

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – AUGUST 6, 2008

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on August 6, 2008. Vice Chairman Santarsiero called the meeting to order at 7:30 p.m. noting that the Board of Supervisors met in Executive Session for approximately one hour discussing real estate matters and Township litigation. Mr. Maloney called the roll. Mr. Santarsiero wished Mr. Smith a happy birthday and noted there will be cake available following the meeting this evening.

Those present:

Board of Supervisors:            Steve Santarsiero, Vice Chairman  
   Matt Maloney, Secretary  
   Ron Smith, Supervisor  
   Pete Stainthorpe, Supervisor

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

Absent:                                Greg Caiola, Chairman, Board of Supervisors

PRESENTATION OF COMMENDATIONS

Mr. Santarsiero noted the recent lightning strike which occurred at the Brookside Swim Club on 7/23/08 involving Jack LaMorte and his caregiver, Bridget Gallagher. Certificates of Commendation were awarded this evening to Bridget Gallagher, James Borda, Sara Cummings, Andrew Haugen, Dan Haugen, Dan LaMorte, and Robert LaMorte honoring them for their actions that day. Mr. Santarsiero noted his confidence in the next generation when he sees young people behaving in this way, and thanked them on behalf of the Township.

PUBLIC COMMENT

Ms. Sue Herman, President of Residents for Regional Traffic Solutions, Inc., read into the record a letter she read into the public record at the 7/29/08 meeting of the Regional Traffic Planning Task Force chaired by State Representatives David Steil and Scott Petri (copy attached to the Minutes) requesting that the Regional Traffic Planning Task Force refrain from supporting actions that will lead to construction of four-lane highways and be antithetical to traffic calming. She also presented a number of Exhibits (attached to the

Minutes). She provided these documents to Mr. Smith as well to keep with the box of documents he is maintaining for the Task Force.

Mr. Smith stated he and Mr. Caiola offered to be the repository for the records of the Task Force. He also noted that he and Mr. Caiola as well as others have done whatever they felt was possible to oppose any potential for a Northern/Stoopville Road By-Pass and to do what they could with respect to traffic calming for the entire area.

Ms. Herman asked that the Board of Supervisors immediately write a letter to Bill Tuerk asking for a copy of the Cemetery Plan showing the additional lanes for Highland and Washington Crossing Roads. She stated at the RTPTF meeting, Representative Petri asked when the VA was going to present the Plan to the Municipalities, and the VA indicated they are not going to present such a Plan to the Municipalities. She stated Bob West, Upper Makefield Township Supervisors, indicated the VA will present the Plan to the Upper Makefield Planning Commission at their 8/27/08 meeting at 7 p.m.; and she feels Lower Makefield should look at the Plan well in advance of this date. The Board was not opposed to sending such a letter.

Ms. Herman also provided another letter that had been read at the RTPTF meeting of 7/29, providing an inventory of RRTS letters; and she provided a copy of this as well to Mr. Fedorchak to be included in the document box being maintained in the Township.

#### APPROVAL OF MINUTES

Mr. Maloney moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of July 2, 2008 as corrected.

#### APPROVAL OF JULY 7 AND JULY 21, 2008 WARRANT LISTS AND JUNE, 2008 PAYROLL

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried to approve July 7 and July 21, 2008 Warrant Lists, and June, 2008 Payroll as attached to the Minutes.

#### SPECIAL EVENTS UPDATE

Ms. Rebecca Cecchine and Mr. Mark Ellison were present and reported on the success of the recent re-scheduled Midnight Madness event which was held at Macclesfield Park. Mr. Ellison reviewed the events which took place including a movie under the stars and camping out overnight. He thanked all the volunteers, Donna Liney and the Park & Rec

staff, Terry Fedorchak, the Yardley-Makefield Fire Company, Yardley-Makefield Emergency Unit, and Chief Coluzzi and his team. He stated all present had a safe and enjoyable time. He thanked the Board of Supervisors for approving events such as this which bring the community together. He particularly thanked Mr. Smith who is their Supervisor liaison. He stated they plan to hold this event again next year.

Mr. Santarsiero stated he camped out with his family and polled those present and all indicated they would like to do this again. He stated people did suggest that the movie be started earlier than 10 p.m. Mr. Smith thanked all the members of the Special Events Committee who were involved in this event.

Ms. Cecchine stated they are now working on the Third Community Pride Day and she thanked Mr. Fedorchak and Ms. Liney and her crew for helping with this event. Ms. Cecchine reviewed the events they have planned for Community Pride Day and noted a number of forms to register for various events are available at the Farmer's Market, on the Township Website, and at the Township Building. She stated new this year will be the Pet Fair with a number of volunteer groups and vendors in attendance. There will also be a Crafters' Cove and a Car Show with prizes to be awarded for the Car Show.

Mr. Smith stated they will also have a Talent Show with prizes. He also noted a number of other events including the Celebrity Dunk Tank, the fireworks display, and the Battle of the Bands which is being coordinated by Susanne Curran and her daughters and features many Pennsbury High School students. He stated the Police Department will also be putting on a display. Mr. Smith noted that community groups are welcome to come and set up a table about their group. He stated those needing community service hours should contact to the Township if they are able to volunteer to help on Community Pride Day.

Later in the evening, Ms. Susanne Curran and her daughter, Andrea, were present and Ms. Andrea Curran reviewed the bands which are scheduled to appear at Community Pride Day. She also thanked their sponsors. She asked the Board of Supervisors if they would permit them to do fundraising this year to provide a Scholarship Fund, and this was acceptable to the Board. Mr. Smith asked that information about Community Pride Day including the Battle of the Bands be provided to the young people of the Township.

#### DISCUSSION AND MOTION ON COMCAST'S REQUEST BEFORE THE ZONING HEARING BOARD TO INSTALL CABLE PEDESTALS

Mr. Bernie Goldberg, 1304 University Drive, was present. He stated all of the utilities in his development, Sandy Run, are underground including the electric transformers; and most of those who moved into this neighborhood did so because of the appearance of the

development. He stated they have wide streets, relatively small lots, and small front lots. He stated they do have sidewalks, and the utility right-of-way runs between the curb and the sidewalks; therefore, in that particular area it is not possible to do anything to camouflage what might be done in the utility right-of-way. He stated they have an active and cohesive Homeowners' Association. He stated the community is bound together by deeded property as there are twelve acres of deeded property owned by 150 homes in Sandy Run and this requires that there is an active Homeowners' Association to pay the taxes and insurance on that property.

Mr. Goldberg stated the Sandy Run community was very active in the cable box issue which they felt they had resolved in 1996. He showed a pictures of the cable boxes which were installed in front of his home in 1994 without knowledge of the Township. He stated when he called the cable company at that time, they advised him they had every right to do this. He stated the community mobilized and fought for the removal of these boxes, and the Township adopted Ordinances to preclude the construction of anything in the utility right-of-way without a Building Permit, and that Ordinance remains in force today. Mr. Goldberg stated the Township opposed the Cable Company at that time and prevailed in a lengthy Zoning Hearing Board process with a Settlement Agreement entered into in 1996 indicating that there would be no construction of any above-ground pedestals in Sandy Run. He showed pictures of cable boxes in front of 1108 University Drive and 1130 University Drive which were installed in August, 2007. He noted in the picture of 1130 University Drive, the Verizon underground installation can also be seen. He also showed pictures of cable boxes in front of 1161 and 1167 University Drive, 1155 Dickinson Road, 1150 Temple Drive, and 1186 Temple Drive. He stated they sought help from the Township and construction was halted in July, 2007. Comcast applied for Building Permits which were rejected by the Township, and they were advised to go to the Zoning Hearing Board. He stated it has taken over a year for them to appear before the Zoning Hearing Board.

Mr. Goldberg expressed concern with the safety of Comcast installations and showed pictures of cable box covers which can be easily lifted and which expose high voltage wires. He also noted pictures of cables hanging off of poles in a number of areas in the Township. He also showed pictures of a number of Verizon installations which are all done underground.

