

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – JUNE 5, 2013

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on June 5, 2013. Chairman Stainthorpe called the meeting to order at 7:30 p.m. A Flag Raising Ceremony was conducted by members of Troop 10, and Mr. Stainthorpe thanked them for being an asset to the community.

Those present:

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

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

SUPREME COURT RULING REGARDING THE GOLF COURSE

Mr. Stainthorpe stated there was some incorrect information about this matter in the newspaper. He stated the Township did lose their Appeal, and they do owe additional funds to the Dalgewicz family of approximately \$3.2 million and not the \$7.5 million that the paper reported.

Mr. Garton stated no members of the current Board of Supervisors were Supervisors when the decision was made to construct the Golf Course and condemn the Dalgewicz property in the upper part of the Township. He stated this goes back to 1995/96 when the then Board of Supervisors after receiving a study undertaken by a recreational planner saw that there was an interest in a golf course. He stated that same time was the height of the Lower Makefield Township housing boom, and the Township learned that the Dalgewicz family was engaging in conversations with Toll Bros., Pulte, and others to sell their farm.

Mr. Garton stated some discussions took place between Township representatives and the Dalgewicz family, but nothing could be resolved. He stated the then Board of Supervisors adopted a Resolution condemning the property, and the necessary paperwork was filed in Doylestown to effectuate that condemnation. The Dalgewicz family filed Preliminary Objections and contested whether the Township had the authority to condemn property for the golf course. That matter was litigated through the Bucks

County Courts to the Commonwealth Court, all the way to the Pennsylvania Supreme Court; and finally the Pennsylvania Supreme Court agreed with the other Courts that the Township had the right to do that. He stated once that was established possession of the land was then tendered to the Township, and the Township began the golf course planning and development.

Mr. Garton stated when a condemnation occurs, the first step that occurs is a Hearing before a Board of View. He stated the Board of View consists of a lawyer, an engineer, and a Realtor. He stated Testimony is offered at this proceeding as to the nature of value, development rights, etc; and at the conclusion of the Board of View, they concluded that the value of the property at the date of the taking was \$3,990,000. He stated the Township then paid the estimated just compensation determined by the Board of View of \$3,990,000 plus interest.

Mr. Garton stated shortly after the Board of View made its decision, the Dalgewicz family filed an Appeal to the Court of Common Pleas of Bucks County. Mr. Garton stated at that time his services to the Township ended, and David Truelove and Doug Riblet undertook representation for the Township. He stated in 2008 the case was tried before a Jury; and in November, 2008 the Jury concluded the property was worth \$5,850,000 which was approximately \$1.8 million more than the Board of View. Following that Verdict, the Township took an Appeal to the Commonwealth Court which denied the Appeal. He stated the Township then took a further Appeal to the Pennsylvania Supreme Court and those Appeals were grounded upon the Township's belief and the belief of the Trial Counsel that the Judge should not have admitted evidence because of the speculative nature of it related to a post-condemnation Agreement of Sale with Toll Bros. and a further post-condemnation Agreement of Sale with Pulte. Mr. Garton stated that matter was litigated, and last week the Pennsylvania Supreme Court concluded that the Township's Appeal should be dismissed; and the Township is now obligated to pay the additional compensation to the Dalgewicz family that the Jury found plus interest on that amount going back to the date of the taking. Mr. Garton stated the amount of money will be calculated, and he estimates that it will be between \$3.2 to \$3.6 million dollar range; and as soon as the Township is capable of doing so, the money will be paid and this will be the end of the Dalgewicz litigation.

Mr. Stainthorpe stated while this is unfortunate, the Township has no further avenues of Appeal, and they will accept the decision of the Supreme Court and will come up with the money.

PUBLIC COMMENT

Mr. Zachary Rubin, 1661 Covington Road, stated the Township recently submitted Bond proposals to refinance approximately \$4 million from variable to fixed and an additional \$5 million; and he was under the impression that this \$5 million was to pay off the Court Case with the Dalgewicz family. He asked why they are borrowing \$5 million when they only owe \$3.2 to \$3.6 million. Mr. Stainthorpe stated the Board has not finalized the Bond offering, and it will be thoroughly discussed by the Board.

Mr. Harold Koopersmith, 612 B Wren Song Road, discussed his concerns with the financial problems of the Pennsbury School District.

Mr. Benedetto stated with regard to the Golf Course, he does feel that the article was misleading. He stated he does not feel that the Township needs to borrow \$5 million since they owe \$3.5 million, and he questions what they would do with the additional money. Mr. Benedetto stated the Township borrowed money in 2002 to pay off close to \$4 million, but the Golf Course did not become operational until 2004, and he asked Mr. Fedorchak where the money came from to pay off the debt from 2002 to 2004. Mr. Fedorchak stated the Township borrowed enough to pay for all construction costs and some additional up front to capitalize the first year and a half of expenses.

Mr. Benedetto stated currently the revenue generated by the “so called self-sustaining Golf Course” is covering expenses with an additional amount for any debt service. He stated they were discussing borrowing \$5 million which would go up to \$1.4 million in 2023, and he does not feel they would be able to cover this. Mr. Benedetto stated he does not see how the taxpayers could not have paid any money in 2002 or 2003 for a \$4 million or more debt. Mr. Fedorchak stated they coincided the first debt service payments with the opening of the Course, and all they were paying initially was interest so it was a small amount. Mr. Benedetto stated this was from taxpayer money; however, Mr. Fedorchak stated this is incorrect. He stated since the opening of the Course every expense was paid from Golf Course Revenues without exception.

Mr. Benedetto stated Mr. Fedorchak made this statement previously, but the Board was handed in Executive Session the legal fees from 2002 to 2012 in the amount of \$256,057.86 for Dalgewicz legal fees paid and it was indicated that all of this was covered by the Golf Course. Mr. Fedorchak stated they had a Capital Fund along with an Operating Expense Fund that was set up in the initial stages in 2004 and 2005; and the legal fees basically exhausted the Capital Expense Fund.

Mr. Benedetto stated there is a separate fund for the Golf Course, and he understood that Mr. Fedorchak had indicated that it was at approximately \$700,000 by the end of 2013. Mr. Benedetto stated he feels it is closer to approximately \$550,000; however, Mr. Fedorchak disagreed. Mr. Fedorchak stated the cash position going into 2013 was approximately \$750,000. He stated they had budgeted approximately \$650,000 so they finished \$100,000 higher than what was anticipated. Mr. Benedetto stated this is the fund excess they will have by 2013. Mr. Benedetto stated it looks like from the end of 2012, it was approximately \$676,085. Mr. Fedorchak stated what he indicated was based on the numbers he just received from the auditors who will be before the Board at the next meeting, and they could be questioned about this for confirmation.

Mr. Benedetto stated in 2012 they spent \$126,000 in capital purchases for the Golf Course, and in 2013 they are budgeted to do the same amount. Mr. Benedetto stated while he is not recommending they take the whole fund balance, he will make a Motion that they should use a significant portion of that fund balance to pay off the Dalgewicz debt. He stated if they do not do this, he does not see how they will be able to have this be a self-sustaining fund or how the Golf Course would cover the additional \$3.5 to \$5 million that they are going to borrow. He stated it is going from \$800,000 debt service to approximately \$1.4 million. He stated the Golf Course has done well the last few years, but it could not cover a \$500,000 difference. He stated they should use the surplus money that is in the fund balance since that is what it is for; and if they do not touch it, they are doing a disservice to the taxpayers and to the Township.

Mr. McLaughlin stated they use that fund for capital purchases, and Mr. Fedorchak agreed they do use it for Golf Course capital purchases. Mr. McLaughlin stated if they draw this down to zero, there are capital expenditures that are required to run a golf course at the level they want the Lower Makefield Course run. Mr. Stainthorpe stated they also need a cushion because they are weather dependent. Mr. Benedetto stated while he agrees, he feels there should be a shared sacrifice.

Mr. Alan Dresser, 105 E. Ferry Road noted the Edgewood Corners property on Stony Hill Road and Yardley-Langhorne Road which was approved in May, 2010 with conditions one of which involved replacement trees. Mr. Dresser stated a commitment was made to replace 80 trees, 24 at the site and an additional 56 of 1" diameter in size in the open space along Mirror Lake Road on the Patterson Farm. Mr. Dresser stated this is a good location because it enhances the riparian buffer on Buck Creek. He stated a forested buffer is very good for streams since it reduces the amount of pollution going into streams and minimizes stream bank erosion.

Mr. Dresser stated the trees were planted approximately one year ago, and he visited the area last weekend; and while they did plant the correct number of trees, they were supposed to be 1" in diameter, and they are ½" or less in diameter. He stated the other problem is there are only 13 still alive and over 75% of them are dead. He stated the main cause of that were the deer.

Mr. Dresser stated he reviewed the Edgewood Corners Preliminary Landscaping Plan and it has planting notes which state, "All plant material shall be guaranteed by the contractor to be in vigorous growing condition. Provisions shall be made for a guarantee of at least eighteen months for trees and shrubs." Mr. Dresser stated this eighteen month guarantee will apply to replacements for those original trees and shrubs that have died. Mr. Dresser stated they should make the developer take care of this after the engineer checks the area. He stated the developer should then be sent a letter asking them to replace those trees.

Mr. Stainthorpe asked the Township Manager, solicitor, and engineer to follow up on this matter; and if there is a guarantee that they have to follow, to have the trees replaced. Mr. Garton stated he will check into this although he does not feel the project has been accepted. He also stated he does not feel they should be replaced until September, and Mr. Dresser agreed they should wait until the fall.

Mr. Dresser stated they should also put chicken wire around the trunks to keep the deer from damaging them. He stated he also feels they should be planted a little closer to the creek as some of them were far away. Ms. Tyler stated they also need to be the proper caliper.

Mr. Dresser asked when the stormwater management system will be completed at Bright Farms, and Mr. Eisold stated they have done some work recently, and they are finalizing the site at this point.

APPROVAL OF MINUTES

Mr. McLaughlin moved, Mr. Dresser seconded and it was unanimously carried to approve the Minutes of May 1, 2013 as written.

APPROVAL OF MAY 6 WARRANT LIST AND MARCH AND APRIL PAYROLL

Ms. Tyler moved, Mr. McLaughlin seconded and it was unanimously carried to approve the May 6 Warrant List and March and April Payroll as attached to the Minutes.

APPROVE RESOLUTION TO PERMIT INSTALLATION AND OPERATION OF SCHOOL ZONE SIGNS

Mr. Fedorchak stated there was a prior discussion approximately three months ago about installing a few flashing School Zone signs on Quarry Road in the area of Afton and Quarry Hill Elementary Schools. He stated the Board of Supervisors indicated at that time that they were in favor of this, and Mr. Eisold identified a cost of approximately \$15,000. Mr. Fedorchak stated the Board of Supervisors directed him to contact the School District to see if they would be willing to participate in the cost. Mr. Fedorchak stated the School Superintendent was enthusiastic and appreciative about the project and the School District was willing to share the cost with the Township 50/50.

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to approve the Resolution.

UPDATE ON SCAMMELLS CORNER DEVELOPMENT

Mr. Nick Casey, Vice President Development Quaker Group, was present and stated he has been working with the Township for a considerable amount of time on the Scammells project. He stated he was present to give an update on the progress they have made and their intentions to move forward with Final Subdivision Approval.

Mr. Casey stated Scammells Corner is located at the northwest corner of W. Afton Road and Yardley-Makefield Road. He stated the property has some historic significance primarily associated with Scammell who was an industrialist in the early part of the Century. Mr. Casey stated the property dates back to the 1700s although there is some disagreement on the actual dating of the original structure. He stated through their research they were advised that it dated back to 1765; however, the Historic Commission advised that it was probably closer to 1785/1790.

Mr. Casey stated as they have indicated previously, the Quaker Group does not intend to build the property out. He stated they have signed an Agreement of Sale with JP Orleans Residential headed by Jeff Orleans who is heir to the original Orleans Company. He stated present this evening are George Bennis and Michael Schurr who are with Orleans and will be moving with the project as it advances.

Mr. Casey stated they received Preliminary Approval last summer. He stated just prior to that Approval they arranged for a visit to the property with the Historic Commission, with Ms. Tyler present at that visit, in order to give them an opportunity to view the exterior of the structures that were remaining, and this resulted in some of the Conditions for the Preliminary Approval. Mr. Casey stated that since that time they have also arranged for a visit by the Historic Commission to get inside of the home. He stated they

had to have it secured because of the amount of vandalism that has occurred over the years. He stated they were able to get it in a state where they could take the Historic Commission through, and they have had good dialogue from that point.

Mr. Casey stated they also arranged a visit to the site with Alan Dresser and Jim Bray from the Environmental Advisory Council, the purpose of which was to evaluate the condition of the existing buffers and come to a general understanding of how the buffers were to be treated. Mr. Casey stated there is no requirement for buffers between residential uses; however, because of the history of what had occurred there, they had agreed to maintain and enhance buffers along the westerly, northerly, and easterly sides of the property.

Mr. Casey provided this evening a copy of the memo that was put together as a result of the meeting with the Environmental Advisory Council. He stated they have agreed that the deciduous trees that are there satisfy the requirements for the deciduous buffers; however, in there are a number of trees that are in poor condition, and there will be a need to enhance that with evergreens to meet the Type II Buffer requirements. He stated they agreed that they would remove all of the damaged, diseased, or deteriorating trees which would be cut level to the ground. He stated with regard to the smaller trees of 6" diameter or less, branches would be stripped off and disposed of; and those trees may be allowed to remain to naturally decay and enhance the soil. Mr. Casey stated they will meet with the Environmental Advisory Council with regard to the placement and species of the trees to be planted to satisfy the Type II Buffer requirements.

Mr. Casey stated there was some concern expressed by at least one of the homeowners concerning some black locust trees that were located along the westerly boundary. He stated the EAC members agreed that the black locust trees are indigenous trees and a good species to maintain; however, a few of them are in poor condition and should be removed, and that will be part of the removal process.

Mr. Casey stated there are isolated stands of bamboo which they understand originated on an adjoining property by a former property owner and migrated onto the Scammell property. Mr. Casey stated bamboo is difficult to control. Mr. Bray had suggested that they contact Penn State Ag Service for some advice; however, Penn State did not have any specific advice in treating the bamboo. Mr. Casey stated he has found a number of Universities throughout the Country that do have Extension Services that have papers and recommendations; and in general, their recommendations are to cut the bamboo down and use herbicides to treat the stems. He stated this may take a couple of treatment, but it is manageable.

Mr. Casey stated with regard to the buffers along W. Afton and Yardley-Makefield Roads anything that is dead, diseased, dying, or decayed will be removed. Mr. Casey stated the EAC also suggested that the underbrush that is there remain. Mr. Casey stated there are some vines that are entangling some of the larger, healthy, mature trees; and they will be removed. He stated the memo that has been provided outlines all of this.

Mr. Casey stated they did have a follow-up meeting subsequent to that with the Township Manager, Zoning Officer, and the Township engineer and were advised that the Environmental Advisory Council should take the lead in dealing with them on the treatment of the buffers.

Mr. Casey stated in terms of the Scammells House itself, they have been able to reproduce digitally in CAD some of the drawings that Michael Graves prepared when Erhlich owned the property and elevations were shown of the front of the House. Mr. Casey also showed the easterly side of the House and the floor plans. He stated they were able to date the various additions that were put on the House. He stated the only area of disagreement is with the original portion of the House which he showed on the Plan. Mr. Casey stated they had provided copies of this information to the Historic Commission, and on May 9 they met with the Historic Commission. He stated the Historic Commission took a number of photographs and were able to take some artifacts that they found in the House, and there was good dialogue as to how they might proceed with the House.

Mr. Casey stated it was generally agreed that the House is in a very poor state, and it will require someone who has the wherewithal, the financial resources, and the passion to undertake the restoration of the House. He stated currently they are in the process of clearing the House out. He stated there was a caretaker who lived in this House and the Carriage House for about twenty-five years when Erhlich owned the property and when Quaker purchased it in 2000. Mr. Casey stated that individual has almost removed all of his personal belongings, and they are getting the trash and debris collected and hope to have a dumpster there next week.

Mr. Casey stated anything that has any semblance of value from the perspective of Scammell or in relation to the House is being stockpiled; and they will give the Historic Commission the opportunity to catalog it, photograph it, and inventory what they are taking for their future display.

Mr. Casey stated they have had a number of discussions with the Historic Commission. He provided a copy of an e-mail that was sent to the Historic Commission by Mr. Schurr of Orleans of a proposal on how they would intend to proceed. He stated with that email is a copy of the drawings he just reviewed with the Board. Mr. Casey stated they would like to market the property for a six-month period to find someone with the wherewithal, financial ability, and the passion to undertake the project. He stated this would require

bonds posted with the Township by the buyer to insure that the restoration, if it is going to proceed, is completed in a timely manner. Mr. Casey stated there would be conditions in terms of when the exterior would have to be completed as well as when the interior would have to be in a state where it could be occupied. He stated they have had discussions with the Historic Commission as far as the timing of the marketing period, and what was suggested was that the marketing period start from the date of non-appealable Final Approval or forty-five days after Final Approval has been obtained. Mr. Casey stated between now and that point a pre-marketing program would be put together with the cooperation of the Historic Commission whereby they would package as much documentation, plans, photographic documents, and utilize whatever marketing media that is specific to the population that would be interested in pursuing this type of a project. Mr. Casey stated with the assistance of the Historic Commission they would identify people within the general area who might be interested and have the ability to pursue the project. Mr. Casey stated it would also involve utilizing a Real Estate Broker who has experience and success in marketing products of this nature.

Mr. Casey stated if, at the end of that six-month marketing period, they are unsuccessful in finding someone to undertake the project, a detailed scale model of the House would be prepared professionally to document the House in its original condition with all the additions. He stated the Historic Commission would have an opportunity to take samples of anything in the Home that had any architectural or historic value. He stated a number of the mantels are still intact, and there are some unique architectural features in the House. He stated the Historic Commission was particularly interested in the Mercer tiles. He stated they would be presented to the Historic Commission for their use and display and to document along with the scale model of the House. He stated a reasonable contribution would also be made to the Historic Commission, with details to be worked out, which they could utilize toward their preservation efforts on other properties or in helping to establish a museum to display these products.

Mr. Stainthorpe stated Mr. Casey is indicating that if they cannot market the property in six months, they will let the Historic Commission take some of the artifacts out, and then tear the House down. Mr. Casey agreed. He stated they want to preserve anything that has any substance or significance to the property, and then the building would be removed and another home would be built in character with the new homes that will be built on the property.

Mr. McLaughlin asked if the original Plan required the developer to maintain the House, and Mr. Casey stated what it indicated was that the Scammell House or portions thereof that were found to be historically significant would be preserved. He stated they feel that what they are in proposing is in line with that, and he feels the Township is well aware of the problems, costs, and issues related to restoring and preserving historic properties. Mr. Casey stated the primary intent is to find an appropriate buyer.

Mr. McLaughlin asked how much money they feel it would take to be put into the House to get it into livable condition. Mr. Schurr stated their preliminary budgets for restoration of the House indicated that it would probably be in the range of \$500,000. He stated they are prepared to market the property at a rate that would allow someone who would undertake the project not to be burdened with a huge cost basis for the land and building. He stated while it will be a very good price, they understand that the burden to undertake the project and the future liability of a builder to take on the project is significant. He stated if they were to find a buyer who would assume the responsibility on an “as-is” basis with no warranties and have the financial wherewithal to undertake and complete the project, they feel that serves everyone’s interests.

Mr. McLaughlin asked if it would be feasible to knock down all the additions other than the one that was identified as the original house. Mr. Schurr stated for the most part all of the additions have some historic significance so the question becomes where is that point of demarcation. Mr. McLaughlin asked if they could carve it up so it gets to a place where it would be economically feasible to restore a certain portion of the House, and Mr. Schurr stated this would depend on the definition of “economically feasible.” Mr. McLaughlin stated the Board has learned that the \$500,000 is an onerous task to expect someone to put up; however, if that number were reduced by knocking down a majority of the House but keeping something significant there, would this be possible. Mr. McLaughlin stated it sounds like the middle part of the House is the oldest. Mr. Schurr stated while this could be done, the other issue to be considered is the functional obsolescence of the property recognizing that the potential buyer is a very small pool. He stated this would have to be someone who is willing to spend significant sums of money and at the end still live in a house that has functional obsolescence. He stated if someone were to renovate the property, they would be taking it down to the stone walls and replacing everything in it. He stated the flow of the House would also not be the same. He stated Orleans is in the new home building business and buyers today are very demanding. He stated 99% of the people spending this amount of money will want a new house. He stated 1% of the population is willing to deal with some of the nuances and issues that you ultimately deal with if you live in an old house, and they feel they need to find that person. He stated that individual may indicate they only want to maintain certain sections of the House, and there needs to be an understanding with the Historic Commission and the Township if in fact that is what is going to occur.

Mr. Casey noted the original portion of the House on the floor plans that were presented this evening. He stated the original walls still remain, and many of them are exposed stone on the interior. He noted on the Plans the various additions which had been added on. He stated their intent it to go through a very aggressive marketing program, and hopefully they will find someone that has the ability and passion to undertake this project. He stated every effort will be made to find someone. He stated as Mr. Schurr indicated they also intend to offer it at a price that will be appealing.

Mr. Stainthorpe stated once there is a Final Approval, Orleans will handle the marketing; and Mr. Casey agreed, but added at this point, they are working together.

Mr. Benedetto stated the criticism for the Satterthwaite House was that the Township did not properly market it, and he asked what experiences they have marketing houses like this and asked specifically what they will do. Mr. Casey stated there are brokers that are experienced and successful in this area. He stated they found one that they feel might be appropriate, and the Historic Commission has identified some other people. He stated they will work with the Historic Commission to select a broker that is appropriate and has a track record.

Mr. Benedetto asked what the restrictions are as to the use for the house, and he asked if they are restricting it to a residence. Mr. Stainthorpe stated it is Residential Zoning. Mr. Casey stated if it is going to remain, it is going to remain as a residential home. Mr. Schurr stated they have fifteen other lots that will be high value properties, and they are not going to want an alternate use in their back yard. He stated they would anticipate a Façade Easement to maintain the integrity of the exterior of the property, and they are going to assume that if someone does purchase the property the Township and the Historic Commission will not care what is behind the walls as long as what people see from the neighborhood and the street is in keeping with the original structure. Mr. Schurr stated a Façade Easement would be put in place, and there would be a financial benefit to the owner for the Façade Easement.

Mr. Benedetto stated if the house is taken down, would the replica be built on site, and Mr. Stainthorpe stated it is going to be a model. Mr. Casey stated the Historic Commission wants to have a historic museum in Lower Makefield, and the model would be for their use. Mr. Benedetto asked if anything changes for the development if the House is demolished, and Mr. Casey stated one additional home to replace that home will be built. Mr. Schurr stated it would be the largest lot as it is a 1.9 acre lot.

Mr. Casey stated there were approached by someone who had an interest in putting a Church on the property with the representation that they had wealthy members of their Congregation who would be prime buyers for the new homes to be developed around it, but they discounted this suggestion.

Mr. Benedetto asked if the developer would have to come back to get approval for the new home is they cannot find a buyer for the existing House, and Mr. Stainthorpe stated he feels this would all have to be part of the Final Approval. Mr. Garton stated they only have Preliminary Approval, and there is a Court Stipulation so this will all come back before the Planning Commission, Historic Commission, and the Board of Supervisors before any Final Approvals are granted.

Ms. Tyler asked Mr. Garton what the Court Stipulation states with respect to the House; and Mr. Garton stated, while he does not have it with him this evening, he will communicate to the Board what it says. Mr. Casey stated it was what he represented earlier and was incorporated into the Preliminary Approval, that they were to provide for the preservation of the Scammell House or portions thereof which were found to be historically significant by a competent authority. Ms. Tyler asked how they would take the next step to demolition if that is a requirement of the Approval; and Mr. Casey stated what they are proposing is that they are taking appropriate measures to preserve it, and if the House in its entirety or portions of it cannot be preserved for use as a residence, any and all portions that have value and significance from a historical or architectural standpoint would be removed and presented to the Historic Commission and a scale model would be created to document what had existed there. Mr. Schurr stated the issue becomes the definition of “preservation” and in what form they are preserving. Ms. Tyler asked Mr. Garton to review the Stipulation and the Preliminary Approval and advise the Board what they are required to do.

Ms. Kaaren Steil, Historic Commission, stated they had an opportunity to tour the grounds and the House; and they would like to have the House restored. Mr. McLaughlin stated he feels six months to find a buyer is an adequate compromise; and Ms. Steil stated having been in real estate, this is what people use for a listing. She stated she understands that it will take awhile to get to the signing of the papers when Quaker turns it over to Orleans. Ms. Steil stated the Historic Commission would like to show the property as best they can and let someone who might be interested in restoring the House for preservation means know what they have seen and what is available. She stated they would like to market it the best they can.

Mr. Benedetto stated the Façade Easement was troublesome for the Satterthwaite House and restricted the amount of bidders. He asked if the Façade Easement is a good idea. He stated since they are saying it would cost \$500,000 to restore, and it would seem if they did not have something as restrictive they could probably restore it for less if they did not have the Façade Easement. Mr. Benedetto asked if the Historic Commission would find it suitable having someone come in and preserve it but not historically preserve it.

Ms. Helen Heinz stated this House was one of the original ten listings on the Bucks County Conservancy List that was created in 1980, and was one of the first houses deemed worthy of historic preservation. She stated tonight they have a commitment to take a chance on the new developer. She stated there have been a series of developers, and the new developer is assuring them that he wants to sell the property and sees the vision that it could be a beautiful, historic house. She stated the house has sat basically idle for thirty years which is not good for an old house and something needs to happen soon. She stated they are asking people who believe in preservation in Lower Makefield to come out. She stated the developer has assured them that it will be a low price even though it is the largest lot in the development. Ms. Heinz stated if someone wants the

Façade Easement as part of their plan to do the restoration and it gives them a financial break and they are keeping enough of the façade so that to the average person it looks the same as it did in 1980, she sees no reason why the Board of Supervisors would not agree to this if it is going to give someone an added incentive to restore it and keep it looking the way it does. Ms. Heinz stated that said, she does not feel they should put it on now and restrict someone's intention to restore it.

Mr. Garton stated not every Façade Easement is identical, and they are always subject to discussion so that they can be adjusted to meet the needs of a potential buyer. He stated a Façade Easement can be tailored to meet the objectives of all involved. Ms. Heinz stated in this case, in the interest of the public, it is only the south façade that people see coming up Afton Avenue into Yardley-Langhorne/Yardley-Newtown split; and that is what was so beautiful.

Ms. Heinz stated this property was found to be eligible for the National Register based on the Scammell occupancy, and Scammell did not buy it until 1920 which is when the ballroom and solarium were added and they are the two extending pieces that Mr. Casey noted on the Plan. She stated if they take those off, that is the period that actually gives it its National historical significance.

Mr. McLaughlin asked if they find a buyer, would there be a time restriction as to when they would have to have it refurbished; and Mr. Casey stated there would adding Orleans would be extremely sensitive to this since if someone commits to buying it and restoring it and if it does not proceed in a timely manner, it could adversely effect their community. He stated there will be a very tight restriction on when the exterior has to be restored, and when it has to be placed in habitable condition for occupancy. Mr. Casey stated he feels they were discussing one year to have the exterior restoration completed and another year to have it habitable.

Mr. Casey stated they have discussed with the Township Manager, engineer, and solicitor the fact that under the Approval they are required to build a 5' wide asphalt path or a 4' wide concrete sidewalk along the frontage on Yardley-Makefield Road and W. Afton Road. He stated initially when they went out and viewed it, it did not appear that there was any connection for a sidewalk at their property along Yardley-Makefield Road, but they later found out that there was a sidewalk but everything is overgrown and blocked the access. He stated beyond Lehigh which would form the entrance into the site, it would be impossible to extend that path any further along the development side of the road. He stated they understand that Yardley Borough has discussed for some time possibly extending a path of some nature up to Lower Makefield. Mr. Casey stated in discussions with the Lowe Makefield Township Manager and engineer, they found that the Comprehensive Plan for bike paths actually extends on the opposite side of W. Afton Road. He stated to the west it continues along Yardley-Langhorne Road and goes down Schuyler. Mr. Casey stated what they would offer in lieu of building it, they would make

a contribution to the Township which they could use for extending the paths consistent with their Comprehensive Plan. Mr. Stainthorpe stated he feels that this is something that they will evaluate at the time of Final Approval. Mr. Stainthorpe stated conceptually he feels a bike path into Yardley Borough is desirable and building a portion of it might help find the impetus to build the rest of it, but he would like to reserve judgment until they get to Final Approval. Mr. Casey stated once you get past Lehigh there is a better opportunity to continue extending it along the south side of W. Afton than there would be on the developer's side. He stated the way the drainage is set up along W. Afton it is impossible to extend it beyond Lehigh on the developer's side.

Mr. Casey stated a revision to the lot alignment is contemplated which will actually eliminate one lot. He stated Orleans has requested an opportunity to eliminate one lot and he showed the lot on the Plan. He stated they will therefore have fifteen new lots plus the lot which the Scammell House sits on which will basically create all premium lots backing up to W. Afton. A rendering was shown of what it will look like. Mr. Casey stated this has not yet been formalized, and there are administrative elements that need to be worked out with Orleans.

Mr. McLaughlin stated if they are unsuccessful finding a buyer for the Scammell House would they envision another house in that location, and Mr. Casey agreed.

Ms. Valarie Mihalek, 920 Quincy Drive, stated she used to live in the neighborhood being discussed. She stated it sounds like between the Historic Board and Mr. Casey the overall goal is to preserve the existing structure, and Mr. Casey agreed. Ms. Mihalek stated if they are asking someone to come in and spend \$500,000 to restore it, an individual might come in and indicate they would restore it but also want the two lots that exist on both sides and have more property. Ms. Mihalek stated even though the lot where the Scammell House is located is almost two acres, she has looked at the Plans, and she feels the homes on both sides are approximately 1.5 acres; and if she were going to spend that money and has only two acres, she may consider it more if she had more acreage as opposed to having a neighbor that close to her for a home that is of that size which will require that much money. Ms. Mihalek stated in Upper Makefield and other parts of Bucks County, what makes those homes beautiful is preserving the land. She stated they are taking a beautiful, existing structure and putting all these homes around it. Ms. Schurr stated if someone wants to purchase the lots on either side, they would entertain the sale of those lots. Mr. Schurr stated the houses they will be building will be in excess of \$700,000 so the Scammell property based on where they expect to offer it for and the anticipated reconstruction costs would put it very similar investment wise to the other houses that neighbor it. Ms. Mihalek stated in Upper Makefield homes of that value are on five to seven acres.

Mr. McLaughlin asked Ms. Mihalek if she is asking if they will sell the two additional lots to the purchaser of the Scammell property or donate them as part of the deal; and Mr. Schurr stated donation is not on the table. Ms. Mihalek stated she understands this and just wanted to know if they were open to having fewer homes in the neighborhood. Mr. McLaughlin asked if they would give the potential purchaser of the Scammell property the right of first refusal to purchase the additional lots, and Mr. Schurr stated it would be difficult to answer that question today.

Mr. Casey stated it is an economic business decision; and if a buyer comes forward and finds value in buying the adjoining lots and it makes sense from an economic and business perspective, it is something that would be considered. Mr. Casey stated they have a substantial amount of money invested in the property already. He stated they struggled through negotiations for a Stipulation Agreement that made sense from an economic perspective. He stated Orleans has a business plan for developing the property and saw value in eliminating one lot; however, they cannot make further commitments of eliminating other lots or holding back certain lots. He stated they are coming out a horrible housing recession, and they cannot cripple the project further by putting more restrictions on it. Ms. Mihalek stated she just wanted to know if they were open to this if someone came in, and Mr. Casey stated Mr. Schurr indicated that they were.

Mr. Ed Gavin, 904 Sensor Road, asked Mr. Schurr what the house would be worth if they spent \$500,000 on it and sold it. Mr. Schurr stated he already indicated that the market for a buyer for a historic property is very small compared to the market for other properties. He stated he is not an expert in historic houses or values for historic houses. He stated he knows what their internal budget was to attempt to restore the property, and whether or not it is worth that plus the land cost he cannot state since he does not know what buyers are willing to spend for historic houses. Mr. Gavin stated he feels that if the Historic Society feels this is a worthwhile building to preserve, the Township might want to ask the developer to preserve it and sell it which he feels would be easier than putting it on the market. Mr. Schurr stated their discussion with the Historic Commission indicated that there are issues beyond the economics of reconstructing the house which would impact the builder in this situation. He stated this goes to contingent liability and the fact that they have representations and warranties of a historic structure for a future buyer, and the developer's exposure beyond the point at which they can take title to the property. He stated if they found a buyer who was willing to come in and undertake the reconstruction and all of the liability that goes along with it, this is something that is more attractive to Orleans as opposed to getting involved in the restoration of a historic structure. He stated they are not in the business of restoring historic structures.

Mr. Gavin stated he feels the Township may have an interest in doing this, and Mr. Stainthorpe stated there will be no ownership of this structure by the Township. Mr. Gavin stated there is a Façade Easement, and Mr. Stainthorpe stated the Façade Easement will be created by the owner of the property and filed with the County.

Mr. Gavin stated there was a preservation clause in the sale of the property, and Mr. Schurr stated there is a Stipulation Agreement that has language relative to what is to happen with the property. Mr. Gavin stated he felt it was to be preserved, and Mr. Casey stated they were to provide for the preservation of the House or portions thereof that are found to be historically or architecturally significant. Mr. Gavin asked what they feel are the chances of selling the house in six months, and Mr. Schurr stated they do not know. Mr. Gavin stated he feels if there is a historic property in the Township, six months to sell it to 1% of the people in the United States when it takes four or five months to sell a normal house in the Township, is way too short a period of time. Mr. Gavin asked what will be the price for the property, and Mr. Schurr stated it is \$150,000.

Mr. Gavin stated he feels they need to think more creatively on how this is going to be preserved because he feels it is going to get knocked down, and he does not feel that they will be able to sell the property in six months. Mr. Gavin stated they should ask themselves if the property is worth saving and be more creative. He stated he feels it would be worth a lot of money with a restored house on the 1.9 acres when it only costs \$500,000 to restore and that house could be marketed fairly quickly.

Mr. Jim Ferraro, 1002 Lafayette Drive, stated his home backs up to the existing Scammell House; and he and his wife moved in five years ago and have seen various plans for the property. He stated they are concerned that the proposed new home that will sit right behind them (Lot 9) sits closer to his lot than any of the other new homes. He stated he is concerned about possible diminished value to his property since one of the selling points was the bucolic atmosphere in the back yard because of the woods behind it. He stated he feels anyone who buys one of the new homes would also want to maintain the woods and the separation between the homes which does add value. He stated he hopes they can work with the developers and the Township.

Mr. Stainthorpe stated he recalls that this was discussed at the Planning Commission at the time of the Preliminary Approval. Mr. Ferraro stated he had attended meetings and between the last meeting he attended and the Preliminary Approval the home he was concerned about was moved further away from his home deeper into the property, and now it appears it could be within 50' of his property line. He stated he understands that the home will be big, and he would like to work with the Township and the developer to try to maintain what he currently has. Mr. Ferraro stated he had also asked questions about what portions of the existing Scammell House would be preserved since the preservation of that House is pushing the new home closer to his home. Mr. Stainthorpe asked the developer that they consider this request and comments tonight as they move forward.

Mr. Casey stated Mr. Bennis met with Mr. Ferraro to discuss some of the things they might be able to do in terms of location of trees to more appropriately buffer their sight lines; but as far as making any firm commitments beyond that, they cannot until there is a prospective buyer and home selected for that site. He stated he feels there has been a spirit of cooperation expressed, and that will carry through the development. He stated they are not here to antagonize the neighbors.

Mr. Ferraro stated he only wanted to express his concern tonight especially when there was discussion tonight about the elimination of a lot and the fact that the actual preservation of the house is still up in the air. He stated if the house is removed, he would ask if the lot size could be reduced and the enveloped shifted slightly. He stated the reason the lot is the size it is, is because of the historical home that is on it; and if that is not being preserved or a portion is being taken down, perhaps something else could be done.

Mr. Casey stated the lot line for this lot has been moved as close as it can to the Scammell House which provides a little more flexibility, but it will depend on the particular model and the buyer of the lot; and there will be an opportunity to have further dialogue as it progresses.

Mr. Casey stated they understand that Boucher & James will be reviewing the Plans going forward. Mr. Stainthorpe stated he felt there was a conflict with this, and Mr. Eisold stated originally there was a survey conflict as they had surveyed the property many years ago which was why they had not done the original review. Mr. Eisold stated the discussion was that they would take it forward through construction. Mr. Casey stated they have no objection to this.

Ms. Regina Gebka, 1115 University Drive, stated they currently have sidewalks on both sides – on the University entrance and the other side coming down off of 332. She stated the corner coming down Afton is used a lot and it was always promised to them that they would have connectivity from their development. Mr. Casey stated they are looking at in terms of consistency with the Township's Comprehensive Plan for pathways and the potential of providing connections further toward Yardley Borough. He showed on the Plan an area where there is potential of extending it down W. Afton in the future. Ms. Gebka asked who is responsible for the property now for the grass cutting. She noted particularly the corner at 332 and Afton and the corner at University onto Afton where the grass is very high. Mr. Stainthorpe stated this would be the Quaker Group's responsibility since they are the owners.

Ms. Justine Semen, 1259 Yale Drive, stated she has been an advocate of sidewalks; and she knows there has been a Plan to have a sidewalk all the way down to the River. She stated she was satisfied with the previous proposal of a bituminous walking path. She stated she understood that the grass would also be cut and that it would be a reasonably passable area for people to walk around the bend. She stated she feels there is sufficient space which could be used more efficiently for the whole Township in terms of being able to walk around the bend. Ms. Semen stated all the trees were taken out thirteen years ago, and for thirteen years they have been waiting for mitigation and reconciliation for what was done. She stated there should be an extremely generous gift to Lower Makefield and Yardley to complete a sidewalk path all the way down. Ms. Semen also asked that they give as much space as possible on the corner.

Ms. Tyler asked what are the terms with regard to the timing of the sale. Mr. Casey stated they are probably half way through their due diligence now, and the terms and conditions were that they could close within thirty days of non-appealable Final Approval. He feels it would be three months before they get non-appealable Final Approval, and closing will occur within thirty days of that date.

APPROVE CERTIFICATE OF APPROPRIATENESS FOR 1667 EDGEWOOD ROAD

Mr. Stainthorpe stated these are new signs for the Presbyterian Church, and it has been approved by HARB.

Mr. McLaughlin moved, Mr. Dobson seconded and it was unanimously carried to Approve the Certificate of Appropriateness for 1667 Edgewood Road.

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

Mr. Garton stated the Applicant has submitted Revised Plans, and they will be appearing at an upcoming Planning Commission meeting; and the staff would recommend granting the Extension.

Mr. McLaughlin moved and Mr. Dobson seconded to grant the Extension of time to Freeman's Farm at Makefield (Ferri Tract) to September 7, 2013.

Mr. Benedetto asked for an update with regard to the DEP, and Mr. Garton stated that matter is included in this submission although he does not know if it has been reviewed yet.

Motion carried with Mr. Benedetto opposed.

Mr. Garton stated the Board met in Executive Session for approximately fifteen minutes prior to the meeting to discuss the Zoning Hearing Board matters which are matters of litigation.

ZONING HEARING BOARD MATTERS

With regard to Manor Care of Yardley PA, LLC request for Special Exception and Interpretation/Variations for property located at 1480 Oxford Valley Road to permit additions to existing building and additional parking spaces, Mr. Garton noted that this matter has already been decided by the Zoning Hearing Board.

With regard to the Bob Griffin Variance request on behalf of Julie Swan for property located at 324 Margery Road for increase in impervious surface to construct roof deck and for shed to remain 5' from water's edge of pool, Mr. Garton noted that this matter has already been decided by the Zoning Hearing Board.

With regard to the Janet Rose Variance request for the property located at 2000 Sylvan Terrace for increase in impervious surface to construct a sunroom and for the previously existing shed to remain, Mr. Garton noted that this matter has already been decided by the Zoning Hearing Board.

With regard to the Alex Cannon Variance request for the property located at 1512 Buck Creek Drive to permit erection of fence on a 20' easement, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Michael Hugh McAnany Variance request for property located at 34 Morningside Drive to permit existing detached garage to remain resulting in greater than permitted impervious, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the James Frawley Variance request for property located at 1197 Dickinson Drive in order to permit construction of pavilion over existing patio resulting in encroachments into the rear yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Charles and Danielle Frost Variance request to permit construction of walkway and steps to front entry resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS' REPORTS

Ms. Tyler invited everyone to the Farmers' Market beginning this Thursday 3:30 p.m. to 6:30 p.m. at Veterans Square. She stated there is also a Flea Market on Saturday, June 8 8:00 a.m. to 1:00 p.m. to benefit the Veteran's Monument. She stated PAA will have Hits for the Cure on Saturday, June 8 at Stoddart on Edgewood Road which is a fundraiser for Cancer. She stated PAA will also have the Father's Day Fast Pitch Tournament next week Thursday through Sunday at the Fred Allan Softball Complex on Oxford Valley Road. Ms. Tyler stated Yoga in the Park is held at Veteran's Square on Tuesdays at 6:45 p.m. She stated the Pool will be opening full-time June 10 and will have earlier opening hours on Saturdays and Sundays and will open at 10:00 a.m. Ms. Tyler stated there are discounted amusement park tickets available at the Park & Recreation office adding they also have information on camps.

APPROVE EXECUTION OF REGENCY AT YARDLEY PHASE V DEVELOPMENT AGREEMENT

Mr. Garton stated this is the next phase in the Toll Bros. project. He stated the Agreements are in order and have been signed by Toll.

Mr. Dobson moved, and Ms. Tyler seconded to approve the Agreements and authorize their execution by the appropriate members of the Board.

Mr. McLaughlin asked if the Township has received all the fees and special monetary obligations due from the developer. Mr. Fedorchak stated the developer is up to date. He stated there are a variety of Building Permit Fees which are typical in the case of new home construction. He stated in addition to that this developer is paying the "bridge fee," and a separate escrow fund has been created for that on a unit-by-unit basis. He stated in September the Township will receive the first of three installments from Toll Bros. He stated there was a provision in the Matrix Settlement where after a certain amount of time the developer is obligated to pay to the Township three installments of approximately \$450,000 each. He stated sometime in September that will be the date certain that Toll Bros. will be obligated to make the first of three payments.

Mr. Rubin asked if Phase V is part of the 191 houses, and Mr. Eisold stated it is. Mr. Eisold stated there are seven total phases, and this is the fifth phase. Mr. Rubin asked if there will be 191 single homes completed after Phase VII, and Mr. Eisold agreed.

APPOINTMENTS DISCUSSION

Mr. Benedetto stated he is liaison to the Citizens Traffic Commission, and they have been operating with a vacancy for a number of months. Mr. Benedetto stated he would like to see the Board move forward with the appointment of an individual who has attended the meetings and is a traffic engineer. He stated there were two individuals who had interviewed for the vacancy, and this individual was one of them. Mr. Benedetto stated in the alternative, he would like to expand the Citizens Traffic Commission to eight members.

Mr. Stainthorpe stated they are not going to expand the number on the Commission. He asked Mr. Fedorchak to review the records; and if they have interviewed this individual, they could consider the Appointment at the next meeting.

Ms. Tyler stated there were two gentlemen who applied both of whom were traffic engineers.

Mr. Stainthorpe asked that Mr. Fedorchak provide the resumes and verify that they both had been interviewed, and they will consider this at the next meeting.

Mr. Benedetto stated he feels that when people come forward who want to serve on a Committee, he feels it is difficult to move forward with an appointment and pick one citizen who is devoting time over another. He stated an individual approached him who was not selected for the Golf Committee, and Mr. Benedetto stated he felt he was qualified; and he would like to see him appointed and expand the Golf Committee.

Mr. Stainthorpe stated the Golf Committee already has nine people which he feels is too many already. He stated they are all public meetings, and everyone is welcome to come although they will not have a vote. He noted Helen Bosley came as a member of the public to the Golf Committee for several years before she was appointed. He stated there are lots of Township Committees, some of which they have trouble filling, and he would be against expanding Committees.

Mr. Benedetto stated he feels there is potentially a conflict on the Golf Committee since someone is serving on that Committee who also works at the Golf Course. Mr. Stainthorpe stated they did discuss this with the management company and it was also discussed with the individual when they interviewed him and everyone is comfortable with the situation. Mr. Stainthorpe stated he is only a part-time Ranger.

June 5, 2013

Board of Supervisors – page 22 of 22

Mr. Dobson moved, Ms. Tyler seconded and it was unanimously carried to adjourn the meeting at 9:25 p.m.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'D. McLaughlin', with a long horizontal line extending to the right.

Dan McLaughlin, Secretary