

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – NOVEMBER 5, 2008

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on November 5, 2008. Chairman Caiola called the meeting to order at 7:35 p.m. Mr. Maloney called the roll.

Those present:

Board of Supervisors: Greg Caiola, Chairman
 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

Mr. Caiola congratulated Mr. Santarsiero and Mr. Stainthorpe on running a spirited campaign and stated while Mr. Stainthorpe will be remaining on the Board, and Mr. Santarsiero will be going to Harrisburg, the Township wins as there will be a strong Board remaining, and Mr. Santarsiero will do an excellent job on our behalf.

Mr. Stainthorpe congratulated Mr. Santarsiero on his win, and stated he ran a good race and was a good competitor. He wished Mr. Santarsiero well.

Mr. Santarsiero thanked the people in the District who put their faith in him for this position. He thanked Mr. Stainthorpe for his congratulations. He feels this was an important election for the Country and he agrees with President-Elect Obama that there will be a lot of challenges. He stated he will work hard for all of the people of the District. He stated it was an honor representing Lower Makefield as Supervisor.

Mr. Caiola also thanked Dave Steil, who will be replaced by Mr. Santarsiero, for his service to the community.

Mr. Caiola stated November 19 will be Mr. Santarsiero's last meeting. Following that meeting, they will advertise for individuals who would like to serve as a Supervisor which will be a one-year position; and should they chose, they will run again in 2009. He stated they will conduct public interviews. The position will be filled by the Re-organization meeting which is the first meeting in January. Mr. Caiola stated if the four-person Board cannot come to a decision on filling the vacancy, it will go to the Vacancy Chair; but Mr. Caiola stated he is confident that they will be able to come to a decision.

Mr. Caiola stated Lower Makefield ran a food drive at the polls, and he thanked the Girl Scouts from Troop 21116 at Edgewood School and Troop 2799 at Afton for helping with the food drive. He stated they were able to support two food banks. Mr. Fedorchak stated they filled two bays of the Rescue Squad building. Mr. Caiola stated this was an opportunity to give back to those who are in greater need than we.

Mr. Santarsiero announced that the Open Space Referendum passed overwhelmingly which he feels is good for the Township and will enable the Board to target Open Space Preservation properties, and he feels they will move quickly on this in the future.

PUBLIC COMMENT

Mr. William J. Garner, 1303 Yale Drive, provided a hand-out to the Board this evening, and stated he would like to speak with regard to the testimony given by the Motorola representative on the pedestal amplifiers. Mr. Caiola stated this relates to the Decision made recently by the Zoning Hearing Board with regard to erection of Comcast pedestals. Mr. Garner noted page 2 of his hand-out which are questions that need to be asked to determine if the Motorola representative's testimony was accurate and complete.

Mr. Garner stated he does not feel it was, and he has included in the hand-out why the questions have to be answered. He stated they are technical in nature. He stated he contacted a different vendor following the Hearing who indicated testimony given at the Hearing was incorrect. He stated the Motorola data sheets show that they will operate at 140 degrees and will not burn up or fail. The individual he spoke to indicated that if the amplifiers are in a vault, they should actually work better. That individual also indicated he has seen Motorola amplifiers immersed in water for over two days and were still operating, so they are waterproof. Mr. Garner stated he also questions if Comcast has an engineering staff that determines the system design or is Motorola doing it for them; and if Motorola is doing this, he does not feel it is proper. He stated the vault situation should be able to be resolved easily as Motorola has indicated that they use fiber optics to get from the head end to the cable which means they probably have fiber optic amplifiers which can go in the ground and would dissipate much less heat.

Mr. Smith stated in the report submitted, Mr. Garner refers to the 10/30/08 meeting as a Board of Supervisors meeting; and Mr. Smith stated that meeting was a Zoning Hearing Board meeting. Mr. Garner stated there was a Supervisor there. Mr. Smith stated Mr. Maloney was present; but he does not sit on the Board, and is only the liaison between the Board of Supervisors and the Zoning Hearing Board. He does not have a vote.

Mr. Maloney stated there were a number of things which occurred at that meeting which he does not feel were in the best interest of the Township.

Mr. Smith stated the Zoning Hearing Board has already rendered a Decision on this matter, and the Board of Supervisors must now decide whether or not they want to appeal this Decision and whether there is the possibility of a successful appeal.

Mr. Truelove stated he was hoping to present technical testimony at the Hearing, but was not able to do so. He stated there were two aspects to the case – the first was the Cease and Desist which means whether or not pedestals or any other equipment that was at issue, were erected without benefit of a Permit and should have been erected with a Permit. He stated this is the part that took over the process. He stated they started out with the other issue which was whether or not the Ordinance (the Franchise Agreement incorporated into an Ordinance) which was enacted in February, 2006 requires a Variance by the Applicant to construct these structures within the public rights-of-way. He stated his understanding initially was that the issue was confined primarily at that point to the Variance issue. Near the beginning of the second Hearing at the conclusion of direct testimony of Mr. Jeter, the Township was asked if they were ready to proceed on the Cease and Desist part of the case which they had not been advised of prior to that time. He stated fortunately they were prepared because Ms. Frick had her file with her and was prepared to proceed. Mr. Truelove stated it was his understanding that once that concluded, they would have an opportunity to go back and discuss and investigate the Variance issue. He stated he did submit to the Zoning Hearing Board and their solicitor, Memoranda on arguments in terms of what the interpretation should be. He stated when the Board went into recess, they came back and made two Decisions – they agreed with the Township that Permits were required and the Cease and Desist should remain until the Permit requirements are met, and this is still in effect. The second Decision which was more troubling is that they made a specific determination that that the Ordinance as worded did not require a Variance and therefore any technical information they would have presented on that issue would have been irrelevant because it no longer mattered as the Board indicated that once they met the Permit requirement, they were allowed to construct. He stated at this point his office is investigating the situation and will provide advice to the Board, and at the next meeting the Board will make a determination as to whether they want to Appeal the Decision. He stated the Decision was made October 30, and they have thirty days to Appeal. Mr. Truelove stated one of the aspects of Appeal may be that the Zoning Hearing Board should have at least allowed evidence like Mr. Garner is providing to be presented because the Franchise Agreement is not clear that it does not require Variances.

Mr. Smith stated one of the things that troubled him was the vote was three to zero and there are five members on the Board. He stated he feels there should have been a full Board hearing this issue.

Mr. Garner asked the consequences of giving false testimony since they do take an oath when they testify. Mr. Truelove stated to its greatest extent, it would be perjury although this is a grave charge and difficult to prove. He stated there are other ways to undermine

credibility and one of them is to present expert testimony which would be contradictory and have better technological support than what was presented and what Mr. Garner has provided would be helpful.

Ms. Donna Doane, 1584 Edgewood Road, asked that the Board reconsider the name of the pocket park in Edgewood Village adding that while Veterans Square would be a nice remembrance of the Americans who have devoted their lives to the service of our Country and she applauds the Township for honoring them; however, she proposes that the Township take the opportunity to honor a highly-decorated World-War II Veteran and life-long resident – Daniel Quill and name the park the Daniel Quill Veterans Park. She reviewed Mr. Quill's military experience and awards as well as the work he has continued to do in the community. She stated she feels they need to honor him now because time is of the essence so that he can experience the community's gratitude.

Mr. Smith stated the Veterans Committee is aware of this request and at this point in time they are in favor of keeping the name, Veterans Square to honor all the Veterans from the area who have served although they will discuss this request at their next meeting. Mr. Smith stated he understands that Mr. Quill is going to be recognized this weekend at the Veterans Day Event. Ms. Marielle Wolf, Special Events Committee, stated Mr. Quill will be recognized at the wreath laying ceremony on Sunday.

Ms. Doane stated Mr. Quill is the cornerstone of the community and she would like to emphasize that his contributions are ongoing, and she feels everyone in the public would agree with naming the Park in his honor. She noted Mr. Quill is over 90 years old.