Mr. Goldberg stated on 7/15/08 approximately 100 to 150 residents attended the Zoning Hearing Board meeting. He stated he feels the meeting was slanted from the beginning. He stated the Zoning Hearing Board solicitor suggested that the residents meet with the petitioners outside of the meeting room while the Board heard other matters. He stated he feels many of the remarks made by Comcast and their representatives outside of the meeting room were disparaging of Verizon and intimidating to the residents.

Mr. Goldberg stated the Zoning Hearing Board Solicitor seemed to be running the meeting with the Chairman basically non-participatory; and the Board was hostile to the

residents and cordial to the Comcast representatives. He stated many of the residents in attendance had never attended a Township meeting, and he feels that the Chairman should have explained how the process works. He stated Mr. Toadvine was hostile and rude to the residents at the meeting. Mr. Goldberg stated after the meeting, he approached two of the Board members to try to explain that he understands how tough their job is; and as part of that discussion one of the Board members asked him if he was a participant in the Agreement with Comcast; and since Mr. Goldberg felt he was alluding to the 1996 Settlement, he indicated he was. The Board member then asked him how he let the new Contract get approved that gave Comcast the right to build in the right-of-way, and Mr. Goldberg advised the Board of Supervisors that this was never introduced at the meeting so he feels it is obvious that someone had been discussing the Contract with the Zoning Hearing Board which he feels is wrong. Mr. Goldberg stated he feels the meeting was slanted to “stuff this deal down the residents’ faces.”

Mr. Goldberg stated he is also concerned about the ethical issue of Mr. Garton representing Comcast which he challenged at the Zoning Hearing Board indicating he felt this was a conflict of interest. He stated the Zoning Hearing Board adjourned to a private discussion, and then came back and voted that it was legitimate. He stated he has since found out that Mr. Garton negotiated the current Franchise Agreement and this is the point Comcast is using to try and do this construction. He stated he does not feel Mr. Garton should be permitted to represent Comcast.

Mr. Goldberg stated a Motion was put on the table but no public discussion was taken from the audience which he feels was inappropriate based on the number of public meetings he has attended where public comment was taken after a Motion was put on the table and prior to the vote. He stated this was refused and when he pointed this out, he was told he was being disruptive and had no standing. Mr. Goldberg stated he does not understand how the Zoning Hearing Board is supposed to operate, and asked for an explanation from the Board of Supervisors and asked that they explain to the Chairman of the Zoning Hearing Board that he should be courteous to the residents. Mr. Goldberg also asked about the role of the Zoning Hearing Board solicitor. He feels the Township should present its position on the Cable Franchise Agreement. He is concerned that he was told by two Zoning Hearing Board members following the meeting that the Contract allows Comcast to do what they are doing, when he had been told by Mr. Fedorchak that the Township Solicitor does not agree with this. He stated the Township should also provide the Zoning Hearing Board with education as to how the Right-of-Way Ordinance was created, since it specifically occurred because of the cable box issue in 1995. He feels a decision also needs to be made whether it is ethical for Mr. Garton to represent Comcast. He stated he feels one way to correct some of the problems is to televise the Zoning Hearing Board meetings so that hopefully the meeting would be run by the Chairman rather than the Zoning Hearing Board solicitor.

Mr. Santarsiero stated the Board of Supervisors does intend to oppose this Application when it next comes before the Zoning Hearing Board. He stated the Board of Supervisors appoints the members of the Zoning Hearing Board which is a quasi-Judicial Board. He stated there are five regular members with a five-year term each, and there are also two alternates who fill in if there is a matter scheduled before the Board when a regular member cannot be in attendance. He stated at the end of each Zoning Hearing Board member's term, the Board of Supervisors determines whether or not they want to re-appoint them. The Board of Supervisors cannot "fire" them. He reviewed the differences between a Variance and a Special Exception. He stated there are times when the Board of Supervisors takes a position in opposition and the Zoning Hearing Board takes a different position. He stated in those instances the Board of Supervisors must decide if they wish to Appeal the matter before the Court of Common Pleas in Doylestown or whether they will let the Decision stay. Mr. Santarsiero reviewed the Sunrise Decision which a majority of the Board of Supervisors was opposed to, and they did vote to Appeal the matter; although they eventually had to withdraw their opposition as the Applicant satisfied the grounds upon which they were going to Appeal. He stated the Decision whether or not to Appeal a Decision is difficult because it results in additional expenses to the Township. Mr. Santarsiero stated the Zoning Hearing Board is doing the job they feel they should be doing; but sometimes their conclusion is different from what the Board of Supervisors feels is correct.

Mr. Santarsiero stated he agrees it can be confusing for residents who feel that the Board of Supervisors should be able to tell the Zoning Hearing Board what to do, when they really cannot. He stated the Township is only a Party before the Zoning Hearing Board with the same rights as the residents. He stated in the Comcast instance, the Board plans to oppose the Application and will be present at the next meeting and the Township counsel will state their position at that meeting. He stated they feel it violates the Code and do not feel it is permitted under the Agreement.

Mr. Santarsiero stated each of the Supervisors serve as liaisons to the various Boards and Commissions; and their role is not to be a voting member of that Board, but to be a communication link. He stated Mr. Maloney is the liaison this year to the Zoning Hearing Board and was at the meeting when Comcast was before the Board.

Mr. Goldberg stated while he understands that the Zoning Hearing Board is a free-standing entity, he feels there is a right way to run a meeting, and someone needs to tell the Zoning Hearing Board how a meeting should be run and that they cannot treat the residents of the community the way they were treated at that meeting. He stated he feels they should explain to the residents what is going on as this was the first time many residents had ever attended a Township meeting.

Mr. Maloney stated he feels Mr. Goldberg's characterization of the meeting is fair and the Zoning Hearing Board Solicitor was effectively running the meeting. Mr. Maloney

stated he has begun to have individual conversations with members of the Zoning Hearing Board to discuss that meeting and how he feels they could be better stewards of their position. He stated the Township had originally planned to participate but not oppose the Application; but now that they understand fully what is going on and the frustration which Comcast has subjected the Township's Planning and Zoning Officers to without any regard for their roles and duties, they will oppose this Application. Mr. Maloney stated he is also going to discuss with Ms. Frick having a one-sheet information sheet on how the Zoning Hearing Board operates which could be provided at the Zoning Hearing Board meetings. He stated he agrees residents should expect cordiality and reasonableness.

Mr. Maloney stated he agrees that there was already a sense on the Zoning Hearing Board that the Franchise Agreement provided them with the right to build these cable pedestals without Permits, although he is not sure where this came from. He stated he feels this constitutes preemption of judgment since the Zoning Hearing Board is supposed to make its decision based on the facts put before them. He has discussed this with some of the Zoning Hearing Board members as well. Mr. Maloney stated with regard to the conflict of interest issue, he understands that the Zoning Hearing Board was advised that the conflict of interest was because the 1996 Agreement had been negotiated by Mr. Garton. Mr. Maloney stated he has since learned that Mr. Garton also negotiated the Franchise Agreement, which is the overriding contract that governs what they will be discussing at the Zoning Hearing Board meeting. He stated the Board of Supervisors can consider this and he would support directing the Township solicitor to comment to the Zoning Hearing Board that they need to vote on this again as there are new facts and circumstances which he does not feel were made available to the Zoning Hearing Board. Mr. Maloney stated he also feels it would be good for new Zoning Hearing Board appointees to go through an education process which he feels would be helpful.

Mr. Goldberg stated he is very concerned that the residents were not permitted to make comments when the Motion was made. Mr. Maloney stated the reason this was done was because they were not technically Parties to the matter; but he feels they should have allowed some of the residents to speak. He noted there was a Motion to continue the matter, but at that point the members of the audience had not yet had an opportunity to become Parties to the proceedings.

