

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES - APRIL 20, 2011

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on April 20, 2011. Chairman Caiola called the meeting to order at 7:35 p.m. Mr. Smith called the roll.

Those present:

Board of Supervisors: Greg Caiola, Chairman
 Pete Stainthorpe, Vice Chairman
 Ron Smith, Secretary
 Dan McLaughlin, Treasurer (joined meeting in progress)
 Matt Maloney, Supervisor

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

PUBLIC COMMENT

Ms. Gudrun Alexander, 256 S. Fieldstone Court, stated she spoke to Mr. Majewski prior to the meeting about a situation with her neighbor who is about 4' above her property; and all her downspouts go into Ms. Alexander's yard. Ms. Alexander stated she had politely asked her to do something about this, but she refused. She asked if someone from the Township could look into this situation and discuss the matter with her neighbor.

Mr. McLaughlin joined the meeting at this time.

Ms. Alexander stated she would also like to know if there is a law in the Township about feral cats and TNR. Mr. Truelove stated there must first be a determination whether or not they are wild animals. He stated they do not have an Ordinance that limits the number of cats a person can have, but feral cats could be considered a public safety issue. Mr. Stainthorpe stated approximately six to seven years ago there was a problem with feral cats, and they did have to deal with this. He stated he knows that there are places in the Township where there are a significant number of feral cats, and people in the neighborhood feed them so that they do not leave the area and they breed. He stated he feels this is an issue that should be addressed if it is a problem. Mr. Caiola stated the Animal Control Officer does a lot of work in the Township with regard to feral cats.

Mr. Smith asked Ms. Alexander if she has had discussions with Ms. Belinsky who is the Township's Animal Control Officer; and Ms. Alexander stated she has, and she was told that if she feeds the feral cats, she would be fined. Ms. Alexander stated she looked this up at the Township, but she could not find anything that it is against the law other than feeding them in a public area such as a Park. She stated she does not feed them too often, but she does feed them. Chief Coluzzi stated it is against Township Ordinances to feed feral cats even on private property.

Ms. Alexander asked about TNR (trap, neuter, and release). Chief Coluzzi stated he is not sure that the Township Ordinances address this, and he would have to review this. He stated he would also have to look into State requirements. He agreed to look into this and contact Ms. Alexander. Ms. Alexander stated she would be fine with Ms. Belinsky setting traps. She stated she has also advised Ms. Belinsky that she should get the adult cats and not the kittens since it is the adult cats that are the problem.

With regard to the issue raised about the neighbor's downspouts, Mr. Majewski stated either he or Mr. Habgood could look into this. He stated in some of the older neighborhoods there is nothing that requires where you have to point the downspouts, but possibly they can come up with a solution.

APPROVAL OF MINUTES

Mr. Smith moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Minutes of April 6, 2011 as written.

APPROVAL OF MARCH 21, APRIL 4, AND APRIL 18, 2011 WARRANT LISTS, AND MARCH, 2011 PAYROLL

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the March 21, April 4, and April 18, 2011 Warrant Lists, and March, 2011 Payroll as attached to the Minutes.

OTHER BUSINESS

Mr. Truelove stated Executive Session was convened between 6:30 p.m. and 6:45 p.m.; and Mr. Caiola, Mr. Maloney, Mr. Smith, and Mr. Stainthorpe were in attendance. He stated they discussed items of real estate and litigation.

APPROVE AMENDMENT TO THE RECYCLING AGREEMENT WITH OTTER RECYCLING CENTER

Mr. Truelove stated the Board discussed this in detail at the last meeting. This Amendment relates to single-stream recycling and haulers that utilize Otter Recycling now owned by Waste Management. He stated the EAC endorsed this Amendment.

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the Amendment.

DISCUSSION AND APPROVAL OF FIVE-YEAR LEASE TO FARM THE PATTERSON FARM

Mr. Fedorchak stated every five years, the Township puts out to public Bid a lease to commercially farm the Patterson Farm. He stated approximately one month ago, the Township publicly advertised and reached out to several farmers to see if they were interested in getting involved.

