

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

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

Those present:

Board of Supervisors: Pete Stainthorpe, Chairman
 Dobby Dobson, Vice Chairman
 Kristin Tyler, Treasurer
 Jeff Benedetto, Member

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

Absent: Dan McLaughlin, Secretary Board of Supervisors

PUBLIC COMMENT

Ms. Kathy Kraeck, Vice Chair of the Veterans Committee, stated they have applied for their own non-profit status which will give them more autonomy to deal with contractors when they bid out the project. She stated they still need to raise more money, and they are still taking the names of Veterans who lived in Lower Makefield to have their names engraved for free on the wall of honor. She showed a picture of a clay model of the bronze eagle that will be on the top of the monument. Ms. Kraeck stated the large oak tree which was to be a part of the monument was **knocked** down by Hurricane **Sandy**, and they are putting together a landscaping plan and discussing this with the EAC. She stated they hope to have an evergreen hedge that will function as a border between Veterans Square and the CVS. She stated they also want to do a grove of other trees as a back drop to the monument. Ms. Kraeck stated the Electronic Media Committee in conjunction with David Lee have put together a twenty minute video which will air on the Lower Makefield Website and Cable Channel. Ms. Kraeck stated their next fundraiser is the Fourth Annual Texas Hold'Em which will be held on April 6 at Michael's Restaurant in Morrisville with a \$75 donation to be able to play. Ms. Kraeck stated the Veteran's Square Monument was chosen to be a beneficiary of the Makefield Women's Association First Annual Harvest Day to be held at Shady Brook Farm on September 21. Ms. Kraeck stated there is information on the Veteran's Square project on the Township Website.

Mr. Simon asked if this is something that was being discussed before he called Mr. Eisold's office and Mr. Eisold stated the slope was not because it was within the parameters of the design for a field of this type. He stated part of this was based on the fact that they did have drainage concerns.

Mr. Mark Moffa, 1531 Derbyshire Road, asked about the costs for the fields as he understands that the lowest Bid came in at \$685,000. Mr. Fedorchak stated the Township engineer will evaluate the Bids and give recommendations. Mr. Fedorchak asked that they give Mr. Eisold time to review the Bids and look at all the Alternatives. He stated Mr. Eisold will provide a report to the Park & Recreation Board and the Board of Supervisors explaining what he feels they should do and what the low Bid would be.

Mr. Moffa stated he knows that the Board had addressed the cost issue for this project in previous meetings, and he particularly noted the January 16 meeting. He stated he understands it is being funded by a State Grant. Ms. Tyler stated there is a \$2 million Grant, and the Township had to put up land to match. She stated that Grant has been divided into four projects – one is the Community Center to which approximately \$1 million has been devoted. She stated the second project was the ball fields at approximately \$585,000, the third was resurfacing of the basketball and tennis courts at approximately \$180,000, and the balance is for an all-inclusive playground at Memorial Park.

Mr. Moffa stated the original Plan was for three ball fields with the million dollars that was not being used for the Community Center, and Mr. Stainthorpe stated it has always been two fields. Mr. Moffa asked what went into the discussion when it became two fields and the resurfacing and the playground were included since he feels the Board of Supervisors has not allowed itself enough room with the balance. Mr. Stainthorpe stated the two fields were determined some years ago. He stated they met with all the athletic organizations and talked about their needs going forward, and PAA had good reasons why they needed these two fields. He stated this decision was made before the Grant money became available. Mr. Stainthorpe stated if he is questioning whether there is sufficient money to build the fields, there are significant reserves in Park & Rec and elsewhere; and it is the commitment of the Board to find a way to get the project done. Mr. Moffa stated he then assumes that if the low Bid comes in above \$585,000, this does not mean that the project is "dead;" and Mr. Stainthorpe stated he feels that they will be able to find \$125,000 to \$150,000 but if it is \$500,000 this is a different challenge. Mr. Stainthorpe stated their commitment is to get the fields done and to get them done right.

Mr. Moffa asked why they feel they had such an overage on the resurfacing of the courts since the Bid came in over the Budget of \$125,000 at \$196,000. Ms. Tyler stated oftentimes numbers come higher than the estimates, and that is what happened on the resurface project. Mr. Moffa stated he feels this is very high, and he asked what kind of

oversight there is. Mr. Fedorchak stated the Grant called for \$140,000 to \$150,000 for the resurfacing. He stated the Township engineer at the time was Remington Vernick; and while he cannot recall why there was an overage, the Township engineer at that time did certify the project.