Mr. Paul Krupp, 1171 University Drive, stated several residents attended the Zoning Hearing Board meeting previously noted regarding the Comcast installations of above-ground pedestals. He stated Sandy Run II and Sandy Run II residents are confused about the Decision and would formally request that the Board of Supervisors appeal the Decision. He stated the residents felt this matter had been settled ten years ago and are looking to the Board for support.

Mr. Maloney stated the Board is considering this and are looking into it further. Mr. Smith stated they wanted to make sure that it is an Appeal that will have a high likelihood of success, and are looking to the solicitor to advise them.

Mr. Sam Conti reported on a recent near miss with a deer while driving his car. He stated he understands that the Board of Supervisors is deferring this issue to next year. He stated he feels the Township would be able to donate thousands of pounds of venison to the food banks. Mr. Caiola stated they are waiting to get the RFPs for two different kinds of hunts, and there will be money in the Budget to do this next year. Mr. Conti stated he was under the impression that there were people available who could do this at no cost and would distribute the venison to the food banks. Mr. Fedorchak stated this is

still possible, but he is not certain that they would be able to provide this service at no cost. He stated they will be reaching out to the hunting clubs as well as companies that do this for a living to submit RFPs. Mr. Conti stated the companies who do this for a living charge a lot of money. Mr. Caiola stated they wanted to balance cost with effectiveness. Mr. Fedorchak stated safety is also a major concern. Mr. Conti stated the more they delay, the more crops/money the farmers are losing. He stated they are losing 30% of their crops to the deer.

Ms. Sandy Goldberg, University Drive, stated in Sandy Run during the 1980's when they did the original cable installation, they put bullets in the rear yards. She stated these bullets are still there, and she is concerned that there is nothing set up to check what the cable company is doing. She stated they have structures in the Township that are probably not being used, but they do not know which ones they are. She stated she does not feel that Comcast knows either. She stated she is also concerned about safety issues and several times they asked if they have procedures in place to check the structures to see if they are closed, and Comcast indicated they do not. Ms. Goldberg questioned if the Zoning Hearing Board considers this when they consider Variances. She stated she feels there may need to be a group in the Township to evaluate this to determine issues such as why there are structures in rear yards that are not being removed.

Mr. Caiola stated the Township is not done working with Comcast. He stated he plans to meet with a Comcast official next week, and he is going to discuss the possibility of making sure that they put everything they possibly can underground. He stated he also wants to discuss the Permitting process, the engineering, planning, etc. He stated all of this will be addressed before anything else is built.

Ms. Goldberg stated ten years ago when they were going through this, the cable company had said they were a utility and can do whatever they want which did not make sense to her. She stated she called the Pennsylvania State Utility Commission and was advised that they cannot do whatever they want and they have to follow the Ordinances and get guidance from the Township. She stated she intends to make that call again.

Mr. Maloney stated the Variance process enables the Township to control construction in the rights-of-way and requires the Applicants to prove why it is necessary. He stated the Zoning Hearing Board ruled that they do not have to follow the Ordinance according to the Franchise Agreement. Ms. Goldberg asked if the Zoning Hearing Board has the right to interpret the Franchise Agreement. Mr. Truelove stated the Zoning Hearing Board is the body that interprets the Ordinances and they ruled that they are not required to obtain a Variance request, and the Township does not agree with that interpretation. He stated since this was their interpretation, they did not take any testimony about that issue. Ms. Goldberg stated this was because they interpreted the Franchise Agreement, and Mr. Truelove stated the Franchise Agreement was enacted as an Ordinance.

Ms. Marielle Wolf, Chair of the Special Events Committee, reminded everyone about the Second Annual Veterans' Day Parade to be held Sunday, November 9 beginning at 1:00 p.m. She stated there will be speakers and refreshments at the Wreath Ceremony at the pocket park following the Parade as well as the Essay Contest winner presentations, and re-naming of the pocket park. She stated there will also be drop boxes along the parade route and they are requesting donations of toiletries/snacks for the soldiers overseas. She stated the winning essays written by the children from the local Elementary Schools will be published in next week's Yardley News.

Mr. Smith stated he is the liaison to the Special Events Committee and they do a wonderful job organizing all of these Township events. He also thanked the Veterans Committee group for their hard work as well. Mr. Smith stated they need more members of the community to serve on the Special Events Committee.

Ms. Sue Herman, President of RRTS, Inc. asked if there was a response from the Board to the Veterans' Cemetery entranceway. Mr. Fedorchak stated in the mid-August he sent out the Veterans Cemetery layout to the Citizens Traffic Commission members, and he was expecting that they would discuss this and come back to the Board of Supervisors with a recommendation as to the position to take. Ms. Herman stated she feels the Citizens Traffic Commission should then discuss this at their next meeting. Ms. Herman asked if they should advise the VA that the Township is discussing this, and Mr. Fedorchak agreed to do so.

Mr. Tim Hirkhorn, 1305 Big Oak Road, stated he has lived in the home on the Five Mile Woods property for four years and feels it is appropriate for the Board to hold off on any action regarding the deer problem. He stated after Mr. Heilferty and the Friends of the Five Mile Woods have done all their research, he feels there is less of a problem with deer in the Woods than there has been in the past as he would previously see thirty deer in a herd when he first moved into the property and he now sees approximately three to five. He stated there are two properties adjacent to the Five Mile Woods and there is legal hunting on those properties. He stated he still agrees there needs to be a hunt. He stated he has also been involved with two rescues in the Woods and asked that they continue to ask him for help. He stated he feels there needs to be cameras in the Five Mile Woods because of the dumping and other activities that are taking place there. He stated he is very pleased to be able to live in the home in the Five Mile Woods.

Ms. Andrea Myers, 11 W. Ferry Road, asked if the W. Ferry Road matter could be pushed up on the Agenda because of the number of parents with young children present who wish to speak to this issue. This was acceptable to the Board.

Mr. Bill Holstrum, 2150 Old Lincoln Highway, stated he is part of the Ecologics System in Upper Makefield and stated it is up to the landowner to call Ecologics and sign up their property. He stated he is also a deer butcher and out of one shop they donated 3,500

pounds of venison to a local food bank. He stated they will not get the studies that Ecologics does if they go with a free service.

APPROVAL OF MINUTES

Mr. Santarsiero moved, Mr. Maloney seconded and it was unanimously carried to approve the Minutes of October 15, 2008 as written.

APPROVAL OF OCTOBER 6, 2008 AND OCTOBER 20, 2008 WARRANT LISTS AND SEPTEMBER, 2008 PAYROLL

Mr. Maloney moved, Mr. Santarsiero seconded and it was unanimously carried to approve the October 6, 2008 and October 20, 2008 Warrant Lists and September, 2008 Payroll as attached to the Minutes.

DISCUSSION OF WEST FERRY ROAD TRAFFIC CALMING

Mr. Santarsiero stated he is the liaison to the Citizens Traffic Commission and there have been many areas of the Township they have looked into to see if there are things that could be done to calm traffic and make the area safer for residents. He stated one of these areas was the West Ferry Corridor and the problem has been cut-through traffic from Big Oak Road to Yardley-Morrisville Road. He stated the Citizens Traffic Commission began its work with the Phase I traffic calming which were things that could be done for relatively low cost such as additional striping, signage, etc. in an effort to slow traffic down. He stated in some neighborhoods this was successful, but in others they were not as successful as they had desired, and West Ferry is one of those areas. He stated residents from this area have come back to the Citizens Traffic Commission to indicate that they would like the Township to take another step in an effort to try to resolve the problem. He stated on a trial basis they would like the Township to block West Ferry at Cherry so that it would no longer be a through street. They would like this done for six to eight months to see if this has an impact. Mr. Santarsiero stated he recently went out to this area from 7 a.m. to 8:15 a.m., and there were many cars coming through traveling at high rates of speed and very few of them made a full stop at the stop sign. He stated based on Police counts and observations by residents, this area is a problem. Mr. Santarsiero stated the way many of the lots are configured on the street, there is not a lot of room between the homes where children are playing and the street, and he feels this is a hazardous situation which poses a threat to adults and children. He stated there is no doubt that people are using this as a cut-through to save time to get to the Calhoun Street Bridge. He stated he has copied for the Board the information the residents provided.