Mr. Fedorchak stated the Township received three Bids: one from Bill Sterling of Sterling Farms at \$111 per acre which would be \$19,980 per year, the second Bid from Sam Stewart, Charlann Farms at \$110 per acre which would be \$19,800; and the third Bid from Robert Rook of Rook Farms at \$76.28 an acre which would be \$13,730.40. Mr. Fedorchak stated this morning he was visited by Tom McGowan, representing Sterling Farms, who advised that Sterling Farms was requesting permission to withdraw their Bid. Mr. Fedorchak stated he would therefore recommend awarding the Bid to Sam Stewart. He added that Mr. Stewart has farmed the property for the last five years.

Mr. Maloney stated there was also another Bid on the list which was ineligible, and he asked for information on this. Mr. Fedorchak stated Mr. Stewart had provided an elaborate proposal dealing with doing certain things for the Township relative to the leaf program; and he was assigning a certain cash value which would be \$70 an acre and he then added to that a number for his labor which he assigned a figure of \$60 an acre. Mr. Fedorchak stated this was not the way the Bids were structured, and it would have been unfair to the other Bidders to consider that. He stated that Bid was non-responsive.

Mr. Smith asked the price for the last five-year Lease, and Mr. Fedorchak stated they received \$72 an acre which came to \$13,536 per year. Mr. Smith asked if the tillable lands to be leased are the same as in the last Lease, and Mr. Fedorchak stated it will be for 180 acres which is a few acres less than previously.

Mr. Fedorchak stated since the Township took over the Patterson Farm about ten years ago, the Farm has been commercially farmed, and the first five-year Lease went to the Tanner Bros. for approximately \$100 per acre. The second five-year Lease went to Sam Stewart.

Mr. Stainthorpe moved and Mr. Smith seconded to approve Sam Stewart's Bid at \$110 per acre.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, asked if there are any significant changes in this Lease from the previous Lease, and Mr. Fedorchak stated there are not.

Motion carried unanimously.

DISCUSSION AND AUTHORIZE ADVERTISEMENT OF DELAWARE RIVER SOUTH WATERSHED (ACT 167) STORMWATER MANAGEMENT ORDINANCE UPDATE

Mr. Truelove stated the DEP regulations require updating this by May 22, 2011, and he is requesting that the Board authorize advertisement so that the Board can enact this before the May 22 deadline.

Mr. Stainthorpe stated he reviewed these on-line, and they are significant. He asked Mr. Majewski if his firm wrote these or was this provided to the Township. Mr. Majewski stated it was a model Ordinance which was part of the Act 167 Plan for the Neshaminy Creek Watershed, and they are using it for the Delaware River South Watershed as well. He stated they did make some minor changes.

Mr. McLaughlin asked if this requires any additional oversight by the Township, and Mr. Majewski stated this Ordinance fine tunes some of the previous requirements from the previous Ordinance to make the standards of what is expected from the calculation standpoint for developers a little clearer. He stated it also clarifies when a full-blown Stormwater Management Plan is required for a property, and there are certain exemptions from doing a full-scale Plan.

Mr. Stainthorpe asked what would be the penalty if the Township were to choose not to enact this, and Mr. Truelove stated the State could withhold funding.

Mr. Stainthorpe moved, Mr. Maloney seconded and it was unanimously carried to authorize advertisement of the Delaware River South Watershed (Act 167) Stormwater Management Ordinance Update.

**AUTHORIZE ADVERTISEMENT OF THE NESHAMINY CREEK WATERSHED
(ACT 167) STORMWATER MANAGEMENT ORDINANCE UPDATE**

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to authorize advertisement of the Neshaminy Creek Watershed (Act 167) Stormwater Management Ordinance Update.

**DISCUSSION AND APPROVAL OF REQUEST BY HOMEOWNER TO INCREASE
THE IMPERVIOUS SURFACE AT 1429 HEATHER RIDGE DRIVE**

Mr. Truelove stated the homeowners have on their linens Deed-restricted impervious surface amounts. He stated they are requesting from the Township an increase in impervious surface in order to allow them to construct an in-ground pool. He stated the amount of impervious surface they are requesting will still be less than what normal Zoning regulations would allow. Mr. Truelove stated Mr. Majewski has reviewed this and has recommended approval with some conditions regarding stormwater management facilities such as a dry well or infiltration trench.

