

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – FEBRUARY 1, 2006

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on February 1, 2006. Chairman Santarsiero called the meeting to order at 7:30 p.m. Mr. Caiola called the Roll. Mr. Santarsiero noted that the Board met in Executive Session for approximately one hour to discuss legal and real estate matters.

Those present:

Board of Supervisors: Steve Santarsiero, Chairman
Ron Smith, Vice Chairman
Greg Caiola, Secretary/Treasurer
Grace Godshalk, Supervisor
Pete Stainthorpe, Supervisor

Others: Terry Fedorchak, Township Manager
David Truelove, Township Solicitor
Bucky Closser, Township Solicitor
James Majewski, Township Engineer
Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Ms. Helen Bosley, 546 Palmer Farm Drive, asked if there has been any resolution as to the issue raised at the last meeting with respect to the legal situation of whether people who were appointed to positions in 2005 by the three remaining Supervisors constitutes a legal appointment. Mr. Truelove stated they did look into this; and unless this Board takes affirmative action to ratify the prior decisions, the prior decisions are not effective. He stated at this point the positions involved are still vacant until the current Board makes appointments. Mrs. Godshalk asked if this is part of public law. Mr. Truelove stated there are some cases in the Commonwealth Court Decisions and some from the District and County Courts and various sources of information. He noted the language that was in a case in the Commonwealth Court that originated in Falls Township in 1988 and several cases that touch on the subject. Mrs. Godshalk asked if this relates specifically to appointments by "lame duck" Boards. She asked the title of the law. Mr. Truelove stated there is no statute that speaks to a "lame duck" Board. He stated the one case refers specifically to the original appointments and does reference the term "lame duck" Board and he read language from that case. Mr. Truelove stated the result is that there was no vacancy at the time that the appointments were made and ratification does not occur unless there is an affirmative step by the subsequent Board to ratify the act of the prior Board. Mrs. Godshalk asked if this is because it was 12/31 or could they

APPROVAL OF MINUTES

Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of January 18, 2006 as amended.

APPROVAL OF JANUARY 3, 2006 AND JANUARY 17, 2006 WARRANT LISTS AND DECEMBER, 2005 PAYROLL

Mr. Caiola moved and Mrs. Godshalk seconded to approve the December, 2005 Payroll as attached to the Minutes. Motion carried with Mrs. Godshalk, Mr. Santarsiero, and Mr. Stainthorpe in favor and Mr. Caiola and Mr. Smith abstained.

Mr. Caiola moved, Mr. Santarsiero seconded and it was unanimously carried to approve the January 3, 2006 and January 17, 2006 Warrant Lists as attached to the Minutes.

APPROVAL OF RESOLUTION NO. 2112, BILL NO. 7-06 – CREATION OF ECONOMIC DEVELOPMENT COMMISSION

Mr. Santarsiero stated as discussed last week when they discussed Edgewood Village, the March Associates report envisioned the Township creating an Economic Development Commission to help spearhead development specifically in that area. Mr. Santarsiero stated he feels a Commission with a broader charge – to spearhead economic development throughout the Township in any feasible way that is consistent with maintaining the character of the Township - is something that is worth exploring. He noted the Budget process and the fact that they are facing increasing challenges to bring more revenue into the Township so that they can avoid future tax increases. Toward that end they have prepared a Resolution that would create a five member Economic Development Commission that would be responsible for exploring different opportunities that might exist for the Township to broaden the tax base while preserving the character of the Township. He stated this was also discussed at some length during the last Election.

Mr. Smith moved and Mr. Caiola seconded to approve Resolution No. 2112, Bill No. 7-06.

Mr. Stainthorpe stated while he will vote in favor of the Resolution and applauds them for following through on campaign promises, he questions what this will accomplish. He noted there is not a lot of commercial land to be developed in the Township as the Matrix property is the last piece of commercial in the Township. He stated there is some space in Office/Research but this seems to be progressing already. He stated while they do have Edgewood Village, he does not feel with the scale of the Village, they will be able

to get enough retail there to make a difference in the tax base. He stated a real Economic Development Authority based on the Municipal Authority Act is not something they want in Lower Makefield as they would have the authority to issue bonds to help finance businesses, bring in jobs, and have the power of eminent domain; and he does not feel this is what they need in Lower Makefield. He feels the Commission will be limited in what it can accomplish. He stated he also feels the Resolution is vague as to the Commission's task.

Mr. Smith stated he feels there are a number of people in the Township who have great ideas and could make recommendations as to how they could increase revenues to the Township.

Mrs. Godshalk asked if they envision them getting involved with the developers such as those they have involved in Edgewood Village. She stated she does not feel the Township would want to get involved hand in hand on advising the developers what they want.

Mr. Smith stated he sees this Board as an Advisory Board to the Board of Supervisors. Mr. Caiola stated he has been in situations where such Commissions have been effective and the Commission included residents and business owners. He stated he would like to see them get involved with what is happening in Edgewood Village and report back to the Board of Supervisors. He agreed that there is not a lot of undeveloped land, but he feels this Commission will be important at least for the next few years. Mrs. Godshalk stated there are currently many steps that developers have to go through such as the Planning Commission, HARB, Historic Commission, and the Zoning Hearing Board for relief if necessary besides an Economic Development Commission. She asked if this new Commission will be reviewing Plans, and Mr. Caiola stated they would not review Plans.

