

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JANUARY 15, 2014

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on January 15, 2014. Chairman Dobson called the meeting to order at 7:30 p.m.

Those present:

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

Others:                         Terry Fedorchak, Township Manager  
                                      Jeffrey Garton, Township Solicitor  
                                      Mark Eisold, Township Engineer  
                                      Thomas Roche, Police Department

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B. Wren Song Road discussed his concern with the financial condition of the Pennsbury School District.

Mr. Christian Schwartz, 306 Cinnabar Lane, stated the Yardley Morrisville Lions Club is being formed to provide assistance to those in need and community building. He reviewed the history of the Lions Club. He also discussed some of the ideas they are considering working on including the restoration of Community Pride Day. He invited those interested in learning about the Lions Club to come to their meeting on Monday, January 20 at 7:30 p.m. at the Township Building. He stated information can also be found on the Community Access channel.

Ms. Sarah Spengler-Campanello, 29 Greenridge Road, thanked the Township for the letter sent to Mr. Casey regarding Quiet Zones; however, she stated she has concerns apart from the Quiet Zones. She stated the CSX representative had indicated that he could not estimate the increase in train traffic since he could not predict the economy; however, he did lay out some scenarios that might account for an increase in train traffic including the Port of Philadelphia receiving certain maritime contracts; and he was optimistic that this would occur. Ms. Campanello stated she is certain that if the Port of Philadelphia receives this business, CSX will be bidding on this additional business. Ms. Campanello stated she has been told by numerous people that statements have been made that transporting crude oil by rail is the

safest method; however, she feels this is a dated answer and she reviewed the recent increase in oil spills resulting from derailments. She stated the amount of crude oil and ethanol traveling by railroad has skyrocketed. Ms. Campanello also noted reports on the design flaws of the tank car (the DOT-111) that carries oil and ethanol and can split open, and discussed the number of incidents that have occurred with these cars. Ms. Campanello stated she feels the Quiet Zones are necessary, but she is also concerned about the safety of the freight trains passing through Lower Makefield Township and the potential for catastrophe. She stated the SEPTA expansion is not just about the Positive Train Control, but it is also about allowing the freight trains to move through Lower Makefield more rapidly and more frequently. She stated currently CSX is somewhat limited by having the shared track system with SEPTA; and if this is taken away, there is nothing to stop CSX from increasing freight traffic.

Mr. Ed Gavin, 904 Sensor Road, stated previously he asked whether the Supervisor benefits could be limited; and Mr. Garton was going to clarify this. Mr. Garton stated he sent a letter to the Township last month outlining the issues associated with this which is available to Mr. Gavin at his convenience. Mr. Gavin asked for an explanation this evening. Mr. Garton stated members of the Board of Supervisors are permitted to participate in the health insurance program offered to Township employees at no cost to the Township Supervisor provided before they enroll, they make an announcement at a public meeting that they are intending to do so. He stated Mr. Gavin had previously referenced a Resolution which the Board of Supervisors at the time adopted many years ago capping that at \$2,500 per year which at the time was probably a significant amount for health insurance but today it is not. Mr. Garton stated Supervisors today would not be restricted by that cap since they are entitled to full participation at no expense if they chose to do so.

Mr. Gavin stated Mr. Garton previously indicated that the Board could not take an action to cap it; and Mr. Garton stated they took an action then as a sense of what that Board felt was appropriate, but it is not binding on future Boards or future Supervisors because the Statute that authorizes it does not have a cap on the expense.

Mr. Gavin stated the current Board could take an action to limit benefits to Supervisors; and Mr. Garton stated while they could it is not enforceable because each individual Supervisor has that right. Mr. Garton stated the previous Resolution was the sense of the Board that they agreed to. He stated those persons that adopted that Resolution were bound by it because they agreed to it, but there is not an obligation to abide by it as a Supervisor since statutorily there is no limitation on the amount of the cost. Mr. Gavin stated it states that the Township may give them the right...; however, Mr. Garton stated it is not "may," and if they ask for it, they are entitled to it. Mr. Garton stated when that Resolution was passed that

Board limited it by agreement amongst themselves. Mr. Garton stated if one Board member voted in favor and one voted against, unless they voluntarily abide by the Resolution, it is not binding on any individual Supervisor because the Act provides that it is at no cost; and the other members of the Board cannot restrict an individual member's rights under the Statute for compensation and/or health insurance.

#### APPROVAL OF MINUTES

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Minutes of December 18, 2013 as written.

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Minutes of January 6, 2014 Reorganization Meeting as written.

#### APPROVAL OF JANUARY 6, 2014 WARRANT LIST AND DECEMBER, 2013 PAYROLL

Ms. Tyler moved, Mr. McLaughlin seconded and it was unanimously carried to approve the January 6, 2014 Warrant List and December, 2013 Payroll as attached to the Minutes.

#### RECAP OF JANUARY 2 AND JANUARY 5 WINTER STORM EVENTS

Mr. Kevin Kall, Public Works Director, was present to discuss the first two storms in 2014 and the associated costs. He stated the first storm was a significant storm, and it was the first storm when they were going to use brine this year. He stated when they know that there is going to be an accumulation and the weather will remain cold with snow first, they institute an action plan to apply brine, and they did this on January 1. He stated one Township employee has the brine applicator mounted on his truck, and he worked six hours on New Years Day and nine hours on January 2 covering seventy-five miles of road which included the main roads, secondary roads, and hills, and the northern part of the Township. Mr. Kall stated it started to snow by 5 p.m., and all employees were in by 6 to 6:30. He stated they went out and started to salt the secondary roads and developments. He stated they also put the outside contractors on notice, and by 3 a.m. both the Township employees and the contractors started plowing since they need to wait until it is no longer snowing to plow the secondary roads and developments as it wastes the applications of salt and taxpayer money. Mr. Kall stated there was a combination of nineteen pieces of equipment from Public Works and fourteen contractor vehicles. He stated they completed the operation at 3 p.m. He stated the cost for this event was \$43,000

including brine, salt, and manpower which equaled 660 man hours for the 8" to 10" storm. He stated they did get some constructive feedback from residents which is helpful for the next event.

