

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – MAY 21, 2014

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 21, 2014. Chairman Dobson called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors:                   Dobby Dobson, Chairman  
  Daniel 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  
  Kenneth Coluzzi, Chief of Police

#### FLAG RAISING

A Flag Raising was conducted by Boy Scout Troop 10. Mr. Dobson thanked the Troop on behalf of the Board adding they are the future leaders of the Country.

#### PUBLIC COMMENT

Ms. Helen Heinz, 1355 Edgewood Road, stated at the end of the last meeting there were comments made about the Satterthwaite parcel and discussion about possibly some negotiation going on; and she asked what the Solicitor for the Zoning Hearing Board has been doing in this regard. Mr. Garton stated he has no personal knowledge, and he has not participated at all.

Mr. Benedetto stated at the last meeting he indicated that Ms. Kirk had sent a letter, which was not authorized by the Zoning Hearing Board, to Mr. Murphy about the Rule 27 Conference. Mr. Benedetto stated he was at the Zoning Hearing Board meeting and asked her about this, and she indicated that she wanted to move the case along and had sent a letter to Mr. Murphy indicating that if he did not file for the Rule 27 Conference, she would. Mr. Benedetto stated this started Mr. Murphy contacting Mr. Conoscenti and his attorney to arrange discussions about coming to some sort of agreement.

Ms. Heinz stated there were not only issues related to the use, as there were other issues including buffers, lights, parking lots, number of animals on the property, the second residence, failure to comply with historic preservation, demolition of the barn, addition of two new medical facilities, an additional barn, and the unspecified twenty acres she was going to lease from the Township.

Mr. Benedetto stated his concern was if the Zoning Hearing Board Decision could be by-passed such that they could reach an agreement, change the Ordinance to accommodate Dr. Bentz; and the Zoning Hearing Board would not have to sign off on it as the Applicant would pull the Appeal. Mr. Benedetto stated he was told by Ms. Kirk that if the Supervisors changed the Ordinance, they could do this; and Mr. Garton confirmed this. Mr. Garton stated he had indicated that if there was a Stipulated Settlement that modified the parameters it would need to be approved by the Zoning Hearing Board who were part of the process. Mr. Garton stated the Township did not participate but they intervened, and they would have to approve it as well. He stated in the absence of that, the only way there could be a change to permit the use would be through the Zoning Amendment process that would require Public Hearings and comments from Bucks County Planning Commission and the local Planning Commission.

Ms. Heinz stated she has had questions from people about historic homes in the area, and whether there are a sufficient number of historic houses in Lower Makefield that were here at the time that Washington went through the Township in 1776. She asked if the Board would be interested in looking at some kind of a historic overlay to put Lower Makefield on the map as being a Revolutionary Township that retains a significant number of houses. She stated she did look at her maps, and she came to the conclusion that there are easily twenty to twenty-five houses that were here when Washington camped in this area before the crossing of the River and the Battle of Trenton. She stated she feels this is significant to the Township. She asked that the Board consider looking at some kind of historic overlay. Mr. Benedetto asked about the house on the Harris Tract, and Ms. Heinz stated it was advertised as a frame building in 1763 in the Pennsylvania Gazette.

Mr. John Torbert, Sr. stated at the last meeting on May 7 a resident brought up the subject of the mulch recycle program and how last year the Township sold mulch. Mr. Torbert stated he does not understand why the Township does not want to get involved in this again. He stated the residents come in and dump their branches, etc. at the recycling yard, and six days a week when the recycle area is open there is an operator with a front end loader working on the pile; and when the pile gets big, it has to be ground, and the grinder costs a lot of money to run. He stated they have a operator working on the grinder and there is also a loader operator so it is two Township employees working, plus fuel, plus wear and tear on the equipment.

Mr. Torbert stated once it is ground, they have to try to get rid of it, and there are times when they have to pay to have it removed. Mr. Torbert stated the Board indicated previously that they did not want to continue the mulch delivery program for the residents because it was interfering with private business; however, he stated he was in the mulch business for ten years, and the Board bought a grinder with no concern for his business. Mr. Torbert stated the Township is processing this at the taxpayer's cost, and then they have to pay to have someone haul it out despite the Township saying they are in a deficit.

Mr. Benedetto stated he agrees with Mr. Torbert and feels the Township should be in the business of selling mulch. Ms. Tyler stated they did not sell mulch to the residents, rather they charged for the delivery as mulch has always been free to Township residents to pick up.

Mr. Benedetto stated in the current Budget there is a line item under Public Works that says "Sale of Mulch," and the number for 2013 was \$28,560. He stated in 2014, the Budget is \$10,000. Mr. Benedetto asked Mr. Fedorchak if the Township is not selling mulch or charging for delivery, are they not going to meet that projection. Mr. Fedorchak stated Mr. Kall is present this evening and could address this.

Mr. Torbert stated the Township has spent a lot of money on the Snipes Tract with a new fence, a paved area, and a new access since they are dumping debris there now.

Mr. Kall stated the reason why there is a \$10,000 line item in the Budget for Revenue is because several years ago when the yard recyclables were in demand, the vendors would pay for the material. He stated the \$10,000 number was inserted in the Budget this year in the hopes that the local vendors would need the product; although at this point, the vendors are taking the material from the Township for free.

Mr. Benedetto stated he attended the EAC meeting, and they are going to look at the mulch issue; and they mentioned at that meeting that the mulch had been sold. Mr. Kall stated this is incorrect, and the mulch was not sold. He stated probably this year, they will not be able to sell mulch. He stated this year they have been combining the yard recyclable waste and the leaves to get rid of that product. He stated there is a demand for the leaf mulch more so than for the yard recyclable mulch. He stated it is still free for the residents to come and pick up. Ms. Tyler asked where and when residents can pick up this mulch, and Mr. Kall stated they can pick it up at any time on the Township property behind the Township garage; and they are also working to expand the area at the Snipes Tract well off the road so residents can pick up mulch there as well. He stated he and Mr. Fedorchak are also looking into other areas where they can have this product available for residents.

Mr. Fedorchak asked Mr. Kall if the vendors now coming to the Township and hauling the mulch away are charging the Township for this, and Mr. Kall stated they are not.

Mr. Benedetto stated the vendors are just taking it and reprocessing it to sell, and Mr. Kall agreed. Mr. Kall stated other Townships are also coming to the Township to help reduce the supply. Mr. Benedetto stated he does not feel it makes sense to give it away when they could be making money by delivering it to Township residents. He stated in the past they received over \$28,000 for the delivery/sale of the mulch, and now they are giving it away to vendors who are reprocessing it and selling it. Mr. Kall stated last year was a one-time event. He stated they knew they had to clean off the Samost Tract for the ball fields and liquidate product, and they felt this was the best way to do it. He stated this year they are giving it away for free which is nothing different than they have done in years prior to last year.

Mr. Benedetto stated other Townships do sell it, and he feels the community has spoken and would like to see it happen. He stated at the last Board meeting, it was clear that the rest of the Board does not feel this way. Mr. Benedetto asked Mr. Kall his opinion and if the Township should be in the business, trying to make money off of it like they did last year. Mr. Dobson stated this is not an appropriate question to ask Mr. Kall because it is not his position to make policy. Mr. Benedetto thanked Mr. Kall for the work that he does.

Mr. Ralph Demmler, 1909 S. Crescent Boulevard, asked if there is a storefront that the Township has where they could sell mulch. Ms. Tyler stated the Township does not sell mulch to the residents. She stated what they did last year in an effort to clear the Samost Tract was to charge a delivery fee to deliver mulch to residents. She stated as a resident of Lower Makefield you can pick up free mulch. Mr. Demmler stated he was questioning if there way any way to make a market for it, and there could be a commissioned broker who would find buyers for it. Ms. Tyler stated if they sell mulch, the Township would cross into a taxing situation and owe tax money to the State of Pennsylvania. Mr. Garton stated if it is not surplus, it would be a saleable item; and since the Township is a non-profit organization exempt from taxes, if they would engage in entrepreneurial activities, that exemption may not exist. He stated it is not part of a pure Governmental function.

#### APPROVAL OF MINUTES

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Minutes of May 7, 2014 as written.



APPROVAL OF APRIL 21, 2014, MAY 5, 2014, AND MAY 19, 2014 WARRANT LISTS AND APRIL, 2014 PAYROLL

Ms. Tyler moved, Mr. McLaughlin seconded and it was unanimously carried to approve the April 21, 2014, May 5, 2014, and May 19, 2014 Warrant Lists and April, 2014 Payroll as attached to the Minutes.

APPROVAL OF GROUND LEASE WITH VETERANS SQUARE FOUNDATION

Mr. Garton stated the Veterans Square Foundation is almost ready to begin the project at Veterans Square, and the Township owns the property. He stated what is intended by the Lease is for the Township to lease approximately 9,000 square feet of space to the Veterans Square Foundation for a period of time beginning the effective date of the Lease and continuing for one year or until they complete the improvements at which time the Lease will end, and the Township will be the owner of the improvements.

Mr. Garton stated the Lease involves a portion of Tax Parcel 20-21-5. The rental is the sum of \$1. There are no taxes for the real estate due because the property is exempt. The tenant is committed to completing the improvements which include the construction of the Veterans Square Memorial and the other pertinent facilities. They promise and commit to making the only purpose of that property being the Veterans Memorial. They agree that they will not cause to be placed on the property any hazardous substances. The Township has agreed that to the extent they need access to the Lease premises, they have to go through other property belonging to the Township. They will maintain the property in good order and repair. The Township may visit periodically to make sure things are being done in accordance with the Lease. They will be required to maintain Liability Insurance during the course of the Lease. The Township is indicating that the Township has the authority to do this, and will permit them to have quiet enjoyment until the Lease expires. The Tenant, which is the Foundation, cannot assign or sublet the property. In the event they fail to perform in accordance with the Agreement or violate the Lease, the Township agrees to give them notice to cure; and if they do not cure, they could be in violation of the Lease. The remedy for both the Township and the Foundation in the event of a breach by any of the two parties is governed by the laws of the Commonwealth of Pennsylvania including notice provisions. It attaches a description of the area of the Lease. Mr. Garton stated he understands from Mr. Fedorchak that the form of this is satisfactory to the Veterans Square Foundation.

Mr. Stainthorpe moved and Ms. Tyler seconded to approve the Lease as presented by the Township solicitor.

Mr. Benedetto asked if the Township will be responsible for trash, snow removal, and general maintenance; and Mr. Fedorchak agreed as well as payment of utilities.

Mr. Benedetto asked about a security camera since there are concerns about security of the site because of the nature of the monument. Mr. Benedetto stated Ms. Kraeck has asked if the Township would provide a security camera. Chief Coluzzi stated this would be up to the Board and Mr. Fedorchak; but if they did approve it, the Police Department would monitor it and have access to view anything from those cameras in the patrol vehicles. Mr. Benedetto stated this matter has come up at the Veterans meeting since you see on the news vandalism at not only monuments, but also at public buildings. Chief Coluzzi stated any facility like that is a vulnerable facility just like the Garden of Reflection would be. Mr. Benedetto asked if there is a security camera at the Garden of Reflection, and Chief Coluzzi stated he does not believe that there are.

