

**EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS MEETING
1580 PAOLI PIKE
TUESDAY, FEBRUARY 6, 2018
FINAL APPROVED MINUTES**

Present: Chairman Marty Shane; Vice Chairman Carmen Battavio; Supervisors David Shuey, Janet Emanuel and Mike Lynch; Township Solicitor Kristin Camp; Township Manager Rick Smith; Jon Altshul, Finance Director; Park & Recreation Director Jason Lang and Conservancy Board Chairman Erich Meyer.

Call to Order & Pledge of Allegiance

Marty called the meeting to order at 7:00 p.m. and led the pledge of allegiance.

Moment of Silence

Carmen called for a moment of silence to honor our troops and the victims of recent school shootings.

Recording

None.

Chairman's Report

Marty made the following announcements:

- The Board met in Executive Session prior to tonight's meeting to discuss a legal matter and on January 30, 2018, to discuss a personnel matter.
- Enbridge will be doing routine maintenance work on the Texas Eastern Pipeline Right-of-Way
- The public comment period for the Adelphia Gateway Project closes on February 13, 2018, at 5pm.

Marty also acknowledged Ginnie Newlin's resignation as the Township's Poet Laureate and presented Ms. Newlin with a Certificate of Appreciation for her many contributions to the Township over the years.

Fire Marshal Report

Carmen reported on a garage fire in the Lochwood-Chase development and praised a fast thinking mother, several neighbors and the Goshen, East Whiteland and Malvern fire companies for successfully containing it.

Consider Special Exception and Variance Request for the Malvern Institute

Marty stated that because he was not at the first meeting on this matter, he deferred to Carmen to chair this portion of the meeting. Carmen asked for additional public comments on topics that were not discussed at the January 23rd meeting and stated that the public comment period would end after 30 minutes. Kristin provided the Board with an overview of what their options for tonight's meeting were.

Specifically, she noted that if the Board moved to oppose the Malvern Institute's application, it would forfeit the right to recommend that the Zoning Hearing Board impose any conditions on the applicant, in the event that the Zoning Hearing Board approves the application.

Debbie Marovick, 8 Brookmont Drive, stated that she has documentation on 74 incidents that have occurred at the Malvern Institute since 2015. These incidents include disorderly conduct, alcohol use, car vandalism, drug paraphernalia and transfer of possible contraband from cars entering the parking lot to patients. She has spoken with both the police and Malvern Institute management about these issues. Malvern Institute management repeatedly tells her that they're trying to address these issues, but that no improvements are ever made.

Paige Fenimore, 3 Treemont Drive, raised concerns that the application violates the Township's parking ordinance. Ms. Camp noted that the Township's parking ordinance would not apply to a non-conforming use.

Terri Relick, 12 Treemont Drive, stated that she is disappointed by the Township and that, in her opinion, the application violates the allowable square footage requirement in the zoning ordinance. She added that she disagrees with the common law doctrine of natural expansion; that she doesn't like the conditions that the Planning Commission recommended; and that she doubts that those conditions can be enforced.

Scott Relick, 12 Treemont Drive, stated that he believes the Township has previously allowed the Malvern Institute to over-expand in violation of its zoning ordinance. He added that by over-building, the Institute has been able to add new beds, which has caused overcrowding and, in turn, has necessitated more expansion. Ms. Camp noted that the Township doesn't regulate the number of beds in a treatment center and that the number of beds is regulated at the state level.

Ms. Fenimore stated that in addition to the footprint expansion, the Institute now uses both its basement and its attic for its operations. She stated that the Township does not know if permits were ever pulled to finish basement or attic space.

Joanne Murphy, 20 Brookmont Drive, asked how this expansion would benefit the Township. Ms. Camp explained the doctrine of natural expansion, as well as the constitutional principles of property law that the Board needs to wrestle with in making its decision.

Marty suggested that concerned residents should invite experts to testify on their behalf at the Zoning Hearing Board hearing about why the application should be denied.

Deb Lyon, 5 Brookmont Drive, raised concerns that the proposed 8-foot fence would be an eyesore that may not help to contain noise.

Lisa O'Neil, 10 Brookmont Drive, voiced her objection to the proposed smoking pavilion.

Tom McElwee, 6 Line Road (Willistown Twp), also raised concerns about the impact of the proposed 8-foot wall on property values.