Mr. Santarsiero stated their Mission Statement is to act as a catalyst to try to bring in what they feel would be appropriate economic development for the Township. He stated until now they have not had such a Commission and instead have waited for the developers to come to the Township. He stated what they are now saying is that they should be proactive in looking at what kind of economic development they feel would be beneficial to the Township and be more active in coming up with a plan and talking to developers about it. He feels they can be the impetus in getting good development to happen. He stated he feels it is a mistake for them to only look at the undeveloped land in the Township. He stated there are a number of developed commercial parcels which do have thriving business, but there have been instances in the past where they had a business that went out of business and possibly new ideas would be merited to try to make a particular building productive again. He stated whatever is done should be done consistent with the character of the Township. With respect to the issue of the alleged vagueness of the Resolution, he stated from a drafting standpoint it is sometimes better not to be too specific particularly with something like this which may well evolve over time. He stated they are not really giving them any authority and this is only a Board of volunteers, hopefully with some expertise, and they will be able to help identify

economic opportunities for Lower Makefield. He stated he feels what has been outlined is enough to get them started.

Ms. Rebecca Cecchine asked if they are suggesting that if a store goes vacant, this Advisory Board would go to the management and try to recommend what should go in at that location. Mr. Santarsiero stated he feels this Board would analyze the situation to see why the store failed and what type of business might succeed, and then discuss this with the Board of Supervisors. He stated they would not necessarily have to go to the management company and make recommendations, but it does give options to consider and puts them in a position where they might be more active to insure that a store does not remain vacant for an extended period of time. Ms. Cecchine stated she feels the management companies would have their own advisors do this type of work, and she does not feel if she were the owner of the property, she would appreciate an Advisory Board determining what they feel would be better at that location. Ms. Cecchine stated she understands that Mr. Caiola has a lot of experience in this, and she feels this Advisory Board may not be necessary, and he could just be asked to look into these situations. Mr. Caiola stated in the past he did, as a member of the Township, work with management companies in discussing available properties in the community and ideas for what might work best. He stated this Board would be able to work with the owners of the properties and he feels they would welcome discussion with Township residents who also have a vested interest in ensuring that the vacant stores are filled. Ms. Cecchine stated she agrees that the residents know what they need.

Mrs. Godshalk stated she feels what this Commission would be advocating would be in direct opposition to what has been advocated for the Matrix settlement. She stated the Matrix land is some of the most valuable land in the Township as it is already zoned Commercial. She stated she has repeatedly asked for quality commercial – not big box. She stated instead they are settling for very high density housing in this area which she feels will require a lot of Township services. She asked why they should not put Matrix back on the table for a high class commercial development. Mr. Santarsiero stated Matrix may be on the next Agenda and he suggested that they discuss that at that time.

Motion carried with Mrs. Godshalk abstained.

**APPROVAL OF ORDINANCE NO. 357 GRANTING TO COMCAST OF
LEVITTOWN, INC. A NON-EXCLUSIVE FRANCHISE TO INSTALL AND
OPERATE A CABLE TELEVISION SYSTEM WITHIN LOWER MAKEFIELD
TOWNSHIP**

Mr. Garton stated at the direction of the Board, he prepared Ordinance No. 357 which grants a fifteen year, non-exclusive Franchise to Comcast to provide cable television services. This was duly advertised for consideration this evening. The Ordinance

incorporates the Agreement which is attached as an Exhibit and this Agreement contains the normal terms and conditions that appear in a Franchise Agreement and reflects what has happened to date.

Mr. Caiola moved and Mr. Stainthorpe seconded to approve Ordinance No. 357.

Mr. Jim Bray asked if any monies are paid to the Township by the cable company and Mr. Garton stated there is a 5% payment of the revenue to the Township plus additional consideration being paid to help defer some of the costs to the Township to broadcast the meetings. Mr. Bray asked their rough estimate as to how much money would be paid to the Township over the term of the fifteen year Agreement, and Mr. Fedorchak stated on a yearly basis, the Township received approximately \$260,000 as a result of the 3% Franchise Fee and this Agreement will allow the Franchise Fee to increase to 5% and they anticipate this will result in \$450,000 a year.

Mr. Zachary Rubin, 1660 Covington Road asked if the 2% increase in the Franchise Fee is directly passed on to the customers and that Comcast is not absorbing the Franchise Fee, and Mr. Fedorchak agreed. Mr. Rubin asked if the Township received money in the RCN Settlement, and Mr. Fedorchak stated they received approximately \$175,000 and this was in last year's Budget. Mr. Rubin asked if they are currently in negotiations with Verizon to bring in fiber optics to the Township, and Mr. Fedorchak stated they are attempting to negotiate a Franchise Agreement with Verizon through a consortium which would be somewhat similar to what they have with Comcast. He stated he attended a meeting of the consortium last week in Newtown Township; and it appears that although Verizon is willing to consider a Franchise Agreement similar to what is in place with Comcast, there are problems on definitions and there is concern that Verizon may place cable television service through the Internet and offer this as part of their fiber optics program. If successful this could mean that the Township would not be able to assign a franchise fee to that kind of service because it will be classified as an information service rather than cable service.

