

**EAST GOSHEN TOWNSHIP  
BOARD OF SUPERVISORS MEETING  
1580 PAOLI PIKE  
February 22, 2011 – 7:00pm  
Final Approved Minutes**

**Present:** Chairman Senya D. Isayeff, Vice-Chairman Don McConathy, and Supervisors Marty Shane, Carmen Battavio, and Thom Clapper. Also present were Township Manager Rick Smith, Zoning Officer Mark Gordon, Jim McRee (Planning Commission and Deer Committee), Phyllis Marron (Park & Rec), Ginnie Newlin (Conservancy Board), Kathryn Yahraes (Historical Commission), and Township Solicitor Kristin Camp. State Rep. Dan Truitt was in the audience.

**Call to Order & Pledge of Allegiance**

Senya called the regular meeting to order at 7:02pm. He asked Mr. Richard Lemanowicz to lead everyone in the Pledge of Allegiance.

**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.

**Recording of Meeting**

No one indicated that they planned to record the meeting.

**Public Comment on Non-Agenda Items**

None.

**Police Report**

Chief Dumond reported there were 576 calls for service from East Goshen in January.

**Chairman's Report**

Senya announced that the Board met in Executive Session on February 8 to discuss a legal matter and a personnel matter, and noted that the Board did not meet last week.

**PUBLIC HEARINGS**

**Revised Ordinance Amending Chapter 188, Titled "Sewers" and Chapter 194, titled "Solid Waste" of the East Goshen Township Code**

The Board held a public hearing to consider an ordinance amendment to revise Chapter 188, Titled "Sewers" and Chapter 194, titled "Solid Waste" of the East Goshen Township Code. Don moved to adopt the ordinance amendment, with the signature page corrected to show Don as Vice-Chairman. Carmen seconded the motion. There was no public comment. The Board voted unanimously to approve the motion.

**Municipal Risk Management Workers' Compensation Pooled Trust**

The Board held a public hearing to consider an ordinance authorizing participation in the Municipal Risk Management Workers' Compensation Pooled Trust. Marty moved to adopt the

ordinance authorizing the Township's participation in the Municipal Risk Management Workers' Compensation Pooled Trust, with a signature page added. Carmen seconded the motion. There was no public comment. The Board voted unanimously to approve the motion.

A court reporter was present and will provide a complete transcript of the proceedings.

## **REGULAR MEETING (RESUMED)**

### **Update on 501(c)(3)**

Thom reported the 501(c)(3) group has held two meetings, with another scheduled for next week. There are 11 members, and officers have been elected. They are now ready to accept tax-deductible donations.

### **Liberty Towers Zoning Variance Requests**

The applicant was represented by Richard Lemanowicz, Esq. Mr. Lemanowicz summarized his client's variance requests, their need for additional cellular coverage in the area, and what led them to select 1594 Paoli Pike (behind the Wawa) as a location. He distributed exhibit packets to the Supervisors.

Marty asked him why they did not consider locating at the Township Park. Mr. Lemanowicz said the park would be a compromise, and not ideal for their needs.

Don asked if they do not win the bid award to locate a cell tower in the Township Park, would they proceed with their intentions to locate behind the Wawa. Mr. Lemanowicz said he could not answer what his client would do in that case. Don said it would be silly to have two towers located so closely together (one at the park and one behind the Wawa). Senya indicated that should not be an issue, as no tower company would invest in building a tower if they did not have tenants in line ready to buy space on the tower.

The Board then discussed with the Mr. Lemanowicz the issue of the Township's RFP for a cell tower in the Township Park, and how it would impact the possibility of Liberty Towers going forward or not with the Wawa location.

Carmen asked Mr. Lemanowicz if his client would be willing to consider collaborating with another tower company. Mr. Lemanowicz said he would need a lot more detail before considering such a possibility.

Don noted there are other ways to get cellular coverage without building a huge tower. Mr. Lemanowicz said those other ways are just a band-aid. He assured the Board that if there were not a need for more cell tower coverage in East Goshen, he would not be before them. Don said he was not sure why East Goshen has suddenly become such a hot spot where cell towers are urgently needed.

Marty asked Mr. Lemanowicz how he would address the concerns brought up in the December 2009 letter from the PHMC in regard to Section 106 of the NHPA of 1966. Mr. Lemanowicz said the way to address those concerns is to alter the appearance of the tower, and he said his

client would work with the East Goshen Historical Commission in that regard. Marty said the Township would, at a minimum, require the antennas be flush with the pole. Kristin Camp said decisions about appearance would be up to the PHMC. Rick said actually it would be up to the FCC. Mr. Lemanowicz said the FCC would only get involved if it's considered an "audited" site. Mr. Lemanowicz then said he has never seen the PHMC depart from the recommendations of a local historical board.