Mr. Tim Marchok, 10 West Ferry Road, thanked the Township for considering this. He noted the number of people present this evening who are concerned about this problem. A power point presentation was shown to the Board this evening. A slide of West Ferry was shown which is surrounded by Yardley-Morrisville to the north, Pine Grove to the west, and Big Oak and West Trenton to the south. He stated West Ferry is an attractive cut-through street in order to avoid the West Trenton area, but since West Ferry is a neighborhood/local access road, it was not designed to handle the volume of traffic it is experiencing. He stated according to the Township Code there are three main designations of roads, arterials, collectors, and the smallest – local where “the primary purpose is to provide direct access to abutting land and access to the higher order systems; through traffic movement is deliberately discouraged and this road offers the lowest level of mobility.” He stated the data they have shows the actual use is other than as a local road.

Mr. Marchok stated the Board has been provided with a copy of the traffic survey which they did prior to meeting with the Citizens Traffic Commission in September. He stated for three different time periods, they counted the number of cars passing by and clocked their speeds. He noted the results shown for the p.m. rush hour where cars are traveling an average of 35 miles to 45 miles per hour with a total number of vehicles being 197 between 4:45 p.m. to 5:45 p.m. He stated that same week the Lower Makefield Police did an automated traffic survey and over three days there were 5,902 cars with the maximum speed being 50 miles per hour between 5 a.m. to 7 a.m. and 299 violators over the three day survey.

Mr. Smith asked if there is a park in the area or are children playing on their own property, and it was noted there is no recreation area in the Township. Mr. Marchok stated there is a Township open space area, but it is completely wooded. Mr. Santarsiero stated this is a typical residential street in Lower Makefield with the difference being there are a tremendous number of cars on it. He stated in a similar street you would find neighborhood children playing on the street, but it is too dangerous to do so on West Ferry. Mr. Smith asked about sidewalks and it was noted the east third of the street has sidewalks, but the other two thirds have no sidewalks and the street is narrow.

Ms. Carmine Nusician, 19 West Ferry, stated there are forty-nine homes on the street with sixty children. She stated this is an old, tree-lined street which they love and the neighbors are wonderful, but the children are trapped. She stated people are afraid to walk their dogs or ride bikes. She stated when she has stopped at the stop sign at Cherry and West Ferry, cars have pulled around and accelerated past her because she was traveling the speed limit. She also expressed concern with the safety of the bus stops on the street.

Mr. Smith asked about lighting in the area particularly in the early morning hours. Ms. Nusician stated there are few at her end of West Ferry, and none at the western end.

Mr. Smith stated this means that middle school and high school children are in the dark getting the bus in the morning, and Ms. Nusician agreed.

Ms. Nusician stated West Ferry is an old street and would not be approved by the Township today and she feels that blocking the street will discourage it being used as a cut-through and would enable them to benefit from the knowledge they have about the way to plan for traffic. She stated there was a fifteen-year old girl killed recently on a street much like West Ferry with a 25 mile per hour speed limit and no sidewalks; and they are trying to avoid this happening in their neighborhood.

Mr. Caiola asked if they have noticed over time an increase in traffic and why they feel this is occurring. Ms. Nusician stated she has seen a steady increase over the seven years she has been there. She stated the problem has existed for at least eight years as her neighbors were instrumental in getting the stop sign at Cherry and West Ferry installed. She was advised that this problem started in the 1980's when the area started to become more suburban. She stated the Citizens Traffic Commission has been trying to help and had the speed limit painted on the road and installed larger signs; and while this has helped, it has not made a significant improvement.

Mr. Caiola stated if the Board agrees to this request, drivers could go onto Juniper, Arborlea, and then back out the other side; and asked if the people on those streets are aware of this request. Ms. Nusician stated they have not polled everyone on those streets; however, she stated drivers are cutting through because it is convenient, and she does not feel 2,000 cars will make these turns if the road is blocked and she feels they will go instead onto West Trenton which is where they are meant to go. Mr. Caiola stated there is a problem in the region because of the number of cars on West Trenton in the morning. Mr. Caiola stated he is concerned about the impact on residents living on the other streets in the area.

Mr. Joe McGee, 21 West Ferry thanked Mr. Santarsiero for putting this on the Agenda tonight and coming out to their street to look at the situation. He stated there are people who have been trying to work on this for ten years. He stated the Citizens Traffic Commission has tried to help them, but it has not solved the problem. He stated they cannot live on this street with the volume of traffic they have. He noted an email received from the Frost Family who has lived in the area and stated within the last five years, the situation has gotten worse and safety fears for their growing family helped them make the decision to move to another neighborhood. Mr. McGee stated he has heard that other residents are considering moving as well and he is concerned that there are people considering moving from a beautiful street because of traffic concerns in their neighborhood. He stated here is overwhelming support for their proposal which he feels is a cost-effective option and could be done on a trial basis.

A map of the area was shown including the location of the proposed barrier to be placed at Cherry Street. He stated this would be in front of the open space and not in front of anyone's home. He stated they could put "No Through Traffic" signs at the ends of the streets and a police barricade at the location he has noted. Mr. McGee stated there are 49 homes on West Ferry, and 32 homes are in support. He stated they were unable to contact four households. Mr. Caiola asked if there was part of the street where people were less inclined to support this, and Mr. McGee stated those opposed to it were located throughout the street. Mr. McGee stated putting the barrier at the proposed location would still allow access from each end of the street.

Ms. Mary Codd, 240 West Ferry Road, stated she has been a resident for thirty-five years. She stated she applauds the work that the residents have done. She stated the first time she was approached about this matter was this past weekend. She stated she brought up three children on this street. She stated she is concerned that if they close off the street, it would also be closing it off from emergency vehicles. She stated she does not have a problem with doing something to deter traffic. She stated as long as she has lived there it has always been a cut-through. She also does not feel it is fair to divert the traffic to Arborlea.

Mr. Santarsiero stated a number of years ago his neighborhood was involved with a similar issue as a new development was going to be constructed and as it was planned, there was a concern that their neighborhood was going to become a cut-through to avoid a light at the corner of Oxford Valley and Stony Hill Roads. He stated the neighbors brought this issue to the Board of Supervisors at the time; and the Board decided that because of the issue of traffic safety and the need for emergency access, there would be an emergency entrance only constructed that would essentially be paving stone among grass so that it would not look like a road; but emergency vehicles could access this. He stated there is also a chain that goes across to prevent a car from trying to go across which is easily disengaged by emergency personnel. He stated they have done this in other neighborhoods as well. He stated if the Board agrees to this request, it would be on a temporary basis and they could see if it had a negative impact on Arborlea. He stated they should also make sure that the barrier is such that it could be easily moved by an emergency vehicle. He feels it is unlikely that traffic will go to Arborlea because it would require them to make too many turns. He stated he does not feel the recent closure of Black Rock Road is causing this problem. He stated this traffic is coming from Big Oak Road and wants to get to the Calhoun Street Bridge and they are trying to avoid traveling on West Trenton. He stated the concept being proposed has been done before, and they could do this on a temporary basis and in such a way that it would provide emergency access.

Mr. Santarsiero stated he feels in the interest of making sure all residents including those from Arborlea have the opportunity to have input that they should put this back on the Agenda for the next meeting and make a decision at that time. He stated he feels that

given the severity of the situation and the existing conditions, they should try this proposal to see how it works out.

Mr. Stainthorpe stated he does not have any question that there are too many cars and they are going too fast on West Ferry, but he does feel the residents from Arborlea need to be heard from as well. He stated a number of years ago there was a similar situation and the Board at that time voted one evening to close a road and at the next meeting other neighbors came out and the Board had to open it back up. He stated he also questions the safety and effectiveness of a Police barrier. He stated if they just put up a Police barricade one day, this could potentially be more dangerous and create a more hazardous situation than what is existing. Chief Coluzzi stated he will have to meet with Mr. Dixon on this. Mr. Santarsiero stated he feels whatever they do must be done in conjunction with signs at either end of the street to indicate there is a closure.