Mark Thompson, the attorney representing the Relicks and the O'Neils, stated that he disagreed with Ms. Camp over the beds and parking issues.

Brian Nagle, MacElree Harvey representing the applicant, stated that it was his understanding based on previous meetings with neighbors that conditions at the Malvern Institute had improved over the past several years. Marty asked Mr. Nagle how long the present owners have owned the property. Mr. Nagle was not certain when the transaction occurred.

Mike asked Mr. Nagle if his client would be comfortable postponing the Zoning Hearing Board hearing 2-4 weeks so that the Board of Supervisors had more time to deliberate. Carmen also asked Mr. Nagle if his client would consider postponing the hearing. Janet stated that the issues surrounding this application had already been discussed at length by the Planning Commission and that postponing the hearing any further was not necessary.

Ms. Relick raised more concerns about the proposed fence; specifically that it will hurt property values and won't prevent drugs from passing through or over it.

Janet suggested that the specific details of the fence be hammered out during the land development stage. Carmen expressed concern about potentially removing the fence as a condition, because if the Zoning Hearing Board approves the application without the fence condition, adding a fence can't become a new demand at a later time if the neighborhood changes its mind. In response to residents' concerns about the "sound wall", Carmen asked the board to consider taking out the recommendation. The Board agreed with Carmen's suggestion.

Janet observed that ultimately the final decision on the application will be made by the Zoning Hearing Board. She made the following motion:

Mr. Chairman, I move that the Board of Supervisors take "no position" on the special exception and variances requested by the Malvern Institute or the legal argument advanced by the Applicant with respect to the right to expand the legal non-conforming treatment center use based on the doctrine of natural expansion. Should the ZHB determine that the Applicant has met its legal burden and is entitled to expand the non-conforming use either by the grant of variances, special exception or based on the doctrine of natural expansion of a nonconforming use, the Board of Supervisors recommends that the ZHB impose the following conditions on the Applicant in order to mitigate the impacts that the expansion of the non-conforming use will

have on the surrounding community. The Board of Supervisors authorizes the Township Solicitor and the Township Engineer to enter an appearance on behalf of the Board of Supervisors at the zoning hearing and advocate that the following conditions be imposed in any decision approving the expansion of the treatment center.

1. The Applicant shall restrict the drug and alcohol treatment programming at the King Road facility (the "Facility") to in-patient treatment only.
2. The Applicant shall limit the number of patients receiving treatment at the Facility to a maximum of 80 patients on-site at any one time. The Applicant shall forward a letter to the Commonwealth of PA Department of Drug and Alcohol Programming or successor licensing agency agreeing to permanently cap the licensing of the facility to 80 in-patients in perpetuity.
3. The Applicant shall add cameras at the front entrance and at various locations along the main driveway entrance to supplement its existing video security system. The video cameras shall be set up and monitored to alert staff and security personnel of incoming and outgoing pedestrians at the front driveway entrance. The eastern parking lot gate shall be locked by 11 p.m. to ensure that any vehicle entering the site must approach the main building. The Applicant shall have no less than one security guard on site during the nighttime shift when the clinical staff is reduced in number. In addition, the Applicant shall implement and maintain the use of security cameras which are continually monitored by properly trained staff including a certified clinical supervisor during the overnight shift.
4. The Applicant may build only a one story addition as identified in the site plan dated 02/24/2017, last revised 12/11/2017 (the "Plan") to facilitate the expansion of the use. The new addition shall be set back a minimum of 45 feet from any property line.
5. The Applicant shall submit a land development application that includes the proposed improvements to the Property which are approved in the Zoning Hearing Board Decision and which are consistent with the testimony and exhibits presented at the zoning hearing and with the conditions of approval within 180 days of final unappealable, and unappealed zoning approval.
6. King Road is assumed to run in an east-west direction for the purpose of this condition. The Applicant shall install and maintain an 8 foot high fence, approved by the Board of Supervisors, along the entire western and southern boundaries of the Property except for any areas within the floodplain.
7. The Applicant shall submit and implement a landscape plan in accordance with §240-27.C.(2) of the East Goshen Code for the western and southern portions of the property except for any areas within the floodplain.