Mr. Jim Bray asked if the extra 2% is not really an indirect tax on the Township residents, and Mr. Fedorchak stated it is an additional fee. Mr. Bray stated the Township is really taxing the people of the Township for this service. Mr. Santarsiero stated they are in a precarious situation with respect to the Franchise Agreement. He stated they are most likely going to have providers come into the Township and provide streaming video over fiber optic lines and argue that they are not subject to Franchise Agreements. He is concerned that in the future they will lose a significant revenue stream in the Township. He noted the ongoing issues the Township has in terms of the Budget. He added this is one of the reasons they are going to create a Budget Commission.

Ms. Virginia Torbert asked if the Township receives any revenue from satellite television, and it was noted the Township does not. She stated she has no access to any

of the public information channels because she cannot get cable television. She stated even if the Township meetings are televised, she will not be able to see them. She stated she does not feel it is fair that she cannot get the public affairs programming. Mr. Santarsiero stated the Township does not have any leverage with the satellite providers. Mr. Garton stated the Township is not permitted to regulate satellite television as they do not provide any rights-of-way or public facilities for the use by the satellite companies.

Motion carried unanimously.

APPOINTMENT OF TOWNSHIP ENGINEERS

Mr. Santarsiero stated at the first meeting in January they discussed the desirability of looking at engineering services from a fresh perspective as they had identified a number of projects that might require specialized services for different categories of work. They identified the issues with the sewer system and the significant capital improvement projects needed which would require attention by a dedicated engineer. They also noted traffic concerns including the creation of a Traffic Commission and whether it would be appropriate to have a full-time engineer dedicated to traffic issues. They are also considering pursuing a low-impact development plan for the Township in order to minimize the impact of surface and stormwater on properties, streams, and the River in order to reduce flooding and other damage caused by heavy rain events; and therefore felt they should consider retention of an engineer dedicated specifically to environmental issues. They felt it would be best to interview engineering firms for those positions as well as the primary Township engineer position. Mr. Santarsiero stated they conducted interviews over the past two weeks and invited in eight firms.

Mr. Santarsiero moved that the Township retain Schorr DePalma to act as the Township Engineer.

Mr. Santarsiero noted they are a large firm which has a number of resources including a Department dedicated to Grant writing. He stated they not only help prepare the Grants, but also identify opportunities and will help the Township through the process. He stated this is important to the Township because of their Budget concerns. He stated Mr. Majewski, who had been the Township engineer for a number of years has recently left PCS and joined Schorr DePalma. He stated there were questions raised about continuity if they changed engineers, and by having Mr. Majewski with Schorr DePalma, they will not have to face this issue.

Mr. Santarsiero moved that the Township retain Birdsall Engineering as the Environmental Engineer.

Mr. Santarsiero stated they have an extensive environmental practice and have one Department devoted to stormwater management which will be important if they embark on a low-impact development plan for Lower Makefield.

Mr. Santarsiero moved to retain Remington & Vernick as the Sewer Engineer and the Conflicts Engineer.

Mr. Santarsiero stated if they have a firm that has a conflict because they represent another party that might be in front of the Township or has represented them on another occasion and the Township wants to avoid even the appearance of impropriety, it is important to have another engineer that would be able to represent the Township in those instances. They have discussed this with respect to the solicitor position as well. With respect to sewer issues, Mr. Santarsiero stated he feels Remington has demonstrated that they are highly qualified with many resources at their disposal. He stated while they do have capital projects coming up which CKS has worked on, in their discussions with CKS, they admitted that it would not severely impact the Township if they changed engineers. Mr. Santarsiero stated he feels given the additional resources that Remington, Vernick has to offer, it would be good to go in that direction.

Mr. Santarsiero moved to retain Traffic Planning & Design as the traffic engineer and to work with the Township and the Citizens Traffic Commission in trying to solve the Township traffic problems.

Mr. Smith seconded the Motions.

Mr. Caiola stated Schorr DePalma and Traffic Planning & Design have both already done work for the Township in the past. He also feels breaking up the engineering tasks in this way, they will be strengthening the Township's position. He stated they are also pleased that Mr. Majewski will be part of the Schorr DePalma team.

Mr. Stainthorpe stated he feels this was a good opportunity to look at capability and consider what is important. He stated PCS has been with the Township for twenty years and is a Bucks County firm with seventy people on their staff. He stated Lower Makefield represents 33% of their Municipal business and 8% of their overall business. He feels Lower Makefield is a very important client to PCS and he feels their service levels reflect this. He stated the firms being recommended for the most part are from New Jersey. He stated Birdsall has done virtually no Municipal work in Pennsylvania. He does not feel that they should have someone coming on who is on a learning curve not only for the Township Ordinances, but the Building Code, Second Class Township Code, etc. He stated CKS, the Township's sewer engineer, is a thirty-five person firm, and Lower Makefield is also very critical to them and as the Township proceeds with the improvements to the sewer system, he feels continuity is critical. He stated while all the firms interviewed were capable, he did not see any compelling reason to make a change.