Mr. Santarsiero stated if there are 2000 cars every day, he feels this is a lot of people that may not know that the barrier is up early on. He is particularly concerned about this at night. He stated they may need to do something larger that is more durable than just a Police barricade. Chief Coluzzi stated they need to have a sign at the beginning of the road indicating that the road is closed before they get into the street. Mr. Santarsiero stated there would have to be signs on either end indicating that the street is blocked.

Mr. Smith stated it seems that Arborlea Avenue would have similar problems. Mr. Smith asked about the stop signs on West Ferry, and it was noted there is a stop sign at Cherry. Mr. Smith asked if they have considered putting stop signs on Juniper and Wood. Mr. Marchok stated this was brought up at the Citizens Traffic Commission meetings and they were told there is no traffic justification to install stop signs.

Mr. Chad Dixon stated the Pennsylvanian Vehicle Code states that stop signs should not be used for speed control and can only be used for safety considerations. He stated when communities have attempted to install a series of stop signs to control speed, all the drivers do is drive faster in between the stop signs.

Mr. McGee stated with regard to Arborlea, it does not connect to Big Oak Road or go out to the River so it is not a straight shot.

Mr. Smith asked about types of emergency access and Chief Coluzzi stated he and Mr. Dixon will have to meet to consider what would be appropriate. Mr. Smith asked if they have used the speed machine in this area, and Chief Coluzzi stated they have. Mr. Santarsiero stated the morning he was in the area, he went up to Big Oak Road to see where the cars were coming from, and they are coming from Big Oak Road west of Pine Grove which suggests that they are going through and are unlikely to make a left onto Pine Grove and a right onto Arborlea because they are looking for the easiest route and getting onto West Ferry from Big Oak is an easy route.

Mr. Caiola stated he would like Chief Coluzzi to meet with Mr. Dixon prior to the next meeting and they can consider this again at the next meeting once they have advised the other residents who may be impacted. Chief Coluzzi stated they have done some enforcement in the area and they could step this up in the interim and also bring the speed machine back to this location.

Ms. Nusician stated Arborlea already benefits from an engineered traffic-calming measure in that there is a triangle that prohibits turns at Arborlea and Yardley-Morrisville.

Mr. Maloney stated he is very familiar with this neighborhood and recognizes that there is a problem, but he would like to get a base line on Arborlea as to traffic counts before the temporary barricade is put in place. He stated they must also consider what happens when they add 2,000 cars to West Trenton. He stated they must recognize that this is a regional problem. He stated he is also concerned with what they may open themselves up to if the Township starts closing down streets that are cut-throughs. He stated he would like to know how many other streets have the potential to be problematic recognizing that the West Ferry situation is very bad.

Ms. Jane French, 18 West Ferry Road, stated she has lived there for twelve years. She does have one child. She stated she is one of the 30% who is not in favor of the barrier. She stated her home was not visited about this issue. She stated if this road is blocked, she will use Arborlea more, and she does feel that they are going to get more traffic on Arborlea. She stated it will also cause people to drive longer which is bad for the environment. She has discussed this situation with one of her neighbors who has lived on the street for fifty years who indicated that traffic is less than when she moved in. Ms. French stated she did not allow her daughter to play in the front yard when she was little and she feels if you have young children it is necessary to watch them. She stated she travels up West Ferry to drive to the Giant Shopping Center, and if the road is blocked, she will have to drive through another neighborhood. She stated she discussed this issue with a neighbor who suggested making it “no left turn” onto West Ferry in the morning rather than blocking off the road. She also suggested that sidewalks be installed on the other 2/3rds of the street so that they can walk on a sidewalk rather than in the street.

Mr. Mark Pinsky, 213 West Ferry, stated he did not sign the petition although he does feel they need to do something. He feels what is being suggested would be a last resort, and if nothing else can be done, he would then agree to blocking off the street. He stated he is very concerned about the impact on the other streets if this road is blocked off. He stated he has lived here for twenty years. He stated when he first moved in there was a stop sign at Wilfred and another at Juniper and while they were far apart, they did slow traffic down. He stated the stop sign that is in the area now is not visible until you get close to it which is a problem. He suggested that they consider installing additional stop

signs since this is a safety issue. He also suggested the Board members drive down Big Oak Road and make the left onto West Ferry and see the elevations in the area. He stated it is a very dark road with no sidewalks on one end and it is very dangerous.

Ms. Gina Burton, 16 West Ferry, stated they do not want to put their issues on any of their neighbors, but stated the children are in danger. She stated there are 2,000 cars coming down the street and half of the road does not have sidewalks. She is very concerned that they are going to have a fatal accident. She stated while they are concerned about the people in Arborlea, she is concerned with the children on West Ferry Road with 2,000 cars coming down the road at 50 miles per hour. She feels the children should have the right to ride their bikes in their neighborhood.

Mr. Santarsiero stated they want everyone to be able to have the opportunity to have input. He stated if the people on West Ferry lived in the neighborhood where a change could impact them and it was made without being given notice, he feels they would be upset; and they would like to give those residents an opportunity to have input as well. He stated he does not believe a lot of the traffic will go on Arborlea other than local traffic, but he still wants to give them the opportunity to comment on this.

Mr. Santarsiero stated the Citizens Traffic Commission did spend approximately eight months methodically going through different areas of the Township and asked residents to come in with traffic problems. He feels this situation was one of the worst situations. He feels they should do something on a temporary basis to see if there will be an impact on the other neighborhoods that could be a problem.

Mr. Mark Risoldi, 11 W. Ferry, Road, stated he has lived there forty-four years and there has been an increase in traffic and an increase in speed. He stated while he has two young children he is also concerned with the older residents and those walking dogs in the neighborhood. He stated he lives two houses away from where the proposed blockade would be placed so it would be a huge change for him getting to his house; and while he did sign the petition, he does have concerns about emergency vehicle access.

Ms. Deidre Waters, 204 W. Ferry Road, stated she is one of the older residents; but she has a dog that she needs to walk. She stated she has lived there for 22 years and there has been an increase in traffic and speed. She stated turning left onto West Ferry Road is very difficult and it is also difficult to turn into your own driveway with cars behind you. She stated she is also concerned when she has to retrieve her mail. She stated the road is very narrow. She stated there is not a problem on Saturday mornings which means people are using this road to get to work. She stated she has also seen empty School buses speeding down the street.

Mr. Stainthorpe asked if the installation of sidewalks would help, and Mr. McGee stated they could look into this as well as the barrier.

Mr. Scott Corbin, 215 West Trenton, stated his home is at the end of the street with no sidewalks or lights, and he has lived there for fifteen years. He stated his six year old daughter is not permitted to play in the front yard and cannot go to any friends' homes. He stated his daughter is isolated in their rear yard. He stated they are allowing 2,000 commuters to use the street, but the residents cannot use the street. He stated the least expensive and easiest way to address this is to barricade the street with signs at each end to alert drivers that the street is no longer a through street. He stated putting "no left turn" signs at the end of the street would not be effective as the drivers are currently not stopping at the stop signs. He stated the Police would have to be there every morning in order to enforce this, and he does not feel this is possible.

Mr. Smith asked that the Board of Supervisors be given the opportunity to work on this and make a decision at the next Board meeting.

Ms. Andrea Myers, 11 West Ferry, stated they looked to see if there were any other cut-through streets in the area, and West Ferry is the only cut-through street in the area with the exception of Black Rock Road and Edgewood Road. She stated she does have dogs that need to be walked, and she was nearly hit on several occasions. She stated when you put your hands down to indicate "slow down," some drivers have slammed on their brakes and screamed at them. She stated the drivers feel they have more rights than do the residents of the area.

