

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – MAY 3, 2006

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 3, 2006. Chairman Santarsiero called the meeting to order at 7:40 p.m. Mr. Caiola called the roll. Mr. Santarsiero apologized for the delay. He stated the Board met from 6:00 p.m. to 6:30 p.m. in an open meeting to interview candidates for the Citizens Budget Commission. They then went into Executive Session to discuss real estate and litigation matters.

Those present:

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

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

PUBLIC COMMENT

Mr. Jim Bray thanked the Board of Supervisors and the Township management for the time and effort involved in interviewing all of the candidates for the open positions on various Boards and Commissions. He stated the Environmental Advisory Council has five new members who are highly qualified and motivated. He also noted the meeting to be held at the Township Building tomorrow evening at 7:30 p.m. on rain gardens to which all are invited to attend. He stated they will have a master gardener speak on this subject.

Mr. Frank Fazzalore stated he is present representing the Seniors. He asked that the Board of Supervisors consider how they can help the Seniors find a place to meet. He stated the Police Department needed the main meeting room yesterday, and the Seniors had to carry tables and chairs downstairs in order to meet. He stated while a lot of new Boards have been created, he would like the Supervisors to also create a Board representing the Seniors, get it out of the Park & Recreation Department, and have a Supervisor act as a liaison to the Seniors Board so that individual can relate back to the Board of Supervisors the problems the Seniors are having. Mr. Santarsiero stated they will consider this and will put this item on an Agenda for a future meeting. Mr. Smith

stated he attended the Seniors Annual meeting yesterday, and one of the topics was the ongoing discussion on a Senior Center. He stated he also asked the group to come up with a list of some small things the Township could do for the Seniors which would not take a long time to put into effect. He stated they did discuss creating a Board for the Seniors, and he would agree to be the Supervisors liaison if such a Board were created. He stated the Seniors did ask if they could have a desk or something at the Township where they could house their materials and have a person present during the day to field phone calls or concerns of Seniors who come into the Township Building. Mr. Fedorchak agreed to look into this.

APPROVAL OF MINUTES

Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of April 19, 2006 as amended.

CONSIDERATION OF MATRIX AGREEMENT

Mr. Jeffrey Garton, attorney, was present on behalf of the Township. Mr. Garton stated at the 4/19/06 meeting, the Board of Supervisors approved the Agreement subject to a resolution of the provisions of paragraph 21 which had to do with the impact of the Agreement on Bellemead in the event that Matrix did not proceed to close because of a termination of the Agreement. Since that time the parties have been in discussion and the parties have come to an agreement on paragraph 21 and it now also includes a provision known as paragraph 22 which recognizes Bellemead's right that it is not obligated once the Agreement of Sale terminates, but it does include representations from Bellemead that Matrix is, in fact, the purchaser of the property, is not in default, and they agree to cooperate with Matrix as to the completion of the project, and not to impede their efforts. In addition, there are representations made by Matrix that it is, in fact, the buyer, and when the Township fulfills its obligations and no Appeals are filed, that they will proceed to go to closing. The parties are satisfied with the last part of the Agreement, and he would request that the Board of Supervisors properly execute the Agreement in due course.

Mr. Santarsiero stated this compromise was just recently achieved; and part of the reason they started late this evening, was they were discussing when they would actually sign the Agreement as they wanted to have all the parties present for that purpose, and the representatives of RAM were unable to be present this evening. He stated they will schedule a time within the next few days to have a special signing ceremony and have the Agreement signed. Mr. Santarsiero acknowledged the presence this evening of representatives of Matrix including Mr. Brookman, their attorney, as well as Mr. Joe Taylor, CEO of Matrix; and he asked Mr. Brookman if he had any comment.

Mr. Brookman thanked the current and past members of the Board of Supervisors who worked so diligently to try to reach a settlement to give everyone something that they were looking for but at the same time did not give anyone everything they were looking for. He also thanked Mr. Garton and Mr. Sugarman for bringing this together. He stated he understands that in the next few days there will be a signing ceremony at which time RAM, Dana Weyrick, and the Board of Supervisors will sign. He stated they already have the signatures of Matrix and Bellemead. Mr. Brookman stated they will be back shortly with Plans and go through the review process.

Mr. Zachary Rubin, 1661 Covington Road, stated he is on the Executive Board of RAM. He stated this is a good compromise, and RAM supports it. He reviewed the history of the project noting that if the original Agreement had prevailed, it would have brought in over 300,000 square feet of big box retail and over 1 million square feet of impervious surface asphalt parking lots. He stated 3,000 to 5,000 people signed petitions in the Township against the original proposal, and they were able to prevail. He stated rather than having 35,000 more cars during rush hour, they will have age-restricted housing that will bring in rates and the quality of life will be improved. He stated many this evening are present from BRAMM against the airport expansion, and he stated they will also be able to prevail.

Mr. Santarsiero thanked the current Board of Supervisors and Mr. Fazzalore who was on the negotiation team for the Township for the last few years. He also thanked Mr. Fegley and hopes that he will be able to attend the signing ceremony along with Mr. Fazzalore. He also thanked the members of RAM, as a Supervisor and the former Chairman of RAM, who put in long hours over the years and did not lose faith. He also thanked Matrix, especially Mr. Taylor who was willing to work with the Township and find a compromise they could all live with that will, in their view, better serve the community. Mr. Santarsiero stated they will advise everyone of the date of the signing ceremony.

APPROVE CHANGE ORDER TO ADD LIGHTING TO THE GARDEN OF REFLECTION CONTRACT

Mrs. Godshalk introduced those present this evening - Ms. Liuba Lashchyk, the architect, Ms. Tara Bane, and Ms. Clara Chirchirillo, Committee members.

Ms. Lashchyk asked the Board to approve the change order to the Building Restoration Contract which is for lighting and electric work in the amount of \$122,000.