Mr. Stainthorpe stated he served as liaison to the Zoning Hearing Board five years ago and agrees that there should be a one-page information sheet sent out with the Notice sent to the residents as to what will take place at the meeting as those meetings are conducted very differently than other Township meetings as it is actually a judicial proceeding. He stated residents should be informed as to what it means to have Party status. He stated in the year he served as Liaison, he does not recall that they took public comment from those who were not a Party. He stated the Zoning Hearing Board meeting is run like a Court with facts applied to the Law and a Decision made based on that as opposed to

what the people want. He stated it is also meant to take the decisions out of the hands of Elected Officials so they cannot be swayed by friends, campaign contributors, etc. He agrees that there is no excuse for being discourteous to the public.

Mr. Maloney stated he agrees about Public Comment being taken during testimony, but added the Motion was only to continue the matter, and he feels the residents wanted to comment on whether or not it should be continued as opposed to the facts and circumstances of the Appeal.

Mr. Goldberg stated he felt it was very unusual that the Zoning Hearing Board solicitor directed the Petitioner and the residents to go outside; and Mr. Stainthorpe agreed. Mr. Goldberg stated he advised Mr. Garton at that time that he felt that if they were going to have any conversation, it should be on the record.

Mr. Smith stated he was liaison to the Zoning Hearing Board last year and shares many of Mr. Goldberg's concerns. He stated the Board of Supervisors does not appoint the Zoning Hearing Board solicitor as the Zoning Hearing Board makes that appointment each year at their Re-Organization meeting. Mr. Smith stated he feels there should also be a tutorial on the Permitting process as well. He stated in many cases Zoning Hearing Board meetings do have to be continued, and the residents in attendance are concerned because they have not received notification that the matter is going to be continued because of the timing involved. He stated he feels there should be a better way of providing notification to residents that a matter is going to be continued. Mr. Smith stated he also feels they should re-visit the issue of televising other Township meetings of importance to the Township residents besides the Board of Supervisors' meetings. He feels behavior would be better if the meetings were televised. He asked that the matter of televising additional meetings be considered on a future Agenda.

Mr. Stainthorpe asked Mr. Truelove about the legality of televising the Zoning Hearing Board meetings because it is a quasi-Judicial matter. Mr. Truelove was unsure but noted in Pennsylvania, Court proceedings are not televised; although Zoning Hearing Boards are not under the direct supervision of the Office of Pennsylvania Courts. He stated he is unsure if other Municipalities Zoning Hearing Board proceedings are televised, and agreed to look into this so it can be considered at a future meeting.

Mr. Santarsiero stated they did previously discuss televising additional meetings, and he feels televising only certain meetings would be a problem because they would be elevating certain issues over others.

Mr. Goldberg stated the Chairman of the Zoning Hearing Board or the Supervisor liaison needs to be instructed that he needs to explain the process. Mr. Maloney stated he would be willing to give this kind of introduction. He also stated other than the legality issue, it is expensive to televise meetings. Mr. Santarsiero suggested that they put the televising

issue on a future Agenda. He stated they will also consider coming up with a list of items that the Zoning Hearing Board should be reminded to discuss at the start of the meeting. He noted when he was the liaison, the prior Chair did advise everyone that they would stop at 11:00 p.m.; and if they felt they may not get to a particular matter, they would try to tell the residents this at the beginning. He stated he feels Mr. Maloney's suggestion about training is important, and they could look into how this could be done in the Township without a lot of expense as this is done in a number of other States. Mr. Santarsiero stated he also feels a one-sheet information page would be a good idea so everyone has an idea as to how the procedure works.

Mr. Smith asked Mr. Truelove to report back to the Board as to televising meetings.

Mr. Truelove stated it would be appropriate to take a vote at this time if the Board plans to oppose this Application.

Mr. Maloney moved and Mr. Smith seconded to change their status and the Township oppose the Application by Comcast for the construction of pedestals as applied.

Mr. Zachary Rubin, 1661 Covington Road, stated he supports the objection of the Comcast Application. He stated he is Chairman of the Lower Makefield Township Cable TV Advisory Board. He stated he was at the 7/15 Zoning Hearing Board meeting and concurs with Mr. Goldberg's observations about the Hearing. He stated since 1996 the passage of the Federal Telecommunication Act effectively removed all regulatory authority that a Municipality has over a cable companies for things such as fees and programming; but it gives the Township the right to enforce the Franchise Agreements with the cable companies. He stated the Cable TV Advisory Board acts as a conduit of the residents' complaints and concerns to express them at bi-monthly meetings with the cable companies. He stated safety matters which were presented this evening are part of the CATV Board's responsibility, and the CATV Board and Pete Stainthorpe, their liaison, have a copy of Mr. Goldberg's presentation. He stated they have a meeting scheduled for 9/21 with Comcast and they will discuss this. He stated Lower Makefield Township's Website does contain the Franchise Agreements and the pertinent Ordinances.

Mr. Rubin stated he had asked a Verizon representative why they were able to put their pedestals underground and Comcast could not; and he was told that the FIOS system that Verizon has is completely fiberglass and there are no electronics. Comcast has a hybrid system and portions include a coaxial cable which can rust and has electronics so it is a different system. Mr. Rubin stated when they meet with Comcast they will review each of the safety items raised by Mr. Goldberg and the rights of people to have a certain type of lifestyle and they will convey the concerns of the community to the cable companies.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, stated she has attended Lower Makefield Zoning Hearing Board meetings and at the beginning of the meeting no one asked if there were residents who wanted to be a Party to the proceedings as is done at Zoning Hearing Board meetings in other Townships where it is explained what it means to be a Party. Ms. Torbert stated she knew that when she agreed to speak, that she would have to be a Party to the proceedings, but no one said this to her. Mr. Santarsiero stated this was previously done at the Lower Makefield Zoning Hearing Board meetings on a regular basis when he was liaison. Ms. Torbert stated this was not done at the meeting she attended. Mr. Maloney stated this is the proper procedure, and he will discuss this with the Zoning Hearing Board. Ms. Torbert stated at the meeting she attended, Mr. Donaghy was not allowed to speak while they did allow the Applicant's attorney, John Koopman, who was previously the Township's attorney, to speak as long as he wanted. She questioned the appearance of impropriety.

Mr. Maloney stated there are very few attorneys in the County who practice Municipal law, and they cannot expect that Mr. Garton/Mr. Koopman's firm will never represent an Appellant before the Township; but he does feel when there is an additional level of concern or appearance of impropriety, this should be evaluated on a case-by-case basis. Ms. Torbert stated she feels if an attorney is representing someone before the Zoning Hearing Board which may be problematic because of the appearance of impropriety, a statement should be made at the start of the meeting advising why this is not considered to be a conflict.

Mr. Smith stated he feels most firms do have an in-house procedure to determine whether or not there is a conflict, and based on that they decide whether or not to proceed with their representation. Mr. Truelove stated his firm does have a conflict check procedure.

Motion carried unanimously.

#### DISCUSSION OF OPEN SPACE DEBT REFERENDUM AND APPROVAL OF RESOLUTION NO. 2166

Mr. Ernest Closser, Township solicitor, was present and stated they have prepared a Resolution which, if approved, would place on the November ballot a Referendum question that would authorize the Township to incur electoral debt up to \$15 million for the purpose of open space preservation and recreation. If approved by a majority of the voters on November 4, the authority would last for ten years through 2018 during which time the Township would have authority to incur up to the amount approved for those purposes. He stated the question would be advertised in a regular newspaper and the legal journal and be certified to the County Board of Elections to be placed on the ballot in November.

Mr. Santarsiero stated in late 2006 residents from the Arborlea area approached him about a two acre parcel in their area that they were concerned might be developed which they felt would change the character of the neighborhood. He stated he looked at the property and brought the issue back to the Board of Supervisors; and it was decided that they did not want to act on that particular parcel because it was unclear whether there might not be other parcels in the Township which may be equally or even more deserving of Township open space funds. He proposed that the Environmental Advisory Council do an inventory of all remaining open space in the Township so that they would know what was left and then be able to rank the properties in terms of which properties they would like to pursue to save with a view toward whether or not different properties were more susceptible to development. He thanked the EAC members, Mr. Bray, Mr. Goll, and Mr. Sundeen who did a tremendous amount of work visiting all of the properties. He stated the EAC has presented their findings to the Board of Supervisors and made some proposals on how to proceed. Mr. Santarsiero stated the Board of Supervisors has decided to go forward and discuss the possibility of putting a Referendum on the Ballot for November for the residents to consider allowing the Township to incur debt to purchase out right or development rights for some of these parcels.

