

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – MARCH 21, 2012

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on March 21, 2012. Chairman Stainthorpe called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors: Pete Stainthorpe, Chairman
 Dan McLaughlin, Vice Chairman
 Dobby Dobson, Secretary
 Jeff Benedetto, Treasurer
 Kristin Tyler, Supervisor

Others: Terry Fedorchak, Township Manager
 Jeffrey Garton, Township Solicitor
 Mark Eisold, Township Engineer
 Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Ms. Kaaren Steil, 1027 Darby Drive, stated she was present on behalf of the Historical Commission. She stated last week they met with members of the Township Golf Committee to discuss the preservation of the Manor House on the Township Golf Course. Ms. Steil stated concern was expressed about making the structure habitable at a reasonable cost. She stated because the house and grounds are owned by the Township, a renter would be a caretaker of the Manor. She stated they also discussed how the structure, if rehabilitated, could be used and who would manage the bookings and the maintenance, and what kind of return could an investor expect on their funds. Ms. Steil stated the Historical Commission promised to keep the Golf Committee informed on this issue. Ms. Steil stated the Historical Commission also went through the Manor House along with Ken Stewart who formerly rented the Manor House. She stated the date stone is missing but the first section was built in the late 1700s. She stated they feel there is potential in restoring the structure, and the Historic Commission will be doing due diligence before asking for financing, drawing of plans, and a timetable for completion. She stated they plan to talk to homeowners who have successfully renovated their historic homes in the Township. Ms. Steil stated the Historic Commission also hosted their third cultural history open house last Sunday afternoon. The theme was religious tolerance.

APPROVAL OF MINUTES

Mr. McLaughlin moved, Mr. Dobson seconded and it was unanimously carried to approve the Minutes of March 7, 2012 as written.

APPROVAL OF FEBRUARY 21, MARCH 5, AND MARCH 19, 2012 WARRANT LISTS AND FEBRUARY, 2012 PAYROLL

Mr. Benedetto moved, Mr. McLaughlin seconded and it was unanimously carried to approve the February 21, March 5, and March 19, 2012 Warrant Lists, and February, 2012 Payroll as attached to the Minutes.

DISCUSSION AND MOTION ON BUCKS COUNTY CONSERVATION DISTRICT GRANT PARTNERSHIP

Ms. Meghan Rogalus, watershed specialist, was present and stated the Bucks County Conservation District has been awarded a Federal Grant through Section 319 – Non-Point Source Grant. She stated they have approximately \$200,000 available for stormwater basin improvement in the Core Creek Watershed, and they would like to partner with the Township. Ms. Rogalus stated they have been working with Princeton Hydro on the watershed for approximately twenty years.

Mr. Fred Lubno and Mr. Clay Emerson were present from Princeton Hydro. Mr. Lubno stated they have been partnering with Bucks County Conservation District in implementing a variety of projects to help improve the water quality within the Core Creek Watershed and Lake Luxembourg. He stated Lake Luxembourg is a very popular recreational water body in Core Creek and is approximately 179 acres. He showed a view of the Lake and stated the goal is to reduce nutrients and solids going into receiving waterways. Mr. Lubno stated the watershed itself is over 6,000 acres with one third of that in Lower Makefield.

Mr. Lubno stated they are focusing on non-point source pollution which comes in from the atmosphere, stormwater, groundwater, etc. and is very difficult to control as opposed to point source pollution which comes from a definite discharge pipe. Mr. Lubno stated since the early 1990s they have been working with Bucks County Conservation District in a variety of studies and projects to identify not only the source of the problems such as nitrogen and phosphorous but also to identify sites for projects to reduce these loads. Mr. Lubno reviewed a number of projects they have done over the years which have been detailed in the report they submitted to the Board. He stated along with the EPA and DEP they identify what the existing phosphorous load is going into the Lake and identify

what the desirable load should be. He stated the long-term goal is to reduce the load going into the Lake by a little under 230 pounds of phosphorous. He stated they also have similar numbers for total suspended solids. Mr. Lubno stated in 2008 they completed a third project and the Restoration Plan was updated at that time with the ultimate goal of continuing to reduce the pollutant loads. He stated they are looking to reduce both pollutants by approximately 25%.

Mr. Lubno stated the Grant which was just received is focusing on reducing the impacts from stormwater primarily by restoration of basins. Mr. Lubno stated four basins have been selected in Lower Makefield Township.

Mr. Lubno discussed projects they implemented in the past and showed pictures of the Lake. He stated they worked with students from the Neshaminy Middle School who helped them with plantings. He showed pictures of the Lake before and after the project. Mr. Lubno noted the partnership project with Lower Makefield would be the fourth 319 Grant that would be implemented within this watershed.

Mr. Clay Emerson stated the purpose of the detention basin retrofits is to decrease the amount of pollution going into the Lake and improve the water quality at the outflow from the basins. He stated the Township has already done some naturalization of some of the basins, and they want to improve on the current success of those projects. Mr. Emerson stated the retrofits will decrease the amount of run off that leaves the basins and will also improve water quality and provide an aesthetic benefit to the surrounding landowners as well as ecological value.

Mr. Emerson showed photos of the four basins that have been selected including the Gray Nun Academy basin which is currently mowed by the Township and Gray Nun Academy. He stated by naturalizing the basin there will be a cost savings since they will not have to mow as frequently as it is currently. He showed two basins located at Heather Ridge with a meadow condition and a concrete low-flow channel. He stated the final basin is at Yardley Run and is a somewhat naturalized state also with a concrete low-flow channel. Mr. Emerson stated they propose to increase the flow path and increase the contact with the soil and vegetation in the basin as this is what provides water quality treatment. He stated they will first remove the concrete low-flow channels as they have found that these are now discouraged from a water-quality standpoint. He stated they will do minor grading to mimic a natural flow path through the basin and then supplement the plants and vegetation in the basin. He stated they use a variety of native plants which are chosen for the conditions of the basin. He showed slides of similar basins which have been naturalized. He stated maintenance required is typically one time a year and invasive species monitoring.

Mr. Stainthorpe stated the Township is already on a path like this and the EAC has recommended basin naturalization which they have been pursuing. Mr. Stainthorpe stated he is in favor of this since the water quality improves and it results in a tax savings since they do not have to mow as often. Mr. Stainthorpe asked who will manage the project. Mr. Lubno stated they will provide the technical oversight, develop the design, and work with the contractor and the Conservation District. He stated they will also provide a maintenance manual to the Municipality. He stated overall the maintenance is less than a more conventional basin and would involve mowing about once a year and some periodic monitoring for invasive species. He stated once the native vegetation is well established it is more difficult for invasives to come in. He stated they will require some technical input and assistance from the Township particularly with regard to the list of vegetation that they would like to plant and make sure the Township is comfortable with the species list and comfortable with the design. He stated any time the Township uses to review plans, provide oversight, make recommendations, etc. counts as in-kind match for the Grant.

Mr. Stainthorpe asked if Princeton Hydro would do the actual design and supervise the construction, and Mr. Lubno agreed. He stated their client is Bucks County Conservation District since they were awarded the Grant. Mr. Lubno stated his firm will select a surveyor to collect the data, do the hydrological analysis and engineering, help select the contract, project oversight and restoration, and then have a close-out meeting with the Township at each basin to insure everyone is satisfied with the work.

Mr. Dobson asked how long the process will take. Mr. Emerson stated they have a time frame with the Grant, but the construction process itself takes only three to four days. Ms. Rogalus stated the Grant time line itself is typically two to three years maximum. Mr. Emerson stated they anticipate that the design and implementation would be done within this calendar year.

Mr. Lubno stated as part of the Grant they have to collect water quality data from the basins and they need to collect this from three storm events before the work is done and three after the work is done.