Mr. Garton stated this would not be a Lease issue, and it would be an issue for a Board to consider whether they desire to incur that expense when they are close to completion of construction.

Ms. Tyler asked Chief Coluzzi how much such a security camera would cost, and Chief Coluzzi stated this would depend on the angles and the amount of cameras needed to be effective. He stated it would be less expensive if it were installed during construction because of the underground conduit and wiring. Ms. Tyler asked Chief Coluzzi to get a quote, and he agreed to do so.

Mr. Benedetto noted Item #15 of the Lease which should be amended to reflect "mutuality," and Mr. Garton stated this has been done. Mr. Benedetto asked if Item #17 has been struck, and Mr. Garton stated it has. Mr. Benedetto stated Mr. Treiber wanted to know about naming Lower Makefield an additional insured, and it was noted that this had been done.

Mr. Benedetto noted the Farmer's Market will open soon on that site, and he asked if there has been any accommodations for the Farmer's Market recognizing that there will be construction there. Ms. Tyler stated she and Ms. Guzikowski who runs the Farmer's Market will be attending the pre-construction meeting tomorrow, and they will address this with the contractor to make sure the vendors can get in and out safely.

Motion carried unanimously.

### CTC TRAFFIC CALMING PROTOCOLS

Ms. Tyler stated the Traffic engineer had a family situation which has caused her to be out of the State and Citizens Traffic is aware of this. This matter will be put on a future Agenda.

### UPDATE ON QUIET ZONES

Mr. Garton stated at the last meeting he was asked to inquire as to whether CSX or SEPTA had filed any Applications or requests for approvals with the PUC. He stated as recently as today he has learned that nothing has been filed by either entity with respect to the railroad corridor that has been the subject of discussion for several months.

Mr. Eisold stated he has been in contact with representatives of CSX and SEPTA. He stated SEPTA has indicated to him that they are planning to submit the PUC Application in early to mid-June. He stated he has been speaking to them about their schedule and monitoring the progress noting there has been some activity. He stated currently they are doing some signal-related work mainly within the Railroad right-of-way which is prep work. He stated they will be starting to work on the Reading Avenue bridge including structural repairs and painting, and this will be done June through August. He stated also from July through October, they will be constructing a retaining wall along their track between Edgewood Road and the Reading Avenue Bridge. He stated the main track construction will take place from approximately September of this year through May, 2015. After that they will do the signal-related activity, making all the connections; and they are required to have this running by the end of next year.

Mr. Eisold stated he met with the SEPTA engineer and their consultants, and next week they will meet again and walk the whole route to see what all the impacts will be. He stated they will be replacing the third track within the right-of-way.

Mr. Eisold stated they have discussed previously with them the Quiet Zones, and what is required; and SEPTA has been very positive with that and accommodating with regard to putting the Quiet Zones in. He stated the supplementary safety measures which are required involve two of the crossings having a raised median which is basically a center island to prevent people from going around the gate. He stated the third one would have a channelization device because of the confines at that location where it is not possible to build the center island. He stated they have been in contact with one of SEPTA's engineers who is a consultant to SEPTA and has been willing to work with the Township, and they are in the process of starting the Application process for the Quiet Zones.

Mr. Eisold stated there was a letter from 2008 from CSX which has been discussed which did “put a damper” on the Quiet Zones based on the constant warning time circuitry. Mr. Eisold stated they have been in contact through e-mail, and CSX has not changed their position; although he did speak to them recently, and they are going to evaluate this again and will get back to Mr. Eisold providing their position.

Mr. Eisold stated to establish a Quiet Zone, there is a process through the Federal Railroad Administration, and there are a number of steps that have to be met, studies that have to be done, data collection, accident reports, plans and maps put together, risk assessments performed, etc. He stated it is SEPTA’s consultant’s view that, provided they go through the process, the Quiet Zones will be permitted. He stated this process could take five months, and he has discussed this with Mr. Fedorchak; and they are moving ahead to get the process started.

Mr. Eisold stated the cost considerations will have to be discussed by the Township. He stated SEPTA is the sponsor of the project and understands that they have to deal with these issues on some level.

Mr. Dobson stated the Railroads have not indicated whether or not they would make a monetary contribution. He asked Mr. Fedorchak what the next step would be to have these discussions with them. Mr. Fedorchak stated with respect to SEPTA, he and Mr. Eisold had a phone conversation with Mr. Knueppel, the CEO at SEPTA, and Mr. Fedorchak emphasized that SEPTA has been very helpful in allowing the Township and Mr. Eisold to access SEPTA’s staff in assisting the Township with this issue and understand from a technical standpoint what needs to be done. Mr. Fedorchak stated SEPTA is supportive of the Quiet Zones, and he feels they think it is a good idea. Mr. Fedorchak stated the Township is also hearing that at this point SEPTA cannot commit any funds to the project, and they do not have money in the Budget for the Quiet Zones. Mr. Fedorchak stated they will also approach CSX. He stated when CSX was at the Township some months ago, they did indicate that they would not participate financially; but he feels they could bring that question before them again.

Mr. Fedorchak stated he has had a brief conversation with one of Senator Casey’s staffers and raised the issue of finding money someplace to assist the Township in paying for the Quiet Zones. Mr. Eisold has come up with a cost estimate of approximately \$375,000, and this was the number Mr. Fedorchak presented to Senator Casey’s staffer who promised to look at what Grant opportunities may be available for the Township.



Mr. Benedetto asked if \$375,000 is the total for all three crossings, and Mr. Eisold stated this was the total based on the physical improvements in the field.

Mr. Eisold stated SEPTA has indicated that some of the improvements they are making will go a long way since they are doing things to their systems that would increase the cost if the Township had to do it on their own.