Mr. Stainthorpe stated in reviewing the Fee Schedules, the least expensive engineering firm was PCS, the current firm, at \$87 an hour. He stated Remington Vernick is \$94 an hour, Schorr DePalma is \$90 an hour, and Birdsall is \$99 an hour. He stated it is well established that when you change professionals, it will take them longer which will result in more hours being billed. He stated he does not feel it is in the taxpayers' interest to go with higher hourly rates and with firms that will be billing for more hours. He stated engineering services are a significant portion of the General Fund Budget in excess of \$100,000. He feels they are currently getting a great value for the money, have received good service, and he does not see the reason to change.

Mr. Stainthorpe stated during the interview process, he asked each firm with which he was unfamiliar if they had ever been involved in any ethical issues or scandals; and he assumed that they would all say "no." He stated Schorr DePalma stated "yes" and they are currently under investigation by the U.S. Attorney in Newark. He stated they explained they were not the target of the investigation, but Mr. Stainthorpe stated he still questions why, if there are firms that are qualified that are not under investigation, would the Board want to bring this kind of firm to Lower Makefield.

Mr. Stainthorpe stated he found a July 15, 2005 article in the Star Ledger which noted, "One of the State's most prominent engineering firms joined the list of players entangled in the Monmouth County corruption scandal when a former Ocean Township Official admitted taking thousands of dollars in bribes from a firm employee and said the payrolls had started more than a decade ago." Mr. Stainthorpe stated he does not feel that this is what they want in Lower Makefield. He stated while these are allegations, and they have not been charged with a crime, they are being investigated and in fact the individual who took the money has pleaded guilty. Mr. Stainthorpe stated the article also states, "Executives from Schorr DePalma have donated more than \$2 million to political candidates and committees, mainly Democrats." He stated he also found information from another article on another investigation where "the FBI Special Agents raided the office of "Democratic Power Broker, John Lynch" and "among the records covered by the Search included the engineering firm Schorr DePalma."

Mr. Stainthorpe stated the Township has had the same engineer for twenty years and the same solicitor for forty years and they have never had the slightest hint of a scandal in the Township; and he does not feel they should invite it in.

Mr. Stainthorpe also noted an article from the Courier Post on-line which noted the FBI had a wiretap placed on George Norcross, who is considered the Democratic boss of South Jersey, and he mentioned Schorr DePalma several times. He stated Remington Vernick was also mentioned.

Mr. Stainthorpe also noted that in 2003 the biggest single contributor to the Democratic Party in New Jersey was Schorr DePalma at \$1.17 million. He stated the second biggest was Remington Vernick at \$714,000, and Birdsall Engineering was the fourth at \$483,000.

Mr. Stainthorpe stated he feels they should continue with their local firms. He stated each of the firms being recommended has approximately 600 engineers with offices across the Country and he does not feel Lower Makefield will be important to them.

Mr. Stainthorpe stated he did not do any further searching into Campaign Finance Reports, but would ask that Mr. Caiola, Mr. Santarsiero, and Mr. Smith voluntarily disclose what contributions they may have received from any of these firms.

Mr. Stainthorpe stated he sees a conflict of interest, as Mr. Santarsiero is Chairman of the Thirty-First Democratic Committee, between what is good for the Township and what is good for the Democratic Party. Mr. Stainthorpe stated he would also like to see what was contributed to the County Party, as the Township residents should have a level of comfort that the decisions are being made by the Board of Supervisors and not by John Cordisco or Vince Fumo.

Mr. Santarsiero stated he feels it is important for the public to recognize that just because a firm contributes to a political party, it does not raise any specter of wrong-doing. He stated there are many firms that do business in both New Jersey and Pennsylvania that contribute heavily to political parties. He stated on July 1, 2002, Schorr DePalma was retained by Lower Makefield to work on the remediation of a waste site at Macclesfield Park and continues to represent Lower Makefield in that capacity. He stated the Minutes of July 1, 2002 regarding the approval of the Contract with Schorr DePalma indicate "Mr. Fazzalore moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the contract with Schorr DePalma for the industrial sites reuse program." Mr. Santarsiero questions why they are now hearing about problems with Schorr DePalma, and he feels the motivation behind this is politics. Mr. Santarsiero stated he feels Mr. Stainthorpe is being hypocritical as prior to this no one raised issues about the way the Township did business in the past. Mr. Santarsiero stated they could also discuss what the Republican Party gets from various firms in the County. He stated of the firms they interviewed for engineering positions, the principals from Carroll Engineering contributed heavily to the Bucks County Republican Party as reported for the period prior to the last Election. Mr. Santarsiero stated it is not only on the Democratic side where there have been firms that have contributed. He stated the Bucks County Republican Committee is the biggest recipient of money from professional organizations.

Mr. Santarsiero stated Schorr DePalma was on the Lower Makefield payroll and continues to be so and no one had raised an issue up until this time. He stated he feels that some of the statements made that they are under investigation are false. He stated Schorr DePalma has been asked for information and advised that they are neither a

material witness nor a subject of an investigation. He stated as an attorney he is sensitive to the facts.

Mr. Santarsiero stated Mr. Majewski has been the Township engineer for two years while working for PCS, and he feels they all respect Mr. Majewski as an engineer and an individual. He feels he is an upstanding individual and he has no trepidation of hiring a firm that Mr. Majewski has associated himself with and have him continue on as the Lower Makefield engineer. Mr. Santarsiero stated he recognizes that some people are not happy that there is a Democratic majority on the Board, but this is the reality. He stated he feels they will be able to work together to move the Township forward. He stated the motivation of Mr. Caiola, Mr. Smith, and himself is to improve Lower Makefield Township and get the best representation they can and move the Township forward in a responsible way.

Mr. Stainthorpe stated he did not make up the information he has presented. He stated he asked them at the meeting, and he then pursued it. Mr. Santarsiero stated he feels Mr. Stainthorpe is distorting the facts.

Ms. Dana Weyrick stated as a taxpayer she is outraged by the conduct of both parties this evening. She stated politics should be left outside the door.

Mr. Stainthorpe stated he feels certain issues need to be raised as a big decision is being made and he does not feel they should proceed with anyone who has even the hint of scandal.

Mr. Santarsiero asked why this is being raised for the first time now. Mr. Stainthorpe stated they voted to retain Schorr DePalma in 2002 and the allegations were not raised until 2005. Mr. Santarsiero asked why Mr. Stainthorpe did not take it upon himself as a Supervisor to bring this issue it up when it first surfaced. Mr. Stainthorpe stated he was not aware of these allegations until the time they held the interviews and representatives from Schorr DePalma discussed them during the interview.

Mrs. Godshalk stated she feels when Schorr DePalma was hired it was a bid situation for a minor project at Macclesfield Park. She stated she has been non-political in her job as a Supervisor and has voted against her own party many times and done what she felt was best for the community in the twenty-five years she has served. She stated she has never taken a contribution from an attorney, developer, law firm, or engineering firm. She stated in 2001 Schorr DePalma approached her and she was offered money by their executives who she was told lived in Lower Makefield. She stated the gentleman who offered her the money when she was running for re-Election in 2001 was present the other evening. She stated she did not tell anyone this and was not going to mention it this evening as she felt they would be the last ones hired when she was present during the Interviews. Mr. Caiola stated Mrs. Godshalk was only present for the last five minutes of the Schorr DePalma Interview. Mrs. Godshalk stated she does have their information.

Mr. Smith stated Mrs. Godshalk is advising that she was offered a bribe five years ago by an unidentified individual from a firm by people who may or may not live within Lower Makefield Township. Mrs. Godshalk stated she was advised that the people lived in Lower Makefield. Mr. Smith stated she does not have the name of the individual who made the bribe to her, and Mrs. Godshalk stated it was the individual who was present at the Interview. Mr. Smith asked for the name of the individual as she is reporting a crime. Mrs. Godshalk stated she may need protection by the District Attorney's office before she continues.

Mr. Santarsiero asked if they indicated they would give her money if they were given a job in Lower Makefield; and Mrs. Godshalk stated they did not. Mr. Santarsiero stated it appears that they offered her a campaign contribution.

Mr. Truelove stated he and the Chief have just conferred, and he does not feel this is public information; and they would strongly recommend that any discussion regarding an alleged bribe or criminal activity cease at this time and they can confer later.

Mr. Santarsiero stated he feels this was a campaign contribution and there was nothing illegal. He stated Mrs. Godshalk has indicated that this occurred in 2001 and in 2002 she voted to retain Schorr DePalma. Mrs. Godshalk stated it was the low bid according to the Township Manager. Mr. Santarsiero stated this does not mean that Mrs. Godshalk could not vote against it.

Mr. Smith called for a point of personal privilege.

Mr. Zachary Rubin, 1661 Covington Road, stated until they have public financing of all political campaigns, this happens all the time. He feels all present should write to their Legislators to have complete public financing. Mr. Rubin stated he feels most of the contributions were legal and are fully disclosed. He stated while he is against this system, this is the way it works.

Mr. Richard Gauck, Chairman of the Lower Makefield Sewer Authority, stated CKS is the engineering firm they have been working with in the Township for twenty-three years. They specifically only do non-private work, and there is no conflict of interest between developers and public organizations. He stated they are specifically sewer engineers for Municipal Authorities and Townships like Lower Makefield. He stated he is aware that Remington has private clients. CKS has no conflicts. He stated the Sewer Authority at their last meeting recommended to the Board of Supervisors that they re-appoint CKS as the Sewer Engineer. He stated they have a multi-million dollar sewer project that is in the midst of being advertised for bids and he feels to change engineers in the middle of such a project does not make any sense. He stated they have had three failures of the line that is in the midst of repair which has cost the taxpayers an inordinate amount of fees to repair, and if they do not act in a timely fashion with the

professionals on board that have been on board, the Township will have more failures along the way. He feels it is a mistake to change engineers at this time for this project.

Mr. Bob White, Chairman of the Yardley Borough Sewer Authority, reviewed the history of the problems they have had with the sewer lines. He stated if they do not go forward with the work that needs to be done, they will experience more failures and Yardley Borough will not honor the Agreement if such failures occur if it can be proven that there was negligence. Mr. Santarsiero stated they will have a full discussion of the interceptor line later in the Agenda. He stated they are not going to let the project be delayed because they understand the importance of getting the work done in a timely way so that they do not risk another rupture.

Mr. Jason Simon, 514 South Ridge, asked why the sewer project was stopped, and Mr. Santarsiero asked that they consider this matter when they get to it on the Agenda after they appoint the engineer.