Mr. McLaughlin asked how school students would be involved. Ms. Rogalus stated for a number of projects the Conservation District has sponsored throughout the County, they enlisted volunteers as a way to maximize the funding. She stated in the past Neshaminy Middle School students were the volunteer base for the Core Creek Park project, but in Lower Makefield, they would reach out locally. She stated their role would be with regard to planting. Mr. McLaughlin asked when they were hoping to start these projects, and Ms. Rogalus stated they are under a time constraint to finalize the Grant Contract with the DEP, and they need to get an agreement of land owner consent from the Township. Mr. Lubno stated he assumes that the work itself would occur in the fall depending on how much rain they get. He stated they have to submit a water quality

monitoring plan to the State and this must be approved by both the State and the EPA before they begin monitoring. He stated if this approval is not received quickly, they may have to push the project into the spring.

Mr. Fedorchak asked if they anticipate having to hire a contractor for any of the planting or would this be entirely volunteer; and Mr. Emerson stated they would probably hire a contractor for portions of the project particularly if there are larger plant materials proposed. Mr. Lubno stated based on their other projects, the contractor did the earth work and some of the heavier planting; and it was set up so that when the students arrived, they just had to put in the plugs.

Mr. Garton stated if approved, the Township would be committing to make the four basins available for this purpose; and by signing the Agreement would acknowledge and represent that they own the basins and consent to them going onto the property to complete the project. Mr. Garton stated the Township will also agree to participate in making sure that the project is done in accordance with the Stormwater Best Management Practices Manual and the Plans which will be approved by the Township. The Township will also acknowledge that they will have a responsibility going forward as to the maintenance and will agree not to destroy what has been put in. Mr. Garton stated to the extent that there are nutrient credits, these would belong to the State and not the Township. He stated they also propose suggested maintenance responsibilities, and he asked Mr. Fedorchak to review this; and Mr. Fedorchak stated the Township would be agreeable to this.

Mr. Benedetto asked if they have met with the Environmental Advisory Council, and Ms. Rogalus stated they have not with regard to this project. Mr. Benedetto encouraged that they do so since they have a lot of knowledge about native plants, and Ms. Rogalus agreed to do so.

Ms. Tyler asked the amount of the Grant, and Mr. Lubno stated it was \$239,900. Ms. Tyler asked how many basins they contemplate working on; and Mr. Lubno stated there are a total of four basins and approximately 1,000 linear feet of shoreline stabilization at Lake Luxembourg. Ms. Tyler stated the four basins being considered are all in Lower Makefield, and Mr. Lubno agreed. Ms. Rogalus stated when working on these restoration projects, it makes sense to work from the upper portion to the lower portion of the watershed, and Lower Makefield is in the upper portion and already has a low-mow policy in place.

Mr. Eisold stated he feels this is a good idea and the BMPs are moving toward this type of basin as opposed to the mowed basins and low flow channels which were previously commonplace. He also suggested that they work with the EAC.

Mr. Jim Bray, EAC, stated he is delighted to see a project like this going forward as it lends credibility to what the Township has been doing for many years. He stated Lower Makefield has 101 basins and 47 open space areas and after four and a half years in the program, they have over sixty basins in the program. He stated he and Mr. Stainthorpe recently discussed the basins, and he advised Mr. Stainthorpe that to date the project has not cost the Township any money; but in the future when the economy stabilizes there is more they would like to do with the basins including removal of the low-flow channels. He stated they would also like to see some of the basins planted with native plant materials. Mr. Bray stated Lower Makefield is one of the very few Municipalities in Pennsylvania that has a Native Plant Ordinance, and they have an extensive list of plants which could be used in the projects. He stated the EAC will supply any expertise they might have.

Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to approve the project in cooperation with Bucks County Conservation District and the DEP and authorize execution of the Landowner Grantee Agreement with the Commonwealth and the Bucks County Conservation District by the appropriate Offices of the Board conditioned on working with the EAC.

APPROVE GRANTING OF EXTENTIONS TO JENNINGS TRACT AND FIRST BAPTIST CHURCH OF NEWTOWN

Mr. McLaughlin moved, Mr. Dobson seconded and it was unanimously carried to grant the following Extensions:

Jennings Tract - June 30, 2012
First Baptist Church of Newtown t/a Grace Point – June 30, 2012

With regard to the First Baptist Church matter, at the request of Mr. Benedetto for clarification, Mr. Garton explained that they need to go through a planning process related to sewers. He stated they were on a private septic system, and one of the Conditions of Approval was that they had to connect to public sewers when they became available. He stated they will have a private pump station to get it to the Township system; and when you do this, you are required to have a Maintenance Agreement with the Township and go through a more formal planning process with DEP that has not yet been completed.

ZONING HEARING BOARD MATTERS

With regard to the Wes Scheiring, 1417 River Road, Variance requests to construct an in-ground pool and gravel driveway which would disturb the 100 year flood plain and encroach in side yard setbacks, it was agreed that the Township should participate as there were a number of residents who came out previously opposed to the Application and due to the complexity of the case.

Mr. Edward Murphy was present and stated he represents Mr. and Mrs. Scheiring. He advised the Board that since the original Application was filed last summer and the first Hearing was held, the present Application is the result of collaboration between the Applicants and the neighbors who have actively participated since the outset. He feels the current Application represents a compromise addressing all the various concerns they have heard to date.

Mr. Stainthorpe stated they are not asking the Solicitor to appear in opposition; and Mr. Garton stated as is their practice, he will report back to the Board the nature of what took place at the Hearing and there will be a liaison from the Board of Supervisors there as well.

With regard to the James and Tracy Fish, 393 Collins Grant Court, Variance requests to construct a single-family detached dwelling encroaching in the side yard setbacks and within the resource protection area, it was agreed to leave the matter to the Zoning Hearing Board.

Mr. Garton announced that the Board met in Executive Session for approximately forty-five minutes prior to the public meeting to discuss personnel matters related to evaluations and potential litigation and Zoning Hearing Board matters.

CANCEL BOARD OF SUPERVISORS MEETINGS

Mr. Stainthorpe stated for the months of July and August the Board normally meets only one time. Mr. Dobson moved, Mr. Benedetto seconded and it was unanimously carried to cancel the meetings of July 4, 2012 and August 1, 2012.

AWARD 2012-2013 STONE AND ASPHALT BID

Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to award the 2012-2013 stone and asphalt bid to Miller and Son Paving through the Bucks County Consortium.

BIBLE FELLOWSHIP CHURCH PRESENTATION OF EXPANSION PLANS

Mr. Stainthorpe stated the Bible Fellowship Church has been in the Township since approximately 2000, has grown greatly during that time, and has been extraordinarily successful in attracting new members. He stated they are the kind of vibrant organization you want to have in the Township. He stated they would like to expand and some of their Plans have already been approved. He stated at this point in time in order to expand, they need more parking. He stated the Township has had discussions with them over the past year about the possibility of selling them some Township land.

Mr. Stainthorpe stated the Church is on Oxford Valley Road behind Edgewood Elementary School, and the Township owns woodlands in the area that goes up to the Railroad tracks and up to the Township Building. Mr. Stainthorpe stated the Township acquired this property in the 1980s in the event that they wanted to expand the Township operations, Public Works, or the Parks that border the property. Mr. Stainthorpe stated the Township submitted a Subdivision to the Planning Commission in January and were surprised about the vocal opposition to this Plan. He stated the Planning Commission voted unanimously not to approve the Subdivision and a number of residents spoke against the proposal as well.

Mr. Stainthorpe stated the Board of Supervisors needs to consider what is best for the whole community and the overall benefit to the most people. Mr. Stainthorpe stated he has had some discussion with those who expressed opposition and suggested that there be a dialogue to see what the Church wants to do, the amount of land to be disturbed, the financial benefit to the Township, and the benefit of having this growing organization in the Township to see if they can reach a compromise to make this work for everyone.

Mr. Stainthorpe stated they feel the land is valued at approximately \$700,000. He stated currently it is open space; however, it is not pristine open space, and it was used in the 1980s to dump sludge from a lake. He stated it is also not an area which has great public access or public beauty. Mr. Stainthorpe stated they need to determine if there is a way to keep the area mostly natural, help the Church, financially benefit the Township, and possibly take some of that financial benefit and put it back into additional open space or improving existing open space. He stated he asked that the Church representatives come in to explain what they want to do and have a dialogue on what it is best to do.

Mr. Garton stated the sale of Township property would have to be put out to public bid. Mr. Benedetto asked what would happen if it goes out to public bid and someone outbids the Church. Mr. Garton stated the Board is not obligated to accept any bid. Mr. Benedetto asked if the Township would be subject to litigation if they did not accept the bid, and Mr. Garton stated the Township would not. He stated it is purely discretionary. He stated if they reach the point where they want to consider selling the

property, they would want to make certain that the Bid documents are such that they do not encourage developers to bid by putting in restrictions that there be a certain percentage of open space, preservation of existing woodlands, etc. that would not be conducive to a major subdivision by a homebuilder.

Pastor Bob Travis was present with Mr. Mike Hughes, architect, Mr. James Potoka, and Mr. Joe Rosina. Pastor Travis stated they are privileged to be part of Lower Makefield. He stated today they have an average attendance of approximately 600 adults and up to 800 adults consider Bible Fellowship their church home. He reviewed the history of the Church beginning in 1981 until the current Church was built in 2000. He showed a chart indicating the breakdown of attendance which shows that 40% of those attending the Church are Lower Makefield Township residents.

Pastor Travis reviewed their ministries and programs including Worship Services and Classes on Sunday, a Tuesday evening Youth Ministry for approximately 60 Junior and Senior High students, and a Wednesday evening Children's Ministry for approximately 125 children ages Kindergarten through Sixth Grade. He stated throughout the week they also have day and evening Bible Study. He stated they run a Vacation Bible School for the community in the summer, and last year they averaged 300 children per day. He stated they are also very active in community ministry activities including flood relief, food shelters, mothers of preschoolers, and Operation Christmas Child which helps needy children around the world. He also discussed the impact the Church is having in world ministries and working in the inner city.

Pastor Travis stated they need to expand because they have grown in attendance from an average of 300 in 2005 to approximately 650 in 2012 on Sunday mornings. He stated they have outgrown the facility they have now but also feel that if they continue the current growth rate, they will need to account for future growth as well.

Pastor Travis stated they were approved in 1999 for the present building and a second phase. He showed a copy of the signed Approval drawing including Phase I which was built in 2000 and Phase II which has not yet been built. He stated Phase I and II together were targeted to accommodate a Church of approximately 500 and they have already surpassed that. He also showed a copy of the current Site Plan as of 2012. He stated approximately one and a half years ago, they added four modular classrooms to the property which are joined by a boardwalk.

Pastor Travis showed a copy of what they would propose if the Church were able to purchase the land from the Township. He stated they are proposing a two-phased approach for expansion. He stated currently they have a problem with parking, and approximately fifty to seventy cars need to be parked off site each Sunday; and they have a continuous parking shuttle with two mini-buses because they are completely out of

parking on site. He stated Phase I would also include a small expansion to the auditorium which would be a two-story expansion so that there would be additional classroom space underneath. He stated Phase I would also provide some additional office space. He stated they want to have a minimal impact on the land and they want to maintain as much as possible the trees along the road so that you would not see much from the sight line of the road.

Pastor Travis showed a drawing of what the Phase II expansion would look like should the Church continue to grow. He stated this Phase would include a new auditorium. He stated the present auditorium seats approximately 400 people, and the new auditorium would seat approximately 750 individuals. He stated Phase II would also provide additional classroom space and parking.

An aerial view of the area was shown. He noted the existing Church property and the Lower Makefield parcel of sale which might possibly go up for sale. He stated because the dregs from the lake were deposited on the property, a number of trees are already missing on the part along Oxford Valley Road. He stated for the Church to be able to do the expansion they wish to do, there will be a minimal impact on trees being removed from the property. He stated out of the 21 acres the Township has discussed selling, only four of the acres would be touched by the Church for the expansion proposed and 17 of the acres would remain completely untouched. He stated this proposal would provide the Church the impervious surface allowance as it takes a lot of land to be able to provide the parking with a 17% impervious surface rate. He stated there will be minimal impact to the parcel of land that is being discussed.

Mr. Stainthorpe stated the key point is that they will really only disturb four acres, and the balance of the land is to give the Church a big enough footprint to meet the Zoning requirements in terms of impervious surface. Mr. Stainthorpe stated the tree line along Oxford Valley Road would remain the same and with the exception of the parking lot and a bigger building, everything stays the same as it is today. Mr. Stainthorpe stated he would be in favor of the Plan.

Ms. Tyler asked the present value of the Church's property today, and Pastor Travis stated he feels it is approximately \$3.5 million. Ms. Tyler asked if the Church has an alternative plan if the application were to be denied. Pastor Travis stated they have discussed this. He stated they had been looking for a place where they could move in the Township. He stated approximately two years ago they attempted to purchase thirty-nine acres on Edgewood Road, but this did not work out. He stated they could consider requesting a Variance on the present property. He stated the only option they would have would be to put parking where the present field is which is not something they really want to do since they use that for the children's ministry and sports events. He feels from the community's perspective, it would not be ideal to cover the field area with parking.

Pastor Travis stated because of the existing wetlands, they have no option to go back further into the woods. He stated they would work with an architect to find out what the maximum parking would be that they could put on the property recognizing that it would mean covering the field. He stated if it was determined that this was not worth doing because of the amount of cars they could put in, they would have to sell the property and move. Ms. Tyler asked if they know the driving force behind the increase in parishioners, and Pastor Travis stated they are trying to offer a lot to the community and they teach the Bible strongly. He stated they have ministries for children, teenagers, and adults. He stated where they are growing the most is families with children. Ms. Tyler asked if they have an active recruitment program, and Pastor Travis stated they do not do a lot of advertising and most of their growth is from people inviting their friends.

Mr. Benedetto stated as he noted previously, he will recuse himself as he attends the Church; and while he does have questions, he does feel he has a moral obligation to recuse himself even if he does not have a legal obligation. Mr. Stainthorpe stated he respectfully takes exception to this. He stated all Supervisors were elected to make decisions; and while there are times when they have to recuse themselves because of a direct conflict of interest, he would challenge Mr. Benedetto on this and asked him to reconsider. He stated he understands that while Mr. Benedetto does attend services at the Church, he is not actually a member of the Church. Mr. Stainthorpe stated they recently voted on a greenhouse, and he does not feel they needed to recuse themselves if they shop at McCaffrey's. He stated he feels Mr. Benedetto has a responsibility to the voters, and he would ask him to reconsider this and be a participant. He stated if he insists on recusing himself, this would include participating and asking questions and not just not voting on the matter. Mr. Benedetto stated he has thought about this and would like to be true to his word and the standard he holds himself to is a higher standard.

Ms. Tyler asked the general timetable assuming approval for Phase II recognizing that the parking would be an immediate need. Pastor Travis stated a lot of this depends on finances. He stated he feels they would begin Phase I within a two year period of time. He stated the Phase I expansion would increase their seating capacity in the auditorium enough to get them through for approximately three to five years. He feels Phase II would be beyond four years.

Mr. McLaughlin asked if their interest in the land would change if Phase II were not considered at this time, and only Phase I were part of the purchase. Pastor Travis stated their leadership would have to discuss this and it would depend on how much money they would have to invest in the building. He questions if it would be worth investing millions if they could only go as far as Phase I. Mr. McLaughlin stated it appears that the Phase II parking lot would go into the dredge pile, and Pastor Travis agreed. Mr. McLaughlin asked about lighting and asked if they would consider restrictions on lighting. Pastor Travis stated they would work with the Township on what would be proper for the community to have a minimal impact. Mr. McLaughlin asked what percentage of the

Congregation has to use the shuttle, and Pastor Travis stated they run about 230 to 250 cars on a weekend, but can only park approximately 170 so approximately 60 to 70 cars are being shuttled. Mr. McLaughlin stated he has seen people walking on the road rather than wait for the shuttle so there is a safety issue. Pastor Travis stated they do not see it as a safety issue as there is a paved sidewalk from the Elementary School to the Church, but it is a convenience issue running the buses and having drivers. He stated there are some people who do not want to park in the shuttle parking so it is a detriment for them and hindering some people from coming to their Church.

Mr. Dobson noted Page 9 of the Report which is the Site Plan for Phase I, and he asked if they know how many trees will be taken down. Mr. Rosina stated this is only a concept plan and they have not done a tree count. Mr. Stainthorpe stated if they take action tonight, it would be to approve the Subdivision and nothing else; and they are not approving the sale or anything else.

Mr. Zachary Rubin, 1661 Covington Road, applauded Mr. Benedetto's position. Mr. Rubin stated he does not feel this is an issue of granting four acres of impervious surface, but it is an issue about open space. Mr. Rubin stated this is not being proposed in a vacuum. Mr. Rubin stated in 2008 at the height of the financial meltdown, the Township approved by 70% to borrow up \$15 million to purchase open space. He stated since 2008 the Township has not purchased one inch of additional open space; and in fact, they have sold Elm Lowne and were in the process of trying to sell the Satterthwaite House on Patterson Farm. Mr. Rubin stated they have also leased acreage on the Patterson Farm. Mr. Rubin stated he feels if the Township sells this twenty-one acres of open space, they should purchase at least twenty-one acres of open space at some other location in the Township. He stated when the Township sold Elm Lowne the funds were put into the Operating Budget to do road improvements.

Mr. Fedorchak stated of the proceeds from Elm Lowne, approximately \$400,000 was set aside and applied to the remaining debt on the Elm Lowne purchase and approximately \$250,000 the Board dedicated to the road resurfacing program.

Mr. Rubin stated in this case if the Township realizes \$700,000, it should not go into the Operating or Capital Budget, but should be used to purchase open space. He stated he also has no problem going out for a Bond Issue to purchase open space at this time because the interest rates are historically low. He feels what he has proposed would be a way to find common ground on this issue.

Mr. McLaughlin stated he agrees with Mr. Rubin. He stated he feels one of the criteria for open space is land that has a use and is picturesque. He stated the land under discussion is not used by many, there are no trails, etc. He stated he would agree that this money would be used for open space either for purchase of additional open space or for improving what they already have.

Mr. Tim Malloy, 1902 Makefield Road, stated the sale of Elm Lowne should be considered in context with the 2008 financial collapse when the revenues of the Township dropped, and the Board did not want to raise taxes. He stated they looked intensely at the Budget in order to look for savings. He stated he knows that selling Elm Lowne was not an easy decision, but the Board had made cuts wherever they could while protecting the community and not raising taxes. He stated he feels this also applies to leasing the Janney House which is now used by the Artists of Yardley. He feels both of these were very good decisions. He stated he does not feel anyone can criticize Mr. Stainthorpe's commitment to quality of life in the Township and his commitment to open space. He stated he feels young families moving into the Township would expect a similar quality of life that we have all experienced living here. Mr. Malloy stated the Church is buying additional land to meet the impervious surface requirements and only four acres will be developed. He stated the remaining acreage could not be developed which means that it will remain open space. Mr. Malloy stated he drives past this Church and people are crossing the street and there are cars double parked, and the Church does need additional parking.

Mr. Ray Naylor, 2303 Weinman Way, stated his home faces the Church and they have heard people from the Church talking loudly in the evenings and doors being locked and slammed. He stated while things have changed, they have not complained; but when they consider the quality of life, they should consider everyone who lives in the Township.

Mr. Timothy Birken, 2313 Weinman Way, stated the Church is a good neighbor, but the bulk of their Congregation are not Lower Makefield residents so the expansion will benefit predominantly non-Lower Makefield residents. He stated they will be impacting the quality of life of the residents, killing trees, and increasing parking and traffic on Oxford Valley Road which will all be a detriment to the local community. He stated he questions the difference between open space and pristine open space as he feels public beauty of this property may be in the eye of the public beholder. He stated he lives next to this open space, and it is striking in its natural beauty. Mr. Birken asked if it is a requirement for preserving open space that it be accessible to the general public. He stated he does not feel that a parking lot adds to the public beauty. He stated this parking will be used for only two hours every week so he does not feel it is worth it to take down open space for the convenience of a few people. Mr. Birken stated he is concerned that the Township supporting this gives the appearance that the Township is supporting an objective of a particular religious entity, and he asked about the separation of Church and State. Mr. Stainthorpe stated they have supported other organizations and there is no favoritism toward one religion or another, and this has nothing to do with Church and State.

Ms. Elin Danien, 2316 Lakeview Drive, stated she did not know anything about this matter until she received a flyer about the proposal. She stated she applauds the Church for its vitality and growth, but she feels in ten years they could have 2,000 people coming to the Church which is wonderful for the Church, but young families with young children could present safety problems because of the traffic. She stated the road is very winding. She also noted the underpass in the area which is already dangerous. She expressed concern with increased traffic, speed, and road rage. Ms. Danien stated she is concerned that the Church will also come back to the Township and ask to be able to expand even more than the four acres. She stated she feels this should be considered more carefully.

Mr. Stainthorpe stated they are not approving their building plan this evening and are only considering approving the Subdivision. He stated this will be a slow, deliberate process.

Mr. Brian Cromarty, 2323 Weinman Way, asked who would own the 42 acres once the Church outgrows the site, and Mr. Stainthorpe stated whatever the Church purchases, they would own. Mr. Cromarty stated they would be free to sell it in the future. Mr. Stainthorpe stated it could be subject to Deed restrictions which is an option. Mr. Cromarty stated the Church could ask to have those restrictions removed, and Mr. Stainthorpe stated it is not quite that simple. Mr. Cromarty stated this property is part of a Township park according to Mrs. Godshalk, and it has a higher value to the Township than the market value. He stated at the last meeting the Seniors and Park & Recreation Board were fighting over the Samost Tract because it was close to the heart of the community, and now they are considering selling off a large portion of the property where community elements could be established such as the next Pool or the next Golf Course. Mr. Cromarty stated the Township Manager had indicated at the Planning Commission meeting that the Township had no plans at this time for this property which is why they want to sell it. Mr. Cromarty stated he feels at some time there were no plans for a Pool, Golf Course, or Library; but they are here now, and people enjoy them.

Mr. Cromarty stated at the previous meeting Mr. McLaughlin commented that Memorial Park was a “failure” from the Park & Recreation standpoint because of its isolated location. Mr. Cromarty stated by selling this property the next project that comes along will need to be located in the “middle of nowhere,” and the success rate will probably be the same. Mr. Cromarty stated many people oppose the sale of this portion of the Municipal Park and no one has presented any benefit to the Township. He stated even in its current state it is green space and a sound buffer. He stated his yard accesses this property and people are in there walking their dogs, taking hikes, and playing paintball. He stated he has also seen heavy equipment going in there from the Township including front end loaders and dump trucks, and he feels they store heavy equipment for construction projects on this property. Mr. Fedorchak stated this is not a designated storage site. Mr. Cromarty stated he sees equipment going in there.

Mr. Cromarty stated the Church is a great Church and they have already expanded a few times. He stated he is concerned about what will happen in the future. Mr. McLaughlin noted that they do currently have approval to put a large expansion onto the Church. Mr. Cromarty stated the Township would also have the ability to grant a Variance for impervious surface or could allow them to purchase an easement or covenant on the property so that the Township does not lose control but the Church still gets to do what they want. He stated they do not need to sell part of this Municipal Park to allow the Church to do what they want to do.

Mr. Cromarty stated he is not clear how the open bid process works in the Township. He stated the Township Manager is here to subdivide the parcel into exactly the size that the Church wants, and this one potential bidder is here to present their ideas which are non-binding. He stated the Township solicitor has indicated that they can structure the bid so that there would be only one bidder. Mr. Garton stated he had indicated that they could structure the bid so that a homebuilder would not want to bid. He stated the Township also has no obligation to accept the bids.

Mr. McLaughlin asked if the Church is interested in the full twenty-one acres or just the amount of land to complete the parking lot. Pastor Travis stated the Township indicated there was twenty-one acres. He stated the Church would like to do just a certain level of expansion as presented this evening so that they would know it was worth investing that many millions of dollars into a property rather than investing the money and then having to move because the expansion will stop at a certain point. He stated that parcel will only accommodate a certain level of growth by the Church. He stated their main concern is to be able to say can they expand to meet the growth of the Church. He stated because of the 17% impervious surface restrictions, this was a number that worked for the Church which is why they were open to talking about this with the Township. Mr. McLaughlin asked if they sold the Church four acres versus twenty-one would they have a problem; and Pastor Travis stated they could not develop all four acres because of the impervious surface requirements. Mr. Garton stated he feels Mr. McLaughlin is suggesting if they were able to buy four acres and Zoning accommodations were made, would this be sufficient. Pastor Travis stated if they could build what they presented tonight and buy fewer acres this would be acceptable. He stated the four acres would not be just parking and it would include a bigger footprint for the building plus parking and a retention basin. He stated it would be more like six to eight acres if they include the basins. He stated this could work, but the impervious number would have to be greatly raised.

Mr. Jim Startzell, 16 S. Circle, stated he would not be in favor of selling this property to a housing developer.

Ms. Sue Herman stated if the Board sells any Lower Makefield open space, they have sold out the voters of Lower Makefield Township. She stated when the Lower Makefield voters approved the Referendum in support of preserving open space, they officially informed the Board that open space preservation is a high priority for them. She feels untouched woods are beautiful open space. She stated it is the Board's obligation to honor the voters' directive to preserve open space and their obligation to retain any Township property that is currently open space. She stated she is concerned that Mr. Stainthorpe would endorse selling open space to this organization because it was one he wants to have in the Township. She stated she feels he is demonstrating that he will give up open space for any project he desires to have in the Township. Ms. Herman stated any move on the part of the Board to sell open space to the Church for their expansion will make a "farce" of the voter Referendum process. She urged the Board to vote no to subdividing the Township land.

Ms. Bonnie Benedetto, 22 Green Ridge Road, stated she attends the Church and lives around the corner from the property. She stated there are problems when trees are not maintained and they take down the power lines. She stated there are many trees near the Church that are falling over and are dying. She stated last fall her neighborhood did not have power for three days following a storm because a huge tree was knocked down in this area. She stated the Church was the first to get a group of people together to take this tree apart and get it off the road to help all of the community. She stated as a neighbor she appreciates trees that are well maintained. She stated the Church has taken care of its property and put in beautiful tree lines along the modulars to keep it visually nice for the community.

Mr. Jim Bray stated he feels it is premature to discuss a Subdivision or to move the project forward at this time. He would recommend that the EAC enter into a dialogue with the Church representatives to discuss other alternatives including the addition of a third service on Sunday which would help the parking situation.

Mr. Stainthorpe stated he agrees that they should look at some additional alternatives and discuss this further and recommended that this matter be tabled. Mr. Stainthorpe stated he wants the Church to know that they want them in the community and want to help them succeed. He stated with regard to open space there were comments made directly to him, and he noted that he has been part of preserving more open space than anyone in this room; and he noted specifically the Ruth Wright Farm, the Gage Farm, and adding acreage to the Five Mile Woods. He stated he is not anti-open space; but he is always for doing the right thing for the community.

Pastor Travis stated they understand that there are divided opinions on this issue, but the Church is committed to being a good neighbor and understands the issues that are being faced.

CONDITIONAL USE HEARING - NEW CINGULAR WIRELESS PCS, LLC

Mr. Garton stated this is a Conditional Use Hearing Application by New Cingular Wireless PCS, LLC to place additional antennas on the existing wireless communications tower at 1347 Woodside Road and to place additional equipment within the existing equipment shelter. He stated it is located on Tax Parcel 20-17-47-1, and the property is owned by the Township. The Application is made pursuant to provisions of Article 13A Section 200-50.1 of the Lower Makefield Township Zoning Ordinance. Notice of the Hearing appeared in the Bucks County Courier Times on 3/1/12 and 3/8/12. The property was posted on 2/15/12 by the erection of nine signs at various locations on the referenced property. A copy of the Certification from Nancy Frick, Director of Zoning, Planning, & Inspections related to this was made part of the Record. Mr. Garton stated the Application and all reports and recommendations received by the Township and others will be offered into the evidence of the Hearing. The Plans submitted with the Application were dated 9/21/11, last revised 1/9/12. The Structural Evaluation was prepared by American Tower Corporation dated 6/26/09, last revised 5/26/11. Mr. Garton stated the Lower Makefield Township Planning Commission cancelled its meeting of 3/12 and was unable to officially act on the Plan, but they did poll the members and confirmed that a majority were in support of the Application and had no objection. Mr. Garton asked if anyone desired Party Status, but no one indicated they were desirous of Party Status.

Ms. Kate Durso, attorney for the Applicant, was present. She presented the Board the Exhibit package of Exhibit A-1 through A-9. Ms. Durso had the three Witnesses sworn in. Ms. Durso stated the first Witness would be Ms. Patricia Marquis who would confirm that she is employed by Network Building and Consulting LLC which was retained by New Cingular Wireless for site acquisition purposes. She would confirm that she was responsible for getting the necessary approvals from the tower owner; and she would confirm that the owner of the subject property is Lower Makefield Township, and the Township entered into a Lease Agreement with Nextel Communications in November, 1998. She would verify Exhibit A-1 in the package which is a copy of that Communications Site Lease Agreement from 1998. She would also confirm that AT& T Wireless PCS of Philadelphia LLC entered into an Agreement with Spectrasite in 1999 as Spectrasite was the owner of the tower at that time by virtue of an Agreement with Nextel. Spectrasite has since been purchased by American Tower; and New Cingular Wireless is now, by virtue of acquisitions, the surviving entity of AT & T Wireless PCS of Philadelphia. She would verify and authenticate Exhibit A-2 of the package which is the Site Agreement between Spectrasite and AT & T Wireless PCS of Philadelphia. Ms. Marquis stated she would agree that this would be her Testimony.

