

**EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS MEETING
1580 PAOLI PIKE
April 7, 2015—7:00 pm
Final Minutes**

Present: Chairman Marty Shane, Vice-Chairman Senya D. Isayeff, and Supervisors Carmen Battavio, Chuck Proctor, and Janet Emanuel, Township Solicitor Joseph “Skip” Brion, Township Manager Rick Smith, CFO Jon Altshul and ABC member Erich Meyer (Conservancy Board).

Call to Order & Pledge of Allegiance

Marty called the meeting to order at 7:05 pm and led the Pledge of Allegiance.

Moment of Silence

Carmen called for a moment of silence to honor the troops and emergency personnel who keep us safe.

Recording of Meeting

No one indicated that they would be recording the meeting.

Public Comment

Bill Howard, 250 Line Road, thanked the Township for its response to a fire that destroyed his home two years ago. He was especially grateful to Mark Gordon and Gary Althouse in guiding him through the rebuilding process.

Chairman’s Report

Marty announced the appointment of Lori Kier to the Planning Commission.

Marty introduced *Charles Gaza, Chief of Staff, Chester County District Attorney’s Office*, who came to provide information on the PA Dog Law. Mr. Gaza explained that he has worked on many dog law cases and understands the trauma that dog attacks can cause both to victims and dog owners. Mr. Gaza related a story about his brother being attacked by a dog when he was a child, so he has a first-hand perspective on these types of cases. Mr. Gaza explained that dog laws must balance the safety of the public with the ownership rights of the dog owners. He had a copy of the email from the Snyder family, and proceeded to answer the questions posed therein.

It was Mr. Gaza’s understanding that at a previous meeting, when asked if Judge Tartaglio could have imposed stricter penalties, Assistant District Attorney Kevin Pierce agreed that he could have. Mr. Gaza disagreed and explained that under the dog law, this was a summary offense, and unless the attack was intentional, probation or jail time would not have been upheld. He said that all maximum fines and charges were imposed.

Terry Relick, 12 Tremont Drive, asked if the dogs could be put down. Mr. Gaza responded that at this point, the choice to euthanize the dogs is the owners', not the judge's. Ms. Relick said that the measures imposed by the court would not have prevented this attack. Mr. Gaza explained that once dogs are deemed dangerous, they must be neutered or spayed, put in a proper enclosure, and muzzled when they are off the property. The owners must exhibit signs warning of a dangerous dog, pay restitution to the victims, implant a chip in the dogs, obtain a \$50,000 insured bond for liability insurance, and obtain a certificate from the State Dog Warden that all conditions have been met at a cost of \$500 per dog each year.

Ms. Relick asked how these restrictions prevent the dogs from getting out the door again, and Mr. Gaza responded that it does not ensure that the dogs will not get out again. He likened this to a drunk driving case, where the penalties imposed can never ensure that the convicted will not drink and drive again. Mr. Gaza explained that if, after a dog is deemed dangerous, there is another attack, the offense becomes a misdemeanor, which can then result in probation or jail time for the owners.

Ms. Relick asked if there is a limit on the number of dangerous dogs in a neighborhood, and Mr. Gaza responded that the Dog Law does not put a limit on this. Marty noted that the Board is in the curative amendment process with its ordinance that limits the number of dogs per household to four. He noted that it is important that the ordinance provides justification for the limit so that it will hold up in court.

Eva Snyder, 22 Brookmont Drive, asked if the Township could ban the ownership of dangerous dogs. Mr. Gaza responded that no, the Township could not outright ban the ownership of dangerous dogs.

Frank Snyder, 22 Brookmont Drive, asked if the ordinance could be amended to allow one dangerous dog per household, rather than four. Mr. Gaza replied that the law was silent on this issue. Mr. Brion responded that he would research the matter further. Mr. Snyder suggested asking the police to patrol during events, like Halloween, to protect the neighborhood.