Mr. Roy Pinkstone, 13 West Ferry Road, stated he supports the road closure and wants to stress this is urgent. Mr. Caiola stated they will next meet on November 19, and in the interim Chief Coluzzi and Mr. Dixon will have an opportunity to discuss this so that they can consider all the possibilities. They will also advise the Arborlea residents so they can have input as well. Mr. Pinkstone stated if the road closure is not going to work, they will need another solution in a timely manner.

Ms. Virginia Torbert, Citizens Traffic Commission, thanked all the West Ferry residents for coming out. She stated West Ferry is typical of older Lower Makefield streets but what is not typical is that this street is being used a commuter cut-through. She stated if you follow the speed limit, you will get a caravan of angry drivers behind you. She stated while barricading the road may seem drastic, it does not cost a lot of money as would other things that could be done such as speed humps. She stated while stop signs could also be installed, she questions if this would address the volume and whether drivers will stop at the stop signs. She stated they also discussed a "no left turn" sign, but she feels that people using this street will not pay attention to this. She asked that the Board look into doing something for Arborlea at the same time so that they address the problem regionally as she does feel Arborlea will be impacted.

Mr. McGee stated they do not want to push their problems onto Arborlea, but when you are talking about change there are going to be people who are opposed to this. He suggested that they install the barricade and see what happens.

A short recess was taken at this time. The meeting was reconvened at 10:00 p.m.

COOL CITIES PRESENTATION

Mr. Jim Bray, EAC, was present with Mr. John Ackler, Chair of the Cool Cities Committee. Mr. Bray stated Lower Makefield Township signed onto the Cool Cities Program in 2007, and was the first Bucks County community to do so. He stated since that time, several other communities have followed the lead of Lower Makefield and signed onto the program as has Bucks County itself. Mr. Bray stated there are four main steps involved in the program the first being signing the Mayor's Climate Agreement to reduce CO2 emissions. The second step is to conduct a CO2, or carbons emission, inventory for the community, and this has just been completed. He stated they had a number of people involved in this including an intern over the summer who was under Mr. Ackler's direction. He noted the Board has received a full report and a summary.

Mr. Ackler stated he lives in the Township and became involved with Cool Cities last year. He stated the International Council for Local Environmental Initiatives (ICLEI) has over 1,000 members world-wide. He stated ICLEI milestones are to first conduct an inventory of local greenhouse gas emissions, and this has just been completed. They are now into setting reduction targets and they need to develop an action plan. He stated the software used to create the inventory is a product of ICLEI and it has two main sectors – the community and the Government. He stated once you input the data, the software generates a report which can be used to consider measures that can be taken to reduce greenhouse gases.

Mr. Ackler presented a slide which shows the total emissions for the Township are 376,046 tons annually including Government, residential, commercial, transportation, and waste sources. He stated while the Government portion is only 3.2%, residential is 47.6% which indicates that the biggest chance for making reductions would fall within the residential sector. He stated the Government sector includes all buildings owned by the Township including the pool, the seven Pennsbury Schools in Lower Makefield, the fire company and the Library. He stated in the Government sector, the buildings account for 60% of the total, and the vehicles account for 34%. He stated the Township has already begun to make changes as suggested in the Suntechnics audit which was done last year and has changed to more energy efficient lights, turning off computers at night, etc. He stated if this was done in households as well, this would account for 10% to 20% of all electric use.

Mr. Ackler stated in the Suntechnics audit which was done, they found that there was a very great heat loss at the Pool, and it was suggested that they cover the pool for the two weeks prior to opening when it is being heated. Mr. Caiola asked if the Park & Recreation Board has been advised of this, and Mr. Fedorchak stated they did look into this; and there are a number of problems associated with the cover including the expense, getting it on and off, and storage.

Mr. Ackler noted the benefits of reducing emissions which include saving money, energy, air quality, public health, and improving community livability.

Mr. Ackler stated the next step is to create an Action Plan with community stakeholder input, and they will target their emissions goal based on the report. They will also hold educational programs for the Government and private citizens. He stated the biggest benefits will come from involving the community. Mr. Ackler stated the DVRPC is doing the same type of inventory for the seven County regional area and they will be able to compare their numbers with the numbers generated using the ICLEI software.

Mr. Caiola stated the EAC is already discussing that next year's Global Warming Conference will deal with more local issues involving the residents. Mr. Ackler stated it is possible for people to save money by doing some very simple things, and he reviewed steps he personally has taken. He stated every homeowner should do an individual home energy audit. Mr. Caiola noted the caps will be coming off in a few years which may be the push people need in order to consider reducing their energy consumption.

Mr. Ackler stated they have a Grant Application in place with the Grant money designated to create inventories and action plans. He stated if and when they get the money, they will try to use some of it to carry forward with the Action Plan.

Mr. Smith stated they refer in the report to a stakeholders group, and he asked if any steps have been taken to form such a group. Mr. Bray stated as part of the Action Plan a stakeholders group will be formed and at their next meeting, they will start creating the Plan and when they receive the Grant money they will supplement the Plan. They will also be reaching out for stakeholders in the community including the business owners. They will get help from the people at ICLEI to create the Plan itself.

DISCUSS CREATION OF A 501(C)(3) NON-PROFIT TAX EXEMPT UMBRELLA ORGANIZATION AND MOTION TO AUTHORIZE SOLICITOR TO PUT TOGETHER APPLICATION

Mr. Caiola stated the impetus for this has been in part for the Veterans Committee, the Historical Commission, and possibly securing some funding from private citizens for historic properties and the Veterans' monument.

Mr. Truelove stated they are looking for authorization from the Board to have his office put together the Application process for a 501(C)(3) and they can have a more specific description at the next meeting. He stated from the input they have already received it appears that the best way to approach this is to have one overall umbrella organization to help service all the different groups in the Township – Community Day, the Veterans' group, Police, etc. The Township will need to pick a name for the organization. He stated By-Laws would also have to be drafted and there needs to be selection of Board members and officers. He stated they need a description of the organization, its structure, and the activities that it will support. He stated obtaining the 501(C)(3) status will help attract donors to the organization that will help support the different community activities that have been created the last several years. He stated the By-Laws could be drafted in such a way that they could designate funds for the different activities and could be segregated so there is a clear way of accounting for each different group. Mr. Truelove stated Mr. Closser and Mr. Davis from his office have done a lot of 501(C)(3) work in the last several years.

Mr. Santarsiero moved and Mr. Smith seconded to authorize the Township solicitor to put together the Application.

Mr. Maloney asked if this would be a separate entity legally from the Township, and Mr. Truelove stated he feels it would be best to integrate it with the Township for control purposes so that people in the Township such as the Township Manager, the Finance Director and one Supervisor would be the Board of Directors so that while it is technically separate, it is still connected; and in this way there is informal oversight. Mr. Maloney asked about record keeping and use of the Township resources, and Mr. Truelove stated there is no prohibition against this provided they account for the money coming in and meet the purposes of the 501(C)(3) organization. He stated this is an incorporation process as the organization will be a corporation which is done at the State level and the 501(C)(3) status is done through the IRS. Mr. Truelove stated while the Application is pending, anyone who would donate money to it can receive information that the tax-exemption is pending; and when it is approved, their donations would be tax exempt. Mr. Maloney stated he is concerned that they are adding more work for the Township staff; and he feels that this could still be done effectively by not getting ourselves involved but at the same time appreciate the ability to make use of resources such as attorneys and simplifying fees, etc. He stated he has no problem with

proceeding at this time, but would like to see the By-Laws such that they create a very great degree of arm's length. He would like a greater degree of arm's length than Farmland Preservation Corporation such that they have as great of arm's length as they can reach and still make use of the resources. He is concerned about making more work for the Finance Director and adding more work for a Government that is under-resourced and under-staffed. He would like to see that they are limiting the involvement of the Township as much as possible.

Mr. Caiola stated he feels this will be fairly low maintenance and agrees he does not want to expend too many resources.

