

EAST PENNSBORO TOWNSHIP  
BOARD OF COMMISSIONERS  
DECEMBER 20, 2018

Regular Meeting

7:00 P.M.

A Regular Meeting of the East Pennsboro Township Board of Commissioners was held on Tuesday, December 20, 2018, at 7:00 p.m. at the Community and Municipal Center, 98 N. Enola Road, Enola, Pennsylvania.

Those present were: Commissioners – John Kuntzelman, President; George Tyson, Vice President; Kristy Magaro, Charley Gelb and Raymond “Skip” Magaro; John Pietropaoli, Township Manager; Lisa M. Coyne, Esquire, Township Solicitor; John B. Owen, Assistant Township Manager; Jared Hockenberry, Township Engineer; Dearan Quigley, Director of Housing and Community Development; Chief Mark Green, Police Department; and Erik Owen, Fire Marshal.

I. CALL TO ORDER

President Kuntzelman called the meeting to order at 7:00 p.m. A moment of silent meditation was observed, followed by the Pledge of Allegiance to the Flag.

(Whereupon, the meeting was recessed at 7:05 p.m. for a public hearing, and was reconvened at 7:39 p.m.)

President Kuntzelman thanked everyone for their input.

II. APPROVAL OF REPORTS

MOTION approving the Police Report - November 2018 was made by Mr. Gelb, seconded by Mr. Tyson, and was carried by a unanimous aye vote.

III. APPROVAL OF MINUTES

MOTION approving the minutes of the Special Meeting of November 28, 2018, was made by Ms. Magaro, seconded by Mr. Tyson, and was carried by a unanimous aye vote.

IV. BUSINESS FROM THE FLOOR

Mr. Jim Leonard, 65 Pine Ridge Circle, addressed the board concerning the LERTA district. He was curious as to why the Capital Area Intermediate Unit is being planned to be part of that. Mr. Quigley noted the entire area including parcels owned by the Commonwealth and by the CAIU are targeted because they are adjacent to that. If the Commonwealth or the CAIU would choose to redevelop in the future or sell to somebody, that would bring those properties onto the tax rolls, which they are currently tax-exempt properties. It extends the benefit to add adjacent parcels.

Mr. DeMartyn, representing the Historical Society of East Pennsboro, commented regarding item 3 on the agenda. They understand that the township and the county want to get out from under this property, get this property sold and developed and not have a liability. They understand that and are not in opposition to the LERTA for this property. They continue to be concerned that the Longsdorf-Miller house is included in the LERTA, but at the same time feel comforted since the last meeting that it was stated that all five Commissioners are committed to the preservation of the Longsdorf-Miller house and hope to have the board's continued support on that without waiver.

Mr. Jim Hertzler, 920 South Humer Street, addressed the board as a resident, taxpayer, and former township Commissioner, not on behalf of the Cumberland County Board of Commissioners. He noted the county Board of Commissioners had their first finance meeting on December 12 to hear a presentation relative to the proposed LERTA and they will be considering action on that after whatever action this board and the school board takes. He recently attended a conference of Pennsylvania county commissioners as a member of the assessment and taxation committee, and the subject of LERTAs came up for discussion at a recent committee meeting and what apparently is happening in a number of jurisdictions around the State is entities that are granted tax incentives such as LERTAs or KOZs come in and locate, once the development is done they pick up and leave, or in the case of LERTAs, sometimes they immediately run to the county board of assessment and appeals and seek reassessment of the property to lower their tax burden.

Afterward, he had a preliminary discussion with the county Solicitor about whether or not there could be a covenant that the CCIDA as the owner of the property could agree to that hopefully with the township and the school district would essentially prevent a developer, once the improvements have been made in different areas of the property when the 10-year LERTA is up, they cannot seek a reassessment of the property for an additional five years. The county Solicitor indicated he thought that might be doable. He was not aware if the township Solicitor had a chance to speak to the county Solicitor about that, but he is aware that Attorney Giorgione, CCIDA Solicitor, indicated he was interested in looking into that. He did not think this needs to happen necessarily in conjunction with the enactment of the LERTA, but it would be a separate thing that could happen to essentially protect the taxpayers of the county, the township, and school district. If there is an intervening countywide property reassessment, that would take precedence, but the idea is that as soon as the tax break is up, we do not have those who benefitted from it running to the county trying to seek a reassessment. So there could be an agreement that could potentially follow with the ownership of the property, which is currently in CCIDA's hands.

Mr. Hertzler noted the county records and streams county commissioner meetings, and if anyone is interested in hearing the discussion at the Finance Committee meeting, they can view it at CCPA.net.

Mr. Hertzler reiterated as Assistant Township Manager Owen stated, the CCIDA actually owns the Longsdorf home at present. Mr. Owens noted the township Commissioners are steadfast in their desire to preserve the house, whether at its current location or moved to another location.