Mr. Fedorchak stated a Referendum was passed in 1998 to spend \$7.5 million for acquisition of open space by a three to one margin. Since then, the Township has acquired seven tracts of land totaling 176 acres acquired either out right or via Conservation Easements for which \$6,647,000 was spent. A list of these properties were shown including the Ruth Wright Farm of 81 acres through Conservation Easement with the Township's share being \$1,520,000 and the Snipes Tract of 34 acres in the amount of \$1.2 million. Mr. Fedorchak stated ten years will soon elapse since the voters approved the first Open Space Referendum in November, 1998. He stated as a result the Township's ability to finance more open space purchases as Electoral debt will be canceled. He stated the Township will be allocated a Grant award of \$824,650 from Bucks County as a result of the County Referendum where voters approved the \$87 million County Open Space Referendum last November. Mr. Fedorchak stated \$15 million would cost 1.9 mills per year or \$76 per year for the average taxpayer. He added if it were a \$10 million referendum, it would cost \$51 per year and a \$5 million referendum would cost \$25 per year.

Mr. Santarsiero stated the amount approved by the voters would allow the Township to borrow up to the amount approved for open space preservation, and the amounts noted by Mr. Fedorchak would be the average cost to the taxpayers per year over the course of the repayment of the bond. Mr. Santarsiero stated some people have asked if the Zoning should not be changed to make it more difficult for development to take place, and the Board has considered this. He noted one of the reasons, they passed the Low Impact Development Ordinance was to better control growth in the Township; and that Ordinance which focuses primarily on controlling stormwater management, gives the Township a lot more authority in order to control proposed development, and in many

cases parcels of land that were previously more susceptible to development before the LID Ordinance are less susceptible now. He stated they feel they have done as much as they can under the current Pennsylvania law in order protect the Township from development which is inconsistent with the Plan they have for the Township.

A map of the Township was shown, and Mr. Santarsiero noted the parcels already developed, in process of development, open parcels, and parcels owned by the Township. He stated the two large parcels the Township is interested in preserving are the Torbert Farm of 100 acres which is adjacent to the Patterson Farm and the Guzikowski Farm of 40 acres which is in close proximity to the Five Mile Woods. He stated the EAC has also identified a number of smaller parcels totaling about 80 acres scattered throughout Lower Makefield which the Township may also want to consider for preservation. He stated the Township would be interested in seeing if the owners of these parcels are amenable to the Township buying them or buying the development rights to them. He stated under the current market values, they would probably need over \$10 million in order to preserve all of these parcels. He stated they felt that if they put out the Referendum for \$15 million and need less than this, it would not be a problem; however, if they do not go out for a high enough amount, they may not have enough without going back to the voters and critical time could be lost.

Mr. Stainthorpe stated last year the County Referendum passed overwhelmingly. He stated open space is a winner for any Township, and he would urge everyone to focus on the long-term. He stated, if authorized, the money would only be borrowed when a property is actually acquired. He stated Yardley Hunt is now 25 years old, and the cost of repaving those roads will be very expensive. He stated \$25 to \$75 per year now is a small investment to avoid those types of costs in the future if the land gets developed. He stated they also need to consider that if there is more development it will bring in additional children to the School District, more traffic, and the need for more police. He stated preserving open space helps to mitigate all of those costs. He stated there is not a lot of land left in the Township, and he feels they should proceed with this.

Mr. Smith agreed and stated it is important to preserve the open space and retain the quality of life in Lower Makefield Township.

Mr. Maloney stated the costs given are average costs to taxpayers, and the actual costs will be based on your individual assessment. He stated if you are paying \$7,200 currently in property taxes, this would be the average, so that if you are paying more than this, the yearly cost if the Referendum passes will be higher; and if you are paying less than \$7,200 currently, it will cost you less than the average previously indicated. He stated some open space parcels purchased have brought in revenue to the Township. Mr. Maloney also stated some neighborhoods will benefit more directly from purchase of smaller open space parcels.

Mr. Santarsiero stated development almost always results in more costs for communities. He stated of all the things the Board of Supervisors can do for the Township, he feels this is one of the most important steps they can take to try to maintain the character of the Township and will also benefit future generations.

Mr. Maloney stated they have already taken a number of steps to do what they can legally to try to preserve open space at no cost to the residents by changing the Ordinance, but they have now exhausted many of the options available.

Ms. Susanne Curran, 930 Piper Lane, stated she is in favor of approving this for the maximum amount. She stated she served on the Bucks County Open Space Task Force that helped develop the proposal to the County and the Bond Issue which was subsequently passed for \$86 million. She stated open space acquisition does result in a financial benefit as it reduces the amount of financial burden on the Township. She stated taxes paid by new houses do not cover the expenses. She noted the brochure which was put out by the Heritage Conservancy which shows this, and the Township may want to get copies for distribution to the residents.

Mr. Bob Slamen, Bedford Place, stated he is not in favor of raising taxes another two mills. He stated the Township just increased the taxes by two mills in the last Budget. He stated a State Legislator told him that he gets more phone calls when the tax bills are sent out from people with low incomes concerned that they cannot afford their taxes. He stated he feels the Township has enough open space and already has a lot of good parks. He stated he feels many of the Township-owned properties are costing the Township a lot of money. Mr. Santarsiero stated at this point the Board is only considering putting this on the ballot, and the residents will have the final say. He stated he agrees that there are costs to maintain properties; but their first choice with regard to the properties they are considering now would be to obtain the development rights so that the Township would not ultimately own them although they would be saved from ever being developed as they would have easements on them which would preserve them.

Mr. Peter Vitella, 17 Orchard Way, stated he has spoken and written in the past about fiscal responsibility and feels it is hard to believe the Board will put out to a Referendum for what he feels is a non-essential activity. He asked what will happen if the Township needs to borrow \$15 to \$25 million to repair the sewer system or some other essential service and asked if the Township debt limit is unlimited. He stated he is against the proposed Referendum and will write letters in opposition to the newspapers.

Mr. Santarsiero stated the purpose of putting this on the ballot is to give the residents of the Township the opportunity to vote on it. He stated the Board is not unmindful of the financial impact to the Township; but they feel there will be a cost to the Township if they do not preserve the land both in terms of dollars and cents and the character of the Township. Mr. Vitella asked how many years the Township has used the reserve funds.

Mr. Santarsiero agreed that this has happened in the past, and they will have to consider this at budget time. Mr. Santarsiero stated this is why they are going to the residents with the Referendum asking them for their approval as to whether or not they want to borrow this money as it will have an impact on the residents. Mr. Vitella stated he is in favor of fiscal responsibility on the part of the Board and does not feel they are showing it.

Mr. Maloney stated the Electoral Debt does not impact the Township's ability to borrow anywhere else so that if they do have an infrastructure issue, the borrowing related to the Referendum would not affect the ability to borrow in the future. Mr. Vitella stated while it is separate debt, it still adds to the overall debt of the Township.

Mr. Zachary Rubin, 1661 Covington Road, stated he is in support of the Referendum. He stated property taxes can be deducted from Federal Income Taxes.

Ms. Becky Cecchine, 9 Manor Lane, stated she is the Tax Collector. She stated she also helps with the Farmers' Market and was glad to hear that the two properties the Board is most interested in are farms. She stated Lower Makefield Township is very good in their fiscal responsibility, and the Township taxes are the lowest portion of taxes that are paid by the residents. She stated if the land is developed, it will result in more homes which will result in increased taxes because it will bring in more students to the Pennsbury School District where costs per student are approximately \$8,000 to \$9,000 per year. Ms. Cecchine asked if the other Wright Farm is being considered. Mr. Santarsiero stated their first two priorities were the Torbert and Guzikowski farms, and they will then look at other properties. He stated this is why they were considering requesting the larger amount for the Referendum.