APPROVAL OF MINUTES

Mr. Dobson moved, Ms. Tyler seconded and it was unanimously carried to approve the Minutes of March 6, 2013.

APPROVAL OF MARCH 4, 2013 AND MARCH 18, 2013 WARRANT LISTS AND FEBRUARY, 2013 PAYROLL

Ms. Tyler moved, Mr. Dobson seconded and was unanimously carried to approve the March 4, 2013 and March 18, 2013 Warrant Lists and February, 2013 Payroll as attached to the Minutes.

PROCLAMATION IN RECOGNITION OF THE ACCOMPLISHMENTS OF THE PENNSBURY HIGH SCHOOL GIRLS CROSS COUNTRY TEAM

Mr. Stainthorpe stated the Pennsbury High School Girls Cross Country Team won the State Championship in 2010, 2011, and 2012 and are one of only three schools to have won three times. He stated they also won the Northeast Regional Championship, and they placed ninth in the National Championship. Mr. Stainthorpe stated their success was brought to his attention by Mr. Benedetto who had asked that they be recognized. Mr. Stainthorpe stated the Board of Supervisors gets a Police Report every week, and there are a lot of young people making bad decisions so it is always a pleasure to recognize young people who are making good decisions, doing great things, who are disciplined and have goals, and are winners.

Mr. Benedetto stated they were the third Class AAA Cross County Team to “three peat” in PIA history since the advent of the sport in 1977. He reviewed rankings and times for the Team adding they had four runners in the top twenty in the State Meet, two of whom are Freshmen. He stated at the Northeast Regionals, they were the #1 seed, and won with four runners in the top twelve including three Freshmen. He stated they finished 9th at the Nationals, which was the first time the team ever went as a team. He recognized the coaches and Team Captains. Mr. Benedetto also recognized Senior Sara Sargent who has been a State Champion in at least one event every year of her High School career. He stated he feels they have a Team that will also break records next year especially given the Freshmen talent. Mr. Stainthorpe read the Proclamation that was presented to the Team.

PENNSBURY LYFT PRESENTATION

Ms. Kathy Kraeck, Community Mobilizer, and Mr. Timothy Philpot, Coalition Project Director for LYFT, were present.

Ms. Kraeck stated they are a program of the United Way of Bucks County, and they are a prevention coalition with the purpose of helping students in Grades Six through Twelve make good choices, get involved, give back to the community, and to not smoke, drink, or do drugs. She stated the coalition is made up of members of the School Board, School Administration, Police Departments, Civic and Business Associations, faith-based groups, and members of the local Boards of Supervisors. She stated they meet usually the third Wednesday of the month, every other month at Pennsbury High School West in the Staff Development room at 8:30 a.m.; and she invited the Board to attend. She stated the next meeting will be April 24th. Ms. Kraeck stated LYFT stands for the four Municipalities that send students to Pennsbury – Lower Makefield, Yardley, Falls, and Tullytown. She stated they also have a very active youth group made up of Pennsbury High School and Middle School students whose activities include advocating for non smoking. She stated some of the students made a presentation at the last Park & Recreation Board which was very well received. She showed a sample of the twelve signs they have given the Township which Ms. Liney will be installing in Parks across the Township which state: “Young lungs at play.” She stated even though the Township Ordinance has been in place about no smoking in the Township Parks, not a lot of people were aware of it, and the signs will serve as a nice reminder about the importance of keeping the children safe and avoid the risk of second-hand smoke. Ms. Kraeck stated the signs attach directly to the sign post so no new sign posts are needed. She stated LYFT will be receiving a Certificate from the State, and when they do she would like to bring the students to a Board of Supervisors meeting.

Ms. Kraeck stated the youth group also takes part in the prescription and non-prescription drug take-back program which is an event that occurs twice a year with the next one to be held on April 27 from 10:00 a.m. to 2 p.m. at the Township Police Station. She stated drugs are being misused by teenagers today. She also stated that if drugs are casually disposed of, they end up in the water stream which is an environmental problem as well. She stated their Coalition is part of the larger Bucks County Coalition – Bucks Promise, which went to a Convention in Washington D.C. in February and received a National Award for this take-back program. She stated they were also asked to present a seminar to educate other Coalitions from across the Country. She stated since the program started in Bucks County alone they have collected over eight tons of drugs in two years.