Thom asked Mr. Lemanowicz why it is in East Goshen's interest to collaborate with Liberty Towers instead of going forward with the RFP for a cell tower in the Township Park. Mr. Lemanowicz said that Liberty Towers has an excellent reputation, etc.

Don then asked for a condensed version of their RF analysis. It was presented by Mike Fisher of Millennium Engineering.

Senya asked if multiple microcells could work instead of a tower. Mr. Lemanowicz said not in this location. There are not enough available telephone poles, let alone ones that PECO would allow them to use, and in addition the microcells would only provide coverage for roadways, not in buildings.

The Board then asked Mr. Lemanowicz to define "adequate" coverage. Mr. Lemanowicz said adequate coverage is determined by a number of factors – the number of vehicles in an area, the major roads, the population count, and the signal strength. These factors are analyzed with the criteria of the ability to maintain audible call contact (calls not dropped or garbled). The goal is to have less than 2% of calls dropped.

Don asked what will be the radius of coverage from the proposed tower. Mr. Fisher said for T-Mobile it will be 1 mile (in-vehicle coverage) and for AT&T and Verizon it could be up to 2-3 miles (in-vehicle coverage).

Don moved to recommend the Board of Supervisors oppose these variance requests based on the fact that the applicant has not provided evidence of any hardship(s) to support either the use or the dimensional zoning variance requests, as required by law. Granting these variance requests for a wireless communications tower use in the center of the community, next to two elementary schools and adjacent to the Township historic district, would have a significant negative impact on the quality of life and greatly alter the essential character of the surrounding neighborhoods. If the Zoning Hearing Board approves the variance requests, it is requested that the applicant obtain Conditional Use approval from the Township. Carmen seconded the motion.

*Public Comment: Joe Buonnano, Herron Lane* – Asked who must pay to dismantle and dispose of outdated cell towers, etc. when the equipment becomes obsolete. Don said it is in the ordinance that the equipment owner is responsible.

*Public Comment: Bob Ellis, Paoli Pike* – Had a question about including the variances requested by Liberty Towers (if approved) in the RFP for a cell tower at the park. Kristin Camp told him the RFP only applies to a tower placed on Township property, and the variances requested by Liberty Towers are for a location which is not on Township property.

Don then asked Mr. Lemanowicz to make correct some errors in the letter he wrote to Mark Gordon dated January 28, 2011 before going to the Zoning Hearing Board. Mr. Lemanowicz noted the requested corrections.

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

### **RFP for Cell Tower in Township Park**

Thom suggested that instead of going ahead with the RFP, the Board negotiate directly with Liberty Towers about building a tower at the park. Carmen said if the Township is going to allow a cell tower, the Board needs to consider what is best for the residents and issue an RFP to make sure the Township gets the most remuneration possible. This was discussed at length.

Marty and Don indicated they also would like to put out the RFP.

Senya asked Mr. Lemanowicz which would be the best site for his client's purposes – the Wawa, the Township Park, or the Township complex. Mr. Lemanowicz said the Wawa or the Township complex would be preferable, as the park would be a compromise.

Don said he would like Mark Gordon and Kathryn Yahraes to work on plotting the Township's historic sites on a map before the RFP goes out. He would like to get an idea of the potential impact a tower would have on the sites. He said he believes the only issue will be the visual impact.

Thom suggested the Township try negotiating with Liberty Towers, and if the outcome is not successful or satisfactory, the Township can then send out the RFP. He said it will save the Township time and expense if the negotiations prove successful in ruling out the Wawa as a site for the tower. The Board then discussed adding the Township Complex to the RFP. Thom, Senya and Carmen indicated they would like to add it. Thom then suggested changes to the schedule outlined in the RFP. The Board agreed to adjust the dates so that the proposals will be in by March 23 and the Board can discuss them at their March 29 meeting.

More discussion ensued, and the majority of the Board agreed to change the RFP back to only being for the park location.

Marty moved to have staff edit the RFP as discussed this evening, and then send it out. Don seconded the motion.

*Public Comment: Bob Ellis, Paoli Pike* – Asked what would happen to the RFP if Liberty Towers takes their case to federal court. Senya told him there is a race on, and it's a matter of timing.