Ms. Lashchyk stated originally they had a bid and alternate bid #5 was for the lighting. Mr. David Biddle, the contractor from Building Restoration, had bid \$150,000 for the lighting. She stated the Committee felt this was too high and they also wanted to revise some of the electric fixtures so that they were not as tall and instead they wanted to illuminate the ground. There were also concerns about security lighting. Ms. Lashchyk

stated a local resident offered to give a considerable discount on the fixtures to the builder, and the builder bid on that discount and passed this along to the Township so they are saving almost \$30,000 over the original Contract. In addition they are also adding some low voltage fixtures to a different pathway so they are getting more lights for less money.

Ms. Bane stated there will be forty-two lights that will go around the Memorial and this is the number of children in Pennsylvania that lost their parents on 9-11.

Mr. Santarsiero asked the original amount budgeted for lighting, and Mrs. Godshalk stated there was no Budget. She stated bid specs were written up and they accepted the low bid. The contractor agreed to hold the bid until they raised the money.

Mr. Smith asked the name of the contractor and the individual providing the discount for the lighting. Ms. Lashchyk stated Mr. David Biddle is the Contractor and Astro Lighting is providing a discount on the lighting. Building Restoration is the General Contractor and David Biddle is the owner.

Ms. Sue Herman asked if there is any change in the illumination they expect, and Ms. Bane stated it should be less than originally planned.

Mrs. Godshalk stated even though the money has been raised by the Committee, it is still under the jurisdiction of the Township who handles the banking, purchase orders, and contracts; and they have been very gracious in handling this aspect of the Memorial.

Mrs. Godshalk moved and Mr. Caiola seconded to approve the \$122,000 change order as set forth in the 4/28/06 letter from Ms. Liuba Lashchyk to Terry Fedorchak.

Ms. Lashchyk stated the Dedication date is September 9, and they are hopeful that the Memorial will be completed by that time.

Mrs. Godshalk stated seventeen trees were planted within the last few days and these represent the Bucks County victims that were lost on September 11.

Motion carried unanimously.

**TTN-MERCER COUNTY AIRPORT PRESENTATION BY BUCKS RESIDENTS
FOR RESPONSIBLE AIRPORT MANAGEMENT AND AUTHORIZATION OF
\$10,000 TO PURSUE AN APPEAL**

Mr. Paul Krupp, President of Bucks Residents for Responsible Airport Management (BRRAM), was present with William Lynch, BRRAM Treasurer, and Bill Potter,

attorney. Mr. Krupp stated he is present to discuss the plan for the recent activities that have taken place in Trenton. He stated in June, 2000, the Board of Supervisors passed a Resolution and sent it out for publicity and to those running the Airport and the biggest part of the Resolution document was Item #7 which applies to the fact that the Board of Supervisors was supporting the FAA conducting an Environmental Impact Statement which is a full-blown coverage of the environmental aspects and all environmental items for the communities that surround the Airport. He stated this was never done. He noted just recently there has been some activity at the Airport, and they have produced a document called an Environmental Assessment. He stated they would like to discuss this Assessment and what the Board of Supervisors can do. Mr. Krupp stated Mr. Potter is the environmental attorney from Princeton who was retained by the Board in the past and they would recommend that the Township continue to retain his services.

Mr. Potter stated he has been doing environmental law for thirty years, is a Professor of Law at Rutgers Law School, a Lecturer in the Politics and Government Department at Princeton University, and has been working on this issue of the environmental impact and assessment of the expansion/enhancement at Trenton-Mercer Airport since 1999. He has also been working with Mr. Fedorchak during this time representing and advising the Board of Supervisors. He stated the FAA has issued a Finding of No Significant Impact (FONSI). He stated after six years, the Federal Government has concluded that there will be no environmental impact from the expansion of the Trenton-Mercer Airport. He stated this expansion will take the form of a new 44,000 square foot terminal building, and two new gates for jet aircraft as well as substantial widening, and expansion and realignment of the taxi-ways and runways.

Mr. Potter stated BRRAM and Lower Makefield have been involved in trying to get an Environmental Impact Statement which is critical because this is where you would get a review of the actual impacts on the ground rather than the assumptions which are in the FONSI. Mr. Potter stated one of the most significant aspects is that when the process began in the 1990s, the sponsor of the project, Mercer County Executive Prunetti, publicly proclaimed and campaigned on the notion that this expansion was necessary to attract a low-fair, high frequency jet carrier for Trenton-Mercer Airport. Mr. Potter stated when it became clear from the BRRAM investigation that doing so would mandate doing an Environmental Impact Statement because of the extraordinary increase in aircraft flying over Bucks County by 600% in total traffic, they were told this was no longer contemplated. He stated he has reviewed the document which has come out and has found no basis for the switch from the project purpose which was to attract Southwest Air or Jet Blue and make Trenton-Mercer basically a de facto fourth jet airport for the region. He stated the Township is being asked to take on faith that there will be no substantial expansion in air traffic if the Airport terminal is expanded. He stated initially they were going to demolish the existing terminal, but now they read that the existing terminal will remain, and they will build a new one in the amount of 44,000 square feet nearby but still indicate there will be no significant increase in air traffic. He stated he would then question the need for the project to be paid for by the Federal Government.

Mr. Potter stated the Township's options at this time are to accept what the Federal Government is proposing and do nothing, and hope there will be no substantial expansion in jet aircraft flying over Lower Makefield. He stated they could file a Notice of Appeal in Federal Court to challenge the adequacy of the FONSI. Option three would be to work through Congress through Oversight Hearings and possibly some Legislation that would forbid any expansion or funding of the project until an EIS is done.

Mr. Potter stated in November, 1999, Mr. Krupp, Mr. Lynch, and other BRRAM and Township representatives testified at the Scoping Session and suggested that they go directly to the EIS rather than waste time going to Court, etc, and the County Executive in Mercer County stated they could not wait to do this as it would take eight months which was too long. He stated now eight years later, they have received a FONSI based upon this bait and switch. He estimated that the cost of Filing the Appeal in Federal District Court or in the Court of Appeals, as they are still debating which one to go to, would cost between \$6,000 and \$10,000. This would be the first stage of the process. He stated this would have to be done by June 6 which is the deadline for the filing. He stated they would then like to work with Mr. Fitzpatrick who they have met with to try to get a Congressional Oversight process happening. He has not budgeted anything for this.