Ms. Kraeck stated one of the major problems affecting teenagers in the Suburbs is the use and misuse of alcohol which Mr. Philpot will discuss. She stated he is the Project Director for Pennsbury LYFT and has over twenty years experience in dealing with prevention and treatment of substance abuse.

Mr. Philpot stated they have concerns with underage drinking which is a problem that has persisted for some time. He stated LYFT has held a Town Hall meeting every April which is Alcohol Awareness Month, and unfortunately over the last few years they have seen less and less participation by the public in terms of attendance to that event. He stated this year they decided to instead rotate through the Municipalities and take the message directly to the community. Mr. Philpot stated underage drinking has been called a pediatric epidemic by the Surgeon General. He stated the disease of alcoholism is generally something that starts in adolescence, and it is the exception to the rule that someone who becomes alcoholic has their first drink after the age of twenty-one; and the norm is the earlier that someone starts to drink alcohol, the more likely it is that they will become alcoholic. He stated part of this has to do with brain development and not learning healthier alternatives. He stated one in ten people in the course of their lifetime will develop the disease of alcoholism, and one in three families will be directly impacted.

Mr. Philpot stated they need to look at underage drinking as a preventable public health issue. He stated because the problem has persisted for so long, many people have given up hope that the situation will ever change; however, they have seen significant change in the last twenty years in the decline of tobacco use and increased use of seat belts which are similar public health issues in some regards, and they feel they can make that same difference with regard to underage drinking if they work in a purposeful fashion. Mr. Philpot stated they need to use evidence-based programs which have been studied and shown to be effective. He stated there are seven strategies that Coalitions like LYFT use including providing information, helping to change policies around use, helping to remove barriers to access to treatment, and changing the physical design of the environment such that underage drinking is discouraged.

Mr. Philpot stated they know that there is a major disconnect between what parents believe and what teens tell them with regard to underage alcohol use. He stated they do surveys through the Pennsbury School District, and the percentage of youth that say they have had a drink in the last thirty days is much higher than what the parents' perception is. He stated one of their main initiatives through LYFT is to reach out to parents and encourage them to be proactive prevention agents with their children. He stated studies show that parents who have regular conversations with their children four times a year or more about healthy choices and about not using alcohol, are much more likely to raise teens that do not abuse alcohol. He stated while it may seem that adolescents do not listen to parents, despite the external attitudes an adolescent might display with regard to wanting a parent's guidance, the messages parents give actually do sink in so it is important that parents continue to discuss their rules and expectations about not drinking and what the consequences will be if they do find that their child is drinking.

Mr. Philpot stated underage drinking costs Pennsylvania about \$2.1 billion a year. He stated they also know that the presence of alcohol frequently in the adolescent brain will negatively impact brain development. He stated they also know that a child with a hangover is not going to do well in School.

Mr. Philpot stated they feel they can make a change, and he stated that LYFT will help any parent, youth, or civic group that would like information or assistance in addressing this problem or any other substance abuse problem. He provided brochures about LYFT this evening.

The Board thanked LYFT for their presentation and for their work.

Ms. Kraeck stated they work with the Pennsbury High School Video Department and their video students who write, act in, and produce PSAs (Public Service Announcements); and they have three of them which were just completed and will be aired on the Pennsbury Website. She asked that Municipality air them on their Website and Cable Channel as well. Ms. Kraeck agreed to forward them to the Board for their review.

DISCUSSION AND MOTION ON PROPOSED WIRELESS COMMUNICATION ORDINANCE

Mr. Garton stated the Township regulates Cable TV by virtue of the Cable Television Ordinance. He stated with regard to cell towers, the Township has an Overlay District in the Township which provides locations where cell towers are a permitted use. He stated issues arose in Northampton Township last year when a company started erecting cell facilities which were similar to large telephone poles throughout portions of their Township. He stated this arose because the company approached cellular differently than the traditional carriers in that they sought to be regulated by the Public Utility Commission. He stated they were not providing the actual service, but were providing the infrastructure for service providers. He stated the service providers did not have to worry about getting their rates approved by the PUC. He stated because this company erecting the poles was designated a public utility, they were no longer bound by local Zoning Ordinances as they were regulated by the Public Utility Commission.