Mr. Fedorchak stated there are still a few variables out there, and Mr. Eisold is trying to nail down CSX to make it very clear that what they are doing would be compatible and they would not need any special circuitry to add to the system in order to make the CSX system compatible. Mr. Fedorchak stated SEPTA has indicated that they are fine with what Mr. Eisold has been proposing, and Mr. Eisold has been in communication with the SEPTA engineer. Mr. Fedorchak stated SEPTA has also indicated that they feel it should work with CSX too, although the Township does need to have this confirmed by CSX.

Mr. McLaughlin asked who will actually make the decision whether Quiet Zones can go in at the three intersections, and Mr. Eisold stated the Federal Railway Administration has a protocol and list of steps that must be taken to install the Quiet Zones. He added that they have been led to believe by the SEPTA systems engineers who do this kind of work, that based on the conditions out in the field, that the Township can meet all of the requirements. Mr. McLaughlin stated CSX and SEPTA really do not have approval authority, and Mr. Eisold agreed they do not. Mr. Eisold stated SEPTA has advised that if the Township wants to do this and gets approval, they will have to adjust to make it work.

Mr. McLaughlin asked about the timeline for the Township to get the studies done, and Mr. Eisold stated they are ready to proceed. Mr. McLaughlin asked the cost, and Mr. Eisold stated he does not know as the \$375,000 quoted was just the hard field costs. He stated he is setting up a meeting with the systems engineer to find out what the Township can do and what the systems engineer would have to do since some steps are directly Railroad related. Mr. Eisold stated this individual is a SEPTA consultant, and SEPTA has recommended that the Township use him. Mr. Eisold stated he is also a resident of Lower Makefield. Mr. McLaughlin asked if that individual would be available to come before the Board of Supervisors and discuss his qualifications, and Mr. Eisold stated he is sure he would be.

Mr. McLaughlin stated the State has money for transportation initiatives, and he asked how the Township can tap into this. Mr. Fedorchak stated he feels they can reach out to the State Reps and Senators to see if they can assist the Township. Mr. Dobson stated there is also additional liquid fuel money. Mr. Fedorchak stated while that is not much this year, it will increase over the years.

Mr. Benedetto stated SEPTA has said “nice things,” but the Township has to find the money. He stated they are discussing Grant money, and he feels the Township should have pursued this months ago since they have known about this.

Mr. Benedetto stated he forwarded an e-mail to Mr. Garton earlier today from a resident about putting pressure on SEPTA. Mr. Benedetto stated the Categorical Exclusion was granted to SEPTA, and they waived the National Environmental Policy Act Review. Mr. Benedetto stated he feels that there are a lot of things the Township can do as opposed to waiting for Grant money that may or may not come in or Liquid Fuels money. He stated the one thing SEPTA is not saying is that they will pay for the Quiet Zones. Mr. Benedetto asked Mr. Garton to comment on the e-mail he sent him today.

Mr. Garton stated the thirty-five page e-mail was sent today at about 4:30; and while there is merit to what the resident has indicated, in addition the other thing that would be more compelling is when they file their Application with the PUC since the Township can participate in that proceeding. Mr. Garton stated he will review the e-mail and do the research as to what can be done; however, in addition to that, the Township should participate in the PUC Application as well since that is additional pressure that could be brought to bear to help this process along.

Mr. Benedetto stated he heard tonight about reaching out to Senator McIlhinney, and Senator McIlhinney has a relationship with Pat Deon who is the General Manager of SEPTA. Mr. Benedetto stated he feels asking Senator McIlhinney how to get Grant money is the last thing they should do as opposed to going to him and asking him to speak to those with whom he has relationships with since that would put pressure on. Mr. Benedetto stated SEPTA is spending \$28 million on this, yet SEPTA has consistently told the Township they will not do the Quiet Zones.

Mr. McLaughlin asked if SEPTA has actually indicated this, and Mr. Eisold stated SEPTA has advised him that they do not have the money for this. Ms. Tyler stated the reason the Township is pursuing Quiet Zones is not because of the SEPTA trains, rather it is because of the CSX trains. Mr. McLaughlin stated he would like to have the CSX rep back before the Board of Supervisors to indicate if they are going to participate or not. Ms. Tyler stated they also need to know from CSX about the feasibility of the signaling. Mr. Eisold stated they are actually working on that and should have an answer on the signaling shortly.

Ms. Tyler stated Mr. Eisold has discussed channelization on Stony Hill and dividers at the other two area, and she asked Mr. Eisold to describe the divider. Mr. Eisold stated the center divider is almost like a curbed island. He stated Edgewood and Heacock are ideally suited for this because they are wider. He stated the one that is

more difficult is at Stony Hill because it is narrow; and because it is next to private property, they cannot do too much widening there. He stated there they would do channelization which is smaller.

Mr. Benedetto asked if it is accurate that SEPTA cannot perform any work until they go through the Permitting process with PUC; and Mr. Eisold stated they cannot perform any “real” work although they are doing preliminary work and working on their system within the right-of-way.

Mr. McLaughlin asked how the Township participates in the PUC Application process; and Mr. Eisold stated there are a number of stakeholders that will be notified when the PUC filing takes place, and everyone has an opportunity to state their case. Mr. Garton stated the Township could intervene and this creates a process where Hearings have to be conducted. He stated he is not a PUC expert; and if the Township wants to proceed with this, he has someone he would refer the Township to. He stated the end goal would be to see if they can find a means of getting a significant contribution from SEPTA and/or CSX to facilitate Quiet Zones in the Township. Mr. McLaughlin asked if this is the forum to do that, and Mr. Garton stated it is one of the forums.

Mr. McLaughlin stated he would like the SEPTA consultant to be invited to attend the Board of Supervisors’ meeting. Mr. Eisold stated the individual is John Samean, and he works for Gannett-Fleming as Manager of Signal Design. Mr. McLaughlin also asked that they invite CSX to attend the Board meeting as well. Mr. Fedorchak agreed to contact the CSX representative. Mr. McLaughlin stated he would like them to discuss whether or not they are willing to participate financially. Mr. McLaughlin stated the traffic is increasing on that line, and it is well above what was presented to the Board at the last presentation. He stated the trains are also getting longer. He stated there were also a train derailment in Virginia with an oil car. He stated he wants to discuss the number of trains and the safety concerns. He feels with this impact on the community, \$375,000 to a multi-billion dollar company like CSX is not much; and he feels it would be great for them to partner with the Township and show their commitment to the Township residents.

Mr. Fedorchak stated he would also like to discuss with CSX the technical aspect as he does not want to have the CSX engineers find some way to veto the project. Mr. McLaughlin stated he did not feel CSX could do this, and Mr. Eisold stated the systems engineer indicated they would have to adapt to what was done there. He stated the letter that came to the Township in 2008 was from the CSX Engineering Department, and he did tell Mr. Getz in an e-mail today that the Township needed to understand the differences since SEPTA is indicating everything is a “go,” and the CSX engineering staff had indicated there were some issues, and Mr. Getz agreed to address this.

Mr. Benedetto stated when CSX was present in December, Mr. Getz had indicated that, "Quiet Zones happen to a Municipality, and CSX does not make it happen." Mr. Benedetto stated he feels they are going to come in again and repeat that they are not going to fund it. He stated while he can come in, he feels the pressure comes with the fact that they did not have to do any PA review, traffic impact studies, or noise impact studies. Mr. Benedetto stated he feels the Township has some leverage to hold CSX accountable.

Mr. McLaughlin stated he feels the passion of the community has demonstrated that when they are behind an issue, they come out in force; and he would like to show this to Mr. Getz and would like him to have to speak in front of a "packed house." Mr. McLaughlin stated he wants the community to come out and fill the room. Mr. McLaughlin stated he feels the Township is going to get this done, and CSX should help the Township pay for this.

Mr. Arthur Cohn, 7906 Spruce Mill Drive, stated CSX is getting millions of dollars of taxpayer money, and SEPTA is run on taxpayer money. He stated when they talk about Grants from the State or the Federal Government, this is also taxpayer money. He stated during this time of deficits and tight Budgets, the Township is now asking for more money.

Ms. Tyler stated there are over 900 families within 1,000 yards of these Railroad tracks; and she feels if they are able to get the Quiet Zones, it will have a significant impact on the quality of life of many, many residents of the Township, and she does not see this as a frivolous expense. Mr. McLaughlin stated if they can find \$1 million for baseball fields, he feels they should be able to get \$375,000 for this. Mr. Cohn stated while he understands this, the taxpayers still have to pay for this. He stated across the Country, everyone wants money. Mr. McLaughlin stated he feels the Township has given more than what it has received. Mr. McLaughlin stated he would like to see some of this money reinvested back into Lower Makefield.

Ms. Ann Chapman, 631 Long Acre Lane, stated she is for the Quiet Zones. She stated she does not feel a lot new has been said this evening since they have known most of this for several months. She stated she is in business, and when they have a project, they have a pro-active plan. She asked if the Township has a pro-active plan in place with action steps and a person responsible for implementation as well as a time line, because time is of the essence. She stated when the Railroad representatives were present they both indicated that their plan was to have this project finished by the end of this year, and she is concerned that the Township will find itself talking about it with nothing happening; and the Railroad will start the implementation of the project, and the Township will not have time to have the proper equipment in place.



Mr. McLaughlin stated he feels they are proceeding, and Mr. Eisold has been talking regularly with both SEPTA and CSX. Mr. McLaughlin stated he has learned today that it seems that the Township can do a parallel path with the plans and studies with the consultant, John Samean, who can help the Township to put on pressure. Mr. McLaughlin stated they plan to have Mr. Samean come to the next meeting to discuss the next step. Mr. McLaughlin stated he feels they need someone who has expertise in rail and knows how to get this through. Mr. McLaughlin stated SEPTA is well on notice of the Township's intention, and they are also planning on bringing CSX back to make sure they know as well.

Ms. Chapman asked if the plan the Township has in place lines up with the plan the Railroads have. Ms. Tyler stated Mr. Eisold had provided an update of what he has been doing for the past month and the discussions with the representatives, and there has been progress since their last meeting. Ms. Chapman stated while there has been progress, the concern of the residents is that the Township is not moving ahead fast enough given the urgency of the timeline. Ms. Chapman stated she would also like the Township to take a pro-active step to find out when the PUC meeting is going to take place so the Township can be sure that they are part of it. Mr. Dobson stated they have to file an Application first, and Mr. McLaughlin stated SEPTA indicated they could file the first week in June. Mr. Garton stated they have not filed an Application yet, and they will be in contact with the PUC regularly. He stated it will also be on the Website when they file an Application; and when the Township gets word of this, they will do what they have to do legally to participate.

Mr. Benedetto stated he feels they are "spinning their wheels." He stated it has been five months, and now they are talking about getting Grant money; and he feels the Township will be paying for the Quiet Zones. He stated he does not feel any pressure is being put on SEPTA or CSX. Mr. Benedetto stated if CSX attends a meeting, he feels they will say the same thing they said in 2006. He stated Mr. Cohn has made a point about spending taxpayer dollars which he feels is a valid point. Mr. Benedetto stated CSX indicated that they have 24,292 grade crossings, and there are 40 Quiet Zones. Mr. Benedetto stated if CSX sets a precedent in Lower Makefield, they open themselves up. Mr. Benedetto stated in 2006 there were a lot of people who were very upset about this, and nothing happened. He does not feel bringing CSX back will create anything other than more time being wasted.

Mr. McLaughlin asked Mr. Benedetto what he would suggest, and Mr. Benedetto noted the legal challenge to "hold their feet to the fire." He added that all along the Township should have been filing for Grant money, and they should immediately start the Grant applications doing it on their own or look at all the legal avenues they can to put pressure on. Mr. Benedetto stated they could also use the contacts that they have on the Board such as Senator McIlhinney to talk to SEPTA and put the

pressure on them. Mr. McLaughlin stated they did state that they were going to ask their State politicians to put pressure on. Mr. McLaughlin asked what legal aspects they could pursue, and Mr. Garton stated they would have to explore the issue raised in the e-mail that Mr. Benedetto sent him this afternoon and also the PUC proceedings. Mr. Benedetto stated it is not just the PUC Application as it is also the Categorical Exclusion that was granted to SEPTA that waived any PA review. He stated if that was invalid, they could go back and they would then have to do a Traffic Impact Study, an Environmental Impact Study, and all the things that there are not being required to do right now which would make a huge difference and make them possibly come to the table and discuss how they could help move this along.

Mr. Fedorchak stated he will pursue the Grant avenue; however, he added the research he has done so far has not indicated any opportunities, and this is why he reached out to Senator Casey's office to see if there are State or Federal opportunities.

Mr. Jaydeep Nanavaty, 468 Jenny Drive, stated his home is 14' away from the new track, and he does not feel quality of life has a price tag. He asked why they could not do channelization for all three crossings as it would be less expensive. Mr. Eisold stated the islands have a higher value from a risk standpoint. He stated part of the process is showing that the risk of someone getting hit by a train is decreased by doing what they are doing. He stated the center islands provide a much higher reduction of risk than the channelization does. He stated they are only using the channelization where they see a situation where the islands will not fit physically, and they have to use an alternative. He stated the SEPTA consultant agreed with him as well. He stated from a risk standpoint, there would be a higher percentage of getting approval using the traffic islands.

Mr. Nanavaty noted the timeline and the first step was filing a Letter of Intent, and he asked when that can be done. Mr. Eisold stated he has a rough outline of the steps they have to go through, and one of them is the Notice of Intent but there are things that have to be done before that. He stated the consultant provided this step-by-step process of what has to be done in order to get the approval for the Quiet Zones.

Mr. Nanavaty stated he has been doing research not only in the terms of quality of life but also in terms of safety, and he read that the Quiet Zones have increased the quality of life and also decreased the risky behavior by drivers. He stated he feels Quiet Zones will increase safety.

Mr. Tim Collins, 479 Jenny Drive, stated he was the author of the letter sent to Mr. Garton. He stated he also sent a letter to the State Representative. He stated he has heard tonight the most positive response to this issue since December. Mr. Collins stated when the CSX representatives were previously present, they indicated that they would not fund it. He stated CSX has thousands of crossings; and if they fund one, they will have to fund them all since this is what people want.

Mr. Collins stated he feels the primary concern is the safety of the public and not just the residents of Lower Makefield. He stated he has heard that there are nine hundred possible homeowners that are directly effected by the sounds of the horns. He stated these are not just CSX horns that are making noise, and SEPTA horns have the same decibel level although they move a little quicker. He stated the problem with CSX trains is that they are heavier and the rumbling of the train in conjunction with the horn compounds this. He stated with regard to the number of CSX trains, Mr. Getz told the Township, they were not increasing the traffic in the petroleum business; however, Mr. Collins stated this is incorrect and currently there are four additional trains running on the lines. He stated the derailment in Virginia was due to a wash out from a heavy rain.

Mr. Collins stated there is a lot of notoriety on the type of class of tank car that carries the Balkan crude oil. He stated the tank car is a 1-11A which is the generic tank car that carries other products. He stated it is the shipper's responsibility to notify the Railroad what the product is that they are shipping. He stated the product from the Balkan crude has more volatility in it than they have been presenting. He stated this is why when there is an impact, it has a stronger flashpoint because it is a more combustibile material; and until the Railroads and shippers "get their hands around what is in the tank car," this will never change. Mr. Collins described newer tank cars being built which are safer.

Mr. Collins stated he feels the channelization improves what they have. He stated oftentimes the train goes past you before you really hear the horn because of the way the train is running with the sound going backwards. He stated many accidents at Railroad crossings are caused by the public disregarding the gates; and it is not the horns or the gates, but the person who wants to go around the gate that is the problem. Mr. Collins stated he would not support Quiet Zones channelization if he did not believe it was better for the community. He stated he hopes all Board members will support the nine hundred homeowners that represent 25% of the people who live in the Township.

Ms. Sarah Spengler-Camponella, Green Ridge Road, stated she looks forward to Mr. Garton's answer to whether or not there is any way to challenge the Categorical Exclusion; and she feels if they can, they should and should also challenge at the PUC as well. She stated part of the issue is that it looks like they are targeting SEPTA; but CSX is also involved, so by challenging this, they are also challenging CSX which she feels is one of the only ways the Township will have any leverage. Ms. Camponella stated New Jersey and New York are also part of the line, and she is not sure if they can get inter-State cooperation because local Governments in New York and New Jersey are having problems with CSX; and they are starting to ask their State and Federal Representatives for assistance.

