

**EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS MEETING
1580 PAOLI PIKE
TUESDAY, June 15, 2021
FINAL MINUTES**

Note: This meeting was live, the first since COVID 19 procedures and virtual Zoom meetings have been the norm.

Present: Chairman David Shuey; Vice-Chairman Mike Lynch; Members John Hertzog, Marty Shane and Michele Truitt; Township Manager Rick Smith; Interim Township Manager Derek Davis, Finance Director Dave Ware; Park and Recreation Director Jason Lang; Solicitor Michael Gill; and Erich Meyer (Conservancy Board)

Call to Order & Pledge of Allegiance

Mr. Shuey called the meeting to order at 7:00 p.m. Mr. Shuey led the Pledge of Allegiance. Ms. Truitt asked for a moment of silence for all first responders and for our Public Works Department employee who sustained a grave injury last week. Mr. Shuey announced that the meeting is being recorded and livestreamed on YouTube.

Chairman's Report

Mr. Shuey announced that he would proceed out of agenda order, which is the Chairman's privilege:

- This is the final Board of Supervisors Meeting for Township Manager Rick Smith and to recognize Rick's 52 years of service. June 16, 2021, will be recognized as "Rick Smith" day.
- He introduced Derek Davis as the new Township Manager and Dave Ware as the new Director of Finance for East Goshen Township.
- Please use decorum and allow all to speak in turn without interruption. The procedure will be as follows –
 - Two (2) motions for two (2) separate resolutions
 - After the first, the Board members will be asked for comments, then comments by the Hicks family and their representatives, then citizens and taxpayers of East Goshen Township, then, if time allows, non-residents may comment with a one-minute time limit. Everyone must speak from the podium, state their name and address, then proceed with comments.
 - The same procedure will follow for the second motion and resolution
- The Board met in executive session with the Municipal Authority June 14, 2021, to discuss a legal matter regarding our sewer system.
- The Board met in executive session prior to tonight's meeting to discuss a pending legal matter related to the Paoli Pike Trail.
- The hearing for the Pipeline Awareness study ordinance will be at the July 6th meeting.
- The US Army Corp of Engineers is soliciting comment on the postponed Milltown Dam work. The public notice can be found on the website.

Discussion of Paoli Pike Trail

Mr. Shuey began with a brief history of the Paoli Pike Master Plan which began in 2016. The Board approved Bond funding for Engineering and Right of Way acquisition costs for the trail, the goal being the construction to be funded by grant money. Sections C/D/E/F/G are completed. Segment A is under construction. Segment B engineering is being finalized and runs from Ellis Lane to Reservoir Road. In September 2020, the Board reached out to the owners of the four (4) properties impacted by trail Segment B. Unfortunately, unable to acquire the property interest of two (2) of the parcel owners (Mr. William Hicks and Mr. Philip/Mr. Peter Hicks). Believing the completion of the Paoli Pike trail is in the best interest of the Township as a whole, Mr. Shuey made the 1st Motion and moved that the Board adopt Resolution #2021-201 to authorize the condemnation of the permanent and temporary easement across Mr. William Hicks' land, Chester County Tax Map Parcel No. 53-3-1.8. Mike Lynch seconded the motion.

Board comments

- Ms. Truitt opened with that the trail is currently over budget; more money will need to be spent on soft costs; proposed alternate plan of stopping current construction and go through the Corporate Park instead by going through the wetlands adjacent to CTDI and the Hicks property up to Goshen Parkway; some easements would need to be acquired and sunk engineering/easement costs would be lost. She noted problems that could arise in the current plan with the necessary archaeological dig. She advocates leaving the farm as it currently stands and find another way to complete the trail. Ms. Truitt presented her proposed alternate plan's map.
- Mr. Hertzog stated that he ran opposed to the trail; He maintained that the \$9.3M price tag includes \$3M of East Goshen Township money which is needed for many other projects (\$1.5M for West Goshen sewer treatment plant, \$800-900K for Hershey's Mill Estates sewer pipes, and a couple hundred thousand dollars to fix Mill Pond situation). Mr. Hertzog raised the concern of needing to either raise taxes or borrow the money for these items. He will continue to oppose the Paoli Pike Trail project. He also opposes Eminent Domain as a process in any situation, unless absolutely necessary, which he feels a trail is not.
- Mr. David Brooman, attorney for the Hicks family, asked that the family be able to make comments first followed by himself.