Mr. Santarsiero stated Options 2 and 3 could be done at the same time, and Mr. Potter agreed. Mr. Santarsiero stated he read through the FONSI and did not feel the assumptions were based on any facts. He stated he was particularly amazed about the analysis of noise and the indication that stage three aircraft are allegedly quieter than what they had previously. Mr. Santarsiero stated he does not feel they are taking into consideration the increased number of flights that would likely result from the expansion. Mr. Potter stated this is correct. He noted Mr. Lynch signed up to testify at the Hearings in June, 2002, before anyone was present and at the end of the Hearing, he still had not been allowed to testify and was eventually told that he would not be permitted to testify. He stated he feels there were procedural irregularities. Mr. Potter stated the FONSI does not list any mitigation measures because they indicate that there will be no impact. He stated in the Environmental Assessment, even if there is no new major jet carrier attracted to the Airport, they project a 30% increase in take offs and landings. He stated if a major carrier comes in, which is what the County wants, there will be a 600% increase in air traffic. He stated in the Saturday New York Times it was revealed that the Port Authority of New York and New Jersey has been studying for several years the need for a fourth jet port in the area and what is now considered to be a reliever airport – that is Trenton-Mercer Airport is under consideration for that fourth major jet airport. He noted a similar situation in Ontario, California where a small airport similar to Trenton-Mercer became a reliever airport for Los Angeles International Airport. He stated there is an incrementalism which takes place, and he feels they are seeing it here; and it is a strategy which occurs frequently in part to avoid public comment and opposition and the need to do an EIS. He feels that is what is happening in this situation.

Mr. Santarsiero stated they do acknowledge in the FONSI that if they went to the other alternative which was a 64,000 square foot increase, this would have required an EIS. Mr. Potter stated they have not expressly conditioned that upon doing a full EIS. He stated they have indicated that the document that has been issued is an appropriate environmental review. Mr. Santarsiero stated he is in favor of fighting this, but feels they should have a better idea of what the next steps would be after filing the Appeal. Mr. Potter stated while he can do this, it will only be an estimate and what they would have to do would be in response to what the other side does. Mr. Santarsiero stated he recognizes this, but still feels it would be helpful to have an estimate.

Mr. Stainthorpe stated in 2002 the Board did put up some money to fight this, and those funds went quickly; and he is not sure what they accomplished. Mr. Potter stated he does not recall the amount but what they accomplished was the creation of a record for an Appeal. They did not dissuade Mercer County or the FAA from proceeding. Mr. Stainthorpe stated he recalls when Eastwind Airlines was flying out of Mercer, it was noisy and was a quality of life issue. He stated while it is quieter now, he does agree that it is incrementalism and they are not sure who the carriers will be ten years from now or where the traffic will be routed. He does feel it is important to take action to protect the quality of life, but feels the Board should be prudent as to how they spend the money. He stated Lower Makefield Township should not be the only ones putting up the money for this. He stated the funds they are currently discussing are doable, but they would want to know what they will be getting for their money as they proceed. Mr. Potter stated he is accustomed to working with Municipal and County Governments where they proceed on a staged basis. He stated working through judicial review and Congress can be done at the same time but he feels it is critical to meet the filing deadline to protect the Township's rights. He stated hopefully Congress will move at a faster pace. Mr. Stainthorpe asked where he stands with Congressman Fitzpatrick and his level of support. Mr. Caiola stated Rush Holt is one of the strongest environmental Congressmen in the Country and he represents that area. He asked if they have reached out to him. Mr. Potter stated they did reach out to Rush Holt previously to get his assistance, and he was not overly forthcoming about the situation although he was responsive and did provide information. Mr. Potter stated he did sense some reluctance to proceed against the wishes of the Mercer County elected officials. Mr. Potter stated he also met with Congressman Fitzpatrick, and he was extremely impressed with Congressman Fitzpatrick's awareness and knowledge on this issue. He stated Congressman Fitzpatrick also raised the issue of reaching across the River to Congressman Holt, and Mr. Potter hopes that Congressman Fitzpatrick or his aides are doing so currently.

Mrs. Godshalk asked if it is known what Committee this is in. Mr. Potter stated it would be a Sub-Committee of the Transportation Committee dealing with aviation matters. He stated Mr. Fitzpatrick indicated that the Chairman was a gentleman from Florida and he was going to reach out to him for the purpose of hopefully having an Oversight Committee Hearing in Bucks County.

Mr. Smith asked who else in Bucks County stands with Lower Makefield on this noting that BRRAM's title indicates Bucks Residents. Mr. Krupp stated right after the Township passed the Resolution, BRRAM went to Newtown who was not interested. They also went to Yardley Borough who concurred and passed a Resolution and contributed \$500. They also went to the County Commissioners and Mr. Fitzpatrick was the Chairman at that time. They passed a Resolution with the same wording that was in the Lower Makefield Resolution. Upper Makefield has also passed a Resolution with similar wording and gave them \$2,000. They also pursued the matter with Dave Steil and he introduced a similar Resolution in the State House of Representatives which was passed with the same wording as in the Lower Makefield Resolution. Mr. Smith asked if they can count on any of these other sources to come up with money going forward, and Mr. Krupp stated he feels they can but he is not a constituent of those areas, and he feels it is in the Township's interest to contact them. Mr. Santarsiero agreed to bring this matter up at the next Southeastern Bucks League of Municipalities. Mr. Santarsiero asked if the County gave any money, and Mr. Krupp stated they did not although they did support their Resolution.

Mr. Smith asked what is needed from the Board at this time, and Mr. Krupp stated the public notice was in the Bucks County Courier Times on 4/7/06, and Mr. Potter has indicated they have sixty days to submit an Appeal so this would be by June 6, 2006.

Mr. Stainthorpe suggested they contact Senator Santorum and Senator Specter. Mr. Krupp stated he did not want to make this a political issue since he feels it is a Lower Makefield problem. Mr. Stainthorpe stated it is a political issue because it involves the Federal Government and the FAA, and the best way to get what they need is to get involvement at those levels. Mr. Santarsiero stated they do have leverage as a number of the incumbents are running for re-Election. Mr. Stainthorpe stated he agrees it is a Lower Makefield problem; and while he would be willing to reach out to other Townships where he knows people, he also feels it is incumbent on BRRAM to recruit some members from the other Townships and broaden the base of support which will only help the situation.

Mr. Bill Lynch stated approximately six years ago he decided to move out of Lower Makefield Township. He stated he owns a business in Yardley Borough as well as commercial property. He stated BRRAM has been on the front lines and seen what is going on behind the scenes and it is very scary. He stated Lower Makefield Township is on the front line as they will be impacted more than Yardley Borough and Upper Makefield. He stated there is an electronic guidance system shooting over the Yardley Methodist Church which is bringing in airplanes. He stated they do not have one on the New Jersey side and it is only on the Pennsylvania side. He stated if they have sixty to eighty Southwest flights coming in daily on a cloudy day, they will not go over Upper Makefield. He stated he moved to Wrightstown, and he experiences very little air traffic now. He stated the majority of the impact is Lower Makefield. He stated he is personally involved in this now only because he is aggravated with the lack of response

from Mercer County and the FAA and at some point he would like to move back to Lower Makefield.

Mrs. Godshalk stated if they have the expansion, there will be more than sixty Southwest flights a day as she feels this could become a new regional airport. She stated Newtown and Upper Makefield will then be involved because they will probably have to build more runways.

Mr. Santarsiero asked that BRRAM make a presentation at the next Southeastern Bucks League of Municipalities meeting which is to be held the end of the month. He stated they should make the point that Mrs. Godshalk has indicated that there will be an incremental increase over the years, and it could impact many more Townships than Lower Makefield.

Mr. Krupp stated he goes to a DVRPC Aviation committee meeting every quarter where he is the “enemy.” He stated he heard a representative from Philadelphia Airport state that they will try to ratchet up Southwest from fifty to sixty flights a day. He stated this would result in an **increased** number of planes flying over his home every day.

Mr. Santarsiero stated this also suggests other flight paths that they are going to be using as well over other parts of Bucks County. Mr. Potter stated there is a certain way that jet aircraft can approach a runway. He stated it would be impossible for a 737 to come over Washington Crossing or Upper Makefield and make a drastic turn into the runway to align itself. He stated he does not feel that there will be a large number of additional runways at the Airport. He stated on the north side, they are telling everyone that they want to stay small and mitigate the air traffic and are only upgrading the airport and not expanding it. On the south side, they are canvassing Southwest Airlines and have plans for a four-gate terminal, and also want to become part of the regional assessment and maybe become a regional airport. He stated when it comes to the environmental process, they want to stay small; but when it comes to the finances, they want to be large.

Mr. Stainthorpe stated he feels they should vote this evening to allot some amount of money to start the process and do the filings, but should put a cap on it; and if they need more, they will have to come back and make the case.

Mr. Potter stated they need to file by June 6. He stated they are still trying to determine whether it needs to be filed in the Third Circuit Court of Appeals in Philadelphia or in the Federal District Court. It has been suggested that they file in both, and a determination will be made where it should be. They estimate the cost, exclusive of filing and copying fees, to be approximately \$6,000 to \$10,000.

Mrs. Godshalk moved and Mr. Smith seconded to authorize \$10,000 to pursue an Appeal.

Mrs. Godshalk asked that BRRAM also go to the other Townships indicating Lower Makefield is in support of this and ask that they also help pay. Mr. Santarsiero stated he will provide further information to BRRAM about the Southeastern Bucks League of Municipalities.

Mr. Bernie Goldberg, 1304 University Drive, stated there is no curfew plan for Trenton-Mercer and there cannot be an enforceable curfew unless there is an EIS. He stated if they decide to expand the Airport, they can fly day and night. He stated he previously had a plane flying over his home at 2:00 a.m. which shook his house and this is what started this process by those living in the area. He stated the people in Upper Makefield and Solebury would like to see the Airport expanded as it would be a convenience, but they do not have the planes flying over their homes. He stated Yardley Borough and Lower Makefield are going to be impacted. He stated the flight path is from Yardley Methodist Church to Dolington Road. He stated they were supposed to have an EA in order for Eastwind to fly, and they did not. He stated BRRAM went to the FAA and asked why they allowed this, and the FAA indicated it was a mistake. He stated Lower Makefield is on its own. Mr. Goldberg stated when this was last fought, they did go to all the surrounding Townships, Mercer County, and worked with another organization in Mercer County who was also fighting this; and while BRRAM and the Jersey organization shut down Southwest previously, they cannot now give up.

Mrs. Godshalk stated there are many properties for sale on Bear Tavern Road in New Jersey and she feels they know that this is going to be a problem.

Ms. Herman stated BRRAM has worked for years, but there is no substitute for political muscle at every level championing their cause.

Mr. Chris Serpico stated he is a candidate for State Senator and he is present this evening to educate himself on this subject. He stated he would like to discuss this with the members of BRRAM and would be willing to take up this cause as well.

Ms. Judy Gordon stated many people felt this issue was resolved. She stated she lives in the section being discussed between 332 and Dolington and planes fly extremely close to these homes and they must consider this quality of life issue. She is in support of the Board of Supervisors taking this action.

Mr. Walter Upson, Drew Drive, stated he is also in the flight path. He stated Mr. Potter has indicated it would cost \$10,000 plus filing fees and asked how much additional this will cost. Mr. Potter stated it would probably be \$500.

Ms. Holly Bussey, 20 Knoll Drive, stated BRRAM members would be willing to attend the Southeastern Bucks League of Municipalities meeting. She stated if this does go any further that corridor will be expanded and it will impact other communities because of the

circling patterns. She thanked the Board of Supervisors for being their partner in this. Mr. Santarsiero stated he feels they should get as many people out to the Southeastern Bucks League of Municipalities meeting as possible as it will help if they can show the depth of public support for this and also offer their personal stories regarding this issue. He stated the meeting will be on Wednesday, May 31 at 7:30 p.m. at Bristol Township. Ms. Herman asked that this information be put on the Lower Makefield Township Website and Channel 16.

