter to residents will be sent later, closer to the time of implementation.

### **Adjournment**

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

### **EXECUTIVE SESSION**

The Board met in Executive Session from 10:10pm until 10:30pm to discuss the police labor contract. Due to the late hour, the personnel matter they had planned to discuss was postponed to a future meeting.

Respectfully submitted,

Anne Meddings  
Recording Secretary