Mr. Smith asked Dr. Long what it costs to educate a student in the Pennsbury School District. Dr. Long stated a regular elementary student costs slightly more than \$10,000 per year, a secondary student slightly less than \$12,000 and a special education student costs slightly more than \$22,000 per year. Ms. Cecchine stated the fewest complaints she gets are about the Township taxes, and she feels what is proposed for the Referendum is a "bargain" compared to what it would be if houses were built and children moved in which would add to the population of the Pennsbury School District.

Mr. Stainthorpe moved, Mr. Maloney seconded and it was unanimously carried to approve Resolution No. 2166 authorizing placement of a question on the November, 2008, ballot to determine if the Township should incur debt in the sum of \$15 million to acquire real property for open space preservation and passive recreation.

MAKEFIELD ELEMENTARY SCHOOL APPROVAL OF PRELIMINARY/FINAL  
LAND DEVELOPMENT PLAN

Dr. Paul Long, CEO, Mr. Jason Kliwinski, project architect, Mr. Scott Spiezel, architect, Mr. Michael Kristofco, attorney, and Mr. Francis Guzik, engineer were present.

Mr. Kliwinski stated they looked at over twelve options to address the physical and educational needs at the School. He stated they are looking for an addition to house a new cafeteria and from the space freed up from the existing cafeteria renovating this area to house new classroom space. They also propose to capture some of the space in the unused basement for insufficiently-provided programs such as music and a media center. He stated the original building was built in 1920, and there were 1950 and 1990 additions; but the majority of the building's mechanical systems, windows, and inside finishes are original to that portion of the building. He stated a large majority of the project is to upgrade the mechanical systems, replace the windows, air condition the building, and upgrade the facility to the rest of the standards of the District as they are going through and renovating each building.

Mr. Kliwinski stated they have had to consider the limitations of the project site. He showed a copy of the Plan. Mr. Truelove stated the School is located on the southwest corner of Makefield Road and W. School Lane. Mr. Kliwinski stated they have a constrained site as well as a parking deficiency. He stated there are also traffic and safety issues. Currently there are 50 parking spaces, and they will have 95 under the new proposal which will be done within the footprint of the existing lot by how it is striped and maintained. He stated they will also move play spaces out of the parking lot. They have also added a sidewalk from the back of W. School Lane all the way around without crossing traffic into the School since this is the major way children walk or ride their bikes to the School. He stated they are also proposing to take out a parking lot which exists on W. School Lane which they feel causes back-ups and congestion. In place of this, they will install a media center in the lower level and will also provide an area for an outdoor reading area.

Mr. Kliwinski stated since they are proposing an addition, they had to consider stormwater management; and in order to mitigate the impact of the addition, they are proposing the use of porous pavement, a green roof, and a rain garden which will offset the net volume increase of the addition. Mr. Kliwinski stated the majority of the Waivers they are requesting relate to the difference between the existing conditions and what they are proposing. He stated the Ordinance requires them to consider the stormwater of the entire site so that they are showing a very small increase in net storm water of .06. He stated if you look at the site in relation only to the addition, they are completely offsetting by net volume the stormwater through the porous paving, green roof, and the rain garden.

Mr. Kliwinski stated the School District is proposing to have the building LEED certified, and they have set their goal at Silver and are confident that they will be able to achieve this. This will be the first school building in the District to be so certified. He stated they are converting systems to higher-efficiency systems and including solar panels. They are also updating many of the finishes to be more environmentally appropriate for children. Mr. Kliwinski stated they have received review comments from all the reviewing agencies and have addressed all the comments either through compliance, modification, or are seeking Waivers.

Mr. Santarsiero stated he went to the School today for a Tour and has been present at past DARE Graduation ceremonies at the end of the year and recognizes that it is very hot because they do not have air conditioning. He stated the School does have a lot of character, but is old. He stated this attempt by the School District to not only accommodate the space concerns, but also to do so in a progressive, environmental way is something the Township appreciates. He stated Lower Makefield has been on the cutting edge of environmental issues and trying to reduce their carbon footprint and encouraging alternative energy renewable sources; and this proposal does this as well and complies with the LID Ordinance. He stated seeking LEED Certification is also commendable. Mr. Santarsiero stated because of this and the fact that the children deserve a better environment in which to learn, he will vote in favor of this project. He added that during the course of the discussion before the Planning Commission it came to light that based on current population projections, in three to five years they may be in a situation when, even if expanded as proposed, Makefield will not be sufficient to accommodate all of the children who would be zoned to go to this School and there may be a need for re-Districting which causes him concern. He asked the School District representatives to make it a priority as they go forward with the elementary school space in the Township to consider how they will address this concern in the future. He stated he is an advocate for neighborhood schools, and they need to maintain this in Lower Makefield and avoid re-Districting in the future.

Mr. Stainthorpe stated his children went to Makefield Elementary School, and it is a great School. He stated he will also vote for this project this evening, and feels it is long overdue. He stated he also applauds the District for going for the LEED Certification and feels this will be an asset to the Township.

Mr. Smith stated he agrees with the other Supervisors and also asked that as part of their long-range planning, they consider the modulars at Edgewood School which he feels are past their expiration. He stated he has discussed the Makefield School project with a number of people and he was advised that most of the children who are attending Makefield now will not be in attendance when the project is completed yet they still wanted to see the project go forward. He stated he took a recent tour of the School and feels that the renovations are very much needed. He stated one of the teachers he had a conversation with noted the problem with cold in the winter, mold, and security issues which he feels are health and safety issues. He stated he will vote in favor of the project.

Mr. Maloney stated he recognizes that there is a need for renovations at this School and feels what is proposed will bring this School up to what is expected in the Township. He stated he is also very much in favor of the LEED Certification and addressing the traffic concerns. He stated the only reason he had problems with the proposal was that they did not have the usual process since they typically do not see Preliminary and Final Plans at the same time and do not only see one option. He stated while this is a good solution for the children at the School now, it does not solve all of the problems. He stated in the future he would request that the Township and District meet at the beginning of the process. He stated he is most concerned with the planning perspective as the building will use up its capacity within five years. Dr. Long stated their current enrollment projections, even if they add the capacity as proposed, will accommodate the Makefield enrollment for approximately five years and then potentially it will be inadequate. He stated they do have other means to forestall a re-Districting.

Mr. Maloney asked how population projections are done, and Dr. Long stated they update them every year with the enrollment from the current year at the beginning of the year and with birth statistics from census tracts across the School District. He stated this is put into a computer program which considers how many students move up each year and this is used to project enrollment ten years in the future which is an uncertain process. He feels the plan as presented will be adequate for five years, although there is no guarantee. Mr. Maloney asked if they actually look at how accurate they have been over the past five years, and Dr. Long stated they do review this and look at anomalies, etc. He stated they feel they do a good job of projecting, but they also try to improve the process.

Mr. Maloney asked if the preference is to re-District or have children learn in a hallway as it seems they are playing with a slim margin of error. He stated that in ten years, the projections show that there could be 800 additional children in the School; and while he recognizes that this will most likely not happen, there seems to be some concern that there is not a contingency plan. Dr. Long stated the enrollment growth for the District is substantially in Lower Makefield as the rest of the elementary schools outside of Lower Makefield are stable. He stated they had the opportunity in this project to make a small addition, and did so given the limitations of the site. He stated when they renovated Quarry Hill a few years ago, modular classrooms were replaced with permanent classrooms which they did not do at Oxford Valley because of the lower numbers in that area.

Mr. Maloney asked about the maintenance plan for the porous paving. Mr. Kliwinski stated maintenance is required, and the District has a policy in place to deal with this. Mr. Maloney stated he wants to make sure that this is maintained properly since a lot is being based on the porous paving working. He stated a number of the neighbors expressed concern with stormwater, and the Township wants to make sure that they will not negatively impact the neighbors. Mr. Kliwinski stated there are porous pavements

which have been in place for twenty-five years. He stated the Zoning Hearing Board also required that they submit a maintenance plan and follow through with it.