Mr. Bruce McLish, American Drive, stated he was advised that in the past they did get support from residents in Mercer County, and he would suggest that they contact them as well. He stated as the flight load increases, this means that additional planes will also be taking off from there as well.

Mr. Caiola stated he was on the Ewing Council when much of this was taking place previously, but they did not take a position on this matter. He stated the Freeholder Board was always at odds with Mr. Prunetti as to whether or not the Airport should be expanded. He noted a former Freeholder from Mercer County, Mr. Jim MacManimon, is present this evening, and asked if he is aware if PLANE is active at this point.

Mr. MacManimon noted the individual who coordinated the efforts of PLANE (People Limiting Airport Noise Expansion) is still very active in this issue. He stated this report was completed in 2002 but for years was held up for a number of reasons. He stated years ago the County Freeholder Board did put \$500,000 in the Capital Budget for an Environmental Impact Statement. He stated he lives in Ewing Township and is currently the Business Administrator. He stated the planes fly over his home every day.

Motion carried unanimously.

AWARD CONTRACT FOR THE CANAL INTERCEPTOR REPAIR/ REHABILITATION PROJECT

Mr. Tom Zarko, CKS Engineers, was present and stated on 3/7/06 the Township received bids for the first phase of the project. He stated this phase involves the replacement of approximately 8,000 linear feet of pipeline and the pertinent manholes along sections of the Pennsylvania Canal and also DelMorr Avenue in Morrisville Borough.

Mr. Zarko stated his office reviewed the bid packages received by the Township and in evaluating the bid package of the apparent low bidder, Metra Industries, they noted a problem with the bid cost schedule. They determined that the Metra bid proposal was front end loaded or material unbalanced as insufficient funds were provided for final restoration work. He stated final restoration work on this project is of significant concern as the work will be performed along the Canal Interceptor which is a State Park and also within roadway of an adjacent Municipality. He stated several references provided by

Metra Industries indicated that they had difficulties with this contractor on past projects in restoration issues and based upon these findings, they would feel that the Metra bid is not responsive or responsible and should be rejected by the Township. He stated his office has also reviewed the bid package of the second low bidder – JOAO Bradley Construction Company and found that bid to be in order. He stated the Board could either reject the Metra bid and award the Contract to JOAO Bradley Construction Company at the bid price of \$2,364,373.00 which included alternate add on items or the Board could reject all bid proposals and re-bid the project. He stated this matter was discussed with the Lower Makefield Sewer Authority, and they recommended rejecting the Metra bid and awarding the bid to JOAO Bradley.

Mr. Santarsiero stated he feels the Board is inclined to follow the recommendation of the Sewer Authority, but asked that Mr. Zarko explain the problems they would face if they were to re-bid the project. Mr. Zarko stated the problem with re-bidding the project is that the Canal Interceptor is in a significant state of deterioration. He stated over the past year and a half there have been situations where sections of the pipeline have collapsed. He stated the pipeline is approximately forty years old and has reached the end of its useful life. He stated the Township has developed a program to do a repair/rehabilitation project in two phases, and this is the first phase which addresses the most critical sections of the pipeline; and it is imperative to get the construction started as soon as possible to avoid any additional collapses of the pipeline as the cost associated with repairing those collapses under emergency conditions is three times the cost that they would normally expect under a bid project.

Mr. Stainthorpe moved and Mr. Caiola seconded to reject the bid from Metra.

Mr. Smith asked Mr. Zarko if he is aware whether or not Metra is currently in litigation, and Mr. Zarko stated they understand that they are currently in litigation in a number of different instances on similar type projects where Metra is the party instituting the suit over disputes regarding payment under Contract.

Mr. Charles Schattler stated he is the General Superintendent for Metra Industries and he came tonight expecting an award. He stated if a job is awarded, this does not mean that they do not do the work. He stated the work still has to be done at their cost. He stated the Township would be assured of this by bonds. He stated they have been in business for fifteen to twenty years. He stated they have had one litigation where they were expected to do work over and above the scope of the Contract, and they settled this litigation. He stated no one has sued them for not doing their work. He stated he can provide a list of people they have done work for who were very happy with their work. He stated you can go through any bid and state it is unbalanced as there are monies moved around everywhere by every bidder. He stated he is sure that there has been litigation with JOAO Bradley. He stated he feels Metra is the low responsive bidder. He stated if they are not awarded this job, they are going to pursue getting this project.

He stated if they award it to the second bidder, they will be spending more of the Township's money. He stated they have bonds and have capacity for \$60 million worth of work. He stated they employ thirty people in Pennsylvania. He stated they can also look at JOAO Bradley's records, and he noted an incident in New Hope where they blew up a building. He stated when you do this kind of work there are risks.

Mr. Zarko stated the standard for accepting the bids is to accept the lowest responsible and responsive bidder; and in his opinion, Metra is not the lowest responsive and responsible bidder. He feels JOAO Bradley is the lowest responsible and responsive bidder.

Motion carried unanimously.

Mr. Stainthorpe moved and Mr. Caiola seconded to award the bid to JOAO Bradley for \$2,364,073.00.

Mr. Santarsiero asked Mr. Zarko if he investigated JOAO Bradley prior to making the recommendation, and Mr. Zarko stated they did the same type of investigation that they did for Metra and which they do for any other contractor they evaluate. The result of their review was that they were satisfied that their bid is in order and they are capable of doing the work.

Ms. Virginia Torbert asked for a review of why the first bid was not in order, and Mr. Zarko stated the bid was unbalanced as it was front end loaded, and they have more money in their bid proposal for work that is done earlier in the project and not enough money to cover the work that is required at the end of the project so it is possible that there will be insufficient money to complete the project if the contractor walks away. Mr. Truelove stated Mr. Zarko indicated he also performed an exhaustive review of references which were supplied by Metra, and it was based upon that information as well that caused him to render his opinion; and Mr. Zarko agreed.

Motion carried unanimously.

DISCUSSION AND APPROVAL OF ORDINANCE RESTRICTING THE HOURS OF TRASH COLLECTION WITHIN THE TOWNSHIP

Mr. Truelove stated they previously discussed consideration of an Ordinance for the regulation of times for the collection of trash in the Township. He stated his office has drafted, and the Board of Supervisors has reviewed this; and they have made some modifications which will be finalized tomorrow. He stated the Ordinance will be an amendment to existing Chapter 172 of the existing Township Code. He stated it includes a separate definition section, authorization which comes from the Second Class Township

Code and other State laws and regulations, some exclusions, and set of violations. He stated the impetus for the Ordinance is to regulate hours. He stated he understands that the Board would prefer that the Ordinance reflect that no collector who removes waste or recyclables will be able to collect and/or move Municipal waste or recyclable materials from residences after 8:00 p.m. or prior to 6:00 a.m. on weekdays, and the same time would also be reflected for weekdays from commercial, Municipal, or institutional establishments. The weekend hours for residences would be between 8:00 p.m. and 7:00 a.m.; and for commercial, institutional, and other non-residential areas it would be 8:00 p.m. to 6:00 a.m. similar to the weekday requirement.

Mr. Santarsiero stated there are some minor revisions to the Draft that is before the Board, one on page 2 which would be to change the word “hauler” at the end of the definition of solid waste to “collector” and on page 4 in paragraph C of Section 172-60 to limit the scope of that paragraph to commercial contracts. Mr. Santarsiero called for a Motion.

Mr. Caiola moved and Mr. Smith seconded.

Mr. Santarsiero stated this issue came before the Board after numerous residents over the last few years complained about the fact that waste haulers are coming into their neighborhood at very early times – as early as 3:00 a.m., making loud noise. One of the main problems has been the collection of recyclables as they are the loudest, but this is also an issue with respect to ordinary Municipal waste as when the trucks come through, they make noise. He stated the Board of Supervisors feels it is appropriate to reasonably limit the hours of that activity so as to maintain the quality of life for the Township residents.

Ms. Marianne Lamb, 1505 Westover Road, stated the trucks should also be required to slow down. Mr. Santarsiero stated this is governed by the speed limits in the Township. Ms. Lamb stated they are traveling at far higher speeds than the posted speed limits.

Mr. Santarsiero stated at the last meeting when they discussed this, there was a representative from Waste Management who asked that they reconsider passing an Ordinance like this because it would adversely impact the waste hauler’s ability to do their route in the morning and get to the landfill; and the Board feels that 6:00 a.m. provides sufficient time to do so, and this should not restrain their ability to perform their business and do it in an efficient and cost-effective manner.

Mr. Arthur Cohn, Spruce Mill Drive, asked if this will also impact the developments such as Spruce Mill where they have private roads. Mr. Truelove stated it should affect any road in the Township. He stated while the Contact is between the Association and the haulers, the haulers are still doing residential pick-up; and he feels they would still be subject to this unless the Contract specifies time which he understands most do not.

He stated if the Associations provide his office a copy of their Agreements, they could review them. Mrs. Godshalk asked if the residents have individual containers or is there a dumpster, and Mr. Cohn stated they have individual containers.

Mr. Jim Bray stated there are several trash haulers in the Township so that there is a lot of duplication of effort. He stated from an environmental standpoint this is very wasteful. He stated it also does not make sense economically. He suggested that the Board of Supervisors consider letting out of exclusive contracts to various haulers within the Township. He stated they could negotiate a price; and it is possible that under this arrangement, the people of the Township would pay less money for their trash pick up. He stated one or more haulers could be selected and they could slice up the Township in various areas. He stated the way it is being done currently makes no sense. Mr. Santarsiero agreed that the Board would look into this.

Mr. Kenny Martin stated he has the leverage now to change trash haulers and he did so because he was not happy with the price and the service he was receiving; and if there was only one company, he would not have any leverage. He stated that in Yardley Borough on Taylorsville Road, BFI runs a truck at this location during rush hour in the morning, and the line of cars waiting to get onto I-95 is horrendous. He stated there is no room to go around the truck.

Mrs. Godshalk stated in defense of freedom of choice, the trash haulers they have in the Township offer one can pick-up, or once a week pick up at a reduced rate; and for the Seniors or small families if there was one contract for the Township, they would not have this option and everybody would have to pay the same.

Mr. Zachary Rubin, stated at Makefield Glen through economies of scale, they did negotiate a good price with BFI. Mr. Santarsiero stated they will consider this as an Agenda item at a future meeting.

Motion carried unanimously.

APPROVAL OF ORDINANCE NO. 360 AUTHORIZING THE APPLICATION TO THE COMMONWEALTH OF PENNSYLVANIA FOR SELF-LIQUIDATING DEBT AS A SUPPLEMENT TO THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2006, AS AUTHROIZED BY ORDINANCE NO. 359

Mr. Truelove stated the purpose of this Ordinance is to comply with State requirements and is fairly common practice.

Mr. Stainthorpe moved, Mr. Caiola seconded, and it was unanimously carried to approve Ordinance No. 360.

APPROVE ADOPTION OF TRAFFIC COMMISSION DISTRICTS

Mr. Santarsiero stated when they adopted the Resolution creating the new Traffic Commission, they did so anticipating that they would also create Districts throughout the Township which could then be represented on the Traffic Commission by the various members. Mr. Majewski has proposed three different options for the Board's consideration, and he provided this information to the Board this evening.

Mr. Majewski stated there are many ways they can divide up the Township into different Districts to handle traffic issues and to select representatives to be on the Traffic Commission. In the three options proposed, he tried to look at different areas of the Township to get a representative cross section of people who would have different perspectives on different traffic problems.

Mr. Santarsiero stated he feels Option C would be the most effective and does a good job breaking the Township up. Mr. Majewski stated he agrees that this gives the best balance of population and common concerns for different traffic issues and the best perspective for the entire Township.