Mr. Hertzler recapped action by the township Board of Commissioners in August of 2010 to approve a letter of agreement between 200 First Street Associates and the Cumberland County Industrial Development Authority with an executed deed transferring ownership of the Longsdorf house to the CCIDA in exchange for a land swap providing additional acreage to 200 First Street Associates for the house and an acre of ground where the house sits. The agreement also stipulates that the township would acquire the house at its present location if the CCIDA no longer wanted to possess the house. The county Solicitor asked if there was any subsequent action taken to change the agreement in any way. Mr. Owens' response was no, that the preservation of the house is a firm commitment of the township Board of Commissioners.

Attorney Andy Giorgione for the CCIDA was then called upon to provide further clarified answer to Solicitor Brenneman's question. Attorney Giorgione went through all of the many discussions and plans to develop the property and how those many discussions also referenced the 2010 land swap agreement to save the house where it is and further discussions referenced the house including its potential relocation. Under questioning of whether there had been any action taken by the Board of Commissioners to affirm the potential of relocating the house or altering the agreement that was unanimously entered into by the East Pennsboro Township Board of Commissioners in 2010, Attorney Giorgione answered no. Attorney Giorgione told Solicitor Brenneman there is a sales agreement that has been executed between the developer and the CCIDA regarding the agreement to preserve the house where it stands; the township was not a party to that. Attorney Giorgione responded the township gave approval to move forward. Solicitor Brenneman did not believe the township's verbal approval was enforceable. Solicitor Brenneman then asked Attorney Giorgione what happened to the township's right of first refusal. Attorney Giorgione responded that the township did not exercise it. Mr. Hertzler noted the agreement says that the township shall acquire it, not may, the township shall acquire the property if the county does not want it anymore. Unless the board takes action to dismantle or relocate the house from its historic location, the township owns the house.

He asked the board to honor the wishes of many residents of the community as well as the historical society in saving the house, which was the original idea of doing what was done with the Summerdale property - no warehouses, preserve the Longsdorf-Miller house where it is and provide significant buffer to make sure whatever development goes in does not adversely affect the residents.

Mr. Skip Magaro asked Mr. Hertzler how long he was a Commissioner in East Pennsboro, and in his 22 budgets with the township, many of which were tight with little excess funds, how he would have handled losing money on interest payments for the property, in the neighborhood of \$8,000 a month. Mr. Hertzler stated he appreciates the situation the board is in and indicated if he knew what they would be going through, he never would have done it. Mr. Magaro noted if they save the house and can put it up in the corner and recoup money with the real estate sale of the property, it would be a better deal for the public than the way it is in right now. Mr. Hertzler noted there is approximately 50 acres, and 1 acre where the house sits. Mr. Magaro pointed out the 63-foot drop to Miller Street. Mr. Hertzler stated if the house is moved to where it is considered moving it, it will be out of sight.

Mr. Magaro reiterated that the board is interested in saving the house, but they have the taxpayers to answer to, and the board has to do what they have to do to make the township survive soundly. Mr. Hertzler stated he hopes that if the township ends up moving it, they get enough insurance to make sure it does not get damaged. Mr. Magaro stated he wishes to look at all avenues to do what is best for the township. Mr. Hertzler thanked the board for their service.

Mr. Gelb noted the interest payments are not good because the developers have either backed out or did not commit to development. Having LERTA in the property around the house with the house staying where it is can also resolve the interest payments and keep the house where it should be, have the historical society where it should be, not have to move it, but have developers come in based on the LERTA option where there was no LERTA option in the past. He would like to keep the house there and also have interest payments not be paid but have developers come in like a Chick-fil-A, a Sheetz, or whatever wants to come in, and the house stays there, payments go away, it gets developed because of LERTA, because LERTA was not there in the past.

Mr. Tyson stated the developers that have come in and have left have all indicated that the location of the home is a significant challenge for them to move forward with the development. He believes that will happen after the LERTA as well.

#### V. ITEMS FOR DISCUSSION AND APPROVAL

MOTION authorizing payment of invoices and payroll pending review and signatures of Commissioners, was made by Ms. Magaro, seconded by Mr. Tyson, and was carried by a unanimous aye vote.

MOTION to approve Ordinance no. 802-2018 the Zoning Text Amendment for the Commercial Park Limited (CPL) District, was made by Mr. Tyson, seconded by Ms. Magaro, and was carried by a unanimous roll-call vote of 5-0.

Ms. Coyne noted for the record that the ordinance was properly advertised for action by the board in the November 29 and December 6 editions of the Patriot-News. A public hearing was held tonight. The review process has been completed with the recommendation from the county planning commission for approval, as well as from the township Planning Commission.

MOTION to approve Ordinance no. 803-2018 pertaining to establishment of Local Economic Revitalization Tax Assessment Act (LERTA) with the boundaries set by Resolution 2018-20, was made by Mr. Skip Magaro, and was seconded by Mr. Tyson.

Ms. Coyne noted for the record the notice of intent of possible adoption appeared in the December 9 edition of the Patriot-News regarding this proposed ordinance, and again, the resolution was issued following a public hearing as required under the LERTA statute. This ordinance has an internal sunset provision of 15 years after enactment.

Mr. Gelb stated he would be voting against the ordinance because the home was included within the boundary, and the acre of land with the home.

The motion passed by a roll-call vote of 4-1, with Mr. Gelb voting in the negative.

MOTION to accept the deed of easement from Floribunda Associates, LP, for the public sanitary sewer line and related facilities, subject to receipt of the financial security for the 18-month maintenance period in an amount of \$41,237.27, was made by Mr. Tyson, seconded by Ms. Magaro, and was carried by a unanimous aye vote.

MOTION to authorize the release of the entire Irrevocable Standby Letter of Credit no. 14-0809-2017 by Member's First Federal Credit Union in the amount of \$5,000.00 for the 132 Carol Lane minor subdivision, was made by Mr. Skip Magaro, seconded by Mr. Tyson, and was carried by a unanimous aye vote.

MOTION to authorize the release of the entire cash escrow in an amount of \$10,600.00 for 598 Belle Vista Drive, was made by Mr. Tyson, seconded by Ms. Magaro, and was carried by a unanimous aye vote.

MOTION to adopt the East Pennsboro Township budget for the 2019 fiscal year, was made by Mr. Tyson, seconded by Ms. Magaro, and was carried by a unanimous roll-call vote of 5-0.

Mr. Skip Magaro commented there are items he does not like, such as the 3 percent across-the-board raises. He believes the board should consider changing that

next year to go to a dollar amount instead of a percentage rate. Additionally, he would like the budgets to be reorganized as written to be more easily followed.

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Mr. Pietropaoli stated the adopted budget results in no increase in tax rates for 2019.

MOTION to approve the advertisement for a public hearing date of February 6, 2019, for both a Map Amendment to change Lot 1, Plan of Janice L. Woods, PIN 09-14-0835-004 from (R-1) Single-Family District to Commercial Limited Zoning District (CL) and Zoning Text Amendments to add definitions for Ambulance Service and Ambulance Service Facility to the Zoning Ordinance and add Ambulance Service and Ambulance Service Facility to the permitted uses for C-L Commercial Limited (CL) Zoning District, was made by Mr. Tyson, seconded by Mr. Gelb, and was carried by a unanimous aye vote.

The board reviewed the Preliminary/Final Land Development Plan for First Watch the Daytime Cafe. Mr. Chris Dellinger, with Herbert Rowland and Grubic, representing Senate Plaza LLP, represented the plan. This is a site plan for plaza 3 of the site, the outparcel on the corner of Erford Road and Senate Plaza, about 1.3 acres. They propose a First Watch restaurant, which is a breakfast and lunch establishment, which is not open for dinner and evenings. All staff comments have been addressed. The Planning Commission recommended approval concerning several outstanding minor issues, which were corrected except for the developer's agreement and posting financial security in the form of an irrevocable letter of credit.

MOTION to approve the Preliminary/Final Land Development Plan for First Watch the Daytime Café, as resubmitted on December 14, 2018, conditioned upon providing an executed developer's agreement consistent with Exhibit 22-4-1, and provide an improvement guarantee in the form of financial security in an amount of \$53,037.93 in the form of an irrevocable letter of credit, was made by Mr. Gelb, seconded by Mr. Skip Magaro, and was carried by a unanimous aye vote.

MOTION to appoint Brian Fenerty as Captain, and John Breeding as Lieutenant of the East Pennsboro Township Fire Police, per the recommendation of Police Chief Mark Green and Fire Chief Erik Owen, was made by Ms. Magaro, seconded by Mr. Gelb, and was carried by a unanimous aye vote.

## VI. NEW BUSINESS

Mr. Pietropaoli noted the Recreation Department is starting to work with the American Legion on the veterans' recognition banners, which will be purchased by the veterans' family. The goal is to have the information available at their Memorial Day events. Commissioner Skip Magaro has been speaking to the American Legion and the

Sportsmen's Association. A thank you plaque was made for all three. A letter will be sent to all three letting them know the goals and plans for the year 2019 so when  
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donations are available they can put donations to that use. One suggestion is the gazebo at the Altoona Avenue triangle, also the town clock. Ms. Magaro added a concession stand at the other side of the park, and Mr. Skip Magaro added Pride Day.

Mr. Pietropaoli noted boards and committee appointments will be made in January.

MOTION directing the Township Engineer to move forward with the review process required for amending the township's stormwater management ordinance, to share with the county the less restrictive recommendations for stormwater, was made by Mr. Tyson, seconded by Ms. Magaro, and was carried by a unanimous aye vote.

Mr. Pietropaoli noted a plow truck broke down with a \$30,000 repair bill. Regarding the wastewater treatment plant, he hopes to have a discussion with the personnel board shortly, as there are three potential retirees.

Mr. Tyson noted for the record he was copied on an email from the Township Engineer regarding the traffic signal at Magaro Road and East Pennsboro Drive and the inadvertent extended green that is being experienced by northbound traffic, which makes it extremely difficult for an individual who wants to make a left.

MOTION to adjourn the meeting at 8:30 p.m., was made by Ms. Magaro, seconded by Mr. Tyson, and was carried by a unanimous aye vote.