Ms. Durso stated the second Witness would be Mr. Joseph Frega, who would confirm that he is a professional engineer licensed by the Commonwealth of Pennsylvania and employed by the engineers who prepared the Plans that were submitted with the Application material. He would verify and authenticate Exhibit A-3 which is a reduced copy of the Zoning Plan with the dates noted by the Solicitor. He would confirm that he is familiar with the subject property and that it contains an existing 230' high wireless communications tower and numerous sets of antennas and numerous equipment shelters and cabinets at the base within a fenced compound. He would confirm that New Cingular currently has nine antennas at the 115' elevation, and they are proposing to add three additional antennas at the same elevation and place additional equipment within the existing shelter. He would confirm that the new antennas will be 6' to 8' in length and similar in appearance to the existing antennas and will be placed on the same mount. He would confirm that Exhibit A-3 accurately depicts the existing and proposed equipment and also verify that a Structural Analysis was performed to confirm that the tower can accommodate the additional equipment. He would verify and confirm Exhibit A-4 which is the Structural Analysis package submitted with the Application materials including copies of the prior Structural Analysis, the current Structural Analysis prepared for the proposed equipment, and a Structural Evaluation letter prepared by the same engineers verifying any discrepancies between the two Structural Reports. He would confirm that the facility would continue to be unmanned and that no improvements will have any impact on public water, sewer, or traffic. He would confirm that the proposed additional antennas will not generate any nuisance. He would also verify that he prepared a cost estimate for removal of the equipment and verify Exhibit A-5 which is the cost estimate verifying that it would cost \$2,915 to remove the new proposed equipment. Mr. Frega agreed that this would be his Testimony, and he had nothing further to add.

Ms. Durso stated the last Witness would be Mr. Brock Riffel who would confirm that he is a radio frequency engineer employed by RF Services to provide services to New Cingular Wireless for the project. He would authenticate Exhibit A-6 in the package which is copies of the various FCC Licenses authorizing New Cingular Wireless to provide 4G services in Lower Makefield Township and the surrounding area. He would verify Exhibit A-7 which are specifications for the proposed antennas showing the six foot and eight foot antennas that are proposed. He would confirm that the proposed antennas are necessary in order for New Cingular to provide data and related services pursuant to the 4G License. He would confirm that the proposed equipment would not have an adverse impact on surrounding properties or public health, safety, or welfare. He would confirm that the emissions from the facility would adhere to the FCC maximum exposure limitations. He would authenticate Exhibit A-8 in the package which is a letter dated 3/5/12 from DBM Engineering PC which is the electro-magnetic emissions analysis. He would confirm that a cumulative analysis was performed for all the carriers' equipment located on the facility as well as the proposed equipment, and that the results of that analysis confirmed that the exposure levels would be at least sixty

times less than the maximum allowed under the FCC guidelines. He would also verify Exhibit A-9 in the package which is an Affidavit confirming that the proposed equipment will not interfere with other users of the radio spectrum or other carries on the facility. He would further confirm that the facility will be in compliance with the FCC, FAA, and other State and Federal regulations. Mr. Riffel stated this would be his Testimony, and he had nothing further to add.

Mr. Dobson moved, Ms. Tyler seconded and it was unanimously carried to approve the Conditional Use for New Cingular Wireless PCS, LLC subject to the following Conditions:

- 1) Receipt of all Permits and Approval from agencies having jurisdiction over such matters to the extent applicable;
- 2) Applicant to provide a financial guarantee so as to insure the removal of any facilities in the event they are abandoned and/or discontinued which said financial guarantee shall be in accordance with the provisions of the Lower Makefield Township Zoning Ordinance;
- 3) Applicant to pay any and all Township expenses incurred in connection with the Application to the extent not paid;
- 4) Applicant to comply with Section 200-50.1 of the Zoning Ordinance to the extent same has not been demonstrated to be in compliance;
- 5) Any signs to be erected shall comply with the Township Sign Ordinance.

Ms. Durso agreed to the Conditions.

DISCUSSION AND TABLING OF FERRI TRACT/FREEMAN'S FARM PRELIMINARY PLAN

Mr. Garton stated this Application is to subdivide Tax Parcel #20-34-29 into fifteen lots. He stated one of the lots will include the existing single-family dwelling. The Plans were dated 2/9/09, last revised 11/17/11. He stated the Lower Makefield Township Planning Commission recommended Preliminary Plan Approval at its meeting on 2/13/12 subject to a variety of Conditions.

Mr. Edward Murphy, attorney, was present on behalf of the Applicants. He stated this Plan has been pending in various forms since the spring/summer of 2004. He stated they were before the Planning Commission in February, and they recommended Approval. He stated the Applicant then appeared before the Board of Supervisors approximately six weeks ago to give the new Board members an opportunity to review the Plan and they indicated at that time, they would be back this evening to seek further direction. He stated he also recognized that the Township engineer was new, and they wanted to afford him the opportunity to review the Plans. They were asked to share the current Plan set with the Falls Township engineer to have him address some of the concerns expressed by the Falls Township residents regarding groundwater, stormwater, etc.

Mr. Murphy stated potential Conditions to be attached to any Preliminary Plan Approval have been discussed with Mr. Garton. He stated there has been dialogue between Mr. Eisold and the Applicant's engineer on the Plans. He stated they also received from the Lower Makefield Township staff late this afternoon a copy of the review letter issued to the Township from the Falls Township engineer commenting on several issues related to the Plans. He stated tonight they are seeking Preliminary Plan Approval.

Mr. Stainthorpe stated nothing has changed on the Plan since they were previously before the Board informally several weeks ago, and Mr. Murphy agreed.

Mr. Eisold stated he did review the Plans and after the last meeting he had discussions with Mr. Bossman whose parents are property owners adjacent to this tract and had some concerns. Mr. Eisold stated he reviewed all the reports and noted there had been extensive testing done on the soil. He stated the Falls Township engineer's letter expressed concern with surface run off. Mr. Eisold stated there is a ridge along the border between the residents of Falls Township and this property, and he does not feel this property will be a contributing factor in any of the drainage issues. Mr. Eisold stated there had been discussion about increasing the berm; but he feels with the woods, it would be more of a negative to do that as opposed to leaving it the way it is because the surface run off is not an issue. Mr. Eisold stated the other issue brought up was the changing groundwater. He stated he looked at the properties in Falls and what is proposed on this tract, and the groundwater typically follows the topo of the ground. He stated with what is proposed with the storm pipes and the road taking the water away from Falls Township as well as the three basins proposed, they will actually lower the groundwater in the area. He stated he does appreciate the concerns expressed, but he does not feel this development will add anything to those Falls Township properties; and in fact he feels it will make it better and get the water away from the Falls Township properties.

Mr. Benedetto stated he went out and talked to Mr. Bossman and Mr. Haerther and examined the properties. He stated he is concerned that no one from Erin Homes has ever met with any of the residents of that neighborhood. Mr. Murphy stated he has not and does not know if any representatives from Erin Homes has ever done so.

Mr. Benedetto stated he is concerned about this. He stated Mr. Murphy previously discussed the Scheiring case where they had a compromise in that case between the Applicant and the neighbors, and he does not feel there was a compromise in this case; and in fact, the Falls Township neighbors' concerns have been disregarded.

Mr. Benedetto stated he also knows that the EAC did some extensive work and raised some issues; and from the report that he read, he does not feel any of their suggestions have been incorporated. Mr. Murphy stated to the extent that the Applicant felt the EAC suggestions were appropriate and reasonable, they did incorporate them. Mr. Benedetto stated one of the issues raised by the EAC was the assumption made with regard to the initial Application that eleven acres was row crops when in fact they were meadow.

Mr. Benedetto stated if it was not counted as row crops, according to the EAC it would then double the stormwater run off. Mr. Murphy stated they discussed this at two prior meetings. Mr. Benedetto stated the residents have indicated that the water issues have escalated in the last five years.

Mr. Larry Young, the project engineer, was present and stated this project has been around since 2004. He stated at that time there were row crops there, and it was farmed at that time. He stated his client has not farmed it in the last three to four years. He stated they started the process under row crops. He stated row crops does not come into play with the Township, but comes into play with the State under the NPDES Permit. He stated they did the analysis of peak flow rate and run off for a meadow condition. He stated the re-charge is an NPDES requirement, and they do have that Permit.

