

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – FEBRUARY 20, 2013

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on February 20, 2013. Chairman Stainthorpe called the meeting to order at 7:30 p.m.

Those present:

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

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

PUBLIC COMMENT

Mr. James Bray, Chair of the Environmental Advisory Council, stated Mr. Fedorchak had asked that he speak during Public Comment about a Grant that is available to the Township from the United States Department of Energy dealing with solar installations, solar Permitting, and a Solar Ordinance that could be written for Lower Makefield Township at no direct cost to the Township. Mr. Bray stated this would be written over a period of a year, and Lower Makefield Township would interface with the Grant writers. The Grant writers and administrators are Penn Future which is a 501C organization that has been established in Pennsylvania for approximately fifteen years. Mr. Bray stated they deal with clean water, clean air, and sustainable communities.

Mr. Bray stated if the Township would have had to pay for this, it could cost approximately \$15,000; but under the terms of the Grant, there would be no direct cost to the Township. He stated over a period of approximately one year, the Township would have to supply sixty hours of cost share which would be a blend of possibly Township hours and EAC hours. He stated currently the EAC has members who have solar energy expertise; and if the Board agrees, the EAC would supply the interface for this project and work with Penn Future over the next year.

Mr. Bray stated the Grant opportunity was discussed at a recent EAC meeting, and the EAC unanimously felt it was a good idea. Mr. Bray stated he also discussed this matter with Mr. Stainthorpe who indicated that the Township engineer had been discussing the possibility of an Ordinance like this as well. Mr. Bray stated the Township would have to sign a commitment letter by March 1. He stated they only found out about this approximately ten days ago when they received an e-mail from Ms. Frick advising them of this opportunity, and he immediately starting looking into it. Mr. Bray stated they would get free training for the inspectors, attorney fees would be paid for review of the Ordinance, advertising fees would be paid, and a presentation would be made to the Planning Commission of the completed Ordinance all at no cost to the Township.

Mr. Stainthorpe stated this issue has not had an impact on the Township yet, but there are currently no Township Ordinances involving solar panel systems; and he feels they should have something. Mr. Garton stated Wrightstown, Upper Makefield, and Newtown Township have worked on Solar Energy Ordinances to deal with this so that there are regulations in place; and he feels it makes good sense for the Township to proceed with the Grant. He stated the Ordinance would deal with issues about safety and security as to placement, setback, and heights of solar energy systems.

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to move forward with the Solar Ordinance Grant process.

Mr. Bray stated he assumes that the Board would like the EAC to be the interface, and the Board agreed. Mr. Bray stated they will need to work with the Zoning Office and they will include this project in their discussions with the Township Manager at their monthly meeting with him.

Mr. Frank Gallo stated he is a Lower Makefield resident and was concerned upon reading the January 16 Meeting Minutes that the Board was supporting an attack on their Second Amendment right to bear arms, and he spoke against gun control. He added that the recent tragedies took place in gun-free zones. He stated criminals do not care about laws, and the Board's proposal will leave the public defenseless in Township parks. Mr. Gallo stated he feels they should seek support from the Federal legislators for proper enforcement of the background check system already in place. He stated he would also be in favor of petitioning the State legislators to require safe school entryways, and to provide programs and funding for the acutely insane and mentally ill as well as supporting a highly-focused effort against gang activity.

Mr. Benedetto stated the Board received approximately twenty e-mails voicing opposition to the vote that the Board took on January 16. Mr. Benedetto stated he regrets voting in favor of the Motion on January 16 as he feels this is a Constitutional right and does not do anything to prevent crime.

Mr. Benedetto asked Chief Coluzzi how many gun incidents they have had in Township parks, and Chief Coluzzi stated he is aware of one in the Five Mile Woods within the last two years.

Mr. Stainthorpe stated there was a ban on guns in Township parks going back to the 1970s; but to be in compliance with the State Constitution, they altered the law last year. He stated they had people come in and speak during Public Comment about the Newtown tragedy who made several suggestions of things the Board could do. He stated the Board decided that they would write a letter requesting that a Resolution be considered to grant authority to local Governments to control guns in certain areas. Mr. Stainthorpe stated he does not feel this would pass in Pennsylvania. Mr. Gallo stated while he understands this, the Board proposed it, and it is against the Constitution. He stated he does not feel it is gun control, he feels it is citizen control, and it will not stop the criminals. He stated Trenton has hardened criminals and what is now stopping them from coming over the River is their fear of people defending themselves.

Ms. Tyler stated the Board repealed the Ordinance that they had on the books prohibiting carrying guns within the Township parks. She stated in discussion with the Chief of Police, they found that the Ordinance prohibited open carry only and not concealed carry. She stated the reason it was repealed was because it was an affront to the State law. What the Board was discussing on January 16 was whether a Municipality could have local control as they do over schools and courts. Mr. Garton stated the law is clear that the management of firearms and weapons are a State prerogative and not a local Government prerogative; and the State has chosen to date to restrict firearms and guns in court houses and on school property. He stated the discussion the Board had was to ask the Legislature to authorize local control over carrying firearms in public parks. He stated you can control the discharge of firearms in public parks, but you cannot currently control their possession in public parks.

Mr. Peter LaChance stated he is a Lower Makefield Township resident and he feels Republican values dictate that they want local control; however, when it comes to a matter of the State and Federal Constitution, Republican values dictate staying away from them. He stated gun-free zones create targets of opportunity.

Mr. Ted Havlick, Yardley, stated he has witnessed what assault weapons can do, and he sees no reason why a law-abiding citizen should have an assault weapon. He stated he has no objection to someone having a gun, but does object to assault rifles for civilians because they are meant to kill masses of people.

Mr. Zachary Rubin, 1661 Covington Road, stated the Township had an Ordinance banning weapons in the Parks for thirty-four years until last year; and there was not an outcry from the citizens of the Township about this for thirty-four years. He stated the Township Ordinance was in violation of a State law that superseded the Municipality which was why it was repealed and not because it was in violation of the State Constitution. Mr. Rubin stated no one is talking about disarmament, and they were only discussing with this Resolution protecting the children in the Township parks. Mr. Rubin stated the freedoms in the Constitution are not absolutes, and they are limited. He stated all they were asking for was for local Municipalities to have the authority to control what goes on in and out of the public parks. He stated if the Resolution would pass in the State Legislature, the Supervisors could then vote one way or the other. Mr. Rubin stated there are thousands of gun incidents per year resulting in death from accidental discharging of weapons.

Mr. Benedetto moved and Ms. Tyler seconded to rescind the Resolution voted on January 16 to write the letter to BCATO regarding gun control in Township parks.

Mr. Keith Milligan stated he is present representing the Falls Township Rifle and Pistol Association with 1200 members, many of whom live in Lower Makefield Township. He stated they are not talking about military weapons but the assault weapons issue revolves around ordinary semi-automatic weapons that are owned by a number of their Club members which are used in competitive shooting on a monthly basis at a lot of Clubs. He stated some of the measures proposed at both the State and Federal level would greatly impact a number of their Club members. He stated with regard to the Park carry issue, as law-abiding gun owners, they would oppose any efforts to further restrict their right to keep and bear arms. He stated Bucks County issues well over 28,000 concealed carry licenses to gun owners who pass Government background checks and carry lawfully. He stated this represents about one in seventeen voting age adults who should not face restrictions on what they can own and carry. Mr. Milligan stated any restriction would only impact the law-abiding and would be easily disregarded by someone intending harm. He stated the Club opposes any effort through Resolutions, regulations, or letters by the Board of Supervisors to promote more gun control on law-abiding gun owners.

Mr. Benedetto read from the Ortez Decision of the Pennsylvania Supreme Court of 1996 which states “Because the ownership of firearms is Constitutionally protected, its regulation is a matter of State-wide concern. The Constitution does not provide that the right to arms shall not be questioned in any part of the Commonwealth except

Philadelphia where it may be abridged at will, but that it shall not be questioned in any part of the Commonwealth. Thus, regulation of firearms is a matter of concern in all of Pennsylvania not merely in Philadelphia, and the General Assembly, not City Council, is the proper forum for the imposition of such regulations.”