Mr. Smith stated they have interviewed a group of fine people to serve on the Traffic Commission; and he is concerned that if they have several people from one of the Districts, he would not want to exclude someone because they have too many representatives in District 1 and not enough in District 6. He stated he would not want to hold up the formation of the Commission because they do not have an applicant from each one of the specific Districts. Mr. Santarsiero stated when they drafted the Resolution they foresaw this possibility and included language indicating that if they could not find someone in each District, they would try to choose people from neighboring Districts. Mr. Santarsiero stated the reason he came up with the idea of having Districts was because there are people in different neighborhoods who have a better understanding of the traffic problems and patterns in their neighborhoods and there are different issues in different parts of the Township. Mrs. Godshalk stated once they have made the Appointments to the Commission, possibly they could look at this and see how the Township should be carved up. She stated those on the Committee could also adopt a District as they are all Township residents and traverse through the Township. Mr. Santarsiero stated the purpose was not that the individuals would be solely responsible for their District, but that the Commission would work for the benefit of the entire Township although if they live in a particular neighborhood, they would have the insight of living in a specific area. Mrs. Godshalk stated she does not feel it is that important to necessarily have someone from each of the Districts and noted that if they made the appointments and then someone resigned from District 1, they would then have to advertise for someone living within a specific area to apply to the Traffic Commission.

Mr. Caiola agreed and stated he does not feel anyone who is appointed to the Commission would be upset if they were asked to be responsible for a different neighborhood.

Mrs. Godshalk moved and Mr. Caiola seconded to approve Option C in the information provided by Mr. Majewski as attached to the Minutes.

Ms. Sue Herman stated she does feel there is merit in getting representation from various areas of the Township as part of what they wanted to do was to get the public buying into driving responsibly in the Township and to slow down. She stated she would not want them to hold up appointments to the Commission, but the more people they can get from different areas, the more effective it will be.

Ms. Virginia Torbert suggested that they start out with three Districts – one in the north, one in the center, and one in the south and appoint one individual from each of those areas along with two to four other people to be appointed at large; and as the Commission meets and begins to look at the issues and priorities, the Commission would then have the authority to assign those people to particular areas. She stated the ideal would then be as Commission members are replaced, that they would give priority to people who live in certain areas. Mr. Santarsiero stated he is concerned that they would then have to revise the Ordinance that exists, and he is not sure what the turn over will be over time on the Commission.

Mr. Ron Schmerko, Quarry Commons Drive, stated he agrees with Ms. Torbert.

Motion carried unanimously.

**APPROVAL OF BARBARA BODINE MINOR SUBDIVISION PRELIMINARY/
FINAL PLAN FOR PROPERTY LOCATED ON EDGEWOOD ROAD**

Mr. Henry VanBlunk, attorney for the developer, and Mr. Bruce Sattin, attorney for the equitable owner of the eventual adjoining parcel, were present. Mr. VanBlunk stated this is an eight acre parcel of ground, and the Bodines want to subdivide the back portion of the property and sell it to Mr. Sattin's client. He stated the Planning Commission recommended approval, and Mr. Majewski by letter dated 3/27/06 indicated that on Lot #1 which is where the existing home is located, after the subdivision, the impervious surface does not meet the ratio for a builder but would meet the ratio for the ultimate homeowner. They are requesting a Wavier for this as the home is already built. He stated they will comply with all other items in the review letters. Mr. Majewski stated they would not need a Wavier for this, but the Board of Supervisors should determine if this is acceptable. He stated the Zoning Ordinance requires that the builder only build up to 25 percent impervious surface coverage, and allow future homeowners to add onto the

property. He stated this property is already built and they have already added onto the property with decks, walks, etc.; and, in fact, they are actually taking away some of the impervious surface.

Mr. Caiola moved and Mr. Stainthorpe seconded to approve the Preliminary/Final Plan for Barbara Bodine Minor Subdivision, Tax Map Parcel 20-34-67-2, dated 10/6/05, last revised 3/5/06 subject to:

- 1) The Applicant shall comply with the Lower Makefield Township Subdivision and Land Development Ordinance (SALDO), the Lower Makefield Township Zoning Ordinance, all applicable State and Federal Ordinances, Statutes, or Laws;
- 2) Receipt of all permits, authorizations, or approvals from all Agencies with jurisdiction, including, but not limited to Pennsylvania Department of Environmental Protection;
- 3) Compliance with the Schoor DePalma letter dated 3/27/06;
- 4) Applicant to pay pursuant to SALDO Section 178-39, an impact fee payable for off-site public transportation capital improvements as authorized under the applicable Impact Fee Ordinance that the Township adopted under Article V-A of the Municipalities' Planning Code, the said amount to be determined;
- 5) Applicant to pay, pursuant to SALDO Section 178-92, the fee-in-lieu of recreation land, the said amount to be determined;
- 6) Compliance with review letter of James C.V. Yates, dated 10/30/05;
- 7) Compliance with review letter from Remington, Vernick & Beach Engineers, dated 3/14/06;
- 8) Compliance with review letter from the Pennsbury School District dated 10/24/05;
- 9) Compliance with review memorandum from the Bucks County Planning Commission dated 10/31/05;
- 10) Compliance with review memorandum from the Lower Makefield Township Planning Commission dated 4/25/06;

- 11) Compliance with the proviso listed by the Lower Makefield Township Planning Commission that #1 on the subject Plans be modified to the satisfaction of the Township engineer;
- 12) Compliance with the Board of Supervisors' conditions regarding Applicant's request to exceed the maximum impervious surface ratio of 0.25 permitted by the developer, by an additional 267 square feet on Lot #1, not to exceed an impervious surface ratio of 0.267;
- 13) Revision of Plans to show proposed location for a recharge chamber for roof drains, said Plans to note that said recharge chamber for roof drains to be located a minimum of 10 feet from the building foundation, subject to Township engineer approval;
- 14) Where applicable, the Applicant shall comply with all comments from the appropriate authorities responsible for approval of the proposed utilities.