*Public Comment: Rep. Dan Truitt, Grand Oak Lane* – Asked if any of the proposed tower sites are within the landing pattern for the Brandywine Airport, and the Board told him no.

More discussion took place, with the result that the majority of the Board agreed to negotiate directly with Liberty Towers and delay sending out the RFP. Don was opposed to this.

Senya said the Board could still vote on the motion while also accommodating Mr. Lemanowicz because the RFP is not scheduled to go out until approximately March 4. Marty asked Mr. Lemanowicz to provide the Township with a proposal from his client by Friday, February 25.

*Public Comment: Bob Ellis, Paoli Pike* – He asked if the Township goes ahead with a proposal from Liberty Towers obtained in private negotiations, won't that invalidate the Board's stated goal of demonstrating fairness to other firms. Marty said the Township could chose to accept or not accept the Liberty Towers proposal.

The Board then voted on the motion. The motion passed 4:1. Thom was opposed.

Don asked if would be okay if other firms were contacted and asked to give their quotes for compensation to the Township for a tower by February 25 and Senya told him yes. Mark Gordon said he would contact the other tower companies with whom he has been communicating.

*Public Comment: Candy Ellis, Paoli Pike* – Asked what would happen if other tower companies accuse the Township of not being fair by negotiating privately with Liberty Towers and not putting the project out to bid. Senya told her the other tower companies will be contacted by Zoning Officer Mark Gordon.

#### **Geese Roundup**

Thom moved for the Township to contract with the USDA for the removal of geese again in 2011. Don seconded the motion.

Carmen said he wants the Township to contact the Board of Health, elected officials, and the *Daily Local* in regard to this issue. Rick said he will write letters to the Board of Health and Senator Toomey.

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

#### **PSATS Conference**

Marty moved to cancel attendance plans for the PSATS conference. Carmen seconded the motion. There was no discussion or public comment. The Board voted unanimously to approve the motion.

#### **Financial Planning Session**

The Board considered whether or not to hold a special meeting to discuss financial matters. After discussion, it was agreed that the 2010 financial results and the January 2011 results would be reviewed during the regular March 8 Supervisors' meeting.

### **Resolutions to Adopt/Rescind**

Don moved to adopt the following resolutions:

- 2011-15 Treasurer's Bond
- 2011-16 Manager's Bond
- 2011-17 Tax Collector's Bond
- 2011-19 Payment of Invoices at Year End
- 2011-34 Fee Schedule
- 2011-44 Procedure for Collection of Sewer and Refuse Fees
- 2011-63 Amendment 1 to Non-Uniformed Pension Plan

and rescind the following resolutions:

- 2011-12 Fee Schedule (see 2011-34)
- 2011-13 Workers' Comp (adoption of ordinance made resolution moot)
- 09-54 Sewer and Refuse Collections (see 2011-44)
- 10-57 Refuse Rates (incorporated into 2011-34)
- 2011-61 Amendment 1 (see 2011-63)

He also moved to authorize that resolutions previously adopted which are still applicable be renumbered to include the full year designation as the beginning of the resolution number.

Carmen seconded the motion.

Thom had some comments, and Don made some editorial changes. There was no further discussion and no public comment. The Board voted unanimously to approve the motion. Carmen Battavio was out of the room and did not vote.

### **Cost of Services – Definitions & Functions**

The Board reviewed Rick's February 7 memo on the Cost of Services. They discussed the allocation of the Financial Department Head's wages and benefits at some length.

Marty said the Department of Public Works should bear all costs associated with maintaining the garage and Public Works Annex.

Marty moved to accept the staff recommendation in regard to allocating the costs for Township services and functions. Carmen seconded the motion. There was no further discussion and no public comment. The Board voted unanimously to approve the motion.

### **Tree Ordinance Amendments & Resolution on Recommended Tree Species**

Mark Gordon will update the proposed Township Code and SALDO amendments with Don's changes. The Board will review the revised documents at the next meeting.

Marty moved to send the revised ordinance amending Chapter 205 of the Township Code titled "Subdivision and Land Development" and Chapter 218 titled "Trees" to the county, with Don's changed incorporated into the document. Carmen seconded the motion. There was no discussion and no public comment. The Board voted unanimously to approve the motion.

Don moved to adopt the resolution listing recommended tree species to be planted as street trees when required by Chapter 205 of the Township Code. Thom seconded the motion. There was no discussion and no public comment. The Board voted unanimously to approve the motion.