Mr. Garton stated there was an outcry and litigation in Northampton; and while they were able to settle it, other Townships in Bucks County could be impacted. He stated Northampton had engaged someone to prepare an Ordinance which seeks to regulate this kind of activity. Mr. Garton stated Lower Makefield wanted to be proactive, so he has forwarded the Board a copy of the Northampton Ordinance; and he would recommend that it be sent to the Electronic Media Committee and the Planning Commission so they can make a recommendation to the Board of Supervisors as to how to deal with this issue

recognizing that the Northampton Ordinance gives an idea as to what they are doing and may not necessarily be right or wrong for Lower Makefield. He stated this would be a place to begin discussion so that the Township will not have to deal with someone coming into the Township being PUC regulated, and then find themselves in the same place Northampton was last year.

Mr. Garton stated what Northampton has is a rather comprehensive Ordinance. He stated Newtown, Upper Makefield and Wrightstown are members of the Jointure and have engaged the same individual Northampton did. He stated Doylestown Township is having their Planner in conjunction with their Planning Commission and their Telecommunications Advisory Board see if they can tailor the Northampton Ordinance to their needs.

Mr. Stainthorpe stated they have discussed this previously, and he would agree with Mr. Garton's recommendations that this go before the Planning Commission and the Electronic Media Advisory Committee as well as the Township engineer. Mr. Stainthorpe stated Northampton, like many neighborhoods in Lower Makefield, has most of their utilities underground; and this company suddenly showed up and started installing telephone poles in the street which were mini cell towers. He stated in the main thoroughfares where there are already overhead wires, these could be put on a pole and no one would notice; but putting them in a new neighborhood where the utilities are underground, was not wanted by the residents in their front yard. He stated it is important that the Township get ahead of this and find a way the Township can manage it rather than having them manage the Township. Mr. Stainthorpe stated these companies want to get this to the State and Federal level and have the PUC or FCC handle it so that they do not have to deal with the local Municipalities or the residents.

Ms. Tyler moved, Mr. Benedetto seconded and it was unanimously carried to send this to the Planning Commission, the Electronic Media Advisory Committee, and the Township engineer for review.

Mr. Zachary Rubin, 1661 Covington Road, asked if Northampton contracted with a legal firm to write an Ordinance, and Lower Makefield copies it, does Lower Makefield have to pay that legal firm to borrow their Ordinance. Mr. Garton stated they do not as there is no such thing as plagiarism in the law. He stated it is a public document at this point. He stated he is also not suggesting that Lower Makefield adopts exactly the same thing, but this is a place to start and provide an idea of the issues. He stated they may decide that they want to pay someone to write their own Ordinance; but generally aside from a few minor differences, Zoning Ordinances throughout this portion of Bucks County do mirror each other and arise from the same common issues.

Mr. Rubin stated they have Ordinances for Cable TV that they cannot put above grade certain electronics and Ordinances about the Overlay District for the cell towers; however, this is not cable TV or cellular, and he asked what it is called. Mr. Garton stated it is cellular, but it is not the way they are used to with the tower locations at various places that are Zoning issues that are regulated by the Township. He stated this is cellular in a different way of delivering the service, and the companies have gotten approval from the PUC to be considered “utilities;” but they do not provide the actual service so they are not regulated as far as rates. He stated they provide infrastructure. He stated when you are PUC regulated, and you are viewed as a utility, they have rights with respect to placement of the facilities that trump local Zoning Ordinances.

Mr. Rubin stated he is the President of a Condominium/Homeowners’ Association, and they have documents that there are certain utilities that have utility easements that can come onto their properties at any time for a utility; and he asked if this would be considered the same thing. Mr. Garton stated if you check the State Statutes, you will find that utilities have the right to be in rights-of-way without the consent of the local Municipality that owns the right-of-way or PennDOT which owns the State right-of-way. He stated the critical issue is the placement of these facilities along rights-of-way in neighborhoods and in streets because there are these Statutory provisions that permit utilities to use rights-of-way irrespective of whether the owner of the right-of-way does or does not consent. He stated this is a new way of approaching cellular communication. He stated the PUC cannot require an individual homeowner to grant an easement to some cell company, although you could for compensation; and they could then proceed before the PUC for condemnation. He stated the critical issue in this case being discussed is the right-of-way.