Mr. Smith stated the Veterans Committee is very anxious to raise money for Veterans Square and the monument. He stated the Special Events Committee also needs a way for people to contribute. Mr. Caiola stated he does not feel Special Events would fit into this as they develop plans to raise funds and those come back into the Township Budget to defray costs. Mr. Smith stated the question many people have when they make a contribution for Special Events is whether it is tax deductible. Mr. Caiola stated they need to look into this further to see if it is doable.

Ms. Torbert stated she feels what is being discussed is overly broad and usually a 501(C)(3) is connected with a particular interest. She stated she does not see how people will be motivated to donate to some general "Community Affairs" non-profit that is run by the Township. She stated she feels people would donate to a 501(C)(3) that is for the Patterson Farm or for a Veterans monument, but what is proposed seems to be an overly broad, catch-all non-profit. She stated she does not like the idea of the Board of Directors being part of the Township and she feels it should be more of citizen-type group although there could be Township representation.

Mr. Truelove stated he was only providing some ideas. Mr. Santarsiero stated at this point the Motion is only for Mr. Truelove to do some background work. Mr. Truelove stated he feels it would be something that would accept money for specific purposes dedicated to community activities in the Township and these could be listed. Mr. Caiola stated when you donate to this, you could specifically state the donation is for the Patterson Farm, Veteran's monument, etc. Mr. Smith stated they were going to determine whether they would have many 501s or one umbrella. Mr. Smith stated this may be similar to how the United Way works such that the check is made to the United Way, but you can designate it to a specific organization.

Mr. Truelove was asked to provide the Board with several options.

Ms. Torbert stated she feels what was discussed such as Police and possibly Fire could be confusing to people as they run their own fundraising; and what has been proposed seems

too overly-broad. Ms. Torbert stated she would like to see a 501(C)(3) for the Patterson Farm and would not like it all put together.

Motion carried unanimously.

CAPSTONE TERRACE (A/K/A FLEMING TRACT) PRELIMINARY PLAN APPROVAL

Mr. Jeffrey Garton, attorney, Mr. Eric Garton, attorney, and Mr. Bob Riviezzo were present. Mr. Truelove stated they made a presentation at the last meeting and they are present to finalize their presentation and request Preliminary Plan approval.

Mr. Garton stated at the last meeting they went through the entire presentation, and Mr. Truelove's partner had articulated Conditions of Approval. There was an issue about giving the EAC the opportunity to have a further look at revised submissions. Mr. Garton stated the EAC did this on October 30, and he has provided his responses to Mr. Truelove. Mr. Garton stated the two issues that encompassed a fair portion of the EAC's letter related to their disagreement that the lot could be developed in the absence of a Variance. Mr. Garton stated he feels Mr. Truelove agrees with him that they do not need a Variance to proceed with the development of this property as this lot was created long before the Township changed the requirements with respect to lot size. Mr. Garton stated the second element of the EAC report had to do with the issue of mitigating farmland, and he responded that they did not choose to sell the lot as it was the Fleming family that sold it and they have not farmed it for some time. He stated he does not know how they would mitigate farmland and there is no requirement to do so according to the Ordinance. He stated there were also some other issues as to the Applicant's need to provide some additional discussion about the Environmental Impact Assessment, and he advised Mr. Truelove of those issues where they are prepared to provide some additional information. Mr. Garton stated Mr. Truelove has seen his responses to the EAC report. He stated they are prepared to proceed on the Conditions that were previously outlined and prepared to agree to a further Condition to provide the information set forth in his letter to Mr. Truelove today.

Mr. Stainthorpe stated this is Preliminary Plan Approval so that if there are other issues that come up with they can be dealt with between now and the Final Plan, and Mr. Garton agreed.

Mr. Truelove stated he agrees with Mr. Garton with regard to the lot/tract size issue noting this property was purchased before 1998 which was the year that the Ordinance was amended; and it is his opinion that legally the lot would not be governed by that Ordinance and the 25 acre requirement is not mandated. Mr. Garton has also addressed the other issues, and these comments should be incorporated into the Approval and be

added as an additional Condition. Mr. Truelove stated there was also a discussion about changing the Traffic Impact Fee to an Off-Site Improvement Fee; and Mr. Garton stated there was a general discussion of this and they would prefer to deal with this as part of their discussions over the easement issue, and Mr. Truelove agreed that this should be part of Final Plan Approval.

Mr. Smith stated he was prepared to vote for approval of this at the last meeting. He asked if there has been discussion about the tenants of this project, and Mr. Riviezzo stated it is premature to discuss this at this time. Mr. Smith noted the proposed Hospital in the area adding the Hospital had indicated that they would be placing part of their staff at a different location and he is concerned that there may be administrative staff moved to Capstone. Mr. Garton stated there is no Agreement or discussion with Frankford Hospital about moving anyone to this location.

Mr. Stainthorpe moved and Mr. Smith seconded to approve Preliminary Plan of Capstone Terrace, Plans dated 11/16/07, last revised 8/1/08 subject to the following Conditions:

- 1) Compliance with the CMX review letter dated 10/7/08 with the Board of Supervisors granting Waivers from the following provisions of the Subdivision and Land Development Ordinance:
 - a) SALDO Section 178-20.E(29) states that pavement core samples shall be provided for all existing roads abutting the site to be developed. The Applicant does not propose to provide core sample for Stony Hill Road, which is a State-owned road;
 - b) SALDO Section 178-53 states that all light standards shall be located within landscaped islands and be freestanding on secure bases and not on the parking surfaces. The Applicant proposes to place two light standards on the parking surface;
 - c) SALDO Section 178-57C states that where bioretention areas are not practical, there shall be a planting strip at least 10 feet wide between every 20 contiguous parking spaces in a row and planted with street trees from the list of acceptable species. The Applicant is requesting a waiver from providing a 10' planting strip between rows of parking.
 - d) SALDO Section 178-57.G states that parking lot shall be separated from buildings by a minimum distance of 20' or more. The Applicant proposes to provide loading areas within 12' from the outside building wall;

- e) SALDO Section 178-81.B(2)(B) states that in a naturalized street tree planting, an average of one street tree shall be installed for every 30' of curb line. The Applicant does not propose to plant the full number of street trees along the portion of Stony Hill Road that crosses over I-95.
 - f) SALDO Section 178-81.D states each street tree must have a setback of at least 4' from curbs and sidewalks but no more than 15' beyond the street right-of-way line and be planted outside any utility easements. The Applicant proposes to plant street trees within 4' of the bikepath and along the southern driveway entrance and to allow street trees to be placed further than 15' from the right-of-way;
 - g) SALDO Section 178-95.C.4 states that the edges of slopes shall be a minimum of 5' from the property lines or right-of-way lines in order to permit the normal rounding of the edge without encroaching on the abutting property. The Applicant proposes to grade within 5' of the property line along the I-95 right-of-way line;
 - h) SALDO Section 178-95.F. states that all development plans shall include the preservation of topsoil on the site of the development. Topsoil from areas to be disturbed shall be stripped and piled on site and ultimately spread out on the site as appropriate. The site area stripped topsoil shall be kept to a minimum, and no topsoil shall be removed from the site. The Applicant requests permission to remove excess topsoil from the site.
- 2) Receipt of all Permits and Approvals by any agency having jurisdiction over this Application including but not limited to Bucks County Conservation District, Pennsylvania Department of Transportation and the like;
 - 3) Compliance with the 5/20/08 Lower Makefield Township Zoning Hearing Board Decision, which granted approval to intrude into the man-made slopes in order to make improvements to the retention basin;
 - 4) Compliance with the Disabled Persons' Advisory Board letter dated 12/10/07;
 - 5) Compliance with the Birdsall Engineering, Inc. letter dated 4/14/08;
 - 6) Compliance with Traffic Planning & Design, Inc. letter dated 9/9/08;