Mr. Benedetto asked Mr. Young if he would agree with the assessment of the EAC that it would increase the two-year storm run off and double it to 370,000 gallons, and Mr. Young stated this would depend where you are looking at. He stated the watershed has seen run off from farmland. Mr. Benedetto stated his understanding from the comments from the residents is there has not been row crops there for twenty-five years. Mr. Young stated he is the third engineer who has handled this project; and the previous two engineers indicated that it was farmed. Mr. Murphy stated they have aerial photos that clearly show the area was farmed at the time the Application was submitted. He stated they have received the NPDES Permit that acknowledges the Stormwater Plan as proposed is accurate. He stated they did everything they were required to do at the time the Permit was submitted. Mr. Benedetto stated he was told from the Falls Township residents that there have not been row crops there since 1984.

Mr. Benedetto stated he understands that this project has been going on since 2004, and he questions what has been the hold up. Mr. Murphy stated in 2004 the property was under Agreement to Orleans Homes and he represented them at that time. He stated Orleans pursued the Plan to the point similar to where they are today, but thereafter the Agreement of Sale lapsed. He stated the property reverted back to the legal owner, and ultimately that owner had to sell it under some distressed conditions at auction. The property at the time of the auction was purchased by Erin Development who is now pursuing it again. He stated they had to re-activate the Plan in 2008/2009.

Mr. Stainthorpe stated they were up to the Preliminary Plan Approval point and had a meeting just like this with Falls Township residents present; and the Board instructed the Township engineer to look into this further to make sure they were doing the right thing, but the Applicant then withdrew the Plan.

Mr. Young stated they did have some lengthy delays because when you apply for all of these Permits you have to do a search; and there were probable endangered species and plant life not on this project but within a certain radius, and you need to wait for a specific growth period. He stated there were also issues with the front area when the EAC stated it was wetlands, and they had to wait a year to resolve that because they needed a growth season. He stated it was eventually determined that there are no wetlands at that location. He stated they do have their Army Corps Jurisdictional letter.

Mr. Benedetto stated the biggest issue he has with this is because the project has been going on for eight years and none of the developers have gone out to meet with the Falls Township residents to see if there could be a compromise reached. Mr. Benedetto stated he understands that Mr. Eisold did go out and speak to two residents and has indicated that it will not be an issue and add to the problems; however, this is not what the residents have said, and he does not understand why there would not have been a meeting in all of this time.

Mr. Young stated the road is at the ridge line, and they are not infiltrating anywhere near that back line. He stated the water will go toward Big Oak Road so he does not know how they could effect Falls Township properties. He stated every storm pipe that is in the road has stone backfill from the road down to where the pipe is, and this acts as a French drain and will collect groundwater. He stated it will not take it to Falls Township, but will take it to Big Oak Road. He stated he agrees with Mr. Eisold. Mr. Young stated he just received the letter from the Falls Township engineer who has offered a few suggestions; but he added if they followed one of those suggestions, they would have to take down trees which is counter productive.

Mr. Benedetto stated he understands that Mr. Young is agreeing with Mr. Eisold that they will not be adding to the problems with groundwater or stormwater and in fact it may make it better, and Mr. Young agreed. Mr. Young stated the groundwater will seek the path of least resistance and any stone trench on their site as long as the slope is going down to the road, this is where it will end up. Mr. Benedetto asked Mr. Young how long he has been involved in the project, and Mr. Young stated he has been involved since 2010. Mr. Benedetto asked him if he has noticed any groundwater changes on the site in the past two years. Mr. Young stated last year they broke all records for rain so many people had problems who had never had water before. Mr. Benedetto asked Mr. Young if he feels it is more of a groundwater issue than a stormwater issue, and Mr. Young stated he believes it is a groundwater issue from what he has heard at the meetings. He stated there is a ridge line on the property line, and 99% of the Applicant's site drains to Big Oak Road. He stated they dug thirty holes on the site throughout the project area; and it is clay, loam soils, and with mottling high up. He stated the water table is high, and there is bedrock high up. He stated this is probably the same on the Falls Township side.

Mr. Stainthorpe stated they did have public comments at the last meeting, and he asked that those speaking provide additional information that has not been presented previously.

Mr. Bob Harvie, Chairman of the Falls Township Board of Supervisors, was present along with Mr. Jonathan Snipes, Vice Chairman of the Falls Township Board of Supervisors. Mr. Harvie stated they have been able to work out issues in the past as neighboring Townships, and they hope they can work through this issue as well. He stated at their meeting last evening several residents raised concerns about this issue. He stated he also has a copy of the letter from their Township engineer, Mr. Sullivan, on his ideas with regard to this project. Mr. Harvie stated essentially the major issue is the stormwater. He stated he understands there are certain requirements of a project when they allow a little less than what is needed to do and which make sense; however, in this case, they feel there should be over-engineering of the Plan to insure that this situation does not get worse than it is. Mr. Harvie stated Mr. Sullivan has indicated that he feels they could have engineering done that could alleviate much of the problem. He stated the issues the Falls Township residents are having are not just from last year, and they have gotten worse over the past couple of decades as development has increased around them. Mr. Harvie stated they are asking that the Township require that this be over-engineered since their residents would have no recourse if the situation gets worse. Mr. Harvie stated the residents have indicated that they are not opposed to the project as they feel their property values could go up, but they are very concerned that the situation could get worse. Mr. Harvie stated Mr. Sullivan has made some recommendations which he would ask be considered. He stated Mr. Sullivan has worked in multiple Municipalities for many years and is well respected in Bucks and Montgomery Counties.

Mr. Stainthorpe stated there are three engineers involved, and he has heard some different opinions, and he would suggest that the three engineers sit down and jointly work this through and come up with a solution that the three of them can agree with. He stated they could grant Preliminary Approval and make this meeting a requirement for Final Approval, or they could hold off on Preliminary Approval until after this meeting.

Mr. Murphy stated he would endorse the idea and would be happy to accept a Condition of Preliminary Plan Approval that the three engineers meet. He stated it would help the dialogue if the Falls Township engineer would actually talk to them as opposed to what he did today which was not provide his report to the Township until 3:00 this afternoon.

Mr. Stainthorpe asked that Mr. Harvie work with them to make sure that their engineer will work with them and Lower Makefield will as well. Mr. Stainthorpe stated he would like to address everyone's needs including the Falls Township residents and the developer. Mr. Harvie stated he feels this is an excellent idea. He stated Mr. Sullivan was asked to look at this Plan which is not in Falls Township, and he did it on Falls Township's time and Falls Township dollar; and his first priority is to the Falls Township Board of Supervisors and the residents of Falls Township and not Mr. Murphy.

Mr. Garton asked when the Plan expires, and Mr. Murphy stated it expires on June 1.

Mr. Wes Plaisted, 50 Howley Drive, stated he is an engineer; and he asked that he be allowed to attend the engineers meeting as well. He stated he has information on the groundwater. He stated he would like to sit in since he has done many groundwater studies and did many NPDES Permits. He stated he would like to attend the meeting as an observer, not a participant. Mr. Dobson stated if he has concerns he should address them to the Falls Township engineer as he feels three engineers is sufficient. Mr. Plaisted agreed to talk to Mr. Sullivan and express his concerns. Mr. Stainthorpe agreed with Mr. Dobson and added his intent is to do this right.