DISCUSSION AND MOTION OF PROPOSED SOLAR ENERGY ORDINANCE

Mr. Garton stated solar energy is coming more to the forefront, and the EAC with the Board’s concurrence, has filed an Application for a Grant to assist the Township in the preparation of a Solar Energy Ordinance. Mr. Garton stated the intent is to make sure that solar energy facilities are compatible with neighborhoods. He stated he has provided the Board with the draft Ordinance that is being considered by the Jointure which deals with solar energy facilities as accessory uses in residences. He stated they talk about set backs, heights, where they can be placed, and all the issues that are Zoning related. In addition, there are other components which are the structural integrity, managing the installation, etc. He stated this is intended solely as the Zoning component at this point recognizing that there are some other regulations that are beginning to show up in National Codes related to structural and other issues. Mr. Garton stated he is not suggesting that what the Jointure is using is right for Lower Makefield, but it is a good place to start. Mr. Garton stated he would recommend that the Planning Commission and EAC be asked to review this and make a recommendation to the Board of Supervisors so that they are not dealing with this issue after the fact.

Mr. Stainthorpe stated Mr. Gruen of the Zoning Hearing Board brought this up at the last Supervisors meetings as something that they should be considering, and he advised Mr. Gruen that it was on the Agenda this evening. He stated the EAC is also anxious to move forward.

Ms. Tyler moved and Mr. Benedetto seconded to send this Ordinance to the Planning Commission and EAC for review.

Mr. Benedetto stated there was a discussion where the solar panels could be mounted noting if it was on the front of the house, they would have to meet certain conditions. Mr. Garton stated there is some disagreement between Upper Makefield, Wrightstown, and Newtown on this issue. He stated what he has provided as an example is not intended to obviate the need for the EAC's involvement and the Grant. He stated there is some disagreement as to whether you should be able to put the panels on the front of your roof because of the appearance, but they do need to be put in the appropriate location in order for them to function so that is the conflict that exists.

Motion carried unanimously.

AWARD SIGN CONTRACT FOR SIGN MATERIAL AND POST BIDS FOR 2013-2014

Mr. Fedorchak stated this is for the materials that go into making the various Township signs and posts and includes the lettering, metal, blanks, and posts. He stated the Consortium was able to acquire four different companies to Bid; and the Public Works Director has reviewed the Bids, and he is recommending that the Board award the Contract to Garden State Highway.

Mr. Benedetto moved, Mr. Dobson seconded and it was unanimously carried to award the Contract to Garden State Highway.

Mr. Garton stated that the Board met in Executive Session prior to the public meeting principally to interview prospective candidates for appointments to various Boards and Commissions and also to review the Zoning Hearing Board matter to be considered next.

ZONING HEARING BOARD MATTER

It was agreed that with regard to the Alice J. Buschman Appeal of the Determination of the Zoning Officer dated February 20, 2013, issuing a Stop Work Order and a Request for Variances for the property at 1401 Westover Road, to permit reconstruction of a house on an existing foundation resulting in encroachment of side yard setback and encroachment into the front yard setback of the corner lot, that it be left to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. Stainthorpe stated the Economic Development Council has completed a brochure on Lower Makefield aimed at economic development. He stated this will be printed up and will also be on the Township Website. He stated the theme is “Lower Makefield Township In the Middle of Everything.” He stated it is a six-page document, and they did a great job putting it together. He stated it deals with transportation, availability of office space, availability of education, access to New York and Philadelphia, and a lot of things that are good about the community. He stated they will get this out to the agencies that can direct businesses to the Township.

Mr. Stainthorpe stated he attended a Board meeting of the Rescue Squad, and the Board is quite impressive. He stated those on the Board include senior level people in the medical industry, and it is a great Board. He stated they are on the same page as the Supervisors in making the Ambulance Squad healthy again. He stated they will have their total cooperation, and it was a great meeting.

Mr. Benedetto stated the Citizens Traffic Commission meets next Thursday, and they are going to discuss the traffic concerns around Oxford Valley Road and the Kohl’s intersection. He stated the meeting is open to the public and those interested in this matter should consider attending.

Ms. Tyler stated it is Election season for the Lower Makefield Seniors organization, and those interested in a position should apply. She stated all Officer positions are open as are a few Director positions.

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APPOINTMENTS

Mr. Dobson moved, Ms. Tyler seconded and it was unanimously carried to reappoint the following:

Joe Menard – Citizens Budget
Michelle Stambaugh – HARB
Jeff Gusst – Emergency Management

and to appoint Matt Connors as Zoning Hearing Board Alternate.

There being no further business, Mr. Benedetto moved, Mr. Dobson seconded and it was unanimously carried to adjourn the meeting at 8:55 p.m.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Pete Stainthorpe".

Pete Stainthorpe, Chairman