William Hicks family comments

- William Hicks stated that he is upset that the engineering plans and survey were not shared. He questions why the trail is not connected through neighborhoods where the people are rather than users needing to drive to the park or YMCA to access the trail; how many people actually use the trail? He objects that the residents did not get to 'vote' on the trail and asked whether anyone had projected future maintenance costs. The Chairman replied that the maintenance is minimal since the existing property is already mowed and maintained. Long term trail patching/repaving, etc. will be necessary, but is believed to be minimal. Mr. Hicks stated that his family (father and grandfather) have owned the land for over 100 years and tried to maintain it as a farm and that this type of property is a reason why many people move to East Goshen Township. Additional paved areas, stop lights and stripes he believes will mar the appearance and make it more like Philadelphia. He asked how many times Eminent Domain was used. Rick Smith illustrated the two (2) times in the past that the Township has instituted it. Mr. Hicks

shared that his grandfather and father are currently interred in the nearby cemetery, and eventually he will reside there as well. He reiterated the length of their family's Township history including serving on the Board of Supervisors and maintains that bringing the city to the country is unwanted.

- Jennifer Hicks said that she feels that Township representatives have not been honest with the family and the pictures were deceptive. She also stated that the Township was not responsive to requests for information. Their number one concern is for the liability and safety of everyone due to the dangerous nature of Paoli Pike and its intersection with their driveway. The family also worries about the impact on the health of the horses on the horse farm through feeding by the public. She asked why the trail was not on the other side of Paoli Pike by East High School. Why are there no other options? She made a plea to not change their farm.
- Phil Hicks said that he did not like the tactics of Township representatives. He stated the amount of land for the easement changed and that the engineers for the Township were conveniently not present when he discussed the proposal and pictures with the Township's Director of Code Enforcement / Zoning Officer. Mr. Hicks does not want the trail in his 'front yard.' He reiterated the worry about the horses' health and the cost to maintain the trail and fences along his property.
- Linda Hicks has concern that the trail has taken up the family's time and interrupted sleep and health. She read a letter she had written to the Township regarding this topic. She questioned the flow of the trail pace, the number of stops, and that trail users often do not observe traffic signs or signals which is dangerous. She worries about the trail's impact on the clientele of the horse farm and insurance/liability issues arising from possible collisions with trail riders and walkers.
- Dawn Taylor-Bell (Owner, Out of Reach Farm) said that she is concerned for safety of horses. She feels trail users could negatively impact the health of the horses through trash throwing, unlawful feeding, and petting them; these behaviors could bring the horses close to the fence which could injure their legs, etc... She also is concerned about clients leaving and business impacts to the farm.
- David Broman (Solicitor for the Hicks family) said that he has never had to deal with Eminent Domain for a trail in his lengthy experience. He stressed the emotional and negative health impact this concern over the trail has had on the family. He maintains that the Township and its representatives have not responded in a timely manner to requests for information, plans, drawings, etc...He also suggested considering an alternative to the current trail which would avoid wetlands issues and the required archaeological dig. He raised concerns about the 1-year timeline construction proposal and how to protect the horses over this time. He stressed that there is no need to rush this process.

Resident Public comments

- Brenda Isakson (1463 Blanford Ln) explained that she is 23-year resident that advocates the safety sides on having a trail and light at the intersection for children to safely cross and use the trail vs. riding bikes on Paoli Pike. She believes that the amount of ground for the easement is worthwhile in the interests of safety.
- Joe Reed (249 Chatham Wy) stated that he moved from New Jersey a little over 2 years ago drawn by the beauty and stability of government in Chester County. He is

disappointed that local government would condemn and take a man's land. He does not see people using the trail. He questions the cost of trail maintenance and the trail's location.

- Terri Relic (12 Treemont Dr) said that she is a horse owner at the farm and questions who is liable if a horse gets sick or dies from treatment/food from people using the trail. She is concerned about horses being injured getting close to the fence to get food.
 - The Chairman questioned the concern of negative people/horse interactions by discussing the number of trails beside the preeminent Empress Arabians horse breeding and sales farm in Venetia, Pa. He maintains that over 3 miles of the Montour and Arrowhead Trails serve the area beside the farm and that the population who utilize the trails have no interest in stopping to pet/feed/distract the horses.
- Fred Pioggia (1636 Yardley Drive) believes that getting property and agreements should come before engineering. He also believes that the trail is a want, not a need.
- Russ Frank (451 Gateswood Drive) stated that he does not believe in using Eminent Domain to take the property.
- Sean Ellsworth (401 Ellis Ln) believes the correct decision regarding the Eminent Domain question is to follow what the people want who are currently at the meeting who clearly do not support it.
- Jacqueline Weber (60 Line Rd) said that she is a 53-year resident of East Goshen Township and believes Eminent Domain is the wrong thing for a township to do. She thinks the trail cannot handle multiple bicycles at once as many teams like to ride. She also voiced concern over the liability and insurance cost of injuries occurring on the trail. She feels there is no need for more trails. She does not believe in growth, development, or change in general.
 - The Board responded that the existing \$10M umbrella policy covers the trail.
 - Mike Lynch discussed that East Goshen Township is a suburban municipality that is constantly evolving as do its zoning laws in response to Ms. Weber.
- Vanessa (School Ln) believes that another trail is not needed since East Goshen Township has so many parks, open spaces, and existing trails. She also does not agree with taking the land for a trail.
- Dan Truitt (1430 Grand Oak Ln) questioned what the costs will be if families appeal. He also questioned whether there was a threat by the Township's solicitor, staff, or other representative. He also does not understand how the Board could take the action of Eminent Domain against a resident/family with such a long Township history and that the trail is not needed.
 - Solicitor Michael Gill elucidated the process of the Township exercising Eminent Domain and possible costs and likely outcomes.
- Joanne Mercer (471 Gateswood Dr) who is a 50-year resident believes the focus should be on safe activities for children. She believes the park and more things for kids to do to keep them out of trouble is better than a trail without lights.

Michael Gill read the first Resolution. The Chairman called the vote, which carried 3-2 with Ms. Truitt and Mr. Hertzog in opposition.

Mr. Shuey made a motion to adopt the second Resolution; Mr Lynch seconded. Mr. Shuey asked for Board comments. Ms. Truitt and Mr. Hertzog maintained that their previous comments stood. Next, public comment was allowed. Solicitor for the Hicks family David Broman asked that the Board wait 60 days before filing, not one week. He also asked for accurate drawings, stating that the current ones are not. He further noted that the Resolutions were not included in the agenda packet.

Public comments

- Dolores Higgins (904 Vista Dr) believes it is not right that the Hicks land is taken against their wishes because they don't want the trail. She thinks the focus should be on more important matters such as retaining businesses rather than a trail.
 - Mike Lynch informed Ms. Higgins that a Business Park Task Force was created for just that purpose.
- Kate Minshall (431 Gateswood Dr) said she is against taking the Hicks property. She also believes the Corporate Park should be used instead.
- Melanie McHenry (Thorndale, Pa.) said that she works as an instructor at Out of Reach Farm on the Hicks property. She thinks the trail presages a large highway and development. She requested that the Board address how Eminent Domain fits with "Respecting the Past, Serving the Present, Preparing the Future."
 - The Chairman responded that in his experience to stay competitive as a township, we need change to a more connected community. Section B needs to be concluded so trail users do not have to leave the trail, continue on Paoli Pike, then rejoin the trail. He reiterated the difficulty balancing of the Hicks family's history in the Township with a project that benefits the majority of the Township as a whole.

The Chairman called the vote on the second Resolution. The motion passed 3-2 with Ms. Truitt and Mr. Hertzog opposing.

There was a short recess after the Hicks Farm issue.

Westtown East Goshen Police Report

Chief Bernot, of Westtown-East Goshen Regional Police (WEGO) gave the highlights of the monthly report and expressed concerns regarding the high level of calls for service as well as the lingering stressors on our society due to the COVID-19 pandemic. She reported on specific crimes that have been committed within the last month. She also reported on a trend at the park wherein people are using a device that defeats the locking mechanism on cars and are therefore breaking into cars easily.

Ms. Truitt asked about Goshen Valley and if it is still the area that seems to have the most car break-ins. The Chief responded that Goshen Valley is in fact the area where there are a high numbers of car break-ins.

Ms. Truitt also asked about a drone that was flying around in the middle of the night near people's homes. The Chief did indicate there was a person of interest spying on people with a drone but that, because of the distance one can operate a drone from, it is very difficult to catch the perpetrators.

Mr. Carmen Battavio asked if a drone was flying over a person's house, does the homeowner have the right to discharge a weapon at the drone to which the Chief replied that it is advised not to do so.

Mr. Lynch asked about the sexual assaults and whether the Chief could give some information on the magnitude of the assaults. The Chief gave some general information but could not comment further.

Fire Company Reports

Mr. Carmen Battavio gave the emergency service reports for the various fire companies and EMS in the Township. He also announced that the Goshen Fair would be happening this year. He expressed his gratitude for how the fire company and the community worked together during the COVID-19 pandemic.