Mr. Gaza stated that the Police Department and the State Dog Warden can enforce the conditions put upon dangerous dog owners. He added that the State Dog Warden determines what constitutes a proper enclosure and signage.

In response to concerns raised in the Snyders' email about how long owners of dangerous dogs have to become compliant with fencing and signage requirements, Mr. Gaza responded that the dog owners have thirty days after a written notice arrives from the Department of Agriculture to have all conditions in place, at which point the Dog Warden inspects the household. To his knowledge, the owners were in compliance and therefore were not charged with a violation.

In response to an email question about what would happen if the dogs attacked again, Mr. Gaza explained that then the owners would be considered negligent, since they failed to

comply with their duty and would be charged with a misdemeanor offense and any dog that participated in the attack could be killed. Further, if someone is invited onto the property and the dogs attack them, the same consequences would apply. However, if the dogs are taunted or attacked, this would not apply. Ms. Snyder asked if the same consequences would apply if Girl Scouts were selling cookies at their door, and Mr. Gaza replied that the law was less clear in the case of attacks on sales people.

Both Ms. Snyder and Lisa O'Neill, *10 Brookmont Drive*, noted that the signs on the property were not visible from the street. Carmen asked if the sign must be visible from the street. Mr. Gaza explained that the law says they must be clearly visible, but it does not say visible from the street. Carmen suggested that the curative amendment should require signs be visible from the street. Rick said that he would ask Maureen Siddons, the Dog Warden, to check the signs on the property.

Ms. Snyder expressed concern about a dog escaping through a cat door or a broken window. Mr. Gaza explained that all points of egress must be properly restricted, so if the cat door is locked, or too small, it is not a violation.

Mr. Snyder asked whether pictures of dangerous dogs could be distributed to the public, and Mr. Gaza explained that the law is silent on this issue, but that he would research the matter further. Mr. Snyder asked if this condition can be put in the curative amendment, and Marty responded that the Board would consider this.

Mr. Gaza noted a recent incident where a neighbor saw one of the dogs on the deck, and called the Police, but the charge was later dropped. Mr. Gaza explained that the charge was not enforceable because at the time of the charge, the window for the owners to appeal the original ruling was still open. He added that if anyone witnesses a violation, they should take a picture or a video from the street to offer as proof of the offense.

Ms. O'Neill asked what prevents dog owners from cancelling an insurance policy immediately after taking it out. Mr. Gaza responded that the State is listed as an additional insured to the policy, and would be notified if the policy were cancelled. Ms. O'Neill added that Maureen Siddons told her that inspectors from her office would be out twice a year to inspect this particular property.

Eric Young, 14 Brookmont Drive, asked if the severity of the attack made a difference in the outcome of the case. For example, if there was a fatality or a young child were attacked, would the outcome have been different? Mr. Gaza explained that the consequences would only be different in subsequent attacks.

Ms. Relick noted that the owner is threatening the neighborhood, and acting irrationally. Mr. Gaza reiterated that the situation is emotional on both sides and if anyone feels threatened or is harmed, they should call the police. He added that having evidence is important, but that neighbors should not attempt to film an argument with the dogs' owner, as this could constitute a violation of privacy rights.

Public Hearings

A public hearing was held to consider various amendments to the zoning ordinance with respect to rooftop structure screening requirements and the definitions of “Invasive Tree,” “Non-Invasive Tree,” and “Wooded Lot.”

Carmen made a motion to adopt the ordinance amendment adding a definition for wooded lot, invasive tree and non-invasive tree and to amend the rooftop structure screening requirements of the ordinance. Senya seconded the motion. The Board voted to approve the motion unanimously. A court reporter was present and will provide a full transcript of the hearing.

Fire Marshal – March 14, 2015 Report

Carmen recounted a recent incident on Paoli Pike in which a vehicle was broken down and blocking a lane. He checked the status of the driver, advised the driver to stay in the vehicle, and called for Police dispatch. The vehicle then began to smoke, so he then advised the owner to exit the vehicle. He then dispatched the Goshen Fire Department. By the time emergency personnel arrived to secure the scene, the fire had gone out.