Ms. Karen Friedman, 1373 Pepperbush Court, asked if aside from the hourly wages, are there any other fees involved in having several different engineering firms involved such as retainer fees, etc.; and Mr. Caiola stated it is the hourly rates only. Mr. Santarsiero stated with regard to the fees, the new attorney is working at a lower rate than the previous attorney so that in terms of total fees, he feels these lower attorney fees will offset any additional fees paid to engineers assuming they are actually higher.

Mr. Andy Raffle stated political contributions are a part of life and are likely to continue, but he feels the Supervisors should all answer whether they have been given or promised any contributions in compensation of these appointments. Mr. Santarsiero stated he was not. Mr. Caiola stated they have not been promised anything. He stated there was money given to their Campaign and there was also money given to the County, but he noted he feels they will find this on both sides of the aisle. Mr. Santarsiero stated the Democrats typically do not do as well in this regard as the Republicans.

Ms. Rebecca Cecchine stated she is concerned with the maps, the GIS information, and the different data PCS has on their system and asked if this information is Lower Makefield's property. She stated when they order a map from PCS it is on their system. She stated they paid for these and if PCS is not their engineer, she questions what will happen to that data. Mr. Santarsiero stated it is the property of the client so it will be transferred to the new engineer along with all the files they have that pertain to Lower Makefield. Mr. Santarsiero stated changing professional services happens all the time, and the professionals are well equipped to handle this and know what has to be done.

Ms. Helen Bosley stated she heard this evening that if they consider the solicitor and engineering fees, it will balance out in total so that they will not see an increase, and

Mr. Santarsiero agreed. He stated the engineering fee is usually on an annual basis larger than that of the solicitor; but because there is only a \$3 hourly difference for the engineers as opposed to the approximately \$20 per hour difference for the solicitor they may be better off by the end of the year.

Ms. Debbie Parsons, Fox Hollow Drive, stated she understands that they are highly **recommending** approval of these four different firms, and Mr. Santarsiero agreed.

Motion carried with Mr. Caiola, Mr. Santarsiero, and Mr. Smith in favor and Mrs. Godshalk and Mr. Stainthorpe opposed.

Mr. Majewski was asked to join the Board at the table. A short recess was taken. The meeting was reconvened at 9:35 p.m.

UPDATE AND MOTION ON CANAL INTERCEPTOR REHABILITATION PROJECT

Mr. Hoffmeister stated they had done work on the Canal Interceptor over the years and there was a study done in 1983 on infill and infiltration Township-wide but concentrated on the original system. It did not address the Canal Interceptor which at that time was twenty years old. They have had had some problems with the Interceptor and in 1984 when they redid the Heacock Pump Station to connect into the Canal Interceptor, there was approximately 400 feet of pipe that needed to be replaced. Prior to that it had collapsed and they had done a stopgap measure but waited to do a permanent repair until they knew what would happen between the Township, Bucks County Water & Sewer, and Morrisville. Since then nothing has occurred other than the pipe has aged. Mr. Hoffmeister stated they did do work over the years on other areas of the sewer system. He stated eighteen months ago they had a major collapse outside the Ferry Road meter chamber. In addition they had a blow out at Black Rock Road which was part of the 400 feet that had been replaced.

Mr. Hoffmeister stated in November, 2004 they found out through televising that there was approximately a 6' by 2' section of the concrete pipe that no longer existed. They did fix this and they are now in a position where they are not sure what the rest of the pipe will do. The **recommendation** to the Board of Supervisor was that they repair the pipe in total from Black Rock Road to West Trenton Avenue and from West Trenton Avenue to East Bridge Street which was the limit of Lower Makefield's ownership until 1992 when they extended the line to the Plant at Delmor Avenue.

Mr. Hoffmeister reviewed the work to be done in the project proposed by CKS including relining pipe, replacement of manholes along the entire stretch of the Delmor Interceptor, and approximately 8,000 feet of replacement of the existing reinforced concrete pipe which goes from Black Rock Road to W. Trenton Avenue. In addition, they will replace

the manholes from Black Rock Road to W. Trenton Avenue. On the west side of the Canal, they will rehabilitate the five siphon chambers. They have already received the PennDOT permit for River Road. The joint permit which is a DEP and Corps of Engineers Permit has been applied for. DEP met with CKS on January 5 and indicated that while they could not go through an Emergency Permit, they could consider it a Joint Permit under Operations and Maintenance and turn it around in a thirty to forty-five day period which means it could be received by the middle of March. If they did not get the Maintenance designation, they would have to wait six months and include Wetlands delineations, etc.; however, because it is a pipe that is being replaced, there is no wetlands encroachment and DEP has indicated they do not have to go through that process.

Mr. Hoffmeister stated the bid specs for Phase I are ready to go out for publication. He asked that this be done by the Board of Supervisors this evening so they can take advantage of the bidding climate with contractors who are looking to do work in the spring through the summer. He stated Mr. White of Yardley Borough has indicated that there is a cost sharing because this is a joint use facility. The original cost sharing was on an 80/20 basis; however, the language of the original Agreement and all subsequent Agreement indicates it would be based on the flows through the pipe and over the course of years, the cost sharing would now be 85% for Lower Makefield and 15% for Yardley Borough based on the current flows.