The Applicant shall plant and maintain the aforesaid buffer yard landscaping in accordance with §240-27.C.(3), as long as the Property is used as a treatment center, subject to accommodation of the fence and wood chip walking path within said buffer yard landscaping. Provided however that the high-level screen shall consist of a

combination of evergreen and deciduous trees planted with specimens no less than ten feet in height. These plantings are intended to mitigate the view of the 8 foot fence from the neighboring properties. As part of the land development plan approval process, the Applicant shall meet with the Conservancy Board to present its proposed landscape plan. The Conservancy Board shall provide recommendations to the Board as to whether the Applicant's landscape plan provides a completely planted visual barrier or landscape screen to mitigate the view of the fence.

9. King Road is assumed to run in an east-west direction for the purpose of this condition. The Applicant shall install 6 foot high estate fencing and deer resistant landscaping to buffer the fencing along the eastern property boundary in accordance with the Willistown Township ordinances. The Applicant shall install deer resistant understory landscape buffer plantings in the wooded area on the eastern side of the Property prior to the installation of any proposed walking paths and/or meditation areas on the east side of the Ridley Creek. The fencing and landscaping shall be shown on the landscape plans submitted with the land development application and shall be approved by the Board of Supervisors as part of land development.
10. King Road is assumed to run in an east-west direction for the purpose of this condition. The Applicant shall install 6 foot high estate fencing along the right of way line for King Road. The fencing shall go around the pump station. This fencing shall be connected to the 8 foot fence and the estate fencing referred to in this condition and condition 9. The purpose of the fencing referred to in this condition and conditions 6 and 9 is to limit ingress and egress to the main entrance of the Facility.
11. The proposed fencing shall be detailed on the land development plan and shall be continually maintained by the owner.
12. The Applicant shall identify the fencing types and styles and provide details, samples and/or images if available, of each style of fencing in the land development plan. The fencing shall be approved by the Board of Supervisors during land development.
13. The Applicant shall agree to permit no recreational activity in the area between the existing and/or proposed building and the southern and western property lines other than the garden, the greenhouse, and the pedestrian walking paths.
14. The Applicant shall identify the existing and proposed active recreation areas on the land development plan. If Applicant proposes to add new outdoor recreation facilities that are not shown and approved on the land development plan, they shall be reviewed by the Township Engineer who shall recommend the installation of appropriate sound attenuation measures if necessary to mitigate potential noise from these facilities.
15. The Facility shall be restricted to one outdoor smoking area for patients (smoking pavilion). The Applicant shall agree to require all patients to smoke within the limit of the smoking pavilion. Staff and visitors shall be restricted to smoking in the front of the building.

16. The smoking pavilion shall be equipped with a "Smoke Eater" type of ventilation and filtration system to minimize the effects of smoke for the surrounding property owners.
17. The Applicant shall screen the new smoking pavilion from the neighboring properties to the west and north with a temporary 8 foot fence which shall remain in place until the one story addition is built.
18. The Applicant shall demonstrate during the land development application review that the "Smoke Eater" system can effectively ventilate and filter cigarette smoke in the proposed smoking pavilion.
19. The Applicant shall install sound attenuation blankets or similar sound dampening material inside the existing emergency generator fencing to mitigate noise from the generator.
20. The following site improvements shall be completed prior to issuance of a building permit for the building addition or barn renovations:
 - a. Parking lot renovations;
 - b. Installation of estate fence and the 8 foot fence;
 - c. Installation of the smoking pavilion, including the installation of screening and smoke mitigation measures;
 - d. Installation of sound blankets inside the generator fencing;
 - e. Installation of plantings as required on the landscape plan that is approved as part of the land development plans.
21. The Applicant shall construct and maintain all walking paths with pervious wood chips.
22. The Applicant shall comply with the parking allocation presented on the Plan.
23. The Applicant shall agree to only permit outdoor patient activities on the property between the hours of 7 AM and 10 PM, with the following exceptions. A maximum of 8 patients at any one time, with active staff supervision shall be permitted to use the smoking pavilion between 10 PM and 11:30 PM. A maximum of 4 patients at any one time, with active supervision from staff shall be permitted to use the smoking pavilion between 11:30 PM and 7 AM.
24. In the event that the Applicant's requested relief is granted, the Applicant shall record a deed restriction with the Chester County Recorder of Deeds that prohibits any further expansion of the treatment center for a period of 30 years. The deed restriction shall be enforceable by the Township.
25. The Applicant shall establish and adhere to a written protocol for responding to neighbors who contact the Facility to complain about adverse impacts from the operation of the Facility. This protocol shall require that a properly trained employee respond to neighbor's calls and advise the neighbors how to respond to a situation where a patient has left the Facility and is seeking assistance from the neighbors.