Mr. Majewski stated he has discussed this with the homeowners, and he feels they have a scheme to work this out to provide some stormwater management for the amount of impervious surface that is over what is permitted on the Recorded Linens. He stated the total impervious surface will be 17% which is well under the 21% that would be allotted per Zoning.

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the request.

APPROVE GRANTING EXTENSION OF TIME FOR GATHERINGS @ YARDLEY

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to grant the Extension of time for Gatherings @ Yardley Preliminary Plan until 7/15/11.

**GRANT CERTIFICATE OF APPROPRIATENESS FOR CONSTRUCTION OF A
NEW SHELL BUILDING AT 734 STONY HILL ROAD – EDGEWOOD CROSSING
BUILDING NO. 4**

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously to grant the Certificate of Appropriateness for construction of a new shell building at 734 Stony Hill Road – Edgewood Crossing Building No. 4.

GRANT CERTIFICATE OF APPROPRIATENESS TO REPLACE LANDINGS, HANDRAILS, LANDING ROOF, REPAINT BUILDING, AND PLACE FILL FOR BASEMENT WINDOWS AND FOR CHIMNEY AT WARREN FARRINGER HOUSE, 668 STONY HILL ROAD

Mr. Smith moved, Mr. Maloney seconded and it was unanimously carried to grant Certificate of Appropriateness to replace landings, handrails, landing roof, repaint building, and place fill for basement windows and for chimney at Warren Farringer House, 668 Stony Hill Road.

REVIEW OF FIRST QUARTER FINANCE REPORT

Mr. Fedorchak stated the First Quarter Report is posted on-line on the Township Website. He stated the revenues and expenses for the first three months are tracking as expected, and in a manner similar to last year. He stated there are no significant variances at this point in time. He stated as is the case every year, the Township is light with regard to revenue as they do not start to receive the bulk of the property taxes until the second quarter in the month of April. He stated so far this month, the Township has received approximately \$4 million in property taxes. He stated the discount period ends the first week of May.

Mr. Fedorchak stated although it is early in the year, the Deed Transfer Taxes for the first three months are tracking slightly higher than last year as are the Local Services Taxes. He stated they are on Budget. He stated on the Expense side, they are also as expected with the exception of snow removal.

Mr. Caiola asked if they feel that the Local Service Taxes are up because people now are aware of it, and Mr. Fedorchak agreed. Mr. Smith asked if those who did not pay last year are required to pay those charges for 2010; and Mr. Fedorchak stated Berkheimer and Associates are the collection agency for the Township, and part of that process is getting a firm grip on how many people should be paying the tax. Mr. Fedorchak stated he will discuss this with Berkheimer to make sure they are also collecting the back taxes as it is the intention to collect for 2010 and 2011.

Mr. McLaughlin stated the sale of Elm Lowne was not Budgeted, and Mr. Fedorchak agreed. Mr. McLaughlin asked how much this will save the Township in operating expenses, and Mr. Fedorchak stated he feels the net will be approximately \$20,000 a year. Mr. Smith stated they will also get tax revenue for the property.

Mr. Joe Menard, Chair of the Citizens Budget Committee, stated they discussed with Mr. Fedorchak the format since it is difficult to compare last year to this year. He stated they are going to work with Mr. Fedorchak on a different format; and hopefully, they will have that in place when they do the half year report for 2011.

Mr. Maloney stated where they show year-to-date expenditures this year and last year, they should also put to the side of that how much the Budget increased this year from last year.

Mr. Smith asked if they will reconfigure last year's Budget so they can compare "apples to apples;" and Mr. Menard stated they will. He stated they also want to take out of both years the extraordinary items since when you have a special Grant or some other special item, it impacts the revenue/expenditures; and you are then not able to make comparisons.