Mr. Maloney asked that in the future the School District work together with the Township at a preliminary stage, and Dr. Long agreed.

Dr. Long stated that while the existing School does need to be renovated, they still feel that the School is safe for the children.

Mr. Maloney stated at a Pennsbury School Board meeting, he would not have the ability to demand answers so that this process was his opportunity to get the answers he needed to hear.

Mr. Santarsiero stated he recognizes that Dr. Long has to be concerned about the entire District, but as a Supervisor and parent, his own concern is Lower Makefield. He stated the other School in Lower Makefield that needs to be addressed is Edgewood. He stated the modulars at that School were meant to be temporary, and he would urge the School District to look at Edgewood Elementary sooner rather than later and put permanent structures in place. He asked where Edgewood Elementary is on the schedule of renovations. Dr. Long stated they agree that the Edgewood modulars need to be replaced with permanent facilities as well as addressing the other needs at that School such as enlarging the cafeteria and the library. He stated next in line after Makefield is Eleanor Roosevelt, followed by Pennwood, Charles Boehm, and Edgewood. He stated they like to work on one project at a time, although they have done more than one at a time in the past. He stated if they are able to begin construction at Makefield in the spring, they would begin on Eleanor Roosevelt approximately a year later and then the other three schools sometime after that so it would be no sooner than three summers hence for Edgewood.

Ms. Karen Friedman, 1373 Pepperbush Court, stated she is a member of the Planning Commission and a mother of children who went through the Pennsbury School District. She stated the Planning Commission had a meeting on Monday night and their Minutes did not get to the Board of Supervisors in time for them to review the discussion other than the fact that the vote was two in favor, two opposed, and one abstained. She thanked Mr. Maloney for his comments. She stated she did not vote for this project but it had nothing to do with not supporting upgrading and renovating the facility. She stated her concern was that they were not part of the planning process and were not presented with any other options. She stated she is concerned that the School will be overextended in five years and this will result in re-Districting. She stated she wished that there was a better way to look at providing an area where there could be future expansion so that classroom size could be kept low and so that they could keep as many area students at their community school as possible.

Ms. Virginia Torbert asked if the Township traffic engineer looked at the Plan, and Mr. Truelove stated they did submit two review letters. She stated neither of these letters were provided to the Citizens Traffic Commission. She asked about parking, and Mr. Kliwinski showed on the Plan the existing parking including areas were parking and play areas share space. He showed how the area used for play space will be striped for parking and the play area will be moved to a different location as shown on the Plan. He stated the existing parking on W. School Lane will be removed, and they will add sixteen spaces in front where the bus lane is located which will be for the faculty. Ms. Torbert asked if the traffic engineer had a concern with the parking lot, and Mr. Truelove stated most of his comments had to do with the Waivers for sight distance, signage, pavement markings, and the sidewalk. Mr. Majewski stated they had no major safety concerns other than requesting that they provide some additional stripping and signage. Mr. Kliwinski stated they are also making an ADA-accessible parking entrance. Ms. Torbert asked if the Planning Commission had a problem with the parking, and Ms. Friedman stated they were concerned with the fact that there would not be sufficient parking for the needs of the School and the events which take place there.

Ms. McCormick-Miller, Principal of Makefield, thanked Mr. Kliwinski for his vision and initiative in making a green facility that will be a teachable tool for the children. She stated they did do a feasibility study and asked for input from the community, and she apologized to those who were not part of this process which was very collaborative. She stated she feels this is a template for future buildings in the Township. She hopes the Makefield community will rally around the Edgewood community as well.

Ms. Betsy Barley, 1605 S. Crescent Boulevard, stated her son turned his Pennsbury education into an Ivy League acceptance and graduation and she now is the parent of a second grader as well. She thanked the Board for their wisdom in supporting this project which will address the immediate needs and for backing a green project that will improve the future.

Ms. Kim Bidler, 9 Ovington Road, stated she is a Makefield parent. She feels it is good to keep an existing building in use and situated in the community where the children live. She stated she is also pleased that the project has a green design. She stated she questions how substantial growth can be shown for an area which is essentially built out. She stated when they first started discussing the renovations at Makefield she had discussions with the Principal as well as an individual who was involved in green design and had stated she would like to try to help convince the School District to consider green design. She is pleased that this has happened after meeting with the School District and the School Board. She stated she hopes that this can continue. She stated she lives in an older home and was visited by a group of siblings who had previously lived in her home in the 1930s and had attended Makefield. She hopes that this legacy will continue.

Mr. Truelove stated he has prepared a draft letter outlining the proposed Conditions of approval. He stated the School District has requested a Waiver of impact fees and he and Mr. Kristofco have discussed this. Mr. Truelove stated a similar Waiver was granted earlier this year to a Church which had indicated the congregation size would not increase. Mr. Kristofco stated they are requesting that the impact fees be waived because the project itself is not intended to necessitate any additional traffic impact on the area as a result of the land development. He stated the building is being substantially re-designed and there is no intention to bring additional traffic into the Township as a result of this. He stated other uses would bring in additional consumers into the Township and put additional wear and tear on the roads. He stated if the impact fee were required, the costs would be passed onto the School District taxpayers who are also Township taxpayers.

Mr. Kristofco also noted the letter regarding the Delaware River South Watershed Stormwater Management Ordinance and the review letter from the Environmental Advisory Council both of which are subject to the Waivers requested for stormwater management. Mr. Truelove stated he will provide language to this effect in the Conditions. Mr. Kristofco stated because they are requesting Preliminary/Final approval, this will require Waivers of two additional Sections of the Ordinance as well.

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to approve the Preliminary/Final Land Development Plan for Makefield Elementary School for Plans dated 2/1/08, last revised 4/18/08 subject to the following Conditions:

1. Applicant shall comply with the Lower Makefield Township Subdivision and Land Development Ordinance ('SALDO'), the Lower Makefield Township Zoning Ordinance and all applicable local, State, and Federal ordinances, statutes, or laws;
2. Receipt of all permits, authorization and/or approvals from all agencies with jurisdiction, including but not limited to PADEP and the Bucks County Conservation District;
3. Compliance with CMX Engineering's review letter dated 7/9/08;
4. Compliance with Delaware River South Watershed Storm Water Management Ordinance (SWMO), except as otherwise referenced herein;
5. Compliance with review letter of James V.C. Yates, Fire Protection Consultant, dated 5/14/08;
6. Compliance with review letter from Captain Thomas Roche, Lower Makefield Township Police Department, dated 5/12/08;
7. Compliance with review letter from Remington, Vernick & Beach Engineers, Inc. dated 5/28/08;

8. Compliance with review memorandum from the Bucks County Planning Commission, dated 6/4/08;
9. Compliance with consent letter form Lower Makefield Township Historic Commission dated 3/17/08;
10. Compliance with capacity letter from Bucks County Water and Sewer Authority dated 5/8/08;
11. Compliance with review letter of Birdsall Engineering, Inc., dated 6/2/08;
12. Compliance with review letters from Traffic Planning and Design, Inc., dated 6/5/08 and 6/12/08 respectively;
13. Compliance with review letter from the Lower Makefield Township Environmental Advisory Council, dated 6/11/08, except as otherwise referenced herein;
14. Compliance with 6/17/08 Lower Makefield Township's Zoning Hearing Board Decision wherein Applicant was granted a Special Exception authorizing expanded use for a public school in accordance with Zoning Ordinance Section 200-25.B(5), as well as the granting of the following Variances:
  - a. Zoning Section 200-23.B requiring that all lots which were granted Final Land Development Approval before 12/14/87 require maximum impervious surface ratio of 0.18 for lot sizes of 15,001 square feet or greater, as the Plans noted that the existing impervious surface ratio is 0.308 (30.8%) and the proposed impervious surface ratio is 0.346 (34.6%);
  - b. Zoning Section 200-68.A(28), which requires that the maximum impervious surface ratio shall be in accordance with the impervious surface ratio requirements chart for the District within which the use is located; and
  - c. Zoning Section 200-73.A(5), which states that where buffers are required the buffer shall be provided along the entire length of the side or rear property line. The Plans show the buffer in all required locations except where existing vegetation and/or fencing meet the intent of the Ordinance;
15. Exemption from impact fees pursuant to Lower Makefield Township Code Section 121-11, consistent with information set forth at the Supervisors' meeting on 8/6/08;

16. The following Waivers are granted:

A. SALDO Section 178-20.C.(9) states that the Plans shall show the following existing features information: existing buildings (and their uses), driveways, sewer lines, storm drains, culverts, bridges, utility easements, quarries, railroads, and other significant man-made features within 200 feet of and within the site (this includes properties across roadways) be shown on the development plans. The Plans show this information within approximately 10 to 50 feet of the site.