- 7) Compliance with letter received from the Police Department dated 4/4/08;
- 8) Compliance with the Bucks County Conservation District letter dated 3/20/08;
- 9) Compliance with the letter received from James V.C. Yates dated 4/13/08;
- 10) Compliance with the Remington & Vernick Engineers letter dated 4/14/08;
- 11) Applicant to revise its Environmental Impact Assessment (EIA) in Accordance with Applicant counsel's letter to the Township Solicitor Dated 11/5/08 (Attached to the Minutes);
- 12) Resolution of the issues associated with the Township drainage easement shall be deferred until the consideration of the Final Plan;
- 13) Applicant to enter into an Agreement with the Township related to the 141 parking spaces being placed in reserve. The Agreement is to be consistent with the provisions of the Zoning Ordinance related to the approval and construction of reserved parking spaces and shall result in the Applicant posting a separate bond to guarantee the construction of the parking spaces if necessary;
- 14) Applicant to post a Bond with the Township with sufficient funds to install a traffic signal at its driveway located directly opposite of the main entrance to Shady Brook Farm which said Bond shall be maintained for a period of five (5) years after a Temporary Certificate of Occupancy for the building is granted, (after at least fifty (50%) percent occupancy has occurred), subject to securing necessary Warrants from PennDOT for the installation of the traffic signal with the understanding that if Shady Brook Farm should be further developed, then an appropriate cost sharing would be resolved by the Township with respect to the contributions required for the light from the Applicant and the Shady Brook Farm development;
- 15) Applicant to comply with Lower Makefield Township Off-site Traffic and Impact Ordinances.

Mr. Maloney stated he would like to hear from the EAC representatives present. Mr. Geoff Goll, EAC, stated the purpose of the EIA is to determine whether the development that is proposed meets all of the environmental concerns listed in the EIA.

He stated if they do not have a complete EIA, they cannot make a decision. He stated the Applicant has responded with separate responses, but it still leaves an incomplete EIA. He stated if they approve this, they will have approved an incomplete document that has not been formulated into one. He stated the purpose of the EIA is to do an environmental inventory of the property, do an impact analysis, and then a mitigation analysis. He stated they did not come up with an environmental inventory and indicated there was no impact. He stated he does not feel they followed the guidelines of the EIA to allow the Board of Supervisors to make a decision. He stated they have indicated that there are no environmental impacts aside from converting an agricultural field into an office development; and he feels this is a major environmental change to the site. He stated he agrees that there is nothing in the Ordinance that states that they must preserve prime farmland soils; but the Township's Comprehensive Master Plan states a number of times that prime farmland soils are of the utmost importance in the preservation of agriculture and farming practices in the community and the region. He stated the Applicant has simply stated that they have the right to develop the property, and while they agree they have the right to develop the property, the EAC feels that they must develop it in accordance with the Zoning and Development Ordinances and the EIA.

Mr. Truelove stated while the EAC performs a wonderful function, Mr. Majewski has recommended approval subject to conditions, and from a legal perspective, the Municipalities Planning Code indicates in Section 508 subsection 2 "When an Application is not approved in terms as filed, the Decision shall specify the defects found in the Application and describe the requirements which have not been met and shall in each case cite the provisions of the statute or Ordinance relied upon." Mr. Truelove stated if there was some reason for the Board to deny, they would have to provide specific sections of the Zoning Ordinance or SALDO which have not been met.

Mr. Goll stated he would then question the point of the EIA since the Ordinance does state that a development of this size requires an EIA. Mr. Truelove stated he feels that since Lower Makefield has been on the cutting edge of Ordinance development in the Commonwealth, the general State laws have not kept pace with these items.

Mr. Garton stated they have submitted a significant amount of material and perhaps the last submissions were not included in a revision. He also stated the Township's environment engineer reviewed the submission and had no comment. He stated this Application is approximately 10% below the impervious surface limitations and approximately 23% below the building coverage provisions. He stated they are preserving space by not building parking spaces they could have built and are installing rain gardens. They will also naturalize the existing basin. In addition, they have committed to the LEED process which is an environmental process which includes, besides site issues, building issues and it will be done in a way that they will capture natural light and do many things discussed during the Cool Cities presentation. He stated the EAC requested that they comment on the condition of this property pre-Columbian which means from

16,000 years ago to before Columbus came. He stated the Applicant indicated in their report that this property has been the subject of I-95 and reconstruction of Stony Hill Road, and they found no artifacts that would be indicative of anything like that. He stated they have provided a lot of information; and if the Township is trying to encourage people to engage in the environmental process, there needs to be some rational reason to provide all of the information. He stated he agrees that the EAC are the “watchdogs,” but he feels the Applicant has gone a long way to try to meet the spirit and intent of the Township’s requirements.

Mr. Majewski stated to the extent that the Applicant incorporates some of the responses in the most recent letter to the EAC into the body of the EIA, he feels this will satisfy the EAC more than they are now. Mr. Goll stated he does not feel they followed the outline.

Mr. Maloney stated while he appreciates the pro-active steps the Applicant is taking trying to incorporate environmental attention, he does not feel they met the requirements so he will be voting no.

Motion carried with Mr. Santarsiero, Mr. Smith, and Mr. Stainthorpe voting in favor and Mr. Caiola and Mr. Maloney opposed.

DISCUSSION OF REQUEST TO INCREASE THE IMPERVIOUS SURFACE FROM 16.9% TO 25.5% TO ALLOW FOR THE CONSTRUCTION OF AN ADDITION AND A PATIO ON THE REAR OF THE HOME AT 1592 PAGE DRIVE

Mr. Truelove stated this relates to a requirement on a Plan. He stated the Zoning District allows for 28%, but there is a Note on the Plan that limits it substantially. He stated even with the proposed construction, it will not meet the Zoning District maximum. He stated Mr. Majewski recommended that a dry well or infiltration trench containing approximately 195 cubic feet of volume be installed in the rear of the property.

The homeowner from 1592 Page Drive was present and stated she would like a waiver from the requirement to install the infiltration pit as it would cost \$5,000 to \$7,000 to build this. She stated several additions were built in the neighborhood and this was not required of them, and their builder has advised that it is not really necessary. She stated with the economy the way it is, they are requesting that the requirement for the pit be waived. Mr. Majewski stated this has been a standard condition on a lot of these projects where they exceed the capacity of the detention basins, and this is something that can handle the extra stormwater run off. He stated possibly they could scale this down to save the homeowners money and still provide the proper benefit for stormwater management.

Mr. Maloney stated it has become standard practice for the Zoning Hearing Board to request this when there is this kind of impact. Mr. Stainthorpe asked how large it would have to be, and Mr. Majewski stated they could cut what he requested in half and this would probably cost 2/3 less than the homeowner has indicated.

The homeowner stated the neighborhood was zoned for 28%, and they are well under this. She asked why the builder only requested 20% when it was zoned for 28%. Mr. Majewski stated this was voluntary on the part of the developer not to ask for the ultimate impervious surface for each lot and they felt they had come up with a reasonable amount for each lot. He stated to the extent that it is exceeded on individual lots, the stormwater basins were not designed to handle that extra run of. The homeowner asked if they scaled back the size of the patio to half its size, would the Board be willing to waive the requirement for the pit. Mr. Majewski stated this is something that could be considered.

Mr. Truelove stated he feels it would be appropriate to have the matter deferred and the homeowner can work with their contractor and Mr. Majewski to see what would be appropriate. This was acceptable to the homeowner, and the matter was deferred.

**CONDITIONAL USE HEARING – CRICKET COMMUNICATIONS
TAX PARCEL 20-034-022 – 1080 EDGEWOOD ROAD**

Mr. Richard Lemanowicz, attorney, was present on behalf of the Applicant.

Mr. Truelove stated these are three co-locations of antennas on existing cell towers and he would suggest in order to expedite the process, that they have the Witnesses sworn and the attorney can summarize the testimony and identify where in the materials their testimony would be supportive of what has been submitted.