Mr. Benedetto noted the Public Works Budget for 2014, and Mr. Fedorchak stated there are three components to the \$43,000 cost including employee overtime, contracted services, and salt/brine used. Mr. Kall stated Township employee costs were \$9,500 and contractor costs were \$6,200. Mr. Fedorchak stated in a few weeks he will have completed the 2013 year end report, and he will provide the Board with a briefing in late February/early March.

Mr. McLaughlin stated he felt they Budgeted \$250,000 for total snow costs including material and labor; however, Mr. Kall stated he did not feel that it was that high. Mr. Fedorchak stated usually it is \$50,000 for personnel services, \$60,000 to \$75,000 for materials from Liquid Fuels, and approximately \$67,000 for contractor services.

Mr. Benedetto asked if they received delivery of the additional materials, and Mr. Fedorchak stated they did. Mr. Benedetto stated it seems that they have used 30% of the materials for this storm. Mr. Kall stated the salt costs were approximately \$13,000. He stated they did purchase a significant amount of salt the end of last year, and he reviewed what they have ordered to date this year. He stated currently the cost per ton is \$50.

Mr. Benedetto asked about the difference between using brine and salt. Mr. Kall stated the brine is good if they know it will start as a snow event and will stay cold and there will not be a significant amount of snow. He stated brine is effective to above 20 degrees. He stated they also have calcium chloride on the property which they can mix with salt if needed which reacts at a lower temperature. Mr. Kall stated brine versus salt is a significant cost savings. He stated they purchase the brine from Middletown for \$.22 per gallon. Mr. Kall stated the ice storm on January 5 was a salt event, and they could not use the brine.

Mr. Benedetto stated he is concerned that the Budget forecasted for a somewhat mild winter. He asked if they are close to Budget already, and Mr. Fedorchak stated they are not.

Mr. Kall stated all of their vehicles were equipped for a snow event in December, and this is what interrupted their leaf collection.

Mr. Benedetto asked if they used more outside contractors than anticipated; and Mr. Kall stated they used both Township full time and part-time employees with contractors for the snow event, but they used only Township employees for the ice event on January 5.

Mr. Kall stated the Police Department contacted him at 6:00 a.m. about icy roads, and by 6:45 a.m. trucks were out on the road. He stated their immediate concern was to assist the Police Department on a number of spin outs which were on State roads, and for the first two hours four trucks were dedicated to assist the Police Department on the major roads. He stated this delayed them getting to the secondary roads and the developments, and he understands that there was feedback on this. He stated all roadways were salted by 1:00. Only Township resources were utilized for this event.

Mr. Fedorchak stated PennDOT did reimburse Public Works for the salt used on their roads. Mr. Kall stated they applied approximately forty tons of salt, and PennDOT allowed them to collect on that forty tons.

Mr. Kall stated the January 5 event cost the Township approximately \$8,300, \$5,000 on salt and approximately \$3,300 for Township employees.

#### UPDATE ON LEAF COLLECTION PROGRAM

Mr. Kall stated they had enough resources and a break in the weather to get back to the leaf collection which started this Monday. He stated he went out with the crew to assess the conditions. He stated they have four leaf trailers on the roads on a daily basis and one backhoe accompanied by three dump trucks in areas where they need to get leaves off the street with mechanical equipment because the leaves are frozen to the ground. He stated as of 4 p.m. today, they were approximately half way through the Township. He feels they should be done by next Friday.

Mr. Benedetto asked if there is a way the residents could get an update on the schedule since the snow postponed the leaf pick up. Mr. Kall stated they will work on this for the next few days, and residents should get their leaves out to the curb line. Mr. Dobson stated Mr. Kall has indicated that they should be complete by a week from Friday.

Mr. McLaughlin stated he felt in the past the leaf pick up was completed by Christmas, and he asked if the problem this year was the weather; and Mr. Kall agreed.

Mr. Kall noted the temporary emergency pump over station at Derbyshire Road is needed to assist with the I and I conditions during wet weather events. He stated the temporary pump station is in the Permitting stage with DEP, and all the letters have been submitted. Tri-State Engineering is drawing up the specifications which will be reviewed by January 27. Mr. Kall stated they would like this put out to bid as soon as the specs are reviewed. Mr. Dobson asked that this matter be put on the Board's Agenda the first meeting in February.

Mr. Benedetto asked about the status of the recycling yard as he was advised that the yard will be closed from January 1 through March, and Mr. Kall stated this is correct. Mr. Benedetto stated a resident has indicated that he has downed branches, etc. and asked that it be open at least one Saturday a month for residents to dispose of waste. Mr. Kall stated they get very minimal traffic on the weekends so it is a waste of a resource to have someone there. He stated the main reason why they closed it January through March is because they have stockpiled thousands of yards of leaves there, and until they move some of those leaves, they do not have room. He stated in the past leaves were stockpiled on the Samost Tract, and this year they had to find other ways to dispose of the leaves. Mr. Kall stated by April they should be back to a full operation at the recycling yard Monday through Friday and at least the first and third Saturdays. He stated they could make a special exception if someone has a dire need and cannot go to one of the local recycling yards such as Shady Brook or the landfills. Mr. Kall stated Christmas trees are picked up by the trash haulers.

Mr. Zachary Rubin, 1661 Covington Road, asked again about the costs of the storms, and it was noted on January 5 it cost approximately \$8,300, and the January 2 storm cost approximately \$44,000.

#### UPDATE ON FEMA FLOOD MAP APPEAL AND COMMUNITY RATING SYSTEM

Ms. Maryellen Saylor was present to give an update on the Township's Appeal to the 2010 Preliminary FEMA flood insurance study and associated flood maps. She stated the flood insurance study and flood insurance rate maps for Bucks County are being revised by FEMA using the latest technology and most current data. She stated the most significant change is that the 2010 flood rate insurance maps have been prepared with updated base mapping and topography that will improve the accuracy of the floodplain's determination. She stated with this update a digital flood insurance rate map was produced that will be compatible with GIS and are available electronically at the FEMA Website. She stated these should be used once they become effective for planning, permitting, and insurance applications.

Ms. Saylor stated the current flood map datum is one of the big changes as they are going from the National Geodetic Vertical Datum of 1929 to the North American Vertical Datum of 1988. She stated to perform this conversion the elevations were lowered by .91 feet or just under one foot. She stated once the 2010 FIRMS become effective, the structures and ground elevations in the Municipality for Land Development Plans, Building Permit Applications, and Elevation Certificates must be referenced to the NAVD88 more recent datum.

Ms. Saylor stated that what this means is that FEMA is updating their Flood Insurance Rate Map using more accurate technology, more accurate mapping with the GIS system, and they have updated from a datum that was established in 1929 to one that was established in 1988 so it is more current. She stated the way they have converted from the 1929 datum to the 1988 datum is a mathematical conversion of just under one foot so the elevation was lowered by approximately one foot. She stated this does not mean that people are now out of the floodplain because it got lowered, and the elevation is just a change in datum or a reference point.

Ms. Saylor stated once the maps become effective structures and ground elevations in Bucks County Building Development Plans, Building Permit Applications, and Elevation Certificates must be referenced off the 1988 datum. Ms. Saylor stated due to this more accurate base mapping and the update of the vertical datum, the status of some of the properties and buildings in Lower Makefield will change with some properties currently mapped in the Special Flood Hazard area no longer being mapped there, and some which are not currently in the Special Flood Hazard area may be mapped into the Hazard Area with these pending maps.

Ms. Saylor showed maps which show in red those areas that are currently not mapped in the Special Flood Hazard area that will be mapped in, in green are areas that are currently mapped in a Special Flood Hazard area but will no longer be so with the new maps, and the blue areas are areas that are currently mapped in and will remain mapped in.

Ms. Saylor stated with regard to the status of the update, FEMA published the second public notice in late August, 2013 and the ninety day appeal period ran through November 23. During that Appeal period action was taken by Lower Makefield. She stated on August 28 a meeting was held with FEMA, elected Officials, and residents of Lower Makefield who were concerned that all the stormwater improvements done were not included and about the pending FEMA flood map changes. She stated during the meeting FEMA recommended that all improvements that had been made in the Township which could effect the flow of water should be reported to FEMA within the ninety day Appeal period. Ms. Saylor stated the Township submitted a letter of Appeal on September 18 listing the improvements

within the Special Flood Hazard area that were not accounted for in the new mapping. She stated the Appeal was filed in an effort to demonstrate that as a result of the recent storm sewer improvements made within the area between the Canal and the River that some of the residential properties shown within the Special Flood Hazard area on the pending 2010 map may not actually be located within the Flood Zone Area. Ms. Saylor stated FEMA requested technical documentation from the Township to back this up, and the documents were submitted to FEMA on November 22; and they provided detailed information on improvements such as the DCNR Canal culvert at Black Rock Road which was replaced with a much larger box culvert, the Canal being dredged which removed 19,000 cubic yards of sediment and debris, the collapsed culvert at Black Rock Road was replaced, and the back-flow preventers which were installed on stormwater facilities within the area. Ms. Saylor showed pictures of the projects done.

Ms. Saylor stated FEMA responded by issuing a letter in December acknowledging that the Township had a valid Appeal based on the improvements made in the Township; however, FEMA has since notified her office that after evaluating the information they have found that although the improvements will be effective for the smaller storms, there will not be an appreciable effect on the one hundred year flood. She stated FEMA will therefore not be changing the 2010 mapping and will issue a letter to this effect.

She stated the FEMA Website indicates that the letter of final determination for the 2010 maps and flood studies is scheduled to be issued May 19, 2014. After that there will be a six-month compliance period to November 19, 2014 during which the Township must adopt an updated Floodplain Management Ordinance in order to stay within the National Flood Insurance Program. She stated upon completion of the six-month period, the new flood insurance study and the flood insurance map will become effective. She stated FEMA's targeted date for FIRM is now shown as November 19, 2014, although this is subject to change.

Mr. Stainthorpe stated basically the Township Appealed, and they were turned down, and the new maps will be effective in November, 2014; and Ms. Saylor agreed. Mr. Stainthorpe asked if there are any other avenues of Appeal, but Ms. Saylor stated there are none that she knows of. She stated FEMA has done a good job with the study using up-to-date information and technology. She stated the Township did Appeal by providing information on the improvements done in the Township that were not accounted for, and they were reviewed by FEMA; however, FEMA declined to make any changes based on those improvements.



Mr. Joe Menard, 917 Putnam Drive, stated he is confused since if the flood plain levels are being reduced, there are new additions to the flood plain area; and if it is lowered, he asked how there could be new additions. Ms. Saylor stated it is a reference point, and if the ground elevation datum is lowered, the water elevation is lowered as well. Ms. Saylor stated because they have more accurate mapping, the calculations are more accurate. Mr. Menard asked what impact this will have on the Emergency Management Plan. He also asked if the new areas which have been added to the floodplain include residential areas or just open land. Ms. Saylor stated it is a combination of both open space and houses.

Mr. Eisold noted that the map being shown is a map of the overall area and is small and difficult to read, but there are individual maps which are larger and easier to read. He stated a map has been done for each section to show the detail for each property, and these are available at the Township for the public to review. He stated they have also put together a list of all the people who were out but are now in or in and are now out; and they have had discussions with Mr. Fedorchak, and there will be a letter going out to each of the property owners notifying them if there is a change. He stated those property owners can also Appeal that with FEMA based on the elevation of their house.

Mr. Menard stated they filed the Appeal because they felt they had a good case; and he asked Mr. Eisold's opinion of FEMA's response. Mr. Eisold stated that some of the projects that were done before his firm was the Township engineer, and they did not really know the full scope of the projects initially. He stated after review of the projects, the scope of those projects were not of the magnitude that would have any appreciable impact related to the one hundred year storm and they agree with FEMA that the improvements made were not substantial enough to incur a change in the one hundred year flood elevation.

Mr. Desai, 661 Nancy Road, stated a few years ago he and his neighbors applied for a map amendment from FEMA and he was advised at that time that his house was 9" below and he should not file. He stated his neighbors on all sides are exempt, and he is not. He asked if the .91' will have an impact on his property. Mr. Eisold stated the .91' is really a reference point, and nothing is being lowered per se. He stated it is a reference point between mapping systems that were done years ago and mapping systems that are done today. Mr. Desai stated he was told that according to the map, his house was nine inches too low; and if the maps have changed, conceivably his house would change and be out of the floodplain. Mr. Eisold stated this is not necessarily true since the floodplain changed too as it is a reference point so that everything changed. Mr. Desai stated the floodplain goes down .91'; however, Mr. Eisold stated the house would go down too.

Mr. Scott Burgess, 15 Glen Drive, stated he is the Chairman of RAFT. He stated from 2004 to 2006 they were hit with three large storms and a number of factors caused a number of residents to have flooding problems. Mr. Burgess stated they are hearing that FEMA has indicated that there is really only minimal change in the flood map area. He stated most of the residents in his area were first required to get flood insurance between 1999 and 2000. He stated since then three flood events have occurred in which case he had one claim for \$6,000, but his insurance has tripled to \$3,000 a year. He stated there are people on his street who have not had one inch of water in their basements, but are paying \$2,500 a year. He stated they feel FEMA is stating that even though you are most likely not going to get flooded, they still want money from the residents.

Mr. Eisold stated Ms. Saylor will make a second part of the presentation that speaks to this concern. Mr. Eisold stated while there is no way to change the map, individual property owners can verify what their first floor elevation is against the map elevation of the flood; and if the house is above that, they can get some benefit with regard to flood insurance. Mr. Burgess stated he also understands that homeowners when they sell or buy have to pay for the flood survey. Mr. Eisold stated he does not know what the mortgage companies are requiring.

Mr. Bill Murphy, 65 Manor Lane South, stated a statement was made by the prior Township engineer that if you sent in a valid flood control program, their premiums could be reduced by 30%. Mr. Eisold stated they will discuss this shortly this evening. He stated the Township has applied for the Community Rating System (CRS) which will help to reduce premiums for flood insurance for the residents.

Mr. Mike McCann, 1357 N. River Road, stated he bought his home in October and he needed a Flood Certification to determine the base level of the site was. He stated before they bought their home he estimated the flood insurance would cost approximately \$2,000, but his first quote was \$9,000. He stated in discussions with FEMA, they indicated this was because they had a basement so that he was 9' below the 100 year floodplain. He stated the house he purchased has never seen a drop of water. He stated now he is going through the process of getting the Permits and Variances to raise the house and fill in the basement; and he has been advised that if this is done, his rate will be \$300 a year. Mr. McCann stated if someone purchases or refinances a home, they will get the unsubsidized rate and it will be \$8,000 to \$9,000 a year.

Mr. Eisold stated during Ms. Saylor's next presentation it will be shown that the rates are going up substantially as the money is not there to fund the flood insurance, and FEMA is raising the rates 25% a year until they are back up to a point where they feel they should be, and the Township is trying to minimize this.

Ms. Saylor stated the Community Rating System (CRS) is the National Flood Insurance Program and is a voluntary incentive program which recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. As a result flood insurance premium rates are discounted to reflect the reduced flood risks resulting from community action. She stated participation in the National Flood Insurance Program Community Rating System will lower the yearly flood insurance premium for properties located within the Special Flood Hazard Area as mapped by FEMA on the Flood Insurance Rate Map by 5% to 45% per year depending on the Municipality's proactive management of the flood plain areas.

Ms. Saylor stated the Township has taken action by sending a letter of interest to FEMA in September, 2013 expressing the Township's interest in participating in the CRS. A Community Assistance Visit was held with a FEMA representative and Township staff including the Township engineers on December 15, 2013. She stated this included a tour of the flood plain in the Township and several properties where FEMA has dispersed money to raise the elevation of the structures, paid for the demolition of a property in the floodplain, and where repetitive insurance pay outs have been made. She stated the FEMA representative went over key items with regard to the National Flood Insurance Program, the Floodplain Ordinance, and the Zoning Variances for properties within the Special Flood Hazard Area. The FEMA representative also provided statistical data regarding the flood insurance policies held within the Township including the number of policies and pay outs.

Ms. Saylor stated the National Flood Insurance Program is being restructured currently and a 25% increase per year in flood insurance premiums are expected until they are brought up to what FEMA considers an actuarial level so it is timely for Lower Makefield to enter into this program.

Ms. Saylor showed an example of one of the flood mitigation measures for which the Township gets credit upon entering the CRS Program. She stated there have been instances in the Township where structures have been elevated to bring the living spaces above the base flood elevation.

Ms. Saylor stated following the meeting with the FEMA representative, the Township e-mailed FEMA the Township's Floodplain Ordinance for review which is a mandatory step in the CRS process. The FEMA representative will issue a letter to the Township recommending improvements to the Township's Floodplain Management; and once the letter is received, the Township will be required to comply with concerns raised in that letter in order to get into the Program. She stated the Township has approximately six months to prepare, approve, and adopt an updated Floodplain Ordinance in order to stay on schedule for an October, 2014 entry into the CRS Program. She stated if the Municipal Floodplain Ordinance

is found to be satisfactory, it can be submitted in its current form; and if the Ordinance needs to be updated, the Township can seek assistance from the State National Flood Insurance Program Coordinator. Once the Township is determined by FEMA to be in compliance which includes the adoption of an updated Floodplain Ordinance, a good letter of standing will be issued by FEMA, and a different FEMA representative will come to the Township to assist in filling out the CRS Application. Ms. Saylor stated once the Application is approved by FEMA, the Township will be accepted into the CRS Program. The whole process takes approximately one year, and FEMA accepts Municipalities into the Program twice a year in May and October. She stated it is anticipated that Lower Makefield will enter the Program in October, 2014.

Mr. Burgess stated he is very disappointed in himself and the Township since this was brought to the Township's attention three years ago, and nothing was done. He stated when RAFT was very active in 2006/2007 the reason the dredging, the culvert, and back-flow preventers were done was because RAFT pushed the Township to do something. He stated now three years later he and his neighbors could have been saving money, and they are a year away from being in this program and the rates will go up 25% each year to wipe out any benefit they may get potentially. He stated he understands a number of locations in the Country have had dangerous flooding and lost their homes, and the people north of Yardley Borough had severe claims; but his neighborhood gets flooded by the Canal which will not wash away their homes, and he does not feel he should have to pay \$3,000 and up a year because he gets water in his basement. He stated while he recognizes that FEMA is doing this, they need help from the Township and the other Government Representatives.

Mr. Menard stated the Flood Map includes the Borough, and he asked if FEMA is including Yardley Borough and the Township. He stated he feels Lower Makefield has lower costs per unit than does the Borough. He asked if they are being harmed by the Borough in terms of the rates. Mr. Eisold stated they could ask FEMA this. He stated he feels each area is looked at individually, but they can confirm this. Mr. Menard asked if Yardley Borough was included in the Township's Application, and Ms. Saylor stated they were not.

Ms. Judy Curlee, 551 River Road, asked how many homes have submitted claims; and Ms. Saylor stated she does have this information, but it is not available this evening. Ms. Curlee stated she feels they have been remiss, and it does not seem like it is commensurate with the risk. She asked that they put on the Township Website the number of homeowners in the Township who have filed FEMA claims.

UPDATE ON PATTERSON FARM AGRICULTURAL EASEMENT AND GRANT

Mr. Stainthorpe stated he and Mr. Fedorchak met with Commissioner Loughery yesterday to discuss the Agricultural Preservation Easement on the Patterson Farm. He stated when the vote to approve the Easement came up there were some questions about giving money directly to a Township since in the past these funds have gone to individuals. Mr. Stainthorpe stated there were also questions as to whether the Patterson Farm was not already properly preserved, as the County did put an Open Space Easement on it when it was first purchased. Mr. Stainthorpe stated he feels they were able to make a compelling case, and Commissioner Loughery will put this back on a future Agenda and discuss it with his fellow Commissioners. Mr. Stainthorpe stated they need two votes to get it approved. He stated they also made the offer to come back to another meeting and also be at the public meeting when it is discussed. Mr. Stainthorpe stated he feels Mr. Loughery is now clear as to the value of the Easement to the Township and the County.

Mr. Benedetto asked when the Application was filed, and Mr. Fedorchak stated it was filed in October, 2012. Mr. Benedetto asked how many meetings the State Agricultural Board holds a year, and Mr. Stainthorpe stated they hold six meetings a year, and the next meeting is in February. Mr. Benedetto stated he would like to be a part of any further discussions with the Commissioners including at the public meeting if it is held. He stated he feels people have been waiting fifteen years for this to be preserved. He stated he feels this Application was finally filed primarily because Donna Doan kept asking the Board to file the Application. Mr. Benedetto stated while he is pleased that they had a discussion with Commissioner Loughery, he feels the Township needs to be more proactive.

Ms. Donna Doan, 1584 Edgewood Road, stated there was good publicity this week for the Patterson Farm as they were the cover story on the new Yardley Life magazine with a circulation of more than 100,000. Ms. Doan stated now that the Application has been stalled and will be re-visited, she asked that they amend the Application to include more of the land. She stated 101.9 acres was included in the Application, and she feels they are missing out on the opportunity to get approximately \$400,000 more. she stated she does not see a correlation between the leaves and the area that was omitted from the Application. She stated they need these funds for the preservation of the Farm.

Ms. Doan asked Mr. Stainthorpe if he is on the Farmland Preservation Board for Pennsylvania; and Mr. Stainthorpe stated he is, and he was appointed by the Governor last year. He stated he has been on since last August/September. Ms. Doan asked Mr. Stainthorpe his motivation for going on the Board, and Mr. Stainthorpe stated he was asked by the Governor's Office to join; and he feels he was recommended by the State organization – PSATS. Mr. Stainthorpe stated Lower

Makefield Township has an outstanding reputation for preserving farmland between the Farmland Preservation Ordinance and other programs adding that he has had a direct part in a lot of these programs. Mr. Stainthorpe stated Lower Makefield is well respected for what they have done for farms. Mr. Stainthorpe stated he is happy to serve on the Board which meets six times a year in Harrisburg. He stated by his participation he has preserved over 100,000 acres over the past year. Ms. Doan stated this is commendable.

Mr. Doan stated with regard to the Patterson Farm during Mr. Stainthorpe's tenure he has given the Township Bright Farms which is an experimental project, and the people of the Township had requested that it be built on brownfields since it does not use farmland; and the residents were ignored in favor of building on prime farmland that was already being used for growing crops. Ms. Doan stated during the time that Mr. Stainthorpe was on the Board, he gave the Artists of Yardley a free rent Lease for five years in the house that farmers could be occupying and paying rent. She stated they have also had the Satterthwaite Subdivision which also takes a house away from the Farm that future farmers could use and live in. She stated Mr. Stainthorpe also ignored emails from the farmer asking to be able to have use of the agricultural buildings for his equipment and crops. She stated they have also witnessed the bulldozing of a barn and an agricultural outbuilding that could have been used by a farmer, and after the building was repaired by the Boy Scouts, the demolition costs paid by the taxpayers was \$3,000. She stated the record with the Patterson Farm by Mr. Stainthorpe and his management of it is not good. She stated she hopes there will be improvement in 2014.

Mr. Stainthorpe stated all of these issues have been discussed numerous times over the years. He stated he believes that everything he and the Board has supported on the Patterson Farm has been for the betterment of that property, and he does not regret any action he has taken. He stated all actions taken were with the benefit of the entire Township in mind, and he feels they have done the right thing. He stated while the sale of the Satterthwaite Parcel has been thwarted by the Zoning argument, they have always acted to do what is best for the Farm.

Ms. Doan asked to make additional comment; however, Mr. Dobson stated she had already had time to make comment and asked that they move on. Mr. Benedetto stated he feels that Ms. Doan should have the opportunity to continue to speak.

Ms. Doan stated the Artists of Yardley were given a free rent Lease of a property that could be making money to support the preservation of the Farm. She asked how five years of free rent is of benefit to the Farm. Mr. Stainthorpe stated this is a misrepresentative of the Lease. He stated the Artists of Yardley did "sweat equity" to work on improvements to the building in order to be there. He stated he is very proud of the Artists of Yardley adding that the building sat empty for fifteen years

which shows what the market value for rent was for that building. He stated what is taking place there now is a good public use and brings the arts as a recreational opportunity for the community. He stated they run art camps and schools, and it is a big win for the community. He stated he is proud of the Artists of Yardley.

Mr. Fedorchak stated there is nothing free about what the Artists of Yardley were given. He stated they have invested tens of thousands of dollars in meaningful improvements to the house and property. He stated in addition they pay all the utilities so they are taking a substantial burden off of the Township taxpayers.

Mr. Benedetto stated the Artists of Yardley Lease was up in October, and he has no idea why it has not been on an Agenda. He asked that this be put on the Agenda in February. Mr. Stainthorpe stated they do have to re-negotiate the Lease. He stated Mr. Fedorchak has had one meeting with them already. He stated he agrees they should proceed with this, but he does not feel they will be able to have it completed by February. Mr. Benedetto stated the Board received their proposed Lease in the summer, and he feels it should have been done by this time. He stated he feels they serve a purpose and do a nice job, but he feels they need certainty with regard to their Lease as well. Mr. Stainthorpe stated they only indicated they wanted to have a new Lease, and they all understand that there needs to be additional terms and some things that are different than they were previously. Mr. Dobson asked Mr. Fedorchak to move the process along as quickly as possible.

Mr. Ed Gavin, 904 Sensor, stated with regard to the County easement, there is a portion of land adjacent to the Satterthwaite House that was not included. Mr. Stainthorpe stated Boucher & James put together the Application, and it was in consultation with the Ag Preservation Committee. He stated if more could be approved, this would be fine, but the Ag Preservation Committee had indicated that certain uses did not qualify. Mr. Gavin stated if they are now starting over, maybe they could add additional land; however, Mr. Stainthorpe stated they are not really starting over since the Application submitted was approved by the Ag Preservation Committee's Board, and it needs to be approved by the Bucks County Commissioners before it goes to the State. Mr. Stainthorpe stated while they could look at whether additional acreage could be added, he would not want to slow down the process or start over; and Mr. Gavin stated he understands this.

Mr. Benedetto stated there is a dispute about whether the leaf pile can be included. He stated he would like Mr. Rich Harvey to be invited to the Supervisors' meeting since his conversation with Mr. Harvey through e-mail was that it could be included. He added that he does not want to delay the Application, but he would like to hear Mr. Harvey publically state whether or not it can be included.

Mr. Fedorchak stated the State has certain restrictions, and he believes Mr. Harvey has stated the position of the County Agricultural Board in writing via an e-mail that was distributed to all of the Supervisors. He stated he will re-send this to all the Board members to see if this suffices. Mr. Benedetto stated he would prefer that Mr. Harvey be invited to a meeting and tell them that the leaf pile cannot be included. Mr. Benedetto stated Mr. Harvey had indicated to him that he would be willing to come to a meeting with a little notice, and he feels he should be invited to come to a meeting in February. Mr. Fedorchak stated he will ask him to do this. Ms. Tyler asked that they look at the email Mr. Harvey has already sent before they ask him to come in; however, Mr. Benedetto stated he wants Mr. Harvey to come in as he wants to hear it from him.

Mr. Menard asked if any community groups have come forward with a plan for the Satterthwaite parcel or raised money to acquire the House, and Mr. Dobson stated they have not. Mr. Benedetto stated since this parcel is still in litigation there would not be any reason for anyone to do something although they could raise money. He stated some of the residents are spending money in legal fees to fight against the proposal for the Veterinary hospital. Mr. Menard stated he was asking if there was a group that came forward to say if the hospital does not go through that they are ready, willing, and able to acquire the Satterthwaite property, and it was noted no one has come forward. Mr. Benedetto stated Ms. Doan has made some efforts. Mr. Menard stated he had heard certain community groups complaining for years about the use of the property yet they have not stepped forward to put their own plan together.

**APPROVE AUTHORIZING ADVERTISING OF ORDINANCE AMENDING LOWER  
MAKEFIELD TOWNSHIP ZONING ORDINANCE TO PROVIDE FOR AN IMPERVIOUS  
SURFACE CREDIT FOR PERVIOUS PAVEMENT SYSTEM**

Mr. Garton stated the EAC has been working on this Ordinance in connection with his office, and he has prepared an Ordinance which they would ask the Board to authorize advertisement for a Public Hearing. He stated this will provide an incentive to use porous paving within the Township to assist with stormwater management, groundwater infiltration, and other beneficial environmental consequences to development that do not currently exist. He stated in exchange for this the Applicant would get a slight increase in their available coverage levels for their building lot.

Mr. Alan Dresser, EAC, stated he and Mr. Bray spearheaded this effort which would effectively reduce the amount of impervious surface by encouraging the use of pervious surface. He stated at the Public Hearing, they will discuss the benefits.



Mr. Dresser stated both he and Mr. Bray have a conflict on February 19, and asked that it be moved to March. Mr. Garton stated they will open the Hearing and table consideration so that it does not have to be re-advertised; and they will defer it to March 19.

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to authorize advertisement of the Ordinance.

#### UPDATE ON QUIET ZONES

Mr. Eisold stated earlier this month he and Mr. Fedorchak met with Mr. Majewski to get up to speed on what he had previously done with regard to this project. Mr. Majewski e-mailed him a number of the documents from that time and also submitted letters of his contacts at CSX. Mr. Eisold stated two of those individuals are no longer there, however, he did get speak to the replacement this afternoon. Mr. Eisold stated there are technical details that need to be reviewed as far as the compatibility of the warning circuitry that may or may not be required for a quiet zone. Mr. Eisold stated he will be putting together a letter to be sent to CSX requesting them to do a field evaluation to see if the conditions are right in the field for the circuitry. He stated he understands that the previous letter indicated that they were not compatible at that time. He stated if the circuitry is not compatible, it will add cost.

Mr. Stainthorpe stated they do need to determine the costs. He stated he feels they can find some Grant money in addition to what CSX may contribute; but they will need to know costs. Mr. Eisold stated they first need to get the technical questions answered as this will impact the costs.

Mr. Benedetto asked the name of the individual at CSX, and Mr. Eisold stated it was Mr. Tony Bellamy who is the Director of Project Management for Public Projects.

Mr. McLaughlin asked how they start looking for Grants for which they would qualify. Mr. Stainthorpe stated he has reached out to Senator McIlhinney, and there may be some County Grants available through the Redevelopment Authority. Mr. Stainthorpe stated he would like to get CSX to pay for as much as possible. Mr. Fedorchak stated they would like to reach out to all levels of Government. Mr. Dobson stated he has talked to the State Representative who has agreed to work with the Township on this as well.

Mr. McLaughlin stated he feels they should also look into whether the Yardley-Makefield Fire Company is fully equipped for a catastrophe. Mr. Stainthorpe stated if there were a train wreck it would be handled by the Emergency Management group through the County, and there are established procedures. Captain Roche stated for something of this scope they would immediately go to the County and State as the Fire Company does not have everything they would need for a train wreck. He stated there are processes in place to get the resources they need. He stated no one town the size of Lower Makefield could possibly stock everything you would need for every kind of disaster that might happen.

Mr. Benedetto asked if there is a point person at Senator Casey's office since a letter went out on January 3. Mr. Fedorchak stated late yesterday afternoon he received a phone message from an Aide at the Senator's Office; and while he returned the call early this afternoon, he has not yet spoken to him. He stated when he has a conversation with him, he will pass on the results to the Board.

Ms. Sarah Spengler-Campanello, 29 Greenridge Road, stated she understands that one of the avenues that can be pursued in order to get CSX to pay as much for the Quiet Zones as possible is that the Grant has to go through a review which includes quality of life issues and noise factors are part of this. She stated if they do not pass this review, they will not get the third rail.

#### APPROVE EXTENSIONS - JENNINGS TRACT AND FLORAL VALE

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to grant an Extension to the Jennings Tract to April 30, 2014.

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to grant an Extension to Floral Vale to March 24, 2014.

#### APPROVAL OF SCAMMELL'S CORNER DEVELOPMENT FINANCIAL SECURITY AND OTHER RELATED AGREEMENTS

Mr. Garton stated the Board approved the Scammell's Corner Development some months ago, and the new buyer is prepared to proceed with the project. Mr. Garton stated he has prepared the Agreements and would recommend Approval.

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Scammell's Corner Agreements.

**TABLING OF SCAMMELL'S CORNER FAÇADE EASEMENT**

Mr. Garton stated he sent the Façade Easement to the Historical Commission for review, and both they and the developer had some comments so the Façade Easement is not ready for action this evening as he wants to make sure that everyone sees the current version before it proceeds. He asked the Board to table consideration of the Façade Easement until the final version has been circulated to everyone involved.

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to table the Façade Easement.

Ms. Benedetto asked Ms. Steil if she had an update on the buyer of the Scammell House, and she stated she had not heard from them. She stated they did review the Façade Easement.

**APPROVAL OF ORDINANCE NO. 394 ESTABLISHING A DEFINED CONTRIBUTION PENSION PLAN APPLICABLE TO ALL NEW FULL-TIME, NON-UNIFORMED EMPLOYEES HIRED AFTER JANUARY 1, 2012.**

Mr. Garton stated several weeks ago the Board authorized the advertisement of this Ordinance. He reviewed the details of the Plan which has been duly advertised for consideration this evening. He stated this will allow the Township to Budget what it expects to contribute to the Plan, and the Township will have a consistent amount that they know they will be obligated to deposit into that account for those non-uniform employees that are new hires. He stated it will not be impacted by the ups and downs of the market.

Mr. Stainthorpe moved and Mr. McLaughlin seconded to approve Ordinance No. 394.

Mr. Zachary Rubin stated he is opposed to this Ordinance.

Mr. Kupersmit stated he is opposed to any reduction in any salary of any employee in the world. Mr. Garton stated there is no reduction in anyone salaries.

Mr. Bill Rauh, 1408 Revere Road, thanked the Board for having this Defined Contribution Plan. He stated the advertisement he read in the Bucks County Courier Times indicated it was a Defined Benefit Plan, but Mr. Garton stated it is a Defined Contribution Plan. Mr. Rauh stated he is happy about this Ordinance.

Motion carried unanimously.

APPROVAL OF AMENDMENT TO NON-UNIFORMED PENSION PLANS ALLOWING CONTRIBUTIONS TO BE MADE ON A PRE-TAX BASIS

Mr. Garton stated there is already a plan in place for current employees, other than Police, who are making contributions to their Pension Plan; and this Amendment will permit those contributions to be pre-tax as opposed to post-tax so that the employee does not pay a tax on it until they receive it when they retire. He stated this will be an appropriate Amendment to the Plan to the benefit of the employees.

Mr. McLaughlin moved and Mr. Stainthorpe seconded to approve the Amendment.