#### **Township Map for Inclusion in Newsletter**

The Board discussed Mark Gordon's suggestion to have a Township map printed and sent out to residents in a future newsletter. Marty said he would like a photograph of the Supervisors included on the map. Carmen wants staff to get something in writing from Municipal Publications promising to meet the agreed-to deadline. Carmen moved to authorize staff to spend \$335 for the handling fee for Municipal Publications to stuff 8,400+ Township maps inside a future edition of the newsletter. Thom seconded the motion. There was no further discussion and no public comment. The Board voted unanimously to approve the motion.

#### **Any Other Matter**

Park & Rec - Thom moved to increase the size of the Park & Rec Board from five members to seven members. Carmen seconded the motion. There was no discussion and no public comment. The Board voted unanimously to approve the motion. Rick will have Kristin Camp prepare the ordinance.

Action Items – Senya asked the Board to be more conscientious about identifying Action Items during meetings so that Rick can add them to the Action List.

Applebrook Meadows Project in Willistown – Marty asked Mark Gordon what has been approved so far for this project. Mark said nothing has been approved yet, and he noted that when the previous developer received approval there was a rather vague condition #12 about a traffic signal.

#### **Review of Minutes**

The Board reviewed and corrected the draft minutes of February 8. Don moved to approve the minutes as corrected. Thom seconded the motion.

*Public Comment: Erich Meyer, Monte Vista Lane* – Asked that his name be corrected in two locations on page 1.

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

#### **Treasurer's Report & Expenditure Register Report**

*See attached Treasurer's Report for February 17, 2010.*

The Board reviewed the Treasurer's Report and the current invoices. Thom would like staff to include loan balances on the monthly debt payment breakdown page. Thom moved to accept the Treasurer's Report of February 17 and the Expenditure Register Report as recommended by the Treasurer, to accept the receipts and to authorize payment of the invoices just reviewed. Don seconded the motion. There was no discussion or public comment. The Board voted unanimously to approve the motion.

### **Action List**

TAG Action List – The Board had no comments.

Telecom Registration & Reporting – Rick reported that all carriers have registered with the Township, but the snow has prevented two of them from completing and submitting their inspection reports.

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

Senya reported receipt of the following items:

- January Operations Report from Mark Miller.
- Email from resident Paul Ferry to Mark Miller regarding excellent snow removal service.
- Notification of a Permit Renewal Application for East Goshen Municipal Authority NPDES Permit #PA0050504

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

Senya noted the upcoming meetings as listed in the agenda.

### **Public Comment Period**

None.

### **Adjournment**

There being no further business, the meeting was adjourned at 11:10pm.

### **EXECUTIVE SESSION**

The Board met in Executive Session until 12:15am to discuss legal and personnel matters.

Anne Meddings

Recording Secretary

*Attachment – Treasurer's Report*



February 17, 2011

TREASURER'S REPORT  
2010 RECEIPTS AND BILLS

**GENERAL FUND**

Real Estate Tax	\$212,125.50	Accounts Payable	\$118,243.21
Earned Income Tax	\$137,304.22	<u>Electronic Pmts:</u>	
Local Service Tax	\$0.00	Health Insurance	\$51,642.35
Transfer Tax	\$13,010.11	Credit Card	\$3,483.75
General Fund Interest Earned	\$0.00	Postage	\$1,000.00
Total Other Revenue	\$85,366.30	Debt Service	\$22,542.34
Total Receipts:	<u>\$447,806.13</u>	Payroll	\$89,000.00
		Total Expenditures:	<u>\$285,911.65</u> (2 Weeks)

**STATE FUND**

Interest Earned	<u>\$0.00</u>	Expenditures:	<u>\$0.00</u>
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**CAPITAL RESERVE**

Interest Earned	<u>\$0.00</u>	Expenditures:	<u>\$0.00</u>
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**TRANSPORTATION FUND**

Interest Earned	<u>\$0.00</u>	Expenditures:	<u>\$0.00</u>
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**SEWER OPERATING**

Receipts	\$184,706.27	Accounts Payable	\$40,901.54
Interest Earned	\$0.00	Debt Service	\$32,024.00
Total Sewer:	<u>\$184,706.27</u>	Transfer To M.A.	\$6,000.00
		Total Expenditures:	<u>\$78,925.54</u>

**REFUSE**

Receipts	\$39,404.07	Expenditures	<u>\$54,559.52</u>
Interest Earned	\$0.00		
Total Refuse:	<u>\$39,404.07</u>		