Mr. Maloney read the Notice of the Hearing. The packet including the Notice and photographs of the posting was marked as Township 1. Mr. Truelove marked as Township 2 Section 200-50.1 and related Sections of the Ordinances of the Township dealing with Radio and Tele-Communications Facility Overlay District. He marked as Township 3 the part of the Ordinances dealing specifically with Conditional Uses – Section 200-90. Township 4 was marked which is the Planning Commission approval dated 10/28/08 which incorporates the review letter of CMX dated 10/20/08.

Applicants Exhibits A1 through A10 were marked and include the Application, the Deed, the Ground Lease Agreement, Site Lease Agreement, Cricket Communications FCC License, Electro-Magnetic Frequency Report, Coverage Maps, Structural Analysis of the existing structure, and Site Plan Drawings. These were admitted into evidence subject to swearing in of the Witnesses that would provide the necessary supporting testimony.

Mr. Doug Harris and Mr. Brian Seidel were sworn in. Mr. Lemanowicz stated the Applicant's radio frequency engineer would testify that Cricket Communications is licensed by the Federal Communications Commission to provide advance wireless communication service in Lower Makefield Township. In the subject area of Lower Makefield they have a gap in their communications network. They identified the subject tower as a suitable location to attach their antennas and fill their gap in coverage. This is the least intrusive means that they can utilize to fill the gap in coverage. They intend to attach their antennas to the existing 190' tall tower at 100' above ground level. This is the minimum height that Cricket can use to fill their gap in coverage. There will be three antennas that are 74.9" tall, 6.5" wide and 3.3" deep. There will be two equipment cabinets associated with this installation that will be located on the ground within the existing fenced area that surrounds the tower. They will not be increasing the height of the tower. They will not be building a new tower. They will not be increasing the compound that surrounds the tower. The two equipment cabinets at the base are used for operation of the antennas and battery back-up power for the antennas. The equipment cabinet is 34" by 35" in square feet and is 51.2" tall. The battery cabinet is 31" by 34" by 69" tall. They will be located on perforated steel platform that is 4 by 8 feet and does not require any excavation for installation. The radio frequency engineer would testify that once the facility is operating it would comply with the FCC guidelines for human exposure to electro-magnetic fields, and this analysis takes into consideration all of the antennas that are currently operating on this tower. He would also testify that there is a structural analysis for this tower indicating that this tower can structurally accommodate the additional antenna loading. He asked Mr. Harris, the radio frequency engineer, if he would verify that this is an accurate recitation of the Testimony that he would provide, and Mr. Harris agreed. Mr. Lemanowicz asked the Applicant's professional planner, Mr. Seidel if he would agree with the summary of the testimony provided, and Mr. Seidel agreed.

There were no questions of the Applicants, and the documents offered were accepted into evidence and incorporated into the record. There was no public comment.

Mr. Stainthorpe moved, Mr. Maloney seconded and it was unanimously carried to approve the Conditional Use for Tax Parcel 20-034-022-002 subject to Conditions in Mr. Majewski's letter dated 10/20/08.

**CONDITIONAL USE HEARING – CRICKET COMMUNICATIONS
TAX PARCEL 20-017-047-001 – 1347 WOODSIDE ROAD**

Mr. Maloney read the Notice of the Hearing. Mr. Truelove marked as Township 1 the Notice and the attached photos of the posting done to comply with the requirements of the Ordinance. Township 2 is the Sections of the Lower Makefield Code dealing with the Radio and Tele-Communications Facility Overlay District Section 200-50.1 and

related Sections. Township 3 is Section 200-90 of the Township Code - Conditional Uses and related Sections. Township 4 is the 10/28/08 Planning Commission memorandum which incorporates and attaches the 10/20/08 CMX report regarding the Application. The four exhibits were moved into the record and copies were provided to Mr. Lemanowicz.

Mr. Truelove stated Mr. Lemanowicz has provided Exhibits A-1 through A-10 similar to the last Hearing, the only difference being a different location from the previous Hearing.

Mr. Doug Harris and Mr. Brian Seidel were sworn in. Mr. Truelove stated they could incorporate the summary of the last testimony with the only difference being changes relative to this particular location which are applicable. Mr. Lemanowicz stated the summary of testimony they would provide in this case would be virtually identical but for the fact that this is a different tower location. The tower is 230' tall, and they will be attaching their antennas at 160' feet above ground level. There are three antenna and two equipment cabinets, and there is no tower expansion. There is a 10/20/08 review letter issued by CMX and they have acknowledged that they will comply with this review letter and they have revised their drawings to address the concerns raised in Item 3A through F, and they do have a digital set of drawings that they will supply to Mr. Majewski for his approval.

There was no public comment at this time.

Mr. Maloney moved, Mr. Smith seconded and it was unanimously carried to approve Conditional Use for Tax Parcel 20-017-047-001 subject to the Conditions set forth in Mr. Majewski's 10/20/08 letter.

CONDITIONAL USE HEARING – CRICKET COMMUNICATIONS TAX PARCEL 20-016-041-005 – STONY HILL ROAD

Mr. Maloney read the Notice of the Hearing. Mr. Truelove stated similar to the other Hearings, the Township will move into evidence Township 1 – the Notice and attached Posting information, Township 2 is Lower Makefield Ordinance Section 200-50.1 and related Sections, Township 3 200-90 of the Township Code and related Sections, and Township 4 is the 10/28/08 Planning Commission memorandum and the attached 10/20/08 review letter from Mr. Majewski. These were moved into evidence and Mr. Lemanowicz was provided copies.

Mr. Truelove stated similar to the prior Hearings Mr. Lemanowicz has presented a packet of documents which he has marked A-1 through A-10 and they are similar to the documents to the other Hearings except for the location and specific type of technical information required for that particular location, and Mr. Lemanowicz agreed.

Mr. Harris and Mr. Seidel were sworn in. Mr. Lemanowicz incorporated the testimony that was offered in both prior Applications this evening with the only difference with this Application being that this tower is 118' tall and Cricket will be installing their antennas at 75.5' above ground level. He noted the 10/20/08 review letter, and as a will comply item they will submit drawings to Mr. Majewski for his review and approval.

There was no public comment.

Mr. Maloney moved, Mr. Smith seconded and it was unanimously carried to approve Conditional Use for Tax Parcel 20-016-041-005 subject to the Conditions set forth in Mr. Majewski's 10/20/08 review letter.

ZONING HEARING BOARD MATTERS

With regard to the Susan Mack Variance request to construct a single-family, detached dwelling on property located at Deerpath Lane north of the intersection with Edgewood Road, it was agreed that the Township should participate to discuss issues with respect to buffers and stormwater management.

With regard to the Donnell Properties Variance request to construct an addition resulting in greater than permitted impervious surface on property located at 2311 Yardley-Morrisville Road, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Joseph and Jody Fonte Variance request to construct concrete walkway and retain existing patio which will result in greater than permitted impervious surface at 1174 Temple Drive, it was agreed to leave the matter to the Zoning Hearing Board.

Mr. Santarsiero moved, Mr. Maloney seconded and it was unanimously carried to oppose the T-Mobile Northeast LLC challenge to the Validity of the Ordinance and request for determination that it is entitled to relief under the Telecommunications Act of 1996 for Variances consisting of a 100' monopole and associated equipment.

OTHER BUSINESS

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to accept the award from Pennsylvania Commission on Crime and Delinquency in the amount of \$13,047 for the DARE Program.

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Mr. Santarsiero moved, Mr. Maloney seconded and it was unanimously carried to accept the proposal from General Asphalt Paving Company in the amount of \$54,900 to replace the culvert at Black Rock Road.

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to award the bid for salt to Cargill, Inc. at a cost of \$65.55 per ton through the Bucks County Consortium 2008-2009 Salt Bid.

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to authorize use of subcontractors for snow plowing in accordance with recommendation of the Public Works Director.

There being no further business, Mr. Maloney moved, Mr. Santarsiero seconded and it was unanimously carried to adjourn the meeting at 11:30 p.m.

Respectfully Submitted,

Matt Maloney, Secretary