Mr. Zachary Rubin, 1661 Covington Road, Chairman of Electronic Media Advisory Committee (EMAC), stated they have purchased a character generator so that those looking at the meeting on television can read the topic that is being discussed. He stated people can also go to the Website on demand and watch the meetings. Mr. McLaughlin stated he has heard from a number of residents who are watching the meetings at their leisure. Mr. Rubin stated Mr. David Kelliher is implementing all of the new hardware and software devices and should be recognized. Mr. Smith asked if there is feedback on increased use of the Website; and Mr. Rubin stated there is a counter, and Mr. Fedorchak has asked EMAC to look into which pages are being viewed. Mr. McLaughlin stated he would be interested in knowing how many people are watching the meetings, and Mr. Rubin stated Mr. Fedorchak can provide this.

ZONING HEARING BOARD MATTER

With regard to the George and Linda McDavid, 1346 Lexington Drive, Variance request to construct an addition and expand the existing patio which will result in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. Stainthorpe stated the Golf Committee discussed the size of the Golf Committee, and they have recommended that they keep it a nine-person Committee. Mr. Stainthorpe stated with regard to EMAC, the design of the new Township Website is almost done; and he would expect to go live with the upgrade soon. Mr. Fedorchak stated there will still be some items that will need to be worked out even after they go "live."

Mr. McLaughlin reported on the Veterans Committee fundraiser which was held recently at the Yardley Inn where they raised over \$10,000. Mr. Smith stated it was a very well attended event. Mr. McLaughlin stated the Veterans Committee met with Mr. Fedorchak on establishing a schedule; and Mr. Fedorchak stated they will first have to go out to Bid.

Mr. McLaughlin read a letter from Mr. Majewski on a recommendation from the Zoning Hearing Board, as follows: “The Zoning Hearing Board has recommended that the Board of Supervisors amend the Zoning Ordinance to increase the time limit on Variances granted from six to twelve months. This will give homeowners more time to submit Building Permits after a Variance is granted.” Mr. McLaughlin stated the Zoning Hearing Board usually agrees to grant these Extension, but they are recommending that it would be better to amend the Ordinance so that it is built in. Mr. Maloney stated he is concerned with commercial developers who could take their time in proceeding. He stated he is not concerned about Extensions for individual homeowners. Mr. Majewski stated one year is a typical time limit that many Townships have, and Lower Makefield chose to be more conservative years ago. He stated the Zoning Hearing Board typically have to grant a number of these Extensions at each meeting. Mr. Smith asked if this will involve costs for legal services to change the Ordinance. Mr. Majewski stated they would have to update the Ordinance and advertise it; and possibly if there are other Ordinance revisions to be made, they could include this with those other revisions. Mr. Maloney stated there is a growing list, and they could defer this additional revision until they are ready to proceed with those. Mr. McLaughlin agreed to provide the letter he received from Ms. Kirk on this to the other Board members.

Mr. Maloney stated the EAC will have a geo-thermal presentation on Saturday, May 14 at 10:00 a.m. Mr. Maloney also announced that the next Hazardous Waste Collection will be held on Saturday May 7 from 9:00 a.m. to 3 p.m. at the Lower Makefield Corporate Center. Mr. Caiola asked that this date be listed on the Township Website, and Mr. Fedorchak agreed to do this.

AWARD BID FOR FUEL

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried to award the Bid for fuel to Ports Petroleum & Petroleum Traders for the period of May 1, 2011 to April 30, 2012 through the Bucks County Consortium.

AWARD BID FOR STONE AND ASPHALT

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to award the Bid for stone and asphalt for the 2011 season through the Bucks County Consortium to Miller & Son Paving for the stone and Barrett Asphalt for the asphalt.

APPOINTMENTS

Mr. Smith moved, Mr. McLaughlin seconded and it was unanimously carried to appoint Mark Ellison to the Golf Committee.

Mr. Smith wished everyone a happy Passover and Easter.

Ms. Alexander stated she feels more people should be attending the Township meetings. Mr. Caiola noted the Agenda this evening was "light," and they often have many people present for other meetings. Mr. Smith stated many people have approached him and advised that they do watch the meetings on television.

There being no further business, Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to adjourn the meeting at 8:17 p.m.

Respectfully Submitted,

Ron Smith, Secretary