Mr. Hoffmeister stated Phase II includes the pipe lining. He stated CKS has done the field investigation. This work would immediately follow the reconstruction of the line in Lower Makefield. He stated the majority of the pipe to be re-lined is located in Morrisville Borough, although there are some sections in Lower Makefield. CKS has been awarded the Contract for this in the amount of \$105,000 which includes everything in Phase I up to receiving of bid documents and recommendation of award to the Board of Supervisors. In September of 2005, they proposed to the Township to complete all the work necessary for the re-lining bid specifications up to award review and recommendation in the amount of \$74,000. He would recommend that the Board of Supervisors, despite the prior Motion on engineers, retain CKS to complete this project for Lower Makefield Township as they have already gone through the process to get the work completed. He stated any other work to be done in the future could be done by the new engineer.

Mr. Caiola asked about an approximate timeline. Mr. Hoffmeister stated Phase I could be completed by August or September and Phase II by November or December.

Mr. Stainthorpe moved and Mr. Caiola seconded to authorize bidding of Phase I pursuant to Mr. Zarko's letter of 1/18/06.

Mr. Stainthorpe stated he feels this is an emergency situation and he is concerned that they will lose time by changing engineers for this project.

Motion carried unanimously.

Mr. Stainthorpe moved and Mrs. Godshalk seconded that CKS be retained for the balance of this project for Phases I and II.

Mr. Caiola stated they have approved changing sewer engineers, and he asked if there would be other work for them to do if they approve this Motion. Mr. Hoffmeister stated they have developments coming on line and that type of work could be shifted to the new firm. His concern was with changing engineers for this particular project.

Motion carried unanimously.

MINEHART SUBDIVISION PRELIMINARY PLAN DISCUSSION, MOTION TO CONTINUE, AND APPROVAL TO RETAIN PCS FOR THE COURSE OF THE APPROVAL PROCESS

Mr. John VanLuvanee, Mr. Chris McGinn, and Mr. Mark Buckwalt were present. Mr. VanLuvanee stated they have been working for two years on this project, and the Planning Commission unanimously recommended Preliminary Plan Approval on September 26, 2005 subject to the Conditions that are set forth in the Minutes of that meeting. He stated normally they would have come to the Board immediately to request Preliminary Plan Approval, but in this case a number of recommendations were made by the Planning Commission and it was felt that they should make another revision to implement some of the **recommendations** made by the Planning Commission rather than go immediately to the Board of Supervisors. They now have a conflicts question because of the change of engineers.

Mr. VanLuvanee stated this is a thirty acre tract located at the northeast corner of Woodside and Lindenhurst Roads. The tract has wetlands through it, woodlands, and a transmission line. All of this generated significant comment and a number of the neighbors were present at some of the earlier meetings. They also had significant engineering issues to work through with PCS. One of the ways they addressed some of these concerns was to drop one of the lots. He stated they also needed relief from the Zoning Hearing Board, and the Board of Supervisors had voted to send Mr. Koopman to oppose some of the Variances. The Applicant appeared before the Board of Supervisors to discuss this, and they convinced the Board not to oppose the Variances; and the Variances were subsequently granted by the Zoning Hearing Board on March 15. Mr. VanLuvanee stated he feels they have a clean Plan at this time and the Planning Commission Minutes of 9/26/05 are comprehensive with respect to all of the issues.

Mr. VanLuvanee noted the December 7, 2005 PCS review letter and he recommended that they grant Preliminary Approval and then switch the engineers after that point. He stated a lot of the engineering issues are stormwater management considerations where there was a lot of give and take. He feels if they need engineering input, it would be reasonable to have PCS and Mr. Wagner continue with this project because they have had involvement in this over the two years. Starting over with someone new he feels would be extremely difficult. Mr. VanLuvanee stated if the Board of Supervisors could approve the Preliminary Plan at this time and then switch engineers, he does not feel there would be a problem as there would be an approved set of Plans and a review letter. He stated they already have a number of outside agency permits because of the length of time it has taken to get to this point.

Mr. Santarsiero stated an Extension has been granted for this plan until March 30, and he is generally speaking not in favor of people coming before the Board when they cannot take further action. He is concerned about not having an engineer give his final advice on this, and Mr. Majewski is not in a position to do this. He feels the new conflicts engineer should be able to review the review letters and the Minutes of the September Planning Commission meeting and get up to speed relatively quickly and give them advice well before the March 30 deadline. Mr. VanLuvanee stated he feels this will be very difficult. He stated they have had numerous meetings outside of the regular Planning Commission meetings, and asked that they give serious consideration to allowing PCS to continue with this Plan until they receive Preliminary Plan approval.

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to retain PCS for the course of the Minehart Tract through Preliminary Plan approval.

Mr. Smith moved, Mr. Caiola seconded and it was unanimously carried to continue the matter to 2/15/06.

APPROVAL OF RESOLUTION #2110 – DEDICATION OF PUBLIC IMPROVEMENTS IN MAKEFIELD CROSSING A/K/A FOLEY TRACT

Mr. Fedorchak stated the staff would recommend acceptance of public improvements in Makefield Crossing.

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to approve Resolution #2110 – Dedication of Public Improvements in Makefield Crossing.