Consider Grand Oak Storm Sewer

Rick explained that in order to address the concerns of both Mr. Rook and Mr. Alexander he was recommending that Public Works restore the grass area on Red Maple Drive to its original height after the curb and paving restoration is complete and that Public Works increase the height of the berm at the inlets in the rear of Aqua’s property. Rick stated that the higher berm should prevent storm water from flooding Mr. Rook’s property at 711 Red Maple Drive.

Marty questioned whether water from Grand Oak Drive would flow into the inlet across from Mr. Rook’s property as it may not be the lowest point in the road. *Mike Rook, 711 Red Maple Drive*, confirmed that the inlet is at the low spot. Senya asked if the Alexanders had received the plans for the project, and Rick replied that they had.

Mr. Rook said that he agrees that building a berm behind the Alexanders’ property is a good idea, but does not think that building a berm on the Aqua driveway will be helpful. He said that the problem with water draining down the Aqua driveway is only a problem when hurricanes come through, and at that point nothing will help.

Marty made a motion for Public Works to undertake the proposed project. Senya seconded the motion, with the amendment that in the event of a significant rainfall, Public Works will monitor, observe, and record the effect of the rainfall on the affected properties. The Board voted unanimously to approve the motion as amended.

Consider the Board’s Position on Swiss Farms Application to Amend ZHB Decision

Marty explained that Swiss Farms is requesting that the Zoning Hearing Board amend its 2005 decision to allow Swiss Farms to add fourteen picture boards, totaling about 140 square feet, to the inside of its drive-through lanes.

Senya asked the applicant for photographs of what the picture boards would look like, which *Al D'Iorio, CEO, Swiss Farms Corporate*, supplied. Marty asked if the boards would be similar to those at the Newtown Square store, and Mr. D'Iorio replied "yes".

Senya stated that when Swiss Farms first came to East Goshen Township a decade ago, Swiss Farms described itself as a "provisionist", supplying essential house hold items like milk and bread, but that these proposed signs advertised ready-made meals similar to what is sold in a fast food restaurant. Senya questioned whether Swiss Farms was still a "provisionist".

Mr. D'Iorio responded that the store does sell a lot of pre-prepared cold meals that could be taken home and heated, but not-ready-to-eat as one would get at a fast food restaurant. He added that most of its items are still kitchen essentials consistent with the "provisionist" business model. Its best-selling products are still items like milk, iced tea and bread. Senya asked if the prepared meals were prepared at the store, and Mr. D'Iorio replied that the meals are made off site. Mr. D'Iorio noted Swiss Farms business model, like those of most businesses, had evolved to adapt to changing consumer demand.

Marty asked if the items on the picture boards are prepared meals or other products available in the store. Mr. D'Iorio replied that the boards would show customers all the items and brands for sale, with two of the seven boards dedicated specifically to meals. Marty asked if the menu items were fixed on the boards, and Mr. D'Iorio replied that they are panels that can be changed easily.

Marty expressed concern that the zoning ordinance does not specifically address "picture boards" and that the Township take steps to address this issue. He added that Swiss Farms is asking for many signs with a lot of square footage and that he is having difficulty reconciling Swiss Farms's requested signage with Dunkin Donuts's requested signage, which the Board would address next.

Kaitlin Miceli Esq., Riley Riper Hollin and Colagreco, noted that only three of the boards are visible from Paoli Pike. She added that her client has been worked with the Planning Commission on this issue and that she was agreeable to putting size limits on the signs. However, she added that Swiss Farms needs picture boards to keep that store profitable.