Mr. David White, Gayle Drive, stated it was indicated earlier that CSX is probably unwilling to put any money into this because it would be precedent setting; and they have thousands of rail crossings across the Country and would not want to be put in a position where they would have to fund this type of project for all those crossings. He stated he would question in how many of those crossings are they co-located with another Railroad who is willing to do this, and they should consider this. He stated he recognizes the comment that Grant money is our money since it is our tax money; and he hopes that the Board agrees that if it is our money, we should be using our money. He stated if we do not go after the Grant money, someone else will; and it will not come back to the taxpayers unless they go after it for Grants. He stated he would support the effort to do this. Mr. White commended Mr. Eisold and Mr. Fedorchak on the work they have done so far, and he is pleased that they are moving forward; and he hopes they continue the effort.

Mr. McLaughlin asked that this matter be put on the upcoming Agendas for the next few months so that they at least have a brief summary of what is going on, and Mr. Dobson agreed to do so.

Mr. Collins stated the Railroad has already started putting the wiring harnesses in at Oxford Valley and Stony Hill Roads for the new signal system. Mr. Eisold was asked to look into this.

#### ZONING HEARING BOARD

Mr. Garton stated the Board met in Executive Session for approximately fifteen minutes prior to the meeting this evening to discuss the following Zoning Hearing Board matter.

With regard to the Scott & Kim St. Pierre Variance request for the property located at 425 Schindler Drive in order to install a fence in an easement, it was agreed to leave the matter to the Zoning Hearing Board.



#### APPROVE POLICE CONTRACT

Mr. Garton stated the representatives of the Board have been in negotiations with the Police Benevolent Association with respect to a new Police Contract. The prior Contract expired the end of 2013. The Board has been kept apprised of the discussions. He noted a Police Contract has been ratified by the Police Benevolent Association. He stated this will be five year Agreement beginning 1/1/14. The increases with regard to wages will be 3 ½% each year during the five year period. He stated there is a modest increase in longevity pay, and shift differential is going to \$12.50 per shift for the late shifts. He stated for the first time in many years, they will be contributing to the Pension – 1% of their salary in 2015 and 2016, and 2% in 2017 and 2018. Mr. Garton stated the Township will be increasing the ICMA match by \$400. He stated the post-retirement health care will be limited to six years. He stated service increments will be extended just for this contract, and they have adjusted the steps for new hires so that the new Officers will cost less and will get to the higher grade in a much longer time. He stated the Township is also achieving some savings by increasing the co-pays on prescriptions to \$10 and \$20.

Mr. Stainthorpe moved and Mr. McLaughlin seconded to approve the Police Contract as presented.

Motion carried unanimously.

Mr. McLaughlin thanked Mr. Garton and Mr. Fedorchak for their work in this matter, and he asked that Chief Coluzzi communicate to the PBA that they appreciate their cooperation.

#### SUPERVISORS' REPORTS

Ms. Tyler reminded everyone that the Township Pool is opening on Saturday. She stated they will be having an Open House on May 31 and everyone is welcome to come and spend the day to check out the facility if they are not presently members.

Mr. Benedetto stated the Veterans Foundation is within \$5,000 of their goal of \$20,000 in twenty days, and they would like to surpass that goal so that they have money for landscaping and maintenance. He stated June 1 is the final deadline for inclusion of names to be submitted for the Wall of Honor for Veterans who have lived in Lower Makefield or Yardley. He stated information can be e-mailed to VeteransSquare.org. or call 267-274-1195. He stated June 15 is the deadline for the

purchase of Freedom Pavers. Mr. Benedetto stated there will be a celebration for anyone who donates \$1,000 or more; and since there is a matching program, if you donate \$500, they will upgrade this to \$1,000.

#### APPROVE RESOLUTION REGARDING DEFINED CONTRIBUTION PENSION PLAN

Mr. Fedorchak stated in January, the Board adopted an Ordinance which established for the first time a Defined Contribution Pension Plan. He stated for the past thirty years, the Township has had a Defined Benefit Plan. He stated the Defined Contribution Plan will cover all non-uniformed employees both exempt and Union employees. He stated the Ordinance refers to the ICMA Corporation Governmental Money Purchase Plan as being the vehicle for this Defined Contribution Plan. Mr. Fedorchak stated ICMA has reviewed the Ordinance and found it acceptable, and they have indicated that the next step is to adopt this Resolution which is in their format. He stated as part of the Resolution there is an Administrative Service Agreement which will set up certain protocols and procedures that will be used.

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to adopt the Resolution regarding Defined Contribution Pension Plan.

Mr. Fedorchak stated they currently have three employees in the Defined Contribution Plan. He stated this was done by the Board of Supervisors keeping an eye on the future and realizing that in the future, there will be significant savings for the taxpayers. He stated the average age of the non-uniform employees is slightly more than fifty-four; and in ten years there will be a significant number of employees who will be part the Defined Contribution Plan and no longer part of the Defined Benefit Plan. He stated in the not too distant future, the Township is going to begin to see significant savings.

#### OTHER BUSINESS

Mr. Benedetto noted the letter delivered to the Township by Mr. Hibbs regarding the Dobry well situation. Mr. Benedetto asked for an update since when he spoke to Mr. Hibbs today, he indicated that nothing has been resolved and his mother is not able to be in her home.

Mr. Garton stated he has received money from Toll Bros. that would cover the cost of a new well for Mr. Hibbs as well as filters for the other two property owners. He stated he received the quotes from Mr. Eisold as to the costs associated with the new well and the filters, and he has authored some correspondence with some documents to go to those homeowners. He stated the Township is not guaranteeing

anything, and this is a contribution from Toll Bros. to cover those costs. Mr. Garton stated the money from Toll Bros. is sufficient to cover the total costs based on the estimates.