26. The Applicant shall annually make a presentation to the Board of Supervisors at a public meeting to provide an update on the state of affairs at the Facility. This report shall advise the Board on the status of the expansion project, identify any issues that the Facility has encountered in the last year with neighboring property owners and identify any new programs or policies that the Facility has implemented to improve the relationship with neighbors.
27. When the Applicant becomes aware that a patient has left the Facility AWOL, it shall notify the Westtown East Goshen Regional Police Department of such fact provided that such notification does not violate any patient privacy laws. The intent of this notification is not to reveal the patient's identify or to require the police to respond but simply to advise the police that someone has left the Facility.
28. If Applicant is granted zoning relief to expand the Facility, it shall obtain a building permit for the building addition within three years from the date of an unappealed and unappealable zoning decision and it shall obtain a building permit for the barn renovations within four years from the date of an unappealed and unappealable zoning decision.

Mike seconded the motion. Marty noted that one effect of Condition 23 would be that the meditation area would be off limits at night.

Carmen asked Mr. Nagle whether his client would accept these conditions if the Zoning Hearing Board granted the relief. Mr. Nagle stated that if the Zoning Hearing Board approves the single story addition, his client would accept all of these conditions and would not appeal them.

The motion passed 5-0.

Consider Recommendation for Community Day

Jason stated that the Park & Recreation Commission had recommended that Community Day be held on Saturday, June 30th this year. Marty asked whether this date might conflict with July 4th vacation plans for Township residents.

Janet moved to hold the 2018 Community Day on June 30, 2018. Carmen seconded. The motion passed 5-0.

Consider Recommendation to Replace the Street Sweeper

Mike noted that we budgeted only \$145,000 for the street sweeper, but that the price was \$173,400. Jon stated that \$203,000 has depreciated in the sinking fund for the replacement of this asset and that therefore Township has more than enough available cash to replace the street sweeper.

Carmen made a motion to purchase a Tymco street sweeper through Golden Equipment at a price of \$173,400, net of trade-in. Janet seconded. The motion passed 5-0.

Consider Recommendation for PennDOT Mowing Agreement

Mike made a motion to adopt Resolution 2018-58A. David seconded the motion. The motion passed 5-0.

Consider Recommendation for Paoli Pike Right-of-Way

Mike made a motion to authorize the Chairman to execute the Amended Easement and Right-of-Way for a Public Road for 1591 Paoli Pike, 1599 Paoli Pike, 1601 Paoli Pike and 1595 Paoli Pike. David seconded. The motion passed 5-0.

Consider Adelphia Gateway Pipeline Project

Rick stated that Adelphia filed an application with the Federal Energy Regulatory Commission (FERC) for Certificates of Public Convenience and Necessity to allow for the acquisition, construction and operation of pipeline facilities in Pennsylvania and Delaware. He recommended that the Board file a petition to intervene and seek party status in this matter with FERC.

Lex Pavlo, 611 S. Speakman Lane, told the Board that he and his group have met with a number of legislators about Adelphia's proposed repurposing of the existing pipeline. He noted that he spoke with U.S. Rep. Ryan Costello and that Rep. Costello seemed receptive to reviewing federal regulations, particularly those governing the Pipeline and Hazardous Materials Safety Administration, which are very old at this point.

David made a motion to direct the Manager to have Margie Morris, Esq, file a petition to intervene and seek party status before FERC on Adelphia's application. Janet seconded. The motion passed 5-0.

Consider Recommendation for Adelphia Gateway Easement

Rick reported that Adelphia had offered the Township \$250 for an easement running through the Wentworth open space, where a valve is currently located. It is Rick's understanding that Adelphia would like to install a "blow down" assembly at this location, although he has some unanswered questions about what this means. He also observed that there is ambiguous language in the draft easement agreement that makes reference to pipelines (plural) and may allow for the conveyance of any kind of natural gas. He recommended that the Board take no action on this matter right now while he gathers more information. The Board agreed to take no action on the easement for the time being.