Mr. Zachary Rubin asked if this is a 457 or 403B Plan, and Mr. Fedorchak stated it is a 457. Mr. Rubin asked if this is in addition to a Defined Benefits Plan, an optional Plan, or in lieu of the current Plan. Mr. Fedorchak stated these are the contributions that employees are making toward the Defined Benefit Plan which was instituted for the first time January, 2014. What they are requiring is a 3% contribution for non-uniformed, non-Union employees. He stated the law allows that this contribution can be tax deferred. Mr. Rubin asked if this is what they are proposing for the uniformed employees as well, and Mr. Garton stated they are covered by Act 600 which is a separate statute dealing with Police Pensions.

Motion carried unanimously.

Mr. Garton noted that the Board was in Executive Session for approximately ten minutes prior to the meeting to discuss some personnel issues.

ARIA UPDATE

Mr. Garton stated since the last meeting he received a call from John VanLuvanee who represents Aria. Mr. Garton stated they had been before the Board some months ago to make a presentation. Mr. Garton stated Mr. VanLuvanee advised that Aria would like the opportunity to meet with representatives of the Township and RAFR to discuss this matter. Mr. Garton stated he had advised that he was certain that the Township would not want to meet with Aria unless RAFR representatives agreed that it made sense to meet and were willing to do so. Mr. Garton stated he has received word from Mr. Smolow and Mr. VanLuvanee that RAFR is willing to meet preliminarily with Aria to discuss this matter further. Mr. Garton asked the Board if they want to participate in these preliminary discussions recognizing that anything of substance, approvals, or commitments will take place in a public meeting. Mr. Garton stated the board should also consider who they want to have meet with Aria and RAFR about this project.

Mr. Stainthorpe stated he feels that they should participate, and he feels the Solicitor and Township Manager should participate. Mr. Benedetto stated he would like to be part of this as a Supervisor which he feels would be beneficial.

Mr. McLaughlin moved and Mr. Stainthorpe seconded to participate and direct the Township Manager, Township Solicitor, and Mr. Benedetto to attend.

Mr. Rubin stated he and Ms. Koehler have been deemed to be the RAFR delegates to this meeting, and Mr. VanLuvanee has communicated to Mr. Garton and Mr. Smolow a number of dates that would be acceptable; but they have not heard the date yet. He asked Mr. Garton if he had any further information on this. Mr. Garton stated he needed the Board's approval first at a public meeting.

Motion carried unanimously.

#### ZONING HEARING BOARD MATTERS

With regard to the John S. Tracey Variance request for the property located at 568 Countess Drive in order to allow the constructed retaining wall to remain, Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried that the Township participate in opposition.

With regard to the Richard P. and Hallie C. Micali Variance request for the property located at 1542 Wexford Court in order to construct a pool and pool house resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

#### SUPERVISORS REPORTS

Ms. Tyler stated on February 5 there will be a Pennsbury Concert to benefit the Veterans Square Monument Foundation and she invited everyone to attend. Mr. Benedetto stated he understands that Ms. Tyler will be attending the Benefit Concert rather than attending the Board meeting that evening as a representative of the Board of Supervisors.

Mr. McLaughlin stated the Yardley Business Association advised him that they have a breakfast meeting on January 22 at 8:00 a.m. at the Yardley Inn.

Mr. Benedetto stated the Electronic Media Committee will meet tomorrow evening at 7:30 p.m., and there is a vacancy on that Board. He stated the EAC has advised that the Bucks County Audubon Society will have an Owl Prowl on Saturday, January 25 at 7:00 p.m. at Honey Hollow in New Hope. He stated there will also be a backyard bird count on February 15 at 2 p.m.

Mr. Dobson stated there are a number of vacancies on Township Boards which are listed on the Website, and he asked that those interested submit a resume to help out the Township.

#### APPROVE AUTHORIZATION TO GO OUT TO BID FOR POND REPAIR AT THE GOLF COURSE

Mr. Eisold stated they met last month with the Golf Committee about two variations of a project to repair the pond at the Golf Course. He stated they have finalized Plans and Specs for a complete repair as well as a partial repair of the liner in the pond, and he asked that the Board authorize advertisement.

Mr. Benedetto moved, Mr. Stainthorpe seconded and it was unanimously carried to authorize going out to bid for pond repair at the Golf Course.

#### APPOINTMENTS

Mr. McLaughlin moved and Ms. Tyler seconded the Appointment of Jennifer Stark to the HARB. Motion carried with Mr. Benedetto opposed.

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to Appoint Kaaren Steil to HARB.

Mr. Benedetto thanked Ms. Steil for wanting to serve on HARB when she is already on the Historic Commission. Ms. Steil stated the Historic Commission was created by a Resolution, and being a Township of the Second Class, Lower Makefield must have a HARB; and the knowledge on one benefits the other and vice versa so she is glad to accept this challenge.

January 15, 2014

Board of Supervisors – page 23 of 23

There being no further business, Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to adjourn the meeting at 9:40 p.m.

Respectfully Submitted,



Pete Stainthorpe, Secretary







# Township of Lower Makefield

BOARD OF SUPERVISORS  
Pete Stainthorpe, Chairman  
Dobby Dobson, Vice-Chairman  
Daniel McLaughlin, Secretary  
Kristin Tyler, Treasurer  
Jeffrey Benedetto, Supervisor

**JANUARY 2014 WARRANT LIST AND  
DECEMBER 2013 PAYROLL COSTS FOR APPROVAL  
JANUARY 15, 2014 BOARD OF SUPERVISORS MEETING**

<b>Accounts Payable Warrant Report:</b>		
Printed Checks:		
01/06/14 Warrant List	\$ 510,184.41	
Manual Checks:		
01/06/14 Warrant List	\$ 433.20	
Total Warrant Reports		\$ 510,617.61
<b>Payroll Costs:</b>		
December 2013 Payroll	\$ 391,242.64	
December 2013 Payroll Taxes, etc.	\$ 166,187.93	
Total Payroll Costs		\$ 557,430.57
<b>TOTAL TO BE APPROVED</b>		<b>\$ 1,068,048.18</b>