Mr. D'Iorio stated that the drive-through lanes are an extension of the store, and the picture boards are an integral part of communicating to customers. Customers shop from their cars, with the aid of the picture boards. The signs are not intended to advertise to the customer on the street, but to assist the customer who is in the drive-through lane. Senya responded that the issue is not the signs, but where the signs are located, and whether they are visible from the street. Senya acknowledged that the viability of a Swiss Farms at that location has always been a concern, but questioned whether the addition of many new products and prepared meals that was driving the request for more signage.

Chuck stated that he has shopped at Swiss Farms for many years. He added that he has driven Paoli Pike both ways recently and does not think the signs would be a garish

display or even very visible from the road. He stated he is more concerned about safety in the driveway between Swiss Farms and Pepper Mill than he is about the signs. He acknowledged that Swiss Farms is situated in a bad location, and argued that if they're struggling we should allow them to take reasonable steps to install more signage.

Senya made a motion to recommend that the Zoning Hearing Board deny Swiss Farms's request. There was no second.

Marty asked if it was possible to move a set of doors in the front of the drive-thru to hide the signs from the road. Mr. D'Iorio said that the area must be open for safety. Marty stated that he is having difficulty accepting the fact that the size of the signs is in excess of thirty square feet and would like to see Swiss Farms reduce the visibility of the signs. Senya added that one of the pass through lanes is typically blocked by two cars, possibly employees, and if the queue backs up too far, it will back up onto Paoli Pike. Mr. D'Iorio said that he would make sure that the lane is not blocked in the future.

Carmen made a motion to take no position with regard to the Swiss Farms signs and if the Zoning Hearing Board accepts the application, the following conditions apply: one, the signs will remain in the location on the plan titled Store Number 14 Mock Up – Overhead View, and two, the signs are only lit when the store is open. Janet seconded the motion.

Marty moved to add a condition that no more than one sign be visible from Paoli Pike. Senya seconded the amended motion. However, Janet indicated that she was opposed to the new condition.

Skip suggested that the Board first vote on the original motion. The original motion passed 3-2, with Senya and Marty opposed. Because the original motion passed, the amended motion was not put to a vote.

Consider 1662 E. Boot Road/Sign Final Plans

Carmen made a motion that the Board approve the Preliminary/Final Subdivision plans titled "Renehan Building Group 1662 East Boot Road" dated 2-13-2014 last revised 2-24-2015 and release the plans for recording with Chester County Recorder of Deeds Office with the following conditions:

1. The Applicant shall submit the appropriate Financial Security and Development agreements and escrow funds with the Township prior to the issuance of building permits for the new homes.
2. The applicant will address all remaining comments outlined in the Township Engineer's review letter dated 9-3-2014, prior to the issuance of building permits.
3. The applicant will follow all applicable federal, State and Local laws and secure all proper permits and approvals prior to construction of the improvements depicted on the plans.

Senya seconded the motion. The Board voted unanimously to approve the motion.

Consider Dunkin Donuts Zoning Amendment

Mr. Brion noted that he represents *Robert Hill, President, Goshen Equities*, in other matters and that he would limit his comments to the extent possible.

Marty asked *Pat McKenna, Gawthrop Greenwood, PC*, to list the conditions that Dunkin Donuts must have in order to move forward. Mr. McKenna responded that they must have a drive-through and a menu board. However, Mr. McKenna noted that Dunkin Donuts proposed wall signs would be only 22.9 square feet and would therefore comply with the Township's sign ordinance. Marty also asked about the trash dumpster, and Mr. McKenna said that it was still his client's intention to set the dumpster into an enclosure in the hill with a secured cover, unless another practical option presents itself. Marty raised concerns that the dumpster remain shut and secure at all times, and Mr. McKenna indicated that the enclosure would automatically lock.

Marty stated that he would like to see landscaping added to the top of the berm on the Paoli Pike side of the building, and that a possible condition might be that the menu board be screened and landscaped. Marty noted that he is trying to minimize the visual impact of the Dunkin Donuts on East Goshen. He would like to block the line of sight from the street to the drive-through lane as much as possible. Mr. McKenna replied that the Dunkin Donuts sign will hang down from the drive-through, and this screening will block the sign. Carmen noted that if some modest landscaping is added, Marty's concern will be addressed without blocking the sign.

While Mr. Hill acknowledged that he is agreeable to restoring the landscaping to the requirements in the original conditional use decision, he raised concerns about the Board adding new conditions for landscaping that had never been discussed before. Mr. McKenna added that it is important that the landscaping not completely hide Dunkin Donuts from view. Mr. McKenna stated that the applicant would like to work with Tom Comitta to create a landscaping plan that is consistent with the area. Janet suggested that the applicant also work with the Township's new consultant for the Paoli Pike pedestrian and bike path feasibility study about landscaping solutions.

Mr. McKenna explained that he and Mark Gordon had discussed parking at the shopping plaza. He said that there are currently 247 spaces on the site, and with the addition of the Dunkin Donuts drive-through, there would be a net loss of seven sites, leaving 240 spaces, which he believes is enough for the center. Rick noted that at the time the plaza was approved, the Zoning ordinance required four spaces per 1,000 square feet of space. Senya added that the number of available parking spaces a concern more for the businesses in the plaza than the Township. Mr. McKenna added that in order to address pedestrian safety in the shopping plaza, his client is proposing to add a third crosswalk by the pool store, as well as a "yield to pedestrians" sign.

Rick added that the Township has concerns about five or six parking spaces that could be blocked by cars queuing in the proposed drive-through. Rick suggested that those spaces

also be eliminated, but that the developer enter into an agreement with the Township to restripe them, should the need for more parking spaces arise in the future.

Senya made a motion to amend the Township Zoning Ordinance to permit fast food restaurants with drive through use in the C-2 Zoning District as a Conditional Use. Chuck seconded the motion. The motion passed unanimously.

Senya then made a motion to retract the original motion and to amend the Township Zoning Ordinance to permit beverage shops with drive through use in the C-2 Zoning District as a Conditional Use. Carmen seconded the revised motion. Mr. Brion explained that his office could develop a definition of “beverage shop” as distinct from the broader term “fast food restaurant”. Mr. McKenna stated that his client was agreeable to this new motion. The Board voted to approve the revised motion unanimously.

Consider Mower Replacement

Three price quotes were received for the replacement of two Exmark mowers:

1. Conway Power and Equipment (2014 models): \$15,333
2. Conway Power and Equipment (2015 models): \$15,644
3. Frame’s Power Equipment (2015 models): \$15,842

Marty moved to purchase two 2014 mowers from Conway Power and Equipment. Senya seconded the motion. The Board voted unanimously to approve the motion.

Consider East Boot Road Bridge

Rick reported the following three bids for engineering needed to replace the bridge deck and superstructure at the bridge on East Boot Road.

1. Carroll Engineering - \$46,000
2. Pennoni - \$121,000
3. McCormick Taylor - \$125,353

Carmen noted the vast difference in the proposed costs and asked if Carroll Engineering was capable of performing the work for the cost proposed. Rick responded that he spoke to Gannett Fleming, which administers the bridge reimbursement grant program for PennDOT, and that they have worked on a number of recent bridge projects with Carroll in southeastern Pennsylvania and have been pleased with Carroll’s work.

Marty made a motion to accept Carroll Engineering’s proposal in the amount of \$46,000. Carmen seconded the motion. The Board voted to approve the motion unanimously.

Any Other Matter

Marty asked that the Board make a decision about Community Day. He noted that Friends of East Goshen was in the process of adding new members.

Senya asked how much money Friends had, and Jon responded that other than the funds earmarked for the Bicentennial Event, it had very little. Jon agreed to work with Friends to figure out how the bank account would be managed now that the two signatories have resigned. Senya asked that Jon remain as Township liaison to Friends. Jon expressed reluctance to continue for the long-term, but agreed to do so for the rest of the year.

Janet made a motion that the Township hold Community Day with a full slate of activities. Chuck seconded the motion. The Board voted to approve the motion unanimously.

Rick noted that he met with DEP to discuss a phased approach for breaching Milltown Dam. Rick further indicated that we will be looking for grant funding for this project.

Chuck noted that Friends of Hershey Mill has submitted paperwork to the IRS to be a 501(c)(3) and that it has hired a fundraising professional.

Acknowledge Receipt of PennDOT's Approval of Request for Flashing Warning Devices at the Paoli Pike entrances to the Township Park

Rick informed the Board that PennDot approved the Pedestrian crossing flashing warning lights at both entrances to the Township Park.

Acknowledge PECO's Letter Regarding Upcoming Electric Equipment Inspections

The Board acknowledged a letter from Greg Cary concerning upcoming electric equipment inspections planned for our area. Senya noted that Mr. Cary will retire soon and that his support with the search for a police chief and in keeping the Board apprised about power outages has been invaluable. He asked that the Township consider recognizing him for his years of service in support of East Goshen.

Approval of Minutes

The Board reviewed and corrected the draft minutes of February 3, 2015, February 17, 2015, March 10, 2015, and March 17, 2015. Marty stated the minutes would stand approved as corrected.

Treasurer's Report

See attached Treasurer's Report for April 2, 2015. The Board reviewed the Treasurer's Report and the current invoices. Carmen moved to graciously accept the Treasurer's Report and the Expenditure Register Report as recommended by the Treasurer, to accept the receipts and to authorize payment of the invoices just reviewed. Senya seconded the motion. The Board voted unanimously to approve the motion.

Adjournment

There being no further business, the Board adjourned at 10:15.

Pam Pastorino
Recording Secretary
Attachments: *Treasurer's Report*

April 2, 2015

**TREASURER'S REPORT
2015 RECEIPTS AND BILLS**

GENERAL FUND

Real Estate Tax	\$1,053,219.16	Accounts Payable	\$481,701.88
Earned Income Tax	\$55,400.00	<u>Electronic Pmts:</u>	
Local Service Tax	\$2,800.00	Health Insurance	\$46,274.74
Transfer Tax	\$8,674.08	Credit Card	\$3,918.35
<i>General Fund Interest Earned</i>	\$0.00	Postage	\$0.00
Total Other Revenue	\$116,451.66	Debt Service	\$0.00
Total Receipts:	\$1,236,544.90	Payroll	\$133,362.79
		Total Expenditures:	\$665,257.76

STATE LIQUID FUELS FUND

Receipts	\$428,391.34		
<i>Interest Earned</i>	\$0.00		
Total State Liquid Fuels:	\$428,391.34	Expenditures:	\$0.00

SINKING FUND

<i>Interest Earned</i>	\$0.00	Expenditures:	\$0.00
------------------------	---------------	---------------	---------------

TRANSPORTATION FUND

<i>Interest Earned</i>	\$0.00	Expenditures:	\$0.00
------------------------	---------------	---------------	---------------

SEWER OPERATING FUND

Receipts	\$131,424.97	Accounts Payable	\$82,359.99
<i>Interest Earned</i>	\$0.00	Debt Service	\$0.00
Total Sewer:	\$131,424.97	Credit Card	\$0.00
		Total Expenditures:	\$82,359.99

REFUSE FUND

Receipts	\$40,088.65		
<i>Interest Earned</i>	\$0.00		
Total Refuse:	\$40,088.65	Expenditures	\$24,233.03

SEWER SINKING FUND

<i>Interest Earned</i>	\$0.00	Expenditures	\$0.00
------------------------	---------------	--------------	---------------

OPERATING RESERVE FUND

Receipts	\$0.00	Expenditures	\$0.00
----------	---------------	--------------	---------------

Events Fund

Receipts	\$0.00	Expenditures	\$0.00
----------	---------------	--------------	---------------