B. SALDO Section 178-20.E.(29) states that pavement core samples shall be provided for all existing roads abutting the site to be developed.

C. SALDO Section 178-20.F.(1) requires that the improvement construction plan shall be at any of 20'/inch horizontal and 2' vertical or 50'/inch horizontal and 5'/inch vertical. The Plans have been drawn at 1" = 30' scale.

D. SALDO Section 178-20.G. requires that an environmental impact assessment (EIA) report shall be submitted for all land developments.

E. SALDO Section 178-40.B. states that where a subdivision or land development abuts or contains an existing street of inadequate right-of-way width, additional right-of-way width shall be dedicated to conform to the standards set by the Township. Where a subdivision or land development abuts or contains an existing street of inadequate cartway width, the Applicant shall be required to widen and/or reconstruct the roadway to meet current Township standards. SALDO recommends a right-of-way width of 56' and a cartway width of 26' for local and residential streets. The existing established right-of-way of West School Lane is 50 feet wide and the existing cartway varies between 18.4 and 24.5 feet wide.

F. SALDO Section 178-44.1 requires a minimum 15 foot radius and a maximum grade of 5% for non-residential driveways. The Applicant proposes a 13.2 foot radius on West School Lane and the existing driveway grade on Makefield Road is approximately 8%.

G. SALDO Section 178-44.L states where a lot abuts streets of different classifications in the street hierarchy, access to the lot shall be taken from the lower order street. The Applicant proposes to maintain the existing driveway on Makefield Road.

H. SALDO Section 178-47.A states sidewalks shall be provided on both sides of all streets where required by the Township for safety and convenience. The Applicant proposes to install approximately 140 feet of sidewalk along West School Lane.

I. SALDO Section 178-48.A requires all subdivisions or land developments in any Zoning District shall be required to establish bike paths in accordance with the Township Official Map.

J. SALDO Section 178-53 states all parking lots, multi-family developments and non-residential developments shall be adequately lighted during after-dark operating hours. All light standards shall be located within landscaped islands and be freestanding on secure bases and not on the parking surfaces. The Plans show that the existing parking lot lights will be relocated to align with the new striping configuration and placed on a 3 foot high concrete base painted safety yellow.

K. SALDO Section 178-57.D states that street trees shall be provided at the rate of not less than two trees for every ten parking spaces, which shall be in addition to any other requirements for buffering or landscaping. The Plans show that approximately 7 trees are proposed adjacent to the rear parking lot, although 15 trees are required.

L. SALDO Section 178-82.E.(2) requires that for Type IV buffers provide berming two to three feet in height with masses of evergreen, shade and ornamental trees and shrubs. The Applicant proposes to not provide berming for the buffer to allow for easier access for utility wires in the rear of the property.

M. SALDO Section 178-93.D.(7) states that the top or toe of any slope shall be located a minimum of 5 feet from any property line. The Plans propose to maintain the existing berm along Makefield Road.

N. SALDO Section 178-93.D.(12)(c) states that emergency spillways shall be constructed of reinforced concrete or other material approved by the Township Engineer. The Plans propose to maintain the existing berm along Makefield Road.

O. SALDO Section 178-93.D.(13)(c) states that the anti-seep collars shall extend a minimum of two feet beyond the outside of the principal pipe barrel. The Applicant proposes to use watertight pipe in lieu of anti-seep collars due to the shallow nature of the rain garden.

P. SALDO Section 178-93.F.(3)(c) states that the minimum diameter of all storm drainage pipe shall be 18 inches or an equivalent thereto. Where headroom is restricted, equivalent pipe arches may be used in lieu of circular pipe. The Plans show that 12 inch and 15 inch pipe is proposed to convey roof drainage into the existing storm sewer system in the rear of the property.

Q. SALDO Section 178-93.F.(3)(d) states that the increment size changes to storm drainage pipes shall be six inches in diameter. The plans propose to maintain the existing basin pipes along Makefield Road.

R. SALDO Section 178-93.F.3.(f) states that the minimum grade of piping shall provide a minimum velocity of 2.5 feet per second and shall have a minimum slope of 0.5%. The Plans propose to maintain the existing basin pipes along Makefield Road.

S. SALDO Section 178-93.F.(3)(g) states that storm sewers shall be placed within a street right-of-way, parallel to the cartway, and shall be designed as a combination storm sewer and underdrain. When located outside of a right-of-way, they shall be placed within an easement having a width of not less than 30 feet, if required by the Township. The Plans propose to maintain the existing basin pipes along Makefield Road.

17. The following Waivers from the Delaware River south Watershed Stormwater Management Ordinance (SWMO) are granted:

A. SWMO Section 173-11.A states that adequate storage and treatment facilities will be provided to capture and treat stormwater run-off from developed or disturbed areas. The required Water Quality Volume (WQv) is the storage capacity needed to capture and to treat a portion of stormwater run-off from the developed areas of the site produced from 90% of the average annual rainfall (P). The Applicant proposes to provide water quality measures for all new impervious surfaces and only a portion of the existing impervious surfaces. Based on our calculations, the Water Quality Volume (WQv) required is greater than shown in the calculations provided. The calculations shall be revised to also show how much volume is required based on the total disturbed area of the site to evaluate the Waivers that are being requested.

B. SWMO Section 173-12 requires that regulated activities will be required to recharge (infiltrate) a portion of the run-off created by the development as part of an overall stormwater management plan designed for the site. The Applicant proposes to provide groundwater recharge for all new impervious surfaces and only a portion of the existing impervious surfaces.

C. SWMO Section 173-14.B states that the development sites located in District A must control post-development run-off rates to pre-development run-off rates for the design storms as follows: post-development 2-year design storm run-off rate shall be less than the pre-development 1-year design storm; and the post-development run-off rate for the other larger design storms up to the 100-year design storm to be less than the pre-development run-off rate for the same year design storm. The Applicant is requesting a Waiver to exceed the maximum run-off rate allowed for the 2-year design storm for the West School Lane watershed.

D. SWMO Section 173-23.B (19) requires a minimum fifteen-foot-wide access easement around all stormwater management facilities that would provide ingress to and egress from a public right-of-way. There are no access easements proposed for the porous parking lot.

18. The Board of Supervisors furthermore grants the Applicant's request to revise the size of each individual parking space from a 10' by 20' dimension, to a 9' by 18' dimension.

19. The proposed porous pavement is to be maintained in accordance with the standards expressed at the 8/6/08 Hearing before the Board of Supervisors, consistent with the approval granted by the Zoning Hearing Board.

20. Applicant to comply with SWMO Section 174-35.A., which requires that the Applicant shall sign an Operations and Maintenance Agreement with the Municipality covering all stormwater controls and BMPs that are to be privately owned. The Maintenance Agreement shall be transferred with the transfer of ownership. The Agreement shall be substantially the same as the Agreement attached to the approval letter as Exhibit A, modified from the standard Township Ordinance as indicated therein.

21. Where applicable, Applicant shall comply with all comments from the appropriate authorities responsible for approval of the proposed utilities.

The Preliminary Plans are deemed to have satisfied the requirements for Final Plans as is set forth in Chapter 178, Article VII, specifically, the provisions contained in Section 178-23 and 178-24C., respectively.