May 2021 Financial Report

Dave Ware gave a summary of the May 2021 Financial Report and stated there was a "positive variance" right now with the budget and gave the numbers to show the state of each fund. Mr. Ware stated that, overall, it was a very sound financial report and that the budget for 2021 is in good shape.

Mr. Lynch asked about Earned Income Tax (EIT) being up 6% and whether the revenue coming in from Keystone Collections is all from 2021 or are we still getting 2020 tax money. Mr. Ware said he would investigate that.

Approval of Minutes

Ms. Truitt brought up a correction for the June 1st minutes under "old business". Mr. Hertzog moved to approve the June 1, 2021, minutes after the correction. It was seconded by Ms. Truitt. The motion passed 5-0.

Approval of Treasurer's Reports

There were no specific comments regarding the report. Ms. Truitt moved to accept the report and the expenditures within the report. Mr. Lynch seconded the motion. The motion carried 5-0.

Old Business

Archeological Survey

Mr. Shuey brought up the first old business topic regarding the required archeological survey for Segment B of the Paoli Pike Trail which has a cost of \$17,400 to the Township. Mr. Lynch stated that, while he does not necessarily agree with this requirement, he understands it is necessary to obtain the permit for Segment B. Mr. Lynch made the motion to accept the contract for the Phase I Archeological Survey with McMahon Associates. Mr. Shane seconded.

Ms. Truitt made a comment about not wanting to spend another \$17,400 on the trail. Sue R., from Summit House, made a comment about the trail and the concern she had for putting a sidewalk (the trail) on the opposite side of the street of the middle school and high school.

Mr. Lynch made the motion to accept the McMahon proposal for the Archeological Survey in the amount of \$17,400. Mr. Shane seconded, the vote passed 3-2 with Ms. Truitt and Mr. Hertzog opposing.

Gannett Fleming Milltown Dam Park Proposal

Mr. Davis gave a brief synopsis about what transpired since this was brought up at the June 1st meeting. He stated that he spoke with Gannett Fleming to negotiate a better rate and asked Gannett Fleming to make some changes to the proposal based on the board's feedback surrounding certain monetary terms of the proposal for project oversight of the Milltown Dam Project. Mr. Davis stated he was able to get Gannett Fleming to change some terms and believes the new proposal is a better deal for the Township.

Ms. Truitt expressed some concerns with the virtual meeting rate given by Gannett Fleming and still thought it seemed high. Mr. Lynch asked if the virtual meetings were because of the COVID-19 pandemic or if this was Gannett's normal way to do business. Mr. Smith stated that the Gannett staff is in Harrisburg, so it has been easier to deal with them virtually when possible. Similar to Ms. Truitt, Mr. Lynch expressed concerns about the cost of the virtual meetings.

The board decided to table any action on the subject and let Mr. Davis speak with Gannett Fleming one more time to clarify what the virtual meeting cost entails.

New Business

Consider Stormwater O&M agreements - 101 Sullivan Circle, 808 Cottonwood Dr., & 206 Hiloch Dr.

Ms. Truitt made the motion to authorize the Chairman to sign the stormwater management agreements for:

- 101 Sullivan Circle
- 808 Cottonwood Dr.
- 206 Hiloch Dr.

Mr. Lynch seconded. The vote passed 5-0.

Consider In-Law Suite Agreement – 225 Cheshire Circle

Ms. Truitt made the motion to authorize the Chairman to sign the in-law suite agreement for 225 Cheshire Circle. Mr. Hertzog seconded. The vote passed 5-0.

Open Space Beehives – Bellingham & *Healing the Planet* grant

Jason Lang talked about the fact that Bellingham Senior Living (E. Boot Road) approached the Parks and Recreation Department about the possibility of beginning a bee education program for its residents and was interested in the beehive placement being in the public open space directly across from their grounds, adjacent to the secondary parking lot at the Blacksmith Shop. They were interested in forming a partnership with the hopes of a third partner, a beekeeper.

Mr. Lang said that he spoke with Carmen Battavio, former Supervisor and beekeeper, about the possible partnership. He stated that the three entities discussed this at a successful meeting on May 12. He indicated that Bellingham was willing to fund four (4) hives in the open space.

Mr. Shuey asked about elementary schools and educating them on honeybees. Mr. Lang stated that this could be a possible next step for the program.

Mr. Lynch asked about the cost to the Township. Mr. Lang said that there would be no cost to the Township due the funding by a *Healing the Planet* grant from the GIANT Supermarket. Mr. Lang also elaborated on the educational opportunities this brings to the area regarding bees.