Ms. Tyler stated from a matter of procedure and Constitutional law and State law, it is not up to local Government to make these determinations.

Mr. Stainthorpe stated a number of other issues came up which the Board did not act on, and he is always reluctant to get the Township involved in National issues; and he feels the Board should be focused on Township business. He stated this is a good example where they went “off track,” which has resulted in people who are strong supporters of the Second Amendment coming out to the meeting. He stated he feels they need to listen to the citizens as well as making decisions on their own, and he stated he will be voting to rescind the Motion.

Mr. Rubin stated no one discussed assault weapons in the Resolution, and no one is asking the Board to ban concealed weapons in the Parks. He stated all they were doing in the Resolution was asking the State legislature to do it. He stated there is nothing more local than what is going on in the Township parks. Mr. Stainthorpe stated the Resolution was lobbying the County Association to lobby the State Association to lobby the Legislature. Mr. Rubin stated the request was to lobby the State Legislature to change the State law.

Mr. Gallo stated it is not a matter of what people feel – it is a Constitutional requirement that they do not do this, and it is a Constitutional requirement that only the State Assembly makes these kinds of laws.

Mr. David Wilkening, 557 Vickers Way, stated the right is written into the Pennsylvania Constitution as well as the U.S. Constitution. He stated there seems to be a perception that these civil right laws only have to do with the right to keep and bear arms in the context of hunting or shooting or something to do with a militia, and this is not true. He stated he owns an assault rifle because he is engaged in a civilian marksmanship program sponsored by the U.S. Military. He stated he is a private citizen, and it is a legitimate use of that sporting art. He stated he feels the rights were put in place by the Founding Fathers in order to affirm and secure the unalienable rights to keep and bear personal firearms and to carry them not only for recreation and hunting but more importantly for the defense and protection of our person, our family, and our property. He stated losing that right could lead to the loss of other rights as well. He stated he feels the Board should focus on Township issues. He stated legislature to infringe on gun owners has been proposed by Steve Santarsiero who is encouraging a grass roots movement, and Mr. Wilkening stated he feels the kinds of things Mr. Santarsiero is

proposing makes everyone more vulnerable rather than more secure. He stated he feels if Steve Santarsiero had any support for his proposal there would be other State Legislatures bringing it forward in that forum. He stated he does not feel there is a lot of support for it since no one else is speaking in support of Mr. Santarsiero. Mr. Wilkening encouraged the Board not to follow Mr. Santarsiero's failure to abide by the oath of his office.

Motion carried unanimously.

APPROVAL OF MINUTES

Mr. McLaughlin moved, Mr. Dobson seconded and it was unanimously carried to approve the Minutes of February 6, 2013 as written.

APPROVAL OF FEBRUARY 4, 2013 AND FEBRUARY 19, 2013 WARRANT LISTS AND JANUARY, 2013 PAYROLL

Ms. Tyler moved, Mr. Dobson seconded and it was unanimously carried to approve the February 4, 2013 and February 19, 2013 Warrant Lists and January, 2013 Payroll as attached to the Minutes.

APPROVAL OF TOWNSHIP COMMITMENT TO HOUSEHOLD HAZARDOUS WASTE AND ELECTRONICS PROGRAM 2013-2016

Mr. Fedorchak stated this program has been sponsored and managed by the County Government, and Lower Makefield has participated over the last approximately twelve years. He stated the County selects several sites throughout Bucks County, and in the past they have located a collection point within Lower Makefield Township. He stated the Household Waste Program collects a number of items including solvent based paint and paint related materials such as varnish and paint thinner, various lawn and garden products such as pesticides and chemical fertilizers, kitchen and bathroom cleaning solvents, fire extinguishers, aerosol cans, and various automotive products including motor oil, antifreeze, and lead acid batteries. He stated they do not collect latex paint, large appliances, asbestos, explosives, or alkaline household batteries. He stated there is a very high participation rate by the Lower Makefield Township residents.

Mr. Fedorchak stated this year, they are asking for a four-year commitment, and the annual cost to the Township would be \$4,300 which is in the Budget. He would recommend that the Township continue to participate in this program.

Mr. Stainthorpe stated this program is hugely popular, and the Township has also done supplemental programs outside of this program which are also hugely popular.

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to continue to participate in the Program.

It was noted that further information on the program is available on the Township Website and Township TV Channel.

APPROVAL TO MOVE FORWARD WITH INSTALLATION OF SCHOOL ZONE SIGNS ON QUARRY ROAD

Mr. Eisold stated Chief Coluzzi had asked him about installation of school zone signs on Quarry Road, and they also had discussions with PennDOT and the principals at the Schools in this area. He stated the principals indicated that the existing signs do not really slow down the traffic. He stated in discussions with PennDOT, it appears that they will approve the signs being proposed. He stated the time zones would be 8:30 a.m. to 9:15 a.m., 11:50 a.m. to 12:30 p.m., and the last 3:15 p.m. to 4:00 p.m. He stated the cost for the signs would be approximately \$15,000, and they would need to discuss how this cost would be worked out with the School District. Mr. McLaughlin stated he feels this is a School District issue, and Mr. Stainthorpe stated it is also a public safety issue.

Mr. McLaughlin moved, and Ms. Tyler seconded to move forward with the Application and to instruct the Township Manager to discuss the matter of payment with the School District.

Mr. Arthur Cohn, stated the Citizens Traffic Commission has been discussing this for some time, and he would recommend proceeding.

Motion carried unanimously.

APPROVAL OF GRANT OF EXTENSION OF TIME TO FREEMAN'S FARM AT MAKEFIELD (FERRI TRACT)

Mr. McLaughlin moved, Ms. Tyler seconded to Grant the Extension of time to Freeman's Farm at Makefield (Ferri Tract) to June 7, 2013.

Mr. Garton stated in keeping with past discussions, the letter to this Applicant granting this Extension will include the caveat that any further Extension will require that they appear at the Planning Commission to explain why they need a further Extension.

Motion carried unanimously.

APPROVAL OF GRANT OF CERTIFICATE OF APPROPRIATENESS TO 734
STONY HILL ROAD – ERECT SIGN FOR MY GYM – BUILDING #4

Mr. Stainthorpe stated this was approved by the Historical Architectural Review Board.

Mr. Dobson moved, Mr. Benedetto seconded and it was unanimously carried to approve Grant of Certificate of Appropriateness to 734 Stony Hill Road – Sign at My Gym – Building #4.

ZONING HEARING BOARD – SATTERTHWAITE APPEAL - APPROVAL OF
MOTION FOR SOLICITOR TO ATTEND TO REPRESENT THE TOWNSHIP

Mr. Stainthorpe stated the Satterthwaite issue will be on the Agenda of the Zoning Hearing Board on March 5, 2013. He stated since there will not be another Board of Supervisors meeting before that date, the Board needs to consider this evening if the Township solicitor should be present at that meeting to represent the Township and have Party Status. Mr. Benedetto asked if the Township would still have status if they did not send the Solicitor to the meeting. Mr. Stainthorpe stated he feels they would still like to have the Solicitor participate as there could be Township issues and things of concern to the Township. Mr. Garton stated if the Township does not participate, they would still be in a position where they could Appeal an outcome since Townships by Statute are always Parties to the proceedings. He stated the Judge may want to know why the Township wants to Appeal a Decision when they did not participate, but statutorily the Township is always a Party even if they did not appear. Mr. Benedetto asked Mr. Garton if he would be attending the Zoning Hearing Board meetings, and Mr. Garton stated it would probably be Mr. Koopman.

Mr. McLaughlin moved and Ms. Tyler seconded to have the Township solicitor attend the Satterthwaite Zoning Hearing Board Application to participate on behalf of the Township.

Mr. Rubin stated the Chair sets the Agenda, and the original Agenda had this matter listed; and it was then removed, and he asked why it has been added again. Mr. Stainthorpe stated he did not realize that there was not another Board of Supervisors' meeting before the Zoning Hearing Board meeting.

Motion carried unanimously.

**MAKEFIELD/WOODSIDE ZONING HEARING BOARD DECISION DISCUSSION
AND STIPULATION**

Mr. Garton stated the Board met in Executive Session prior to the meeting with all Supervisors in attendance except for Mr. Benedetto. Mr. Garton stated they discussed the pending Appeal in the Court of Common Pleas of Bucks County of the Decision of the Zoning Hearing Board related to Makefield/Woodside which is the project at the corner of Stony Hill and Yardley-Langhorne Roads owned by Mr. Troilo. Mr. Garton stated the Zoning Hearing Board had Granted relief with respect to certain parking spaces permitting what was proposed to be a delicatessen to have 40 seats and an ice cream shop to have 56 seats for a total of 96 seats. Because of a change in the delicatessen to more of a restaurant-type use, Mr. Troilo went back to the Zoning Hearing Board and asked for a re-allocation of the seats so that 56 would be allocated to the restaurant and 40 to the ice cream shop. Mr. Garton stated the Zoning Hearing Board had concerns about the overall parking at the site even though it was a re-allocation of the same numbers, and they turned the Application down.

Mr. Garton stated Mr. Troilo took an Appeal to the Court of Common Pleas of Bucks County, and the Township intervened as a participant. Mr. Garton stated he had discussions with the Zoning Hearing Board Solicitor who indicated they were not going to intervene because the Township was involved. He stated there was a Rule 27 Conference approximately two to three weeks ago when this matter was discussed. Following that meeting he had discussions with Mr. Murphy, attorney for the Applicant; and Mr. Troilo has agreed, if the Township will agree, to reduce the number of seats between the two uses by 10 thus reducing the parking pressure that the Zoning Hearing Board had issue with. Mr. Garton stated he discussed this matter with the Zoning Hearing Board solicitor to ask her if she could speak for the Zoning Hearing Board with regard to this proposed resolution, and she assured him that she felt this was consistent with the concerns the Zoning Hearing Board.

Mr. McLaughlin moved and Mr. Dobson seconded to authorize Mr. Garton to execute a Stipulation to settle the matter by reducing the total seats between the two uses by ten thus reducing the required number of spaces.

Mr. Rubin asked the Board of Supervisors to postpone any action until the Zoning Hearing Board can discuss this and take a position on it. Mr. Garton stated the Zoning Hearing Board was not a Party to the proceedings. Mr. Stainthorpe stated it was Appealed to the Court of Common Pleas, and this is a Settlement; and it is a Decision for the Board of Supervisors to okay this Settlement. Mr. Stainthorpe stated this Applicant has been fighting for this for months, and he is not willing to make them wait any further. He asked if this is approved by the Board of Supervisors that the Township expedite whatever Permits are needed. Mr. Stainthorpe stated the delay has had a serious economic impact on the owner of the building the person who is going to lease the

building. Mr. Benedetto stated he was the Supervisor liaison to the Zoning Hearing Board when this matter was heard before the Zoning Hearing Board, and he feels this is a good resolution to the concerns expressed by the Zoning Hearing Board and by Mr. Troilo.

Motion carried unanimously.

SUPERVISORS REPORTS

Ms. Tyler stated the Planning Commission will begin discussion of the Comprehensive Master Plan Update at their next meeting on Monday, February 25. She also stated that the Lower Makefield Seniors are in need of a Nominating Committee for their upcoming Election. Ms. Tyler stated Pennsbury LYFT is a community prevention coalition dedicated to reducing substance abuse and encouraging positive decision making. She stated on Sunday, March 23 at 12:30 at the First United Methodist Church in Fairless Hills there will be a free multi-cultural, multi-faith event; and further information is available on their website www.PennsburyLYFT.org.

There being no further business, Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to adjourn the meeting at 8:40 p.m.

Respectfully Submitted,

Dan McLaughlin, Secretary