

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – AUGUST 1, 2005

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on August 1, 2005. Chairman Stainthorpe called the meeting to order at 7:30 p.m. noting that the Board had been meeting from 6:00 p.m. to 6:45 p.m. discussing legal matters, primarily the Matrix settlement. He noted the absence of Mr. Fazzalore whose mother passed away last evening at the age of ninety-seven. He offered the Board's condolences.

Those present:

Board of Supervisors:           Pete Stainthorpe, Chairman  
  Scott Fegley, Vice Chairman  
  Grace Godshalk, Secretary/Treasurer  
  Steve Santarsiero, Supervisor

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

Absent:                            Frank Fazzalore, Supervisor

PUBLIC COMMENT

Ms. Sue Herman stated RRTS sent a letter on 7/6/05 asking that the Board formally request eleven foot widths for Lindenhurst Road in the traffic calming plan and had asked for written confirmation that they would do this and a timeline for getting it in the design plan. Mr. Majewski stated the Plans are being reviewed now, and they do show eleven foot lanes on the Plan. They have previously discussed this with PennDOT, and they voiced no objection. Ms. Herman asked if they could have a copy of the design Plan, and Mr. Majewski stated they cannot get one until it is finalized although he agreed to show her a copy. Ms. Herman asked when it will be finalized, and Mr. Majewski estimated it to be finalized within the next few weeks. Ms. Herman asked if this means this is the Supervisors' desire, and Mr. Majewski stated the Board has expressed support for eleven foot lanes on Lindenhurst Road. Mr. Garton stated it will be bid, and this would be part of the bid criteria once the Board authorizes and awards the bid.

Ms. Virginia Torbert, 1700 Yardley-Newtown, stated at a prior meeting there was a discussion about the Golf Course and the water problems. She stated they indicated that there would be a presentation by DelVal to the Board and asked for an update. Mr. Fedorchak stated the Township, through DelVal, made application to the Basin

Commission to receive a permit to operate a third well (PW3). There were two wells on site, and they had been experiencing some problems with PW1. On July 20, the Commission gave the Township permission to operate PW3. At this point, they have approval from the Commission to operate three wells on the Golf Course. At some time, at the Board's discretion, he could have DeVal present to discuss the particulars if they feel it is necessary. Mr. Stainthorpe stated while he would be willing to have DeVal come to a meeting, if there are no problems, there is nothing for them to present. Ms. Torbert asked if the residents are still experiencing problems. Mr. Fedorchak stated currently all three wells are operating, and they have not had any complaints from the residents concerning their well situation at this point; although this could change in the future. Mr. Fedorchak stated one of the reasons why they had problems last year was that PW1 had collapsed and the bottom 150 feet filled up with sediment, etc. Because of this they drew from the water zones in the upper parts and they then drew a disproportionate amount from the upper aquifer thereby impacting the residents of Delaware Rim. One month ago, they cleaned out the entire well and re-drilled it to 680 feet. They put the pump back in, and it has been operating successfully for a few weeks.

Ms. MaryAnn Wolf, 842 Dukes Drive, stated she is concerned with the increase in the deer population and expressed concern with Lyme's Disease. Mr. Stainthorpe stated the deer population in the area is out of control throughout Bucks County where there has been development. Mr. Fegley stated this is true as well in different parts of the State in areas where the deer have no natural predators and where hunting is not allowed. He noted the problem with the deer population and the impact they are having on the Five Mile Woods. He stated in this area there are problems with Animal Rights people and people who do not want to see the deer killed. He stated the deer have adjusted very well to Suburban life. Mr. Stainthorpe stated he does not feel they have any legal means to control the problem. He added the Five Mile Woods has very rare plants, and the deer are decimating them to the point where they may not recover and regenerate. He stated they have discussed this at the Park & Rec Board; and they did a count via an airplane/infrared, and he believes they determined there were twenty-two deer in the Woods. The naturalist indicated that a herd of two to three could be sustained in the Woods. He stated they may need to consider a hunt to control the population in the Five Mile Woods to thin the herd. He stated they could hire a professional to do this, and they may have to consider this at some point in the future. Mr. Fegley stated this could be considered to be controversial to some people. Ms. Wolf stated she feels they should consider this. Mrs. Godshalk noted she lives near Ms. Wolf and they had not had this problem up until two to three years ago. She stated she has seen six to eight deer in her yard at one time. Mr. Stainthorpe stated he does feel they should have a discussion about this particularly in the Five Mile Woods. Mr. Santarsiero stated he would be in favor of this at the Woods provided they hire a professional.

APPROVAL OF JULY 18, 2005 MINUTES

Mr. Santarsiero moved, Mr. Fegley seconded and it was unanimously carried to approve the Minutes of July 18, 2005 as written.

APPROVE AUTHORIZING ADVERTISING OF SEXUAL OFFENDER ORDINANCE

Mr. Stainthorpe stated since the last meeting, the Township Solicitor has reviewed case law, and he has come up with a potential Ordinance. Mr. Garton stated at the Board's direction he prepared an Ordinance that restricts those persons enumerated from residing within 2500 feet, which he feels is the most defensible. He reviewed other cases where this has been upheld. In addition, he advised that the definition Section of this Ordinance that he has prepared is the broadest possible and incorporates the provisions of Megan's Law with respect to persons who must register as a serious sexual predator or a person convicted of a certain crime against a minor. He stated the Board may want to consider if it is too broad or not when they review items he has provided including a copy of Megan's Law, and other legal items. He stated they could make some adjustments at a future time if they feel it is too broad. He stated tonight this is only a request to authorize advertisement. He suggested it be advertised to be heard the second meeting in September so there is ample time for comment and review.

Mr. Stainthorpe stated he has researched this somewhat and noted this is an exceedingly complex matter. He stated he agrees they want to provide the maximum protection to their children, but feels they need to proceed carefully in a measured way to ensure that the Ordinance can be defended. He stated he feels the proposed definition is way too broad. He stated he has been told that under Megan's Law they have to be a violent offender so designated by a State Board. Mr. Garton stated there are two reporting requirements. He stated if you are a sexually-violent predator, you have a lifetime requirement; but in addition to that you participate in a Hearing where the Commonwealth has to prove that you are in fact classified as that kind of offender. In addition, you have a ten-year registration requirement if you are convicted of a series of enumerated offences. Mr. Garton stated he wants the Board to review this carefully before taking action. He stated they had discussed the example that if someone gets a little too friendly at a party, conceivably they could be required to move from the Township if they were convicted of something. Mr. Stainthorpe stated the situation that was described was there could be an eighteen-year old at a party who has too much to drink and acts inappropriately toward a fifteen-year old; and while that behavior is reprehensible, under this broad statute, that individual could be classified as a pedophile and this is not the person they are really trying to protect their children from. Mrs. Godshalk stated that individual would have had to be prosecuted and found guilty.

Mr. Santarsiero stated he has also researched this and there are two categories under Megan's Law – an ordinary offender and a sexually-violent predator. Under State law, the standard for becoming a sexually-violent predator is very high and there have been cases in the State where in an individual repeatedly abused two young children and this was not in the eyes of the Commonwealth sufficient to find this individual was a sexually-violent predator. He stated he is concerned that if they were to limit this Ordinance to sexually-violent predators only, they would not be capturing this large category of people who, because they do not meet a very restrictive State law, are not deemed sexually violent predators; but who we could all agree pose a risk to children. He feels the Board would be better advised to petition the local Representative and State Senators to change the State law because currently there are too many of these people who are getting off at a much lesser degree of a felony than would otherwise be the case. He stated he has also heard that the DA may not prosecute the offender as a sexually-violent predator because the victim's family may know the offender and may not be cooperative in taking the prosecution to the next level. Mr. Santarsiero stated they should also consider the distinction Mr. Garton has noted – an ordinary offender under the State law has to register for ten years while a sexually-violent predator has to register for the rest of their lives. He stated implicit in Megan's Law is a finding by the State that these people whether they are offenders or sexually-violent predators pose a risk to the people in the community. He feels they are doing no more than reflecting that acknowledgement by passing this Ordinance. If the State legislature has found it appropriate to deem these people a risk, he feels it is appropriate for the Township to say they do not want them living in certain areas of the Township. He urged the Board to stay the course with respect to the category of offenders they are trying to cover. He stated while he is troubled by the notion that Mr. Stainthorpe has described, as this is not the situation they are trying to focus on; however, it is a fact of the legal system that they often have to draw bright lines. He stated it may not be completely fair in every circumstance; but he feels if they do not draw the bright line here, they will be doing a disservice to the children of the Township because they are missing a number of people that could pose a threat.

Mr. Stainthorpe stated he does not feel they should make the definition of a sexual predator as tough as what the second level of Megan's Law now requires, although it needs to be tighter than what is currently proposed or the Ordinance will be too easily challenged. He stated an Ordinance that is easily challenged and overturned will not provide any protection. He stated he would look to the solicitor to counsel them on what a better definition would be. Mr. Santarsiero stated it remains to be seen whether the current definition is too easily challenged. He stated he will look at some cases in the meantime. He stated Lower Makefield Township is not alone in following this type of approach, and some of the other Ordinances that have been passed already are far broader than this. He stated he is not sure they will be able a month and a half from now to say with a great deal of certainty that they could fashion a definition that is more likely to survive a challenge than not.

Mr. Stainthorpe stated he feels they need to seek out expert legal counsel between now and when they vote on this.

Mr. Santarsiero moved and Mrs. Godshalk seconded to authorize advertising of the Sexual Offender Ordinance for the second meeting in September.

Mr. Kenneth Martin, 19 Austin Road, stated he was at the previous meeting when this was discussed and was offended at the way the American Civil Liberties Union was considered to be an enemy. He stated that the opinions of the ACLU might be consistent with the opinions of the Township. He stated it would be best if they could short circuit any criticisms in advance.

Motion carried unanimously.

**APPROVAL OF RESOLUTION NO. 2090 IN SUPPORT OF A TRAFFIC SIGNAL AT THE INTERSECTION OF N. MAIN STREET/TAYLORSVILLE ROAD AND DOLINGTON ROAD**

Mr. Fedorchak stated the Delaware River Joint Toll Bridge Commission is sponsoring a funding program for transportation, infrastructure-type projects located in areas that border their bridges such as Scudders Falls. For some time, the Borough and Township has recognized the need for a traffic signal at the intersection of Taylorsville and Dolington Roads. He noted when the Orchard Hill Development was first put together, there was a set-aside for a traffic signal. Mr. Fedorchak noted the intersection is located entirely in Yardley Borough; and up until this point in time, the Borough has not had enough money to see the project through. By authorizing this Resolution, the Township Board of Supervisors would partner up with Yardley Borough for the purpose of making an Application in the amount of \$125,000 to construct a traffic signal at that intersection.

Mrs. Godshalk stated when Orchard Hill was approved, some money was set aside by the developer, and she asked if Yardley Borough is holding this. Mr. Fedorchak stated they are, and he feels it is approximately \$25,000 to \$30,000 which could be used as their share toward this project. He is not sure how much money they will be getting, but he would recommend that the Township move forward as funds are available and this project does appear eligible.

Mr. Richard Adams, 221 Taylorsville Road, asked the Police Chief's thoughts on this project. Chief Coluzzi stated they have discussed this for some time because of the back ups that occur in the area and problems trying to make turns onto Taylorsville Road. They feel a traffic signal would be the best approach. Mr. Adams asked if there have been accidents, and Chief Coluzzi stated the problems are more traffic control and back ups. Mr. Adams asked if they would have the magnetic loops under the roadway to

control the signal, and Mr. Majewski stated they will. Mr. Adams asked if it would be a State-maintained signal, and Mr. Fedorchak stated it would not; and Yardley Borough would have to agree to maintain it.

Mrs. Godshalk stated the road will be hard to mark because of the width. She stated she has also noted that some shrubbery in the area has been taken down and asked if they intend to widen this area. Chief Coluzzi stated he is not aware of any widening proposed. Mr. Majewski stated he feels there are utility poles on Taylorsville road on that side and the clearing was done because of this.

Ms. Torbert stated she feels the light is necessary. She asked which portion is Lower Makefield, and Mr. Fegley stated he feels the line goes through the intersection. Ms. Torbert stated she agrees that the area will need to be re-stripped. Mr. Majewski stated this would be included in the signal permit plan. Mr. Stainthorpe stated this Resolution just indicates their support for the signal, and they will need the concurrence of the Bridge Commission and Yardley Borough before anything would move forward.

Mr. Santarsiero moved, Mr. Fegley seconded and it was unanimously carried to approve Resolution No. 2090.

#### APPROVAL TO RESCIND PRIOR MOTION REGARDING SALE OF USED TOWNSHIP VEHICLES AND AWARD BIDS FOR THE SALE OF SAME

Chief Coluzzi asked that the Board rescind the prior bid award due to a mis-calculation. He noted the new bid award will net the Township approximately \$1,000 more than originally calculated.

Mr. Fegley moved, Mr. Santarsiero seconded and it was unanimously carried to rescind the prior bid regarding the sale of used vehicles.

Mr. Santarsiero moved, Mr. Fegley seconded and it was unanimously carried to approve the sale of four vehicles to Marks Motors in the amount of \$4,860 and five vehicles to Jersey One in the amount of \$3,513.

#### SUPERVISORS REPORTS

Mrs. Godshalk stated the Golf Committee has been asked to come up with a list of capital improvements to be included in the Budgets going forward. She asked if anyone has any ideas, that they submit them to Mr. Draper, Chairman of the Golf Committee.

August 1, 2005

Board of Supervisors – page 7 of 7

Mrs. Godshalk stated the Memorial bids were opened last Tuesday, and they do have an apparent low bidder. They are going over the references and the list of options that were bid separately. They hope to have a decision at the next meeting of the Board of Supervisors on August 15 and hopefully award the bid at that time. She stated the Memorial Fund is having another Golf Tournament to be held on Monday, September 26 at Makefield Highlands and asked those interested to contact the Golf Course to sign up. There are also opportunities for sponsorships and advertising.

Mr. Santarsiero stated the Zoning Hearing Board had scheduled a special meeting for August 9 to discuss Allegheny Valley School but this has been pushed back to the regular meeting on August 16. He noted the Southeastern Bucks League of Municipalities had a meeting in Middletown last week. Two of the issues they discussed were the Sex Offender Ordinance discussed earlier. Other towns participating in the League are interested in similar Ordinances, and he would like to provide them with copies of what the Township is now considering. He stated they are also interested in the idea of an Ordinance which would limit where Drug and Alcohol Halfway Houses could be sited within Townships, and he would like to provide them with a draft Ordinance on that once it is available.

There being no further business, Mr. Santarsiero moved, Mr. Fegley seconded and it was unanimously carried to adjourn the meeting at 8:10 p.m.

Respectfully Submitted,

  
Grace Godshalk, Secretary