Consider Recommendations for ABC Goals

Janet made a motion to approve the 2018 ABC goals as drafted. Carmen seconded. The motion passed 5-0.

Consider Recommendation for Escrow Release for Lexington at 1304 Goshen Parkway

Rick explained that this project had been finished for some time, but that due to BB&T acquiring Susquehanna Bank some years prior, the developer had lost track of the account and was only now requesting the final release. Mike made a motion to authorize the final escrow release of \$24,144 for 1304 Goshen Parkway to bring the remaining balance to \$0. Carmen seconded. The motion passed 5-0.

Approval of Minutes for January 16 and 23, 2018

David made a motion to approve the minutes of January 16 and 23, 2018, as corrected. Janet seconded. The motion passed 5-0.

Treasurer's Report

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. Janet seconded. The motion passed 5-0.

Correspondence, Reports of Interest

The Board acknowledged the following correspondence and reports of interest:

- January 2018 Liquid Fuels Audit. Marty thanked Barbara Phillips and Susan Smith for their hard work on this.
- Sunoco Station Remediation Letter
- 1/22/18 letter from Senator Killion regarding HB 1620
- 1/25/18 letter from PennDOT regarding the resurfacing of North Chester Road
- 1/22/18 SARS Title III Tier II Report from Mars Drinks
- Letter from the Futurist Committee regarding the Paoli Pike Corridor Master Plan

Public Comment

Robert Plummer, 1339 Park Ave, raised concerns about a firewood/lumber business operating on Strasburg Road. Jon took his phone number and said that he'd pass the matter on to the Codes Department in the morning.

Adjournment

There being no further business, Janet motioned to adjourn the meeting at 9:50 pm. Carmen seconded the motion. The motion passed 5-0.

Respectfully submitted,
Jon Altshul
Recording Secretary

Attachments: February 1, 2018 Treasurer's Report

February 1, 2018

**TREASURER'S REPORT
2018 RECEIPTS AND BILLS**

GENERAL FUND

Real Estate Tax	\$15,561.33	Accounts Payable	\$37,085.57
Earned Income Tax	\$64,500.00	Electronic Pmts:	
Local Service Tax	\$3,400.00	Credit Card	\$2,674.37
Transfer Tax	\$40,244.68	Postage	\$0.00
General Fund Interest Earned	\$0.00	Debt Service	\$0.00
Total Other Revenue	\$25,217.83	Payroll	\$175,540.51
Total Receipts:	\$148,923.84	Total Expenditures:	\$215,300.45

STATE LIQUID FUELS FUND

Receipts	\$0.00		
Interest Earned	\$0.00		
Total State Liquid Fuels:	\$0.00	Expenditures:	\$0.00

SINKING FUND

Receipts	\$0.00	Accounts Payable	\$1,860.78
Interest Earned	\$0.00	Credit Card	\$0.00
Total Sinking Fund:	\$0.00	Total Expenditures:	\$1,860.78

TRANSPORTATION FUND

Receipts	\$0.00		
Interest Earned	\$0.00		
Total Sinking Fund:	\$0.00	Expenditures:	\$0.00

SEWER OPERATING FUND

Receipts	\$293,612.41	Accounts Payable	\$32,621.24
Interest Earned	\$0.00	Debt Service	\$0.00
Total Sewer:	\$293,612.41	Credit Card	\$0.00
		Total Expenditures:	\$32,621.24

REFUSE FUND

Receipts	\$74,681.99		
Interest Earned	\$0.00		
Total Refuse:	\$74,681.99	Expenditures:	\$74,972.10

BOND FUND

Receipts	\$0.00		
Interest Earned	\$0.00		
Total Sewer Sinking Fund:	\$0.00	Expenditures:	\$11,533.26

SEWER SINKING FUND

Receipts	\$0.00		
Interest Earned	\$0.00		
Total Sewer Sinking Fund:	\$0.00	Expenditures:	\$6,832.39

OPERATING RESERVE FUND

Receipts	\$0.00		
Interest Earned	\$0.00		
Total Operating Reserve Fund:	\$0.00	Expenditures:	\$0.00