Mr. Benedetto stated Mr. Hibbs indicated to him that there had only been one estimate. Mr. Stainthorpe stated his understanding was that Toll Bros. wanted to take care of the matter, but the responsibility to drill the new well was going to be Mr. Hibbs. Mr. Benedetto stated the concern was that there was only one estimate, and you are supposed to get multiple estimates. Mr. Benedetto stated the problem remains that the mother is still out of the house, the well has not been taken care of, and there has not been an agreement between Tolls. Bros. and the Hibbs family that this is resolved.

Mr. Eisold stated there were three estimates for the well.

Mr. McLaughlin asked how much Toll Bros. contributed, and Mr. Garton stated it was \$15,000. Mr. McLaughlin asked about the estimates, and Mr. Eisold stated they are just under that. Mr. Garton stated there is enough money to do the new well for Mrs. Hibbs and the two new filters for the other two homeowners.

Mr. Stainthorpe stated Mr. Hibbs needs to understand that the Township is out of this. He stated the Township put pressure on Toll Bros. through the Building Permit process, and Toll Bros. responded. Mr. Garton stated the Township is holding the money, and Mr. Hibbs will have to have the well drilled.

Mr. Benedetto stated at the last meeting of the Board of Supervisors there was a discussion about the Park & Rec Fee-In-Lieu money being used to pay for the Pool Marketing Campaign. Mr. Benedetto asked why the money came from Park & Rec Fee-In-Lieu as opposed to the Pool Budget.

Mr. Fedorchak stated this was as a result of his concern with the Pool Budget. He stated going from last year into this year, the Pool ending balance dropped by over \$100,000. He stated this was a consequence of the Pool Membership numbers which have been dropping considerably over the last several years and also because there has been a significant up tick in Personnel Services for the Pool Operating Budget. He stated going into this year, he has asked Park & Rec to do a little better job managing that piece; and hopefully they will be able to stay within Budget. He stated they do not have control over the Revenues. He stated he is concerned about where they will end up in 2014, and it was his suggestion that the Pool Marketing consulting fee come out of the Park & Rec Fee-In-Lieu fund which is what the developers pay specifically for Park & Rec purposes and it is not taxpayer money.

Mr. Benedetto stated he has researched this and in 2011 the balance in the Pool Fund was \$303,000, and they did a General Fund Transfer of almost \$100,000. He stated in the last four years, they have done a transfer from the Pool Budget to the General Fund of over \$185,000; and the balance of the Pool Budget is over \$300,000 for 2014. He stated in 2011 the Pool, without the Transfer, lost approximately \$40,000. In 2012, without the Transfer, it was about \$63,000, and in 2013, the Pool lost about \$28,000. Mr. Benedetto stated there is still a balance of \$300,000. He stated it is always noted that the Pool is self-sustaining just like the Golf Course. Mr. Benedetto stated under this decision to take the money from Fee-In-Lieu, it is no longer self-sustaining. He stated there is a Balance Statement and it should reflect Expenses and Revenues. He stated if they are going to spend \$27,500 for marketing the Pool, it should be accurately reflected in the Pool Budget when there is increased revenue hopefully from this marketing campaign.

Mr. Benedetto stated in the Pool Budget it includes Contracted Services like sanitation, pest control, aerobics for members, inspections, legal fees, auditing fees, and consultant fees. He stated if they are going to continue to talk about the Pool that is self-sustaining and has a Budget of over \$300,000, he does not see how they can use Fee-In-Lieu when they are not going to accurately reflect it under the Expenses and Revenues; and the Pool being self-sustaining will be a myth.

Mr. Benedetto stated in 2014 they will spend \$40,000 for a mower and there are other needs in the Township that have been identified by Public Works; and they are bringing the Park & Rec Fee-In-Lieu fund down so that it now has a balance of approximately \$75,000. He stated he understands Mr. Fedorchak's concern that the Pool may not make money; and while they are trying to effect this by having a marketing campaign, they are not going to accurately reflect that in the Budget even though they have the money to spend the \$27,500 in the Pool Budget.

Mr. Fedorchak stated by the end of the year 2012, there was approximately \$356,000 in the Pool Budget. He stated they are taking \$264,000 into 2014 which is a difference of approximately \$96,000. He stated this is almost a \$100,000 drop in the balance in one year. He stated currently they are still down significantly in Pool membership renewals from last year. He stated they all hope that the marketing campaign will make a difference, and he feels it will either this year or next year. He also stated he is not sure that they are going to be able to expense Public Works vehicles from the Park & Rec Fee money since it is restricted to recreational types of capital improvements or uses.



Mr. Benedetto stated according to the Budget book, the 12/31 Cash Balance projected at the end of 2013 was \$303,584 which is where he got the beginning balance for 2014. He stated they are talking about \$250,000 or \$300,000 and this item is \$27,000; and he does not feel it will accurately reflect Expenses and Revenues. He stated anytime someone states that the Pool is self-sustaining, it will no longer be the case.

Mr. Benedetto moved and Mr. Stainthorpe seconded to have the Marketing Budget of \$27,5000 be moved to the Pool Budget as opposed to Park & Rec Fee-In-Lieu.

Mr. Stainthorpe stated the Pool is supposed to be self-sustaining, and they have the funds there and they should be used to promote the Pool.

Mr. Tim Collins stated they should look into why the numbers are going down, and Mr. McLaughlin stated that is part of what they are looking at with the marketing program. Ms. Tyler stated there is a shift in demographics and the opening of NAC Pool is also having an impact.

Mr. Benedetto stated the Pool Steering Committee has come up with a lot of great ideas, and he feels they are moving in the right direction.

Motion did not carry as Mr. Benedetto and Mr. Stainthorpe voted in favor and Mr. Dobson, Mr. McLaughlin, and Ms. Tyler were opposed.

There being no further business, Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to adjourn the meeting at 9:25 p.m.

Respectfully Submitted,



Pete Stainthorpe, Secretary