DENY REQUEST FOR DEDICATION OF PUBLIC IMPROVEMENTS IN THE ESTATES AT PROSPECT MANOR

Mr. Fedorchak stated the staff would recommend that the Board reject the request for dedication noting the reasons included in the letters from CKS and PCS. In addition the façade easements associated with the historic home on the property have not yet been filed. In addition, there is an Agreement needed between the developer and the four property owners who live along the road/driveway that accesses off of Taylorsville Road that needs to be executed.

Mr. Caiola moved and Mr. Smith seconded to deny the request for dedication for the reasons outlined by Mr. Fedorchak.

Ms. Torbert asked if any changes have been made to the façade, but Mr. Fedorchak did not know. He stated there are certain things that are required relative to the look of the house, and the homeowner must retain that look which has historical significance. This is the purpose of the façade easement. The developer has the responsibility to file certain papers, and he has not yet done so.

Motion carried unanimously.

DENY REQUEST FOR DEDICATION OF PUBLIC IMPROVEMENTS IN HIDDEN POND ESTATES

Mr. Fedorchak stated the staff would recommend denial of the request for dedication as there are outstanding items relative to Final Certificates of Occupancy.

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to deny the request for Dedication of Public Improvements in Hidden Pond Estates due to reasons outlined by Mr. Fedorchak.

ZONING HEARING BOARD MATTERS

Mr. Closser stated with regard to the Giant Food Stores, Inc. Variance request to extend its hours of operation to match those of its competition located within the Township, the Board has asked that the solicitor appear in opposition. Mr. Caiola stated the Board did not understand their request as their competition in Lower Makefield does not stay open beyond 10:00 p.m. Mr. Santarsiero stated they are proposing to be open from 6:00 a.m. to midnight and have claimed they want this because the competition already has these hours of operation, and this is not the case. He stated the Board is concerned with the

store staying open that late because of potential crime problems and further taxing the police force.

Mr. Stainthorpe moved, Mrs. Godshalk seconded and it was unanimously carried to have the solicitor appear in opposition to the Giant Food Stores, Inc. Variance request.

Mr. Closser stated the Board has recommended that they leave to the Zoning Hearing Board the Margaret Cronan and Jonathan Agree Variance request to construct an addition, fence, and deck within the floodplain and encroachment into the side yard setback.

SUPERVISORS REPORT

Mr. Santarsiero stated they are in the process of trying to get applicants for the Citizens Traffic Commission.

Mr. Santarsiero stated the Southeastern Bucks League of Municipalities had a meeting on Monday night in Lower Makefield and they discussed the issue of the voting machines. He stated representatives from Voting for Integrity came to advocate that the Townships that have not already done so, pass a Resolution asking for a system that includes a verifiable paper trail. He noted Lower Makefield has already passed such a Resolution. He stated they also asked that all the Townships consider supporting a Bill that was to be introduced by Mr. Fitzpatrick in the House yesterday which was to delay the requirement that the new machines be used this spring for the Primary and instead the operable date be the General Election in November to give all the Governmental entities more time to consider the different machines. Mr. Santarsiero asked that the Board consider this.

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to support the Bill requesting that the deadline for compliance be extended to the General Election.

Ms. Sue Herman asked when the residents have to submit their letters of interest for the Citizens Traffic Commission, and Mr. Santarsiero stated they are asking that they be submitted as soon as possible. He stated there are seven openings; and if there are letters of interest prior to the meeting on February 15, those individuals could be scheduled to be interviewed that evening. Mr. Fedorchak stated his secretary will contact those interested as to when they will be interviewed.

Mr. Smith stated he attended the Regional Traffic Task Force meeting with Mr. Caiola and the next meeting will be held the end of May. He stated they have a number of people from the community who attend that meeting and he noted particularly Ms. Herman who he feels serves the Township well by her participation.

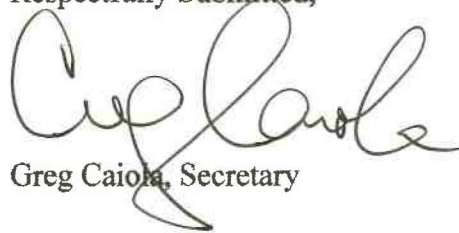
Mr. Caiola stated it is important for people to attend the Regional Traffic Task Force as it impacts the Township. He stated he and Mr. Smith had hoped to meet with Representative Steil prior to the meeting, but were unable to do so. They were however, up to speed before the meeting and there are also other newcomers on the Task Force from Upper Makefield as well.

Mr. Stainthorpe stated the Golf Course had an excellent January due to the warm weather. He stated he met with the Disabled Persons Advisory Council, and their main initiative currently is to inventory the handicap parking spaces in the Township to ensure that they are in compliance. He stated they are also interested in creating a better transportation system for the handicapped. Mr. Smith stated he spoke to a representative of that Board yesterday and she was very pleased with Mr. Stainthorpe's attendance and participation.

Mrs. Godshalk stated the Memorial Committee is awaiting the Contracts. Mr. Fedorchak stated Mr. Garton gave him the Contracts yesterday and he has them this evening for signature.

There being no further business, Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to adjourn the meeting at 10:20 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Greg Caiola', written in a cursive style.

Greg Caiola, Secretary