In reference to the proposal stating that hives can only be removed during April-July, Mr. Lynch asked if there is an issue with the hives, could they be removed any time of year. Mr. Battavio explained that if a dangerous situation arises with a hive, it could absolutely be removed regardless of the time of year. He indicated that the language in question about removal only applies to a non-threatening situation of one entity simply not wanting to participate anymore.

Mr. Hertzog made a motion to accept the partnership and proceed as outline by Mr. Lang with Carmen B's Honey and Bellingham Senior Living while pursuing the Healing the Planet grant for the project. Mr. Shuey seconded. The motion passed 5-0.

Rick Smith Day

Mr. Shuey announced the proposal to declare June 16, 2021, "Rick Smith Day" in honor of retiring Township Manager Rick Smith. Mr. Hertzog made a motion to accept the proposal. Mr. Shuey seconded. The motion passed 5-0. Mr. Smith thanked the Board, and a picture was taken with Mr. Smith and the entire board.

Any Other Matter - NONE

Correspondence, Reports of Interest

It was acknowledged that resident, Carole Rubley, sent a letter to the Township thanking East Goshen employee Vinnie DiMartini for helping her with a flat tire.

Adjournment

Ms. Truitt made the motion to adjourn the meeting. Mr. Hertzog seconded. The motion passed 5-0 and the meeting was adjourned at 9:39 PM.

Respectfully submitted,
Derek Davis

Attached: June 10, 2021, Treasurer's Report

TREASURER'S REPORT		May 27, 2021 - June 10, 2021	
RECEIPTS AND BILLS			
GENERAL FUND			
Real Estate Tax	\$32,025.03	Accounts Payable	\$223,564.70
Earned Income Tax	\$231,139.62	<u>Electronic Pmts:</u>	
Local Service Tax	\$8,839.77	Credit Card	\$2,598.42
Transfer Tax	\$0.00	Postage	\$0.00
<i>General Fund Interest Earned</i>	\$263.69	Debt Service	\$0.00
Total Other Revenue	\$39,364.49	Payroll	\$155,391.67
Total General Fund Receipts:	\$311,632.60	Total Expenditures:	\$381,554.79
STATE LIQUID FUELS FUND			
Receipts	\$0.00	Accounts Payable	\$0.00
<i>Interest Earned</i>	\$0.08		
Total State Liquid Fuels Receipts:	\$0.08	Total Expenditures:	\$0.00
CAPITAL RESERVE FUND			
Receipts	\$1,060.83	Accounts Payable	\$1,060.83
<i>Interest Earned</i>	\$182.03		
Total Capital Reserve Fund Receipts:	\$1,242.86	Total Expenditures:	\$1,060.83
TRANSPORTATION FUND			
Receipts	\$0.00	Accounts Payable	\$0.00
<i>Interest Earned</i>	\$45.66		
Total Transportation Fund Receipts:	\$45.66	Total Expenditures:	\$0.00
SEWER OPERATING FUND			
Receipts	\$148,284.61	Accounts Payable	\$54,448.48
<i>Interest Earned</i>	\$51.58	<u>Electronic Pmts:</u>	
		Credit Card	\$669.53
		Debt Service	\$0.00
Total Sewer Operating Fund Receipts:	\$148,336.19	Total Expenditures:	\$55,118.01
REFUSE FUND			
Receipts	\$50,015.44	Accounts Payable	\$1,478.32
<i>Interest Earned</i>	\$25.34	Credit Card	\$64,559.33
Total Refuse Fund Receipts:	\$50,040.78	Total Expenditures:	\$66,037.65
BOND FUND			
Receipts	\$0.00	Accounts Payable	\$35,694.24
<i>Interest Earned</i>	\$47.99		
Total Bond Fund Receipts:	\$47.99	Total Expenditures:	\$35,694.24
SEWER CAPITAL RESERVE FUND			
Receipts	\$0.00	Accounts Payable	\$0.00
<i>Interest Earned</i>	\$81.42		
Total Sewer Capital Reserve Fund Receipts:	\$81.42	Total Expenditures:	\$0.00
OPERATING RESERVE FUND			
Receipts	\$0.00	Accounts Payable	\$0.00
<i>Interest Earned</i>	\$102.13		
Total Operating Reserve Fund Receipts:	\$102.13	Total Expenditures:	\$0.00
			\$539,465.52
	\$511,529.71		\$155,391.67
			(\$384,073.85)