APPROVE EXTENSIONS FOR THE GATHERINGS @ YARDLEY,  
CINO-HARMONY LANE SUBDIVISION, AND CAPSTONE TERRACE

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to approve extensions as follows:

The Gatherings @ Yardley	– 12/1/08
Cino-Harmony Lane Subdivision	– 12/7/08
Capstone Terrace	– 11/20/08

FINANCE DIRECTOR’S QUARTERLY REPORT

Mr. Brian McCloskey, Finance Director, was present and noted the information provided to the Board which was the June 30<sup>th</sup> Quarterly Report through six months of operation. He stated the items within the report indicate that by the end of the year, they expect to be where they had budgeted within the various funds. He stated revenues are at a higher level because collections take place in the second quarter. Expenses are as expected. He stated the Governmental Funds are doing as expected as are the Business Enterprise Funds. He noted Attachment F relating to the General Fund, and he feels they will come in slightly better by December 31. He stated they are facing the effects of the housing slump and deed transfer tax is below where it was this time last year. They feel they will come in under Budget in this area, but will come in over Budget in some other revenue areas and under Budget in some expense areas. He stated with regard to the Business Enterprise Funds, the Golf Course, Pool, and Sewer are doing as expected; and while revenues are slightly down in all three, expenses are down at a greater percentage. He stated the Golf Course has made its second significant debt service payment. Mr. McCloskey stated they will see another rate increase come through for the sewer system, and action will need to be taken. He stated he will be meeting with the Sewer Authority next week, and they will then bring their recommendations to the Board of Supervisors.

Mr. McCormick stated the term “reserve” was brought up earlier this evening, and he stated within an accounting definition, what the Township has are not “reserves” but are the cash balances which are there to be spent as approved by the Board within the Budget. He stated a “reserve” would be something that is restricted within its use. He stated the cash balances are there to fund operations within the specific funds.

Mr. McCormick stated interest income is down, but so is interest expense which is helping the Township with the Golf Course and the Debt Service.

#### ZONING HEARING BOARD MATTERS

It was agreed with regard to the Jorge & Ivonne Linares, 626 Deerbrook Drive, Variance request to permit construction of a fence within an easement, that the Solicitor should participate to insure that safety and stormwater concerns are met.

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried that the Township oppose the T-Mobile Northeast LLC Variance request to permit construction of a telecommunications facility on property located at Williams Lane.

It was agreed with regard to the Anton & Sons Pool LLC Variance request to permit construction of an in ground pool and deck resulting in greater than permitted impervious surface, that the Solicitor should participate to insure safety and stormwater concerns are met.

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried that the Township oppose the Frankford Hospital of the City of Philadelphia Inc. Special Exception requests to authorize hospital use and medical offices on property located at Route 332 and Stony Hill Road.

#### APPROVE AWARD OF BID FOR RESTORATION OF THE SATTERTHWAITE HOUSE ROOF

Mr. Fedorchak stated three bids were received but the apparent low bidder, in the amount of \$87,387 had a number of bid deficiencies including the lack of a list of references, two copies of the bid forms as required were not submitted, the bid bond was incomplete, the bid qualification was not submitted, and various attachments were not submitted. As a result the staff would recommend declaring that bid non-responsive and award the bid to Jim Miller Roofing and Sheet Metal. He stated the Township has received a Grant from the Community Development Block Grant Program in the amount of \$46,700 which will be applied to this project.

Mr. Stainthorpe moved and Mr. Maloney seconded to award the bid Jim Miller Roofing and Sheet Metal in the amount of \$115,500.

Mr. Smith stated he does not feel they are moving ahead with implementing some of the recommendations made by the Patterson Farm Task Force. Mr. Santarsiero stated they are in the processing of putting together a recommendation. He stated he and Mr. Caiola have had discussions with members of the Historic Commission and feel something will be coming before the Board in September. Mr. Smith stated he is still concerned that money is being spent. He stated there was discussion on this possibility of this property

being put back on the tax rolls, and he does not feel that they should be spending more money on this property.

Motion carried with Mr. Smith voting no.

**APPROVE RESOLUTION NO. 2165 AUTHORIZING DESTRUCTION OF 2000 SEWER BILLING RECORDS**

Mr. Fedorchak stated these documents have been maintained for seven years as required, and they are requesting authorization to destroy these records.

Mr. Stainthorpe moved, Mr. Maloney seconded and it was unanimously carried to approve Resolution No. 2165.

**APPROVAL OF RESOLUTION NO. 2167 AUTHORIZING ISSUANCE OF A SPECIAL OCCASION PERMIT FOR THE ANCIENT ORDER OF HIBERNIANS**

Mr. Fedorchak stated there will be a special event/fundraiser to be held at Shady Brook Farm on August 16 by the Ancient Order of Hibernians. He stated they intend to serve beer as part of this special event, and for the first time the State Liquor Control Board is requiring that the Township Supervisors approve this sale. Mr. Fedorchak stated this is a good cause, and he feels the Hibernians would appreciate the Board's approval.

Mr. Stainthorpe moved, Mr. Maloney seconded and it was unanimously carried to approve Resolution No. 2167.

**APPROVAL OF RESOLUTION NO. 2168 AUTHORIZING PARTICIPATION AND SUBMITTAL OF THE PADEP GREENHOUSE GAS PILOT JOINT GRANT APPLICATION WITH MIDDLETOWN, FALLS, AND LOWER SOUTHAMPTON TOWNSHIPS**

Mr. Fedorchak stated this is a Grant which will provide Municipalities up to \$20,000 to assist with developing a greenhouse gas inventory and establish a climate change action plan. He stated a greenhouse gas inventory is an assessment of these emissions being released into the atmosphere and the inventory will establish an emissions baseline and identify source and quantities of greenhouse gases. The action plan includes a projection of changes in emissions as the community's population and development evolve. The DEP anticipates a high demand for this Grant with limited funding available. The DEP will prioritize Grant Applications submitted by Municipalities working in cooperation towards the establishment of regional goals and planning. He stated Lower Makefield

will partner with Middletown, Falls, and Lower Southampton to submit a joint Application. He stated the purpose of the Resolution is to approve the partnership and allow submittal of the joint Application. Mr. Fedorchak stated Lower Makefield Township has, through the efforts of the EAC, nearly completed the greenhouse gas inventory; but they will be able to use the time and money spent on this inventory as an in-kind contribution to the Grant proposal.

Mr. Stainthorpe asked how and when was this put together, and Mr. Fedorchak stated it was put together within the last 30 to 45 days. He stated this started with the EAC with respect to working on the greenhouse gas inventory which was started some time ago. Mr. Stainthorpe asked who put together the partnership, and Mr. Fedorchak stated this started with the CMX grant people after Middletown and Falls had expressed interest to them about pursuing this Grant opportunity. He stated since the CMX representative was familiar with the accomplishments of Lower Makefield and the EAC, she felt Lower Makefield would be interested as well. Mr. Fedorchak stated a higher priority will be given to joint partnerships.

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried to approve Resolution No. 2168 authorizing participation and submittal of the Application.

#### APPROVE RENTAL AGREEMENT FOR WARREN FARRINGER HOUSE

Mr. Fedorchak stated there is a new tenant for the Warren Farringer House, American Financial Services. The Township will be charging them \$1,050 per month for a three-year period.

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the Lease Agreement as described by Mr. Fedorchak.

#### APPROVAL OF ORDINANCE NO. 377 AUTHORIZING THE POLICE PENSION PLAN

Mr. Fedorchak stated the Board previously gave preliminary approval of the Police Pension Plan. He stated currently the requirements for the pension calculation benefits are contained in several different Ordinances, and the purpose of this is to approve a single-plan document which contains all the information.

Mr. Maloney moved, Mr. Stainthorpe seconded and it was unanimously carried to approve Ordinance No. 377.

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APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Maloney moved, Mr. Smith seconded and it was unanimously carried to re-appoint Ethan Shiller and Anthony Spisto to the Citizens Budget Commission.

There being no further business, Mr. Stainthorpe moved, Mr. Maloney seconded and it was unanimously carried to adjourn the meeting at 11:20 p.m.

Respectfully Submitted,

Matt Maloney, Secretary