Mr. John Bossman thanked Mr. Benedetto and Mr. Eisold for coming out to the site. He stated Mr. Eisold came up with a suggestion of a drainage system on the perimeter of Falls to help alleviate the problems. Mr. Bossman stated he is still concerned about the row crop issue, and he stated there were no row crops there in 2004. He stated if you look at the aerial from 2004, you are looking at mums which are not row crops. He stated the calculations are flawed. He stated he is also concerned about the way the Planning Commission treated Alan Dresser and disregarded this issue. Mr. Bossman stated he has contacted the Bucks County Conservation District and was told that DEP is going to review this matter and probably pull the NPDES Permit because of this issue and misleading information. Mr. Bossman stated he feels it was very deceptive to put this information on a document that went to the State. Mr. Bossman asked if anyone on the Board would buy a property from them after hearing what the Falls Township residents have said. Mr. Bossman also suggested that they allow Mr. Plaisted to be at the meeting.

Mr. Bossman stated he is also concerned that at the last meeting Mr. Murphy stated he was close to Falls Township about the limited access; and Mr. Bossman stated he raised this issue at the Falls Township meeting last evening, and they are not close.

Mr. Bossman asked what will happen to the project if they do not get the limited access through Falls since they needed two accesses to the project. Mr. Garton stated when there is a cul-de-sac of this length, emergency access would be appropriate. Mr. Young stated they are not required to have two access point, and Lower Makefield Township requested that they put in an emergency-access. He stated this is not a road going through. Mr. Bossman stated they would need Falls Township approval for this, and Mr. Young stated they do not. Mr. Murphy stated they are not going onto Falls property and are on their own property although it goes up to Falls Township. Mr. Bossman stated they would have to put in a road to have an emergency vehicle come through, and Mr. Murphy stated this would be up to Falls Township. He stated they were asked to install an emergency access on their own property up to the Falls Township line.

Mr. Bossman stated he could provide the number for the DEP about the Permit, and Mr. Murphy stated Mr. Garton is fully aware of the situation and he shared with him the information he had. Mr. Stainthorpe stated if the State pulls the Permit, they will have to go back through the process. Mr. Bossman stated he feels the Board was deceived when they were told these were row crops.

Mr. Thomas Haerther, 48 Howley Drive, stated his property backs up to the site. He stated Mr. Harvie indicated that the residents would have no recourse if their problems were exacerbated, and he asked if this is correct. Mr. Garton stated as a subservient property, he would have an obligation to accept stormwater; but the property above him cannot concentrate it or increase the flow unreasonably. He stated if he has groundwater those rules do not apply because the standard language and case law about the flow of groundwater is not as precise as stormwater. He stated if this project created additional stormwater problems for him, he would have recourse. Mr. Garton stated this would not apply to groundwater since it is imprecise and no one can actually determine how groundwater flows because elevations do not really play a material part in this and it has to do with the location of bedrock, underground creeks etc.

Mr. Joe Montone, 40 Howley Drive, stated he has lived in his home for eight years. He stated before they do any digging he wants to make sure that they have all the facts as he does not want to see anyone's property be devalued in any way.

Mr. Benedetto stated he wants someone from Erin Homes to go out to the neighborhood. Mr. Murphy stated the basic problem is that the neighbors do not accept the fact that water is not going to run uphill. He stated they have consistently stated over the years that their stormwater system is going to be designed to take water away from the common boundary line and direct it toward the wetlands in the center of the site so that they can feed the wetlands which everyone has agreed is a good plan; and this is what

they are doing. He stated the neighbors disagree with this assumption, and he does not know how they can change this attitude. He stated possibly they can work this out among the engineers. Mr. Stainthorpe stated this is why he wants the three engineers to get together and discuss facts and engineering and get some of the emotion out of this. He stated this will help the Board make a good decision, and Mr. Murphy stated they have agreed to this.

Mr. Norm Sutton stated he is at the highest point of Hilltop Drive, but his sump pump runs continually since Yardley Crest was built; and he has had to replace it three times. He stated this Plan being discussed was a bad Plan eight years ago, and nothing has changed. Mr. Sutton stated the Board saw this was a bad Plan eight years ago, and they stopped it. Mr. Stainthorpe stated that is incorrect, as he was on the Board and the Board did not stop it.

Ms. Nancy Ackerman, 20 Hilltop Drive, stated she purchased her home in 1988 and shortly thereafter she finished off her basement and then there were rains in May and her basement flooded horribly. She stated they had to have a weatherproofing company come in and do crushed stone and French drains. She stated French drains are a “joke” in her neighborhood. She stated she also had to have a sump pump which held up until there were storms and a power outage. She stated the basement flooded again. She stated she had her sump pump pit enlarged and also installed a battery back-up; and while this was good for a while, during Hurricane Irene when the power was out for a two days, the battery pump no longer worked and she flooded again. She stated she also needed to have pumps and drains put in under her walkways on the property and pipes and drains put in under the playground in the back of her property. Ms. Ackerman stated a lot of the plumbers in the area who are aware of the problems cannot honor warranties on the sump pumps because the sump pumps work overtime and last only approximately three years. She stated another issue is that the trees have weakening root systems and some are falling over. She stated there are tremendous water issues in the area.

Mr. Jim Chiarello, 32 Howley Drive, stated they just moved into their home in June, and he stated the water situation is tenuous at best; and he feels anything that is done in the field will tip the balance potentially where there will be catastrophic incidences for the homes which are the biggest investment most people have in their lives. He stated he works for a project management/engineering company and has also done subdivisions in New York where he owned a construction company. He stated he knows what goes on in this type of activity where multiple homes are being built and construction moves fast. He stated he currently consults on billion dollar refinery projects, and his company prides itself on ethics; and when they see companies doing things they do not approve of, they share that and do not get involved with them and tell them it is not appropriate. He stated he is in favor of the three engineers getting together, but he also feels the developer should get together with the neighbors. He stated he understands Mr. Murphy is frustrated but taking an antagonistic perspective to the residents is not doing any good.

Mr. Chiarello stated he is not against construction and progress, and he feels if beautiful homes are built there, he would welcome the neighbors; and if they are higher value homes, his home value might go up. He stated he does agree that in order to maintain this tenuous balance or correct it with regard to stormwater, it needs to be over-engineered; and whatever Mr. Murphy can do, he needs to do in order to make the community a better place to live so that the residents are not sitting in four feet of water and the developer is nowhere to be found. He asked that the developer meet with them and insure them and Lower Makefield Township that it is over-engineered. He stated if their engineers are so sure that the system will help the problem, they should put guarantees in there that they will be personally responsible from a monetary perspective in order to rebuild their homes if they go down. He stated if they are willing to do that, he would stand with them and agree to go ahead with the project; but if they are not willing to do that, something is wrong and they do not really believe that what they are doing is the right thing to do.

Mr. Stainthorpe stated Mr. Murphy is before the Board all the time. He stated the Board is listening to the concerns of the residents; but he wants to make it clear that under the Municipalities Planning Code, the developer is under no requirement to fix their problems since the problems have been there for forty years. He stated they are however required not to make it worse, and possibly the engineers working together will be able to make it better.

Mr. Garton stated the Township cannot look behind the issuance of the NPDES Permit by DEP and cannot question this because it has been issued by a Governmental entity. He stated there would be a Condition of any Approval that there is receipt of all Permits and Approvals so if DEP revokes the Permit, they would still have to get a NPDES Permit from the DEP. Mr. Garton stated the Board could table this matter since they have until June to act on the Plan or they could try to craft a Condition related to this. Mr. Stainthorpe stated his preference would be to table this until after the engineers meet. Ms. Tyler agreed that this should be tabled, give the engineers time to talk, and give everyone time to educate themselves more as to the groundwater situation.

Ms. Tyler moved, Mr. Benedetto seconded and it was unanimously carried to table.

APPOINTMENTS

Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to appoint Trish O'Donnell and Megan Dorko to the Disabled Persons Advisory Board, Joshua Waldorf to the Electronic Media Advisory Council, and Bob Innis to the Historical Commission.

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There being no further business, Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to adjourn the meeting at 10:30 p.m.

Respectfully Submitted,

Dobby Dobson, Secretary