Mr. VanBlunk stated the Conditions are acceptable.

The Motion carried unanimously.

ACCEPT WITHDRAWAL OF PRELIMINARY/FINAL PLAN FOR PRATICO SUBDIVISION

Mr. Truelove stated Mr. Fedorchak received a letter from Mr. Pratico dated 3/17/06 requesting acceptance of withdrawal of the Preliminary/Final Plan. Mr. Truelove stated he will meet with Mr. Fedorchak to determine what costs have been incurred to date so he would recommend that the Board accept the withdrawal and that the other issues be deferred at this time.

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to accept the withdrawal of the Preliminary/Final Plan for the Pratico Subdivision but that the other issues in Mr. Pratico's letter of 3/17/06 be deferred pending review by Mr. Fedorchak and the Township solicitor.

ZONING HEARING BOARD MATTERS

It was agreed with respect to the Joseph and Marie Conner, 1084 Lily Pond Lane, Variance request to allow the previous removal of trees as well as permit the proposed removal of additional trees in a Conservation Easement and wetland area, that the solicitor appear to insure compliance with certain conditions.

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried that the solicitor appear in opposition to the Peter Orloff and Joy Grace, 937 Sandy Run Road, Variance request to allow the previous removal of trees as well as permit the proposed removal of additional trees in the flood plain, subject to homeowners' compliance with several different agency conditions and oversights and for the Township to be involved in the process.

It was agreed to leave to the Zoning Hearing Board the Michael and Kristin Sullivan, 933 Gainsway Road, Variance request to permit construction of a patio resulting in greater than permitted impervious surface.

SUPERVISORS' REPORTS

Mr. Santarsiero stated they have met preliminarily about articles for the June Township Newsletter and a draft should be available within the next few weeks to be circulated to the Board. He stated the Pension Committee met and they should have a Pension Plan to be considered by the Board of Supervisors within the next month. The Southeastern Bucks League of Municipalities will meet on May 31, and one of the issues on the Agenda will be the proposed Airport expansion in Mercer County.

Mr. Caiola stated the Sewer Authority discussed the bid as well as a brief discussion on the scope of the study they will do to determine whether or not the Township should sell or not sell the sewer system. He stated this information has been passed along to Mr. Fedorchak with some names of potential people to do the study.

Mr. Stainthorpe stated the Philadelphia PGA is very interested in having their offices located at the Manor House at the Township Golf Course. He stated Mr. Fedorchak and Mr. Draper attended a meeting on this last week. The Philadelphia PGA will make a presentation to the Golf Committee this coming Monday; and depending on how that presentation goes, the next step would be for them to make a presentation to the Board of Supervisors. He stated he and Mrs. Godshalk attended the Convention. He stated at the Convention Delegates vote on Resolutions which is actually direction to the lobbyists of what laws they are in favor of or those they want to oppose. He stated they did vote to oppose Verizon in their efforts to gain a State Franchise as opposed to a Local Franchise. He stated there was a Resolution from both Bucks County and Beaver County which

were very similar and these were passed by the group. They also passed a Resolution to allow local Townships to use radar. He stated there was discussion about a regulation which was apparently approved that would extend prevailing wage to Township road crews and Township road work, and this could have a devastating impact on everyone's Budget and could triple the cost of paving roads in the Township. He stated Governor Rendell put it on hold, not because he was against it, but because he had some procedural questions as to how it had been publicized.

Mrs. Godshalk stated seventeen trees were planted around the Memorial. Tomorrow and Monday fifty-four maple trees will be planted along the entrance road. These were acquired through the Living Memorials Grant that the Committee obtained. She stated Building Restoration is on the scene and installing the piping for the vault for the water. She stated they have also discussed a well. She stated they have a gift from someone who would like to put in an underground irrigation system but first they need a well as they do not want to use public water. She stated this could also be carried to other areas when the ball fields go in, etc. Mr. Fedorchak is looking into the cost of drilling a well.

TABLE APPROVAL OF THE 2006-2007 CONSORTIUM FUEL OIL BIDS

Mr. Fedorchak asked that the Board table this item. He stated these bids are for heating oil, gas, and diesel fuel. He stated this is the first time that the Consortium did not receive firm prices for the entire year for diesel and gas. He stated there are also a few questions he has of the Consortium for which he does not yet have answers.

Mr. Caiola moved, Mrs. Godshalk seconded and it was unanimously carried to table.

APPROVAL OF 2006-2007 CONSORTIUM ROAD MATERIAL BID

Mr. Fedorchak stated this is for various materials used by the Public Works Department including stone and asphalt products used for repairing roads, back trenching, storm sewers, etc. He stated they recommend that they award the bids to Eureka Stone, Hansen Aggregate, and Barret Asphalt and the Public Works Department will then have the opportunity to purchase those materials at the best available prices.

Mr. Stainthorpe moved, Mrs. Godshalk seconded and it was unanimously carried to approve the 2006-2007 Consortium Road Material Bid as outlined by Mr. Fedorchak.

AWARD BID FOR RENTAL OF UNIFORMS FOR PUBLIC WORKS, SEWER DEPARTMENT, AND PARK & RECREATION EMPLOYEES

Mr. Fedorchak stated for this particular item, the price bid by Aramark is less than what was paid in 2005.

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to award the bid for rental of uniforms for Public Works, Sewer Department, and Park & Recreation employees to Aramark.

OTHER BUSINESS

Mr. Smith asked that Mr. Fedorchak look at the Applicants for the Traffic Commission to see where they reside in relation to Option C approved this evening.

Mr. Santarsiero noted the upcoming Memorial Day Parade to which the Board of Supervisors has been invited. He stated he has responded on behalf of the Board indicating that they would be present; and if they are not able to attend, he asked that he be advised.

Mr. Santarsiero stated that Richard Blake Miller has invited the Board to attend his Eagle Scout Ceremony to be held on June 4 at 3:00 p.m. at the United Methodist Church.

There being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Greg Caiola".

Greg Caiola, Secretary