

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – JANUARY 21, 2009

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on January 21, 2009. Chairman Maloney called the meeting to order at 7:35 p.m. Mr. Maloney noted the Board reserves Public Comment for the discussion of items not on the Agenda. He stated he assumes that many people present this evening are present to discuss the trash collection issue, and the item on the Agenda relates only to whether or not the Board will accept funds for a Grant to do a survey related to trash collection. He stated there may be some present who were under the impression that the Board was going to discuss whether or not there would be single-hauler trash collection; and they did try to clarify on the Township TV Channel and Website that this matter is not on the Agenda this evening. He stated those interested in discussing this can do so during Public Comment. Ms. Appelson called the roll.

Those present:

Board of Supervisors: Matt Maloney, Chairman
 Ron Smith, Vice Chairman
 Teri Appelson, Secretary
 Pete Stainthorpe, Treasurer
 Greg Caiola, Supervisor

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

PUBLIC COMMENT

Mr. Joe Menard, 917 Putnam Drive stated he does not feel the Township needs to spend \$7,500 for a survey on trash collection. He stated those in private industry have spent their lives building their business, and he does not feel the Board should take away business from private industry and have it run by the Government. He feels the Board has enough input from the residents on this matter, and do not need to spend \$7,500 on a survey. Mr. Menard asked how the Board will capitalize the earnings of those who will have their business taken away so that they can be paid for the value that they have contributed. Mr. Menard stated if the Board feels they need more input from the residents, they should provide a link on the Township Website for those interested to make comments rather than spending \$7,500 on a survey.

Mr. Smith stated he understands that the Agenda is set by the Chairman, but when the Board voted on this on December 3, it was his understanding that on January 21 there

was going to be an opportunity for the Environmental Advisory Council (EAC) to bring forward more information and the Board was then going to vote on the matter this evening. He stated at the Reorganization Meeting on January 5, EAC representatives did indicate that they wanted to do a survey, but he does not feel many Township residents received that message as evidenced by the large number of people present this evening.

Mr. Maloney stated since January 5 when the intention expressed was that they would go forward with a survey assuming they could get the funds to do so, all communications from the Township via the newspaper, Website, and TV channel have indicated the January 21 meeting would not cover this subject. He apologized for the mailings that were distributed by an anonymous source adding if residents have come to the meeting this evening because of this, he does not have the ability to manage the messages that were distributed through other channels.

Mr. Simon Campbell stated he agrees that last month everyone was under the impression that the Board would be settling this matter this evening. He stated he understands that the Agenda is set by the Chair, and since Mr. Maloney has unilaterally decided that they are not going to follow through on what was decided at the meeting in December this has wasted the time of everyone who came to the meeting this evening.

Mr. Caiola stated during the Re-Organization meeting in January when this matter came up for discussion, the recommendation was to put something on the Agenda for this evening's meeting having to do with the survey, but they did not vote on whether or not to proceed with the survey at that time. He stated they now understand that the information they wanted to get out, did not get out to all the residents.

Mr. Campbell stated the communication from the Supervisors to the public in December was that this matter was going to be resolved tonight, and this was not followed through with. He stated he feels the EAC is being given carte blanche to "ride roughshod" with their Agenda throughout the community. He stated he does not feel the Supervisors need to do a survey on every issue they vote on. He stated the feedback from the community on this issue has been overwhelming. He stated he does not understand why Mr. Bray is being allowed to pursue his personal agenda. He stated Mr. Bray has gone to the State Government to get public money to pay for the survey, and they will now be spending public money on a survey which he feels will be tainted to achieve a certain outcome. Mr. Campbell stated he feels the public has spoken, and this should be voted down.

Mr. Stainthorpe stated when this issue came up in December, he indicated the public was smart enough to make their own decision on who their trash hauler should be; and when it was brought up in January to discuss a survey, he objected to this as well. He stated all of the Supervisors have received hundreds of e-mails from the residents who are overwhelmingly against this.

Mr. Stainthorpe moved to keep the trash hauling situation as it is today.

Mr. Smith stated he feels the public has spoken very clearly. He also was concerned with the item on the Agenda that listed “Discussion of Recycling Technical Assistance Study,” which he eventually realized was the survey under discussion. He stated he has taken an independent poll and sent out several hundred e-mails and received the Township voice mail messages and email letters; and out of 400 responses, he received only fifteen in favor of the single-hauler trash proposal. He stated the Board is elected to make decisions; and if the Board is going to go against the will of the people, he feels they should have a very good reason to do so.

Mr. Smith seconded the Motion.

Mr. Caiola stated he felt at the last meeting that it would be worthwhile to go ahead with a survey in part because they felt the incendiary piece that was sent out was driving a lot of people. He stated he has spoken to a number of people since then who questioned whether this was the right way to proceed. He does take exception to the comments attacking Mr. Bray, who like many of the Township volunteers, does a lot of work for the Township. Mr. Caiola stated he did underestimate how much the residents did not want this; and while the survey may have shown something different than what has been expressed in this room, he believes that the individuals who came out feel passionately about this and he feels the Board should listen to them. He is also concerned with the impact on the smaller haulers if the Township goes to a single hauler. He stated he feels the EAC did feel that they were doing this for the betterment of the Township. He stated he is also concerned that a number of residents may have had a bad experience with one of the haulers who may have been awarded the single-hauler contract. He stated he is inclined to support the Motion.

Ms. Appelton stated she is new to the Board and was not on the Board in December. She stated she has tried to bring herself up to speed on the issue and has received a number of e-mails from residents which were overwhelmingly opposed to going to a single trash hauler system. Ms. Appelton stated it was her understanding that the EAC was trying to save residents money, provide the same or improved service, and to also benefit the environment. She stated it is clear that most people are not in favor of this. She stated it is her practice to have full information before making a decision, and she does not feel at this point in time she has enough information to vote one way or the other.

Mr. Maloney stated he always wants to make sure there is robust discussion on any topic. He stated at the meeting on December 2 he felt the vast majority of education on this subject that had been done was done by sources that were clearly biased in a variety of ways. His intention was to make sure they heard from all sides. He asked for public comment on this issue but asked that those speaking avoid repetitious discussion.

Ms. Kathy Cartwright, Taylorsville Road, stated she feels this should be a Government for the people. She stated it appears that the residents do not want a single hauler; and she feels the \$7,500 which would have been spent on a survey would be better spent to provide fuel assistance, a Senior Citizen program, a soup kitchen, etc.

Melanie Dickers, President of Yardley Hunt, stated she is an environmental engineer and she understands the issues of business but also understands the issues of sustainability. She stated the current process seems inefficient because of the number of trucks going through the neighborhoods all the time; and she feels they should try to have a more efficient process, save fuel, provide more safety, and reduce pollution. She feels there is a way they can do this and still keep the small haulers in business and possibly improve their bottom line. She feels some of the suggestions brought up by the EAC were examples of what has worked in other communities; and if Lower Makefield requires a different kind of solution, this does not mean that they should not pay attention to the inefficiency that currently exists and she would ask that they focus on this to improve the sustainability of the community.

Mr. Bill Firestone, North Circle, stated some people are in favor of the single-hauler strategy and felt there would be a process through which they could express their voice. He stated until they received the cards, they did not realize that they would be undercut and so they did not express themselves up until now.

Ms. Barbara Spencer, 302 Cinnabar Lane, stated she can chose her trash hauler but she cannot control the three different companies traveling up and down her dead-end street and having to back up and turn around. She stated the Government can control this. She stated the pollution and noise of the trucks is a problem over which she has no control. She asked that the Board go forward with the survey, and give the residents the information needed so that they can make an informed decision. She stated there is a new administration in Washington that is challenging the citizens to find new ways to do business and govern so that they can find energy efficiencies and not keep spending money on trash haulers that get two miles to the gallon. She asked that the Board not be rushed to judgment.

Ms. Gail Holvey, Daleview Drive, stated the people want freedom of choice which is a Constitutional right. She stated she does not feel they are opposed to getting greener. She stated the average resident is paying approximately \$400 a year for their trash. She stated there is power in numbers, and if they could negotiate to make the annual sum \$200 and supply the same service they are used to she feels the Board may get a different reaction. She stated she does not feel the residents were provided enough information as to the cost, how much the recovery for fuel surcharges would be, administrative costs, etc. She stated she feels the Board should gather facts and provide a way for the residents to vote on line to save the \$7,500.

Mr. Steve Lebowitz, 909 N. Pennsylvania Avenue, stated he feels this is treading heavily on his individual rights. He stated if the Township were going into the business of trash hauling, he may think differently because then it would be part of the Township services he is entitled to as a taxpayer; but this is not what is being proposed as they are proposing to effectively eliminate his right to choose. He stated he does not understand how this would change things environmentally if they go to one hauler as they currently sort the trash; and if ideas are presented as to how to be more efficient, he feels the residents would be willing to do this.

Ms. Jeanne Bray, 12 Terracedale Road, stated she is married to Jim Bray, Chairman of the EAC. She stated the EAC members have been working very hard over the last few years on many issues and programs that have made the Township a model. She stated the Township has received awards from the EPA and the Township is well known as an environmentally-progressive Township all over the County and the State. She resents the comments made about Mr. Bray. She stated the EAC are volunteers who work many hours and work very hard. She stated the EAC got into this issue because they felt it would be good for the environment.

Mr. Smith stated the EAC does a great job and the Township has won many awards, but the Board of Supervisors cannot “rubber-stamp” everything that is suggested. He stated he does agree that everything deserves a fair hearing, and each Supervisor must objectively look at every proposed to see if it will work for the residents. He stated he does not want this issue to divide the Township; and he will continue to vote in favor of issues that unite the community and not divide the community.

Mr. Tony Mizulo, stated he is an attorney representing the Pennsylvania Independent Waste Haulers Association which are all small, independent haulers. He stated the concern of the Association is that these independent haulers are your neighbors. He stated in their experience where there has been a single hauler contracted to haul the Municipality’s waste, it destroys competition in the area and further contracts after the initial contract invariably result in tremendous increases in costs to the consumers because there is no competition left. He stated there is also the element of service and the smaller haulers can respond to a situation much quicker than the larger haulers if there is a one source hauler. He asked who residents would call if they have a problem with their trash collection. He stated he has also found that when you get involved with this type of situation it could result in violation of a recent Supreme Court Decision, and he asked that this be considered as well.

Ms. Sue Herman asked if they could consider other options such as dividing the Township into geographical zones and have haulers handling separate zones in order to help minimize the impact to the environment. She stated she does not feel any decisions regarding bettering the environment are easy, and she personally would be interested in

receiving a survey that would allow them to continue to discuss whether there is a better way which could be good for the haulers and good for the environment.

Mr. Glenn Hyman, Silverwood Drive, asked how many present have read the 32 page report, and noted very few people have read it which he feels is disappointing. He feels they need to find out more of the facts. He stated he grew up in Middletown where they had a single hauler for almost sixty years, and he does not feel those living in Middletown have a problem with this adding they are paying less than Lower Makefield residents pay. He also feels they should study if they could turn the trash into energy which is being done in other communities. He feels there is a need to understand more of the facts before a decision is made.

Ms. Nancy Scheible, 16 Sandy Drive, stated she feels the proposal was thoughtful and thorough; and while she is leaning toward not having a single hauler, she does feel the report covered a lot of information and she commended the committee for the time and effort put into it. She stated she hopes that whatever decision is made tonight, the Township will look into the recycling issue further. She stated she has a friend in the northern part of the Township who is able to have George Leck as her hauler and they recycle almost everything which results in less trash. Mr. Caiola stated this matter has been raised before, and he feels a number of people will do things more efficiently as a result of these discussions and the information that has been provided by the EAC. Mr. Smith stated information was provided as well about the leaf pick up and other options for this. Mr. Maloney stated there are a number of facets that they need to consider including yard waste, recycling, and traditional refuse that are all separate issues which could make the community better. Mr. Smith stated there was also an issue raised about recycling rebates, and Ms. Scheible stated this is the recycle bank which Leck uses and she described the process used which weighs the recyclables. Mr. Maloney stated this information is included in the report. Ms. Scheible stated the report also indicated that there is currently yard waste going into the trash which is against the Pennsylvania law. Mr. Maloney stated this is something that they are trying to improve internally in the Township regardless of the decision tonight.

Mr. Derrick Dobos, Spring Lane, stated on some days he has six trucks driving down his street, and there are no sidewalks on his street which makes this dangerous. He feels a single hauler would be more efficient. He feels it would be irresponsible of the Board not to go forward with looking into this. He stated if they have more information and provide it to the residents it may sway their vote. He stated many of the people present may be the same people who e-mailed the Board already, and he does not feel these people represent all 11,000 homes in the Township. He stated he feels they should go forward with the survey and find out from more people what they want from the Township and they would not have to use the survey just for the trash issue. He stated there are a lot of senior citizens who do not have computers and cannot attend meetings. He stated there is nothing wrong with taking bids and then rejecting them if they decide

not to proceed since they did this with the sewers previously. Mr. Dobos stated Mr. Leck indicated at a prior meeting they only need eleven trucks to handle the entire Township. Mr. Dobos stated he grew up in Falls Township where they have one hauler, and his family has never had a problem with their trash.

Mr. Frank Gallo, Dickenson Drive, stated it is his decision and his money. He stated when he had issues with his hauler in the past, he changed his hauler. He stated there is nothing stopping people from organizing on their own; and if they all got together and chose one hauler for their development or street, they could do this. He stated spending \$7,500 for a survey is still taxpayer money being spent. He stated the EAC is a very one-sided Agenda driven group which is charged with bringing environmental policy to the Board. He stated it is the Board's responsibility to take this information and consider everything else. He stated while he is an environmental engineer, this does not mean that he feels they should stranglehold Capitalism and freedom; and the residents should be free to make their own decisions based on what they feel is best. He stated if this does go through, the Township will be billing the residents for this service so it is an increase in taxes. He stated he understands that the Township is currently stretched for resources and questions how they will be able to manage this service using Township staff and feels this could also result in additional staff which would have to be paid for through taxes.

Mr. Steve Divegi, Woodview Road, asked if the trash trucks were Municipal trucks would they be governed by the same immunities applied to the Government. He is also concerned if they were to do damage and a multi-million dollar claim comes in would the Township have a fund to pay the lawsuits. Mr. Truelove stated he does not know all the details of what a single waste hauler system would involve but he does know that in other Municipalities, they are contracted so that the Township is not the responsible party and there would be indemnification provisions where the hauler would have to protect the Township. Mr. Smith stated while this may be true, most attorneys would sue the Township and trash hauler. Mr. Truelove agreed but stated the Township would have immunity up to the local agency provisions which he believes is \$500,000 for all incidents and is covered by insurance. He agrees there could be a suit although indemnification and duty to defend would be passed along to the hauler. Mr. Divegi stated his car was hit by a city truck and he was told it was his problem.

Ms. Louisa Botteri, Highland Drive, stated she did read the proposal and there are costs for cans, fees, etc.; and while she concedes the wear and tear on the road and the traffic when it comes to the environmental effects, there are 9,281 residences being picked up and each truck can hold trash from an average of 375 homes which results in twenty-five trucks regardless of how it is being picked up. She stated if they go to one day a week pick up, this will result in twice the trash being put out each time. Ms. Botteri stated she feels freedom of choice on how to spend their money is a fundamental right.

Mr. Dave Shuster, Bluestone Drive, stated he was present on December 3 and was under the impression that they were going to discuss this matter this evening. He stated the January 5 meeting was a Monday; and since the normal meeting night is a Wednesday, it is understandable that some people were not aware of the fact that this was not to be discussed. Mr. Maloney stated the State Constitution mandates that their first meeting be on Monday. Mr. Shuster stated he was not aware that this was an actual business meeting where Agenda items were discussed and felt it was just to swear in the new people. Mr. Shuster stated the top three things discussed in the report by the EAC were air quality, safety, and cost. He stated since this is coming from the EAC he would assume they are most concerned about the air quality, and he feels it would be a “wash” since while there would be fewer trucks, each truck would have to drive further and for a longer period of time. He stated I-95 runs through the Township, and he feels the emissions from I-95 are far more than what comes from the trash trucks. He stated there has also been discussion about safety, and he asked Chief Coluzzi if there have been any accidents in the Township involving the trash haulers; and Chief Coluzzi stated there have been none to his knowledge. Mr. Shuster stated he is either asleep or at work when the trash trucks are coming through his neighborhood so he does not see the trash trucks and has not felt threatened by them. Mr. Shuster stated a gentleman this evening discussed trash hauling in Falls Township, but Mr. Shuster stated Falls Township gets free trash removal because of the location of the landfill. Mr. Shuster stated it appears that the issue comes down to cost, and the numbers he saw previously indicate costs would be the same or more than he is currently paying. He stated he feels the environmental initiative is driven by people’s ability and he feels the financial aspect is what the people are most concerned about. He stated if they want to save energy he feels they should address lights that are on during the night and possibly they should not have any evening sporting events.

Mr. Glenn Fugate, Deerpath Lane, stated he lived in Philadelphia for a number of years where they also had single-hauler trash pick up and the service was extremely poor and he would not want this reproduced in the Township. He stated he feels the Board should vote on this and does not feel further studies are going to change the nature of creeping bureaucracy and corruption in public life and the way business interacts with Government. He does not feel they need to compound this issue locally.

Mr. Zachary Rubin, 1661 Covington Road, stated he was at the January 5 meeting where the Board of Supervisors put on the Agenda for tonight discussion of the survey so it was not done unilaterally by the new Chair. Mr. Rubin stated he is also concerned about the letter in today’s Bucks County Courier Times and comments made this evening which personally attacked Mr. Bray and the EAC. He stated the EAC is an advisory committee, and they do not make any final decisions for the Township. He stated in the last two years the EAC has investigated trash removal and recycling and found out that the current trash haulers were violating the State law by not getting reimbursement for recycling; and since the EAC investigated this, they have brought in an additional \$100,000 per year

into the Township. He stated these were funds which the Township deserved to get but was not getting until these volunteers looked into this. Mr. Rubin stated the post card was sent out to every home in the Township which cost about \$4,000. He stated there was also a previous mailing which cost about \$4,000. He stated the card directs you to the website trashchoice.com, and he feels it costs about \$1,000 to \$2,000 to maintain that website. Mr. Rubin stated someone has expended approximately \$10,000 up till now. Mr. Rubin stated the website indicates that “they have no financial interest in how the issue is resolved and they volunteer their time.” Mr. Rubin asked if anyone is aware of anyone who is involved in this organization. He stated people in the Township have been involved in Residents Against Matrix, the fight against the Mercer Airport expansion, involved in trying to mitigate flood damage, and involved with Residents Against Frankford Relocation; and these are community groups that go out and fundraise. He asked if anyone present has donated funds to the group trashchoice.com, and he questions the legitimacy of this website that indicates that they have no financial interest. Mr. Rubin stated he is on the Board of Directors of the Makefield Glen Homeowners Association which is a community of three individual Condominium Associations which represents 848 homes. He stated a number of years ago, in the interest of economies of scale, they decided to negotiate for one single hauler. He stated they have signed a three-year Contract, and for 2009 each homeowner is paying \$17.77 a month for twice a week pick up of trash and once a week pick up of recyclables. He stated this is \$213 per year. He stated the second year of the Contract they will go up to \$18.10 a month. He stated economies of scale do work.

Mr. Neil Flax, 147 Hyde Park Place, stated he has been a resident for over twenty years. He stated he pays \$240 per year for his trash pick up. He stated he is a small business owner installing burglar and fire alarms, and there are mega companies that have destroyed his industry and created problems with no accountability. He stated there are small business owners who are trash haulers, and when he needs something taken care of with his trash, he makes a call and it is taken care of. He questions who will be handling the phone calls if they decide to go to a single trash caller. He stated he feels there are some very valid points in the EAC report, and they should consider those issues but should not have a single trash hauler.

Mr. Tim Malloy, 1902 Makefield Road, thanked the EAC for putting this proposal together and putting it on the Township website. He stated the last time he was present at a Township meeting he was arguing against the sale of the sewer system, and at that time he discussed the central role of Government. He stated he feels that the role of Government is to provide services which the individual cannot provide for themselves including infrastructure such as the sewer system, turnpikes, bridges, etc. which he feels should remain in public hands even though it may cost more to maintain them. He stated now the Board is considering taking on trash hauling and contracting it out even though this is a service that the residents can get on their own. He stated he does not feel this is a

core central role of Government. He stated if people are going to pay for a service they should pay for it with a paycheck and not through taxes.

Mr. Bud Didonato, Gainsway Road, stated he has lived in the Township since 1960. He stated he sees an erosion of our liberty every day and once again something has been proposed which he does not feel should have been proposed. He stated he did see the report and feels there would be savings, but he feels the Government is in a place that they do not belong. He stated Democracy trumps economy and even the environment, and they must protect their rights. He stated they will be taking something that should be in private sector hands, micro-managing it, and billing for it which is another bureaucratic function which does not belong. He stated he is strongly opposed to this.

Mr. Keith Placid, Brookefield Road, stated it is currently a tough economic time with foreclosures and people defaulting on their taxes. He asked what will happen with the trash service if they go to a single hauler through the Township and people begin not to pay their taxes. He also asked where they will draw the line, and in the future they may decide that there can only be one oil company serving the community, etc. He stated this is making Government bigger and bigger, and he questions whether they have the staff to handle this. Mr. Placid stated he believes in the free enterprise system and feels the residents have the right to choose. Mr. Smith stated he did receive many comments about Government intrusion and where this is going to stop.

Mr. Alan Dresser, 105 E. Ferry Road, stated he is a member of the EAC. He stated with regard to the Technical Assistance Application, the funds would be coming from a fund PADEP has set aside for these kinds of studies. He stated if they do not use the \$7,500 for their study, another Municipality will use it; and he feels they should bring the money back to the Township. Mr. Dresser stated in the Application they have asked the consultant to "evaluate our current trash collection and recycling program and determine if improvements can be made, assist in developing a residential survey that will be used to gather feedback from residents concerning waste collection, recycling, and related issues; and based on the findings of the evaluation of the Township's current program and the results of the survey, make recommendations to the Township." Mr. Dresser stated he feels the survey will not only ask about the single-hauling trash contract but also about recycling issues, the yard waste issue, etc.; and he feels it would be valuable even if they do not go to the single-hauler trash contract. He stated he feels it is unfortunate that trashchoice got involved in this. He stated he is now aware of who they are and will advise the Township at some point. He stated they do have a financial interest in this.

Mr. Jim Bray stated he is the former Chair of the EAC. He stated as a result of the election in January, their current Chair is Geoff Goll and the current Vice Chair is Rick Ewing. Mr. Bray stated when deciding issues to become involved in, the EAC looks at what is in the community and throughout the United States; and if they feel there are projects that may have great merit, they will look at them. He stated they first educate

themselves so that they can determine whether or not a project will have worth. He stated if they feel it has worth, which they felt and still feel this project did, they vote on it; and the EAC was unanimous in wanting to bring this matter before the Board of Supervisors. He stated the Board of Supervisors is always aware of what the EAC is doing through the Supervisor liaison, and the EAC insists on full disclosure and transparency which they feel has been one of the major keys of their effectiveness. Mr. Bray stated it was very disturbing to the EAC members to see what was going on with this outside vested interest. He stated this was an outside agency trying to dictate policy in the Township which he does not feel was right. He stated whether the proposal has merit or not in the long run is something that the Township residents should decide, and the EAC felt that the survey would have given them the opportunity to listen to all of the people and not only to the 100 to 200 people who may have been brought out by an outside interest that has a financial stake in the Township not moving forward with this project. He stated if the people had indicated following the survey that they did not want to proceed with a single hauler, the EAC would not have proceeded with this and would have moved on to other projects. He stated if the people had indicated they were in favor of this, he felt it should have been explored further and then perhaps gone out to bid. He stated he does not feel we are now controlling our own destiny and instead it is being controlled by someone else. He stated he is also very concerned about the aspersions being made about the EAC. He stated he firmly believes in community service and everyone on the EAC believes in this as well. He stated he has been involved in social service and Governmental agencies for many years and has never worked with a group of people who were as smart, motivated, or enthusiastic as the members of the EAC. He stated their foremost concern is what is in the best interest of Lower Makefield Township and no one has a personal stake in any of the Agenda items they have worked on. Mr. Bray stated he hopes that the Board will let all the people decide.

Vote was taken and Motion carried with Mr. Caiola, Mr. Smith, and Mr. Stainthorpe in favor, Mr. Maloney opposed, Ms. Appelton abstained.

A short recess was taken at this time. The meeting was reconvened at 9:20 p.m.

Ms. Barbara Pearl, Jenny Drive, stated she is opposed to bow hunting to control the deer population and asked that the Board put compassion into action. She stated statistics show that communities which cull the deer have to do this year after year. She stated there are alternatives and she would ask that the Board consider those. She stated people should drive slower and pay more attention when the deer are in season. She feels the Township should be a model to show others that there are alternatives. She stated she does not want her taxes contributing to hunting and killing. She stated she would be willing to work on a committee to find a solution. She also provided a letter from the Jansen family on Stapler Drive who are also opposed to a hunt in Lower Makefield and would like them to find a logical and peaceful way to live in harmony with the wildlife

Ms. Marcie Maloney, Kings Road, stated when they use bow and arrows to kill deer it is a very slow and painful death. Mr. Smith stated the Township cannot afford to proceed with sharp shooting and could only proceed with a program that involves nominal cost so the only option left is archery. He stated he has no problem with a Committee getting together to come up with alternatives although he has been told that there are no such alternatives. Mr. Smith stated he was shown a film by one of the hunting clubs who advised that this was a good method of culling the herd and that the animals do not suffer although others have disputed this. He feels they need to discuss this further, and Mr. Maloney stated this matter will be on the Agenda for March. Mr. Smith stated he hopes that those opposed to a hunt will be able to present alternatives at that time.

Ms. Jeanne Bray, Terracedale Road, stated there were three Supervisors who saw the film of the deer being shot with arrows, and she recalls that Mr. Smith indicated after seeing the film that no one who saw that film could ever vote in favor of this. Mr. Smith stated he also feels that if something has to be done; and if this is the best way to proceed, he would vote in favor of it if this is what the people wanted.

Ms. Sue Herman asked if there would be a benefit to the Board being presented with alternatives by those who have indicated they would volunteer to look into this, prior to the meeting to be held in March. Mr. Maloney stated he would encourage anyone who has something to present to contact him. Mr. Smith stated the gun and archery club should also make a presentation as well, and Mr. Maloney stated he feels the bids that have been submitted should be part of the conversation also.

APPROVAL OF MINUTES

Mr. Caiola moved, Ms. Appelson seconded and it was unanimously carried to approve the December 9, 2008 Special Meeting, December 17, 2008 and January 5, 2009 Minutes as written.

DISCUSSION OF WEST FERRY/ARBORLEA TRAFFIC CALMING

Mr. Chad Dixon stated at a prior meeting they discussed moving forward with implementing measures to restrict traffic on West Ferry Road during peak hours and the impact this may have on Arborlea and Elm streets. The decision was to move forward and request from PennDOT that through traffic be restricted on all three roads during peak commuter periods. Mr. Dixon stated they put in a formal request to PennDOT shortly after that meeting and presented to them the data on West Ferry Road showing that there was a cut-through traffic problem and asked that restrictions be placed not only on West Ferry but also on Arborlea and Elm with the assumption that the cut-through

traffic would simply divert over to those roads if the restriction was only placed on West Ferry. He stated they had further conversations with PennDOT in December who indicated they were close to having their review completed, but they did not contact him until January 13. He stated PennDOT has come back in response to the Township's request that for the time being the restriction is only approved for West Ferry Road. He stated their reasoning for this is that while it is a fair assumption on the Township's part that the through traffic will divert over to Arborlea and Elm if those streets are not restricted as well, they cannot issue a Permit based on speculation; and they need to see hard data. They have indicated that if the Township produces counts before and after the restriction that show traffic has diverted over to those streets, they can go back to PennDOT and get restrictions for those streets as well.

Mr. Caiola asked about the timetable for this, and Mr. Dixon stated they have coordinated with the Chief's office and the before data has already been collected. They will install the signs, provide some time for the traffic patterns to normalize after the signs are posted, and then go back approximately 30 days later and do the after counts. They will then immediately contact PennDOT if they show that the traffic has diverted to those streets asking for Permits for restrictions for those streets as well. Mr. Maloney stated he wants to make sure that whatever is required by PennDOT is provided in the most expedient manner possible. He stated he has had discussions with the new State Representative, Mr. Santarsiero, and PennDOT; and they all feel that they will be able to get this handled fairly quickly.

Mr. Fedorchak stated he needs direction from the Board tonight as he was not going to proceed with the posting of the signs only for West Ferry as this was not the direction he was given previously by the Board. He stated he did advise the residents of the area about PennDOT's decision and offered them the opportunity to be present this evening to comment. Mr. Maloney stated he feels they can either do nothing or do something; and unless they proceed as PennDOT has directed, they will get nothing as PennDOT will not permit restrictions on the other two streets unless they follow this procedure. Mr. Caiola stated he feels the signs should go up on West Ferry and they should inform the people on Arborlea and Elm very quickly that this is the initial decision and there will be more changes coming as soon as they can prove to PennDOT that further changes are needed.

Mr. Smith asked if they could do something in the short term to protect the people on Arborlea and Elm; and Mr. Maloney stated they could step up enforcement, but this might actually have the unintended consequence of making the numbers they are looking to use to justify their request, less easy to come by. He asked that Mr. Fedorchak and Chief Coluzzi keep up on this and added he does not feel they need to wait two weeks for a meeting to make a formal vote; and if it reaches a threshold on Elm and Arborlea very quickly that is intolerable, they will step up enforcement. He stated this would not require another public meeting. He stated if needed they will invite PennDOT out to the site and show them the conditions without enforcement.

Mr. Fedorchak stated he would like to continue to lobby PennDOT and have further conversations with them. Mr. Fedorchak stated he does not feel there is any harm in also restricting traffic onto both Elm and Arborlea. Mr. Maloney stated it appears that the Board would be in favor of consenting to allow Mr. Fedorchak to post the signs for West Ferry to get the process in motion and still continue their efforts with PennDOT so that they do not necessarily have to wait two months to prove what they know will be true. Mr. Fedorchak stated they have gone through the One-Call procedure and he feels the signs could be posted for West Ferry sometime next week.

Mr. John McGroarty, 5 West Ferry Road, asked if the signs going up are “No Left Turn” signs or “No Through” signs; and Mr. Dixon stated at the intersection of Big Oak and West Ferry there will be “No Left Turn” sign and a “No Right Turn” sign with an additional plaque stating those movements are restricted from 7 to 9 in the morning and 4 to 6 in the afternoon on weekdays. At West Ferry and Yardley-Morrisville they will have the same signs restricting the left and right turns during those peak periods. In addition there will be “Do Not Enter” signs posted facing East Ferry to prevent the through movement during those peak periods. Mr. McGroarty stated one of the members of the Citizens Traffic Commission had done research on his own with regard to the light that feeds the Calhoun Bridge and indicated that the light making a left from River Road seemed to be “friendlier” than the light on West Trenton Avenue. Mr. Maloney stated they do intend to try to discuss this with the Township Managers and Chiefs of Police of Falls and Morrisville. Mr. Caiola stated he does not feel that the River Road light is any more “friendly” as he travels this way and has sat there for seven minutes at a time and two minutes at a time. He noted this light is controlled by an individual on site. Mr. Maloney stated he feels all three Townships need to present a shared sense of what the right way is going forward before they try to meet with the Bridge Commission.

Mr. Fedorchak stated he understands that there is an Arborlea website, and he will get this information out to the residents.

Ms. Andrea Meyers, 11 West Ferry Road, thanked the Board for proceeding with the signs. She stated the initial proposal to the Board included Oak Avenue which gets more traffic than Elm and Arborlea combined, and over a two day period they got over 800 cars on Oak Avenue, 577 on Arborlea, and 96 on Elm. She stated none of the proposals include Oak Avenue, and she does not understand why they are not considering it as the situation on Oak Avenue is worse than on Arborlea and Elm as it is currently being used as a cut-through street. She asked that they include Oak Avenue in their strategies. Mr. Maloney stated one of their reasons for reaching out to Falls Township was because this is a shared intersection, and it will require an agreement between both Municipalities to implement any solutions. Ms. Meyers stated a “No Right Turn” sign at Walnut on the Lower Makefield Township side not allowing a driver to turn right onto Oak would not involve Falls Township.

Mr. Jim Brown, Arborlea Avenue, stated he was advised by someone that nothing was going to be moved forward tonight, and he is surprised that they are going ahead with the signs as they feel this will just move the entire problem onto Arborlea rather than solve the problem. He asked what it would take to get a sign for Arborlea before they go ahead with signs at West Ferry. He stated no one understood from the Arborlea Website prior to 10:00 this morning that the Board was going to vote on this. Mr. Stainthorpe stated they had decided in December to request that restrictions be put on all the streets, but they did not get approval from PennDOT to do this on Arborlea or Elm until the Township can justify the need through traffic counts. Mr. Brown stated the people who live there will now be impacted by this change, and they are shifting the problem from West Ferry to another street. Mr. Caiola stated the only way they can get the signs on the other streets is if they allow this to happen for a short period of time. Mr. Brown stated there is the potential that there will be no signs put on Arborlea or Elm, and Mr. Maloney stated he does not feel this is the intention of PennDOT as expressed to the Township outside of their formal communication. He added if they find that all the cars currently on West Ferry are now on Arborlea and Elm and it is immediately unacceptable, they will step up enforcement or take the signs down and go back to PennDOT indicating this is not an acceptable solution. He stated it will not take two weeks for the Township to make this decision. He stated if the signs are installed and there is three times as much traffic on Arborlea, he would be in favor of going back to PennDOT advising them that this is not a reasonable solution. Mr. Maloney stated the intention is to do whatever they can to get everyone's problem resolved. He stated PennDOT has indicated that they are not going to take two months to get through this process, and he believes that they will be able to find a remedy in a much shorter period of time. Mr. Brown asked that the Township Manager keep them advised on all updates as they were not aware of all of this prior to this evening. Mr. Maloney suggested to Mr. Fedorchak that they wait only one week and then see what lobbying efforts they can make with PennDOT. Mr. Maloney stated if there is a problem they will take the signs down and the next day go back to PennDOT to force a meeting advising them they have given the Township an option that is unworkable and dangerous to the public. This was the consensus of the Board.

Mr. Caiola stated he feels they need to take this first step so they can show PennDOT that this is going to cause other problems. He agrees that if PennDOT is not amenable to working with the Township as expeditiously as they need, they will have to push them on this as he does not feel getting one third of what they really need will help the situation. He stated they do not want to have to wait two months out to prove their point, and he feels they will be able to prove this in short order.

Mr. Smith asked Mr. Dixson if they show PennDOT the supporting data that traffic has shifted over, would they be flexible as to a change; and Mr. Dixson stated he feels they will be flexible and they have given the Township every indication that if the Township can prove the case, PennDOT will act on it.

Mr. Brown agreed to provide Mr. Fedorchak with the information he needs to keep the residents informed.

Lisa Tordo, 206 Arborlea Avenue, asked the percentage increase that PennDOT is looking for in order to allow signs at Arborlea and Elm, and Mr. Dixson stated there is no set standard for what is considered an acceptable amount of cut-through traffic, and it is based on engineering judgment. He stated they have had these kinds of studies before, and when they make a strong case, PennDOT does not usually have a differing opinion on what they are recommending.

Mr. Adrien Pollock, 202 Elm Avenue, thanked the Board for treating this neighborhood as a unit and thanked Mr. Fedorchak for his communications.

Ms. Torbert stated due to the Martin Luther King holiday the Citizens Traffic Commission will meet on January 26 at 7:30 p.m.

Mr. Mike Joseph, W. Ferry, asked Ms. Appelson if she has been caught up on the issue, and Ms. Appelson stated she is getting caught up on this.

Mr. Joe Magee, 21 West Ferry, thanked the Township for working on this adding it has been a number of years that the residents have been trying to get something done for West Ferry. He asked when the signs will be installed, and Mr. Fedorchak stated they have already started the first step which was the One-Call process which involves sending out a notice to all the utilities. The utilities are required to respond within a five day period and locate where the utility lines are. He stated this should be completed by Friday and the Township can then install the signs early next week unless there are problems with weather. Mr. McGee asked about enforcement, and Chief Coluzzi stated they would pull drivers over as you would any other traffic violation. He stated these signs are easier to enforce than the “No Through Signs” originally discussed as someone could enter the roadway from one of the side streets and you would not know this. Chief Coluzzi stated he feels there will be a big reduction in traffic when the signs are installed. He stated there will be a break in period the first few weeks to allow drivers to become accustomed to the new signs. After the first few weeks, if there is a blatant violation they could issue tickets immediately or issue a warning. After that, everyone would be cited.

Mr. McGroarty asked if this will also apply to the residents, and it was noted that it will; and this is one of the drawbacks of having restrictions as they apply to everyone. Chief Coluzzi stated this is why they put on the time restrictions so as not to inconvenience the residents all day long as the “No Through Traffic” signs would.

Mr. Smith asked where they want the traffic to go, and it was noted they want it to go on Big Oak Road/West Trenton. Mr. Dixon stated this is where the traffic should be and the next important step is to engage in a dialogue with Falls and Morrisville to see what kind of operational improvements can be done.

ECONOMIC DEVELOPMENT MAP PROJECT PRESENTATION

Mr. Bob Smith stated the Economic Development Commission is a volunteer organization that is trying to look out for the economic vitality and quality of life in the Township. He stated they have been looking into a number of non-controversial projects over the last two years including a way to help the residents identify businesses that are located in Lower Makefield Township. He stated there are a number of mailing addresses for Township properties so it is difficult for residents to recognize what is actually in Lower Makefield. He stated they spoke to a number of publishers of guides and no one was willing to undertake this project as so many of the Township businesses and institutions market themselves under the umbrella of Yardley or Newtown. He stated they did however find a company called City Map Project located in Kentucky that produces fold-out maps and a copy was provided to the Board. He stated this is a no cost way to promote the Township. He stated this would also be useful to the Township residents many of whom never received an accurate, detailed street map.

Mr. Smith stated the vendor would contact advertisers using lists that are readily available to the vendor, and do the art for the advertiser if requested or the advertiser can supply their own. He stated the vendor has over a thousand clients throughout the Country. The ads range in price from \$350 to \$1,500 and they need 120 advertisers to move forward with the project. They will contact advertisers in neighboring communities but the map itself will allow them to show where Lower Makefield is. Mr. Smith stated the vendor has advised that 95% of their clients renew. The initial order would be 10,000 free copies, 5,000 of which get distributed to the businesses with a counter-top display and the other 5,000 come to the Township. They have discussed making these available at the Farmer's Market, Community Pride Day, and at the Township Building. Mr. Smith stated 75% of the map advertisers renew.

Mr. Smith stated the Township will need to provide basic mapping data from the engineer, and the Board of Supervisors needs to provide a letter that goes into the solicitation packet which indicates that they endorse the project. He stated the Township can also provide art such as graphics, the Township logo, pictures of the parks, etc. He stated the Township will also get three of the larger panels for its own content such as a calendar, list of community events, contact numbers, list of community organizations, etc. He stated they may also ask other advertisers to buy large panels and yield some of the space back to the Township.

Mr. Ron Smith asked the objective of this, and Mr. Bob Smith stated the objective is to make residents aware of the businesses and institutions that are in Lower Makefield Township so that when they choose a service or vendor, they would have the option to choose one who is their neighbor. Mr. Ron Smith stated he had previously recommended that they use a similar format for the Township Newsletter. Mr. Bob Smith stated the whole project would be put on a Web server and the Township is given a URL which could be linked to the Township Website. Mr. Smith stated in 24 months they could do this project again to capture new businesses.

Mr. Ron Smith asked if they could do this as a mailer, and Mr. Bob Smith stated it would be expensive and the Township is only getting 5,000 copies. To buy additional copies would be cost prohibitive as they cost about \$.50 a piece. Mr. Bob Smith stated they would like to find ways to use the TV channel and Website to help create an environment in the Township that is friendly to the residents and to the business community as well.

Mr. Stainthorpe stated he feels this is a great idea which helps promotes businesses in the Township which was the mission of the Economic Development Committee.

Mr. Caiola stated on February 17 Mr. McCaffrey has offered the second floor of his establishment for the Township to hold their first Meet and Greet. He stated the Lower Bucks Chamber of Commerce has provided information including their mailing list.

Mr. Bob Smith stated he will work with Mr. Fedorchak to put a letter together to be sent to the vendor to include in the solicitation packet. Mr. Smith stated they have indicated that the project should take only three months. Mr. Maloney asked how wide is the search area for advertisers; and Mr. Smith stated they do go out into a wide area so that they can get to the 120 needed in order to meet the three month deadline, and if the Township asked them to be more limiting and only find addresses within Lower Makefield's boundaries, it would take longer to get to the 120 and much longer to produce the project. He feels they will focus on Lower Makefield, Newtown, Morrisville, and Yardley.

APPROVAL OF RESOLUTION NO. 2183 RENAMING A PORTION OF BIG OAK ROAD ROBERT SUGARMAN WAY

Mr. Caiola moved and Mr. Smith seconded to approve Resolution No. 2183.

Mr. Stainthorpe suggested that they do the sign such that the Big Oak Road sign is left in place at the top and add a Robert Sugarman sign underneath so that the people traveling on the road do not get confused. The rest of the Board agreed. Mr. Fedorchak asked if the intention is that Big Oak would remain the mailing address for future residents, and

Mr. Maloney stated he feels the Matrix properties that are on this part of the road would have the mailing address Bob Sugarman Way. Mr. Fedorchak stated he understands that this item will be on Middletown's Agenda next Tuesday night, and he anticipates they will approve it so that it will be Bob Sugarman Way from the intersection at Oxford Valley Road all the way to the Railroad tracks and from that point north in Lower Makefield it is Township Line Road and you would then make a left into Middletown where it will remain Big Oak.

Motion carried unanimously.

ACKNOWLEDGE REQUEST BY DAVE FERRI TO HAVE TAX PARCEL
NO. 20-009-003, 73 MT. EYRE ROAD, INCLUDED IN THE AGRICULTURAL
SECURITY DISTRICT

Mr. Fedorchak stated this is the first step in the process. This is a 35 acre tract of land which abuts the Golf Course. He stated there will be a fifteen day public comment period; and the Township staff will then send the request to the Township Planning Commission, Bucks County Planning Commission, and the Township's Agricultural Security Board. Each group will have 45 days in which to act, and the Board of Supervisors will then have this on the Agenda for final approval.

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to acknowledge the request.

APPROVAL OF ORDINANCE NO. 373 ESTABLISHING AN AMATEUR RADIO
FACILITY OVERLAY DISTRICT

Mr. Truelove stated this Ordinance is mandated by a State law passed last year. The Ordinance has been advertised for consideration this evening.

Ms. Appelson moved and Mr. Stainthorpe seconded to approve Ordinance No. 373.

Mr. Maloney stated the Township was bound by the State to put such an Ordinance into place and regulates the construction of amateur (ham) radio antennas in the Township. Mr. Truelove stated State law now mandates that all Municipalities allow for these to be erected under certain regulations, and the Ordinance mimics the State law as required and has gone through a considerable review process by the Planning Commission and now by the Board. Mr. Maloney stated the intention is to allow the minimum relief for construction of these antennas.

Motion carried unanimously.

APPROVAL OF JANUARY 5 AND JANUARY 19, 2009 WARRANT LISTS AND DECEMBER, 2008 PAYROLL

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to approve January 5 and January 19, 2009 Warrant Lists and December, 2008 Payroll as attached to the Minutes.

APPROVAL OF RESOLUTION NO. 2181 AUTHORIZING DESTRUCTION OF CERTAIN SPECIFIC RECORDS

Mr. Stainthorpe moved and Mr. Caiola seconded to approve Resolution No. 2181.

Mr. Glenn Hyman asked what records are involved, and Mr. Stainthorpe stated they are Accounts Payable files, invoice entries, cash receipts, purchase orders and proofs, sewer invoices, vendor maintenance, journal entries, bank reconciliations, and payroll records from the year 2001.

Motion carried unanimously.

APPROVAL OF RESOLUTION NO. 2182 AUTHORIZING THE TOWNSHIP MANAGER TO PERIODICALLY INVEST TOWNSHIP FUNDS TO DIVERSIFY THE TOWNSHIP'S EXPOSURE AND REDUCE RISK OF POTENTIAL INVESTMENT LOSSES

Mr. Brian McCloskey stated this will allow for recommendations from either himself or Mr. Fedorchak to periodically move some funds in light of what happened in 2008 with the banking situation and credit markets. He stated they have built into the Resolution checks and balances such that the Treasurer would have to be involved as well, and they would only move funds to other banks within the FDIC insured limits. In no case would they violate Pennsylvania Revenue Act 72 which states that all funds must be collateralized. He stated they are happy with their current banking situation, but as previously discussed in light of what has happened recently with banks they felt it best to diversify and safeguard the assets of the Township in the best way possible, and to periodically move money primarily into Certificates of Deposit with other banking institutions.

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to approve Resolution No. 2182.

APPROVAL OF CONDITIONAL USE APPLICATION BY CELLCO PARTNERSHIP
D/B/A VERIZON WIRELESS TO INCREASE THE SIZE OF ITS EXISTING
TELECOM COMPOUND ON STONY HILL ROAD

Mr. Ed Wild, attorney, was present representing the Applicant. Ms. Appelson read the Notice into the record for the property at 1000 Stony Hill Road. Mr. Truelove stated this matter was duly advertised. Exhibit T-1 is the Notice as read by Ms. Appelson. Exhibit T-2 is the December 9, 2008 Lower Makefield Township Planning Commission Memorandum recommending approval and attached is the 12/4/08 review letter from CMX Engineering, James Majewski, Township Engineer. Exhibit T-3 is the 12/11/08 memo from Nancy Frick, Director of Zoning, Inspections, and Planning with attached Notice and Proof of Posting of the property and includes information from Mr. Majewski's report. Exhibit T-4 is the pertinent Section of the Ordinance 200-50.1 Use Regulations and Design Standards for the RTF Overlay District. Exhibit T-5 is Section 200-90 Article XXII – Conditional Uses of the Lower Makefield Township Zoning Code. Mr. Wild had no objection to entering these items into the record.

Mr. Wild stated the Conditional Use Application is a use permitted by right subject to a Hearing before the Board of Supervisors where the Applicant demonstrates compliance with specific criteria in the Ordinance. Mr. Wild stated the property is at 1000 Stony Hill Road at the southeast corner of the Lower Makefield Corporate Center at Stony Hill Road and Yardley/Newtown Road and it is an existing facility with a fenced compound, tower, and a series of users located on the tower. This Application proposes an extension to the tower of 14' with an attachment of a new antenna array at the top of the tower by Verizon Wireless and the installation of an additional prefabricated tele-communications equipment shelter inside of the slightly expanded compound. Mr. Wild stated the Notice that was read indicates that the shelter is 30' and if this was what was in the Application this is an error as the equipment shelter will be 11 ½' by 20'.

Mr. Wild stated present this evening are Sue Manshell, the property site representative from Verizon, the project engineer, Ron Igneri, and a radio frequency engineer, Andrew Petersohn.

The following Exhibits were identified and distributed: Exhibit A-1 is the Conditional Use Application filed. Exhibit A-2 is a letter of authorization of American Tower who is the entity that controls the tower. Exhibit A-3 is the review letter of 11/4/08 from Mr. Majewski, Township engineer. Exhibit A-4 are the Plans that have been submitted and revised by the project engineer, Innovative Engineer, dated 7/29/08, last revised 11/18/08 in response to the Township engineer's review. Exhibits, A-5, A-6, A-7, and A-8 are prior approvals of some of the existing users of the tower including OmniPoint, Sprint, Comcast Metrophone and a subsequent Application from Sprint to expand their prior Approval. Exhibit A-9 is a structural report prepared by American Tower

Engineering Services demonstrating that the additional extension and antennas still meet all applicable engineering criteria. Exhibit A-10 is an information packet about the outdoor generator as the Planning Commission had a question as to whether it would run efficiently and quietly, and so they submitted additional data about the generator. Exhibit A-11 is the FCC License to permit provision of tele-communication services in the licensed area that includes Lower Makefield Township. Exhibits A-12 and A-13 are reports prepared by DBM Engineering, Mr. Petersohn's firm, and confirm the lack of any EMF issues or any interference issues with other uses. Exhibits A-14 and A-15 are FAA screening reports to demonstrate that the additional modest increase in the height represents no concern to the FAA. Exhibit A-16 is the Building Permit Drawings that are intended to be submitted to show the extended tower. Exhibit A-17 is a third amendment to the existing Lease at the site confirming that the property owner, Newtown Investment Partners LP has consented to the Application in the slightly expanded compound. Mr. Wild stated many of these Exhibits were submitted as supplemental filing materials to the Township.

Mr. Truelove asked if any member of the Public was interested in having Party Status. Ms. Virginia Torbert stated she has several questions adding she is a neighbor of the tower and has a number of concerns. Mr. Wild stated possibly it would be best to take the questions after he summarizes the Witnesses testimony, and this was satisfactory to Ms. Torbert.

Sue Manshell, Ron Ignieri, and Andrew Petersohn were sworn in.

Mr. Wild stated if called, Ms. Manshell would testify that she is a site representative retained by Verizon Wireless and her job responsibilities include attempting to fulfill Verizon Wireless' needs under their License program for tele-communications, and that the program includes a number of factors. She would testify that Verizon looks for sites that primarily will satisfy their operational needs where they have gaps in service. Ms. Manshell would testify that she was provided information from the Radio Frequency Department that there was a gap in service, and that the area where the gap in service exists is in the vicinity of the proposed site. Ms. Manshell would state that she attempts to find locations that are zoned to permit the use, have a willing landlord, and have other factors or characteristics that are amenable to this use such as an existing tower or an existing tall structure. She would testify that her search led her to this site and that she oversaw the preparation of the various consulting reports many of which have been marked as Exhibits. Ms. Manshell would authenticate the FCC License and advise that this site satisfies all of the needs that Verizon seeks to satisfy in the program in that there is a willing landlord, the site is zoned appropriately, is used already as a tele-communications facility, and that it satisfies the radio frequency concerns. Ms. Manshell would also testify that to the extent that Section 200-50.1 of the Ordinance has criteria in it that require future consent of Verizon, that any of those items would be acceptable Conditions, most specifically Sub-Section A4 which would require the Applicant to

provide financial security to remove the facilities of Verizon in the event that they have met the requirement in the Ordinance which is to say they failed to be used for a six month period or otherwise operations of Verizon ceased. Ms. Manshell would also authenticate the various Leases and Consents including Exhibits A-2 and A-17 and advise that the underlying ground owner and the tower operator have consented to this Application.

Ms. Manshell agreed that this would be her testimony.

Mr. Wild stated Mr. Igneri would testify that he is the project engineer and prepared the Plans that were marked as part of the Application and those Plans were designed to be responsive to the Ordinance and that he did examine the Township engineer's review letter and sought to resolve whatever engineering concerns were raised. Mr. Igneri would state that he frequently testifies and prepares plans for tele-communication providers and that he reviewed the Ordinance Sections that relate to this Application including Section 200-50-.1 and that the Site Plan satisfied Sub-Section 2 in terms of the engineering details and identifies the appropriate use, has the appropriate elevations, depicts appropriate vehicular access, fencing, and landscaping. Mr. Igneri would testify that the Ordinance is designed to permit co-location and multiple users on a tower and that the Ordinance is working as intended as people would not want to see additional towers in the Overlay District or side-by-side towers or more towers than necessary so the idea of the Ordinance is to force Applicants to use the existing facilities. Mr. Igneri would testify that this site is not on the National Register of Historic Places. Mr. Igneri would testify that the site is fully automated and unattended on a daily basis and would be visited only periodically for maintenance or emergency repairs. Mr. Igneri would also testify that it has an existing 7' high security fence that surrounds the compound and that the evergreen screen that is proposed on the Plans meets the requirements of Sub-Section 9. He would also testify that the Application otherwise satisfies all of the area dimensional or bulk Zoning requirements that are applicable in the O/R District and in the Radio and Tele-Communications Facility Overlay District. Mr. Igneri would testify that vehicular access does not interfere with parking or circulation for the underlying Corporate Center. He would also testify that the amendment to the Lease is appropriate in terms of allowing access for Verizon to the facilities.

Mr. Igneri agreed that what Mr. Wild has indicated would be his testimony.

Mr. Wild stated Mr. Petersohn would testify that he is a radio frequency engineer retained by Verizon on an Application basis to determine the proposed facilities and that he had a hand in the preparation of both Exhibits A-12 and A-13 – the EMF Analysis and the Interference Analysis and that there are no health, safety, or welfare concerns presented by the Application. Mr. Petersohn would testify that the tower needs to be increased in height to allow Verizon to make meaningful use and that the other spaces on the tower are taken up and effectively prohibit Verizon from having any meaningful service if they

located their towers at the last available space below all other users and would be so low as to serve no effective purpose, and the only way the Application would be sensible would be to increase the height of the tower. Mr. Petersohn would testify that the increase in height of the tower satisfies Sub-Section 3 of Section 200-50.1a as being the minimum height necessary for the facility to serve its intended function. Mr. Petersohn would testify to the extent that the Ordinance has general Conditional Use criteria in Article 22, that the Application otherwise satisfies all of the general criteria related to Conditional Uses because the site already exists.

Mr. Petersohn stated that his testimony would be as summarized by Mr. Wild.

Ms. Torbert was advised that if she would want to take an Appeal, she would need to request Party status this evening. Ms. Torbert, 1700 Yardley-Newtown Road, stated she lives on the farm across the street from the tower. She stated she feels it mars the view from the farm and the development behind her property as it is a very prominent tower and she is concerned about increasing its height. She stated the tower is in the O/R District and the RTF District, but at the very edge of the O/R District. She stated there was a discrepancy in the paper as it discussed a 9' extension and the testimony was that it would be a 14' extension.

Mr. Wild stated the Tower would go from 118' to 132' so it would be a 14' extension to the tower and the top of Verizon's antenna would be 2' higher than the top of the tower so that Verizon's antennas would be at a height of 134'. Mr. Wild stated some questions arose as to the height of the tower at the Planning Commission, and Mr. Ignneri went out and measured it and did an engineering assessment of the height and it turned out to be 14'. Mr. Truelove stated Mr. Majewski was present at the Planning Commission meeting as well, and Mr. Wild agreed.

Ms. Torbert asked if this means that it needs to be re-advertised, and Mr. Truelove stated it would not as it was a Notice as to the proposed use, the record can be conformed accordingly, and the public is present so that they can ask questions.

Ms. Torbert asked if this is the first time the height has been raised since the tower was installed. Mr. Ignneri stated this is the first time it has been raised to the best of his knowledge. He stated the structural report indicates that it was a 118' tower and was described by Mr. Wild, the existing antennas extend slightly above that with the platform arrangement. Mr. Ignneri stated this is a 14' extension and the antennas at the highest point on the extension are at 134' and since the highest point as it stands today is 123' it is actually an 11' extension.

Mr. Smith asked if there are any comparable towers in the Township, and Mr. Igneri stated while he does not know specifically, generally towers are approximately 125' to 150'. Mr. Truelove stated there is a tower adjacent to the Township Building which is approximately that height, and Mr. Majewski stated the one on Woodside Road is also a comparable height.

Ms. Torbert asked how high the tower could be, and Mr. Igneri stated the structural report indicates that as extended through this Application it would be at 100%. He stated there are other means of extending should another carrier anticipate this but this would involve reinforcement of the tower and perhaps the foundation. Ms. Torbert asked the alternative if they did not make the tower higher, and Mr. Truelove stated that the testimony indicated that they would have to add other towers on the property which may be much less desirable.

Ms. Torbert asked if they have been on the site and seen the evergreen screening. Mr. Wild stated there will have to be a Building Permit Application and what they have indicated in testimony and on their Plans is that the Building Permit Application and the final construction will comply with the evergreen screening in the Ordinance. Ms. Torbert stated she does not feel this tower is attractive currently and does not feel it is in keeping with the area and she objects to raising it another one and a half stories as this is primarily an agricultural area. She stated if the Board were to turn this down perhaps they could build another tower further down the highway. Mr. Truelove stated from a legal standpoint, the District it is sited in is appropriate. Ms. Torbert stated while it may be legally appropriate, she does not feel it is aesthetically appropriate.

Mr. Maloney asked that Mr. Truelove comment on the legal height requirements that apply, and Mr. Truelove stated because it is an Overlay District, it allows them to go above what is normally permitted. He added it is required by law that the Township provide an area accessible to tele-communication facilities for this use.

Mr. Glenn Hyman asked the primary beneficiaries of raising the tower, and Mr. Truelove stated he assumes it would be Verizon customers. Mr. Wild stated the Ordinance has an obligation to permit this use somewhere, and they have chosen to permit it in an Overlay District. He stated as a Conditional Use, this is a permitted District. He stated as to who benefits, it is not only the users of Verizon service, but Verizon has found that the benefits include the capacity that it makes available for 911, availability of the Verizon service for emergency personnel including police, fire, and ambulance, and the community in general. Mr. Hyman asked if Verizon is currently on this tower, and Mr. Wild stated they are not. Mr. Hyman asked if they have received complaints from users about not being able to get service. Mr. Wild stated they will not answer those questions. Mr. Hyman stated he feels it is critical that the Board know whether this is even necessary. Mr. Wild stated there is a significant gap in service and the Ordinance permits the use by right as a Conditional Use. He stated the Application is not contingent

upon Verizon demonstrating a need as this is not a Variance or exception to the Ordinance. He stated it is beyond the scope of this hearing to delve into questions about how many calls are dropped or the degree of service interruption as it is not necessary for Verizon to demonstrate this as the Ordinance permits this as a Conditional Use. Mr. Hyman stated while he understands this, if they are doing something that is not needed which is impacting residents of the community, he feels the Township should understand the need. Mr. Truelove stated while his question is understandable, it is not legally relevant because this is a permitted use in this established District and the criteria that has to be met does not include need per se. Mr. Hyman stated it appears that there are alternatives such as putting the antennas a foot higher or lower than what is there today but they are choosing to raise it 11' for some unknown reason. Mr. Truelove stated the testimony was that locating anything below where it is proposed would not be an effective alternative. Mr. Hyman stated while he is not a Verizon customer, he knows that a vast majority of his friends in the area do use Verizon and have indicated they have no problem with their service. He stated unless it can be demonstrated that there is a Verizon service problem in the area, he does not understand why the Township should approve increasing the tower's height which is an aesthetics issue. Mr. Truelove stated aesthetics are not part of the Conditional Use or the Overlay District standards. He stated there is a lot of Federal and State law that limits what the Township can and cannot do. He stated the standards have been discussed and the Applicant has indicated that there is a gap in coverage and that this is the most feasible way of dealing with it. There has also been an engineering analysis that indicates this is proper.

Mr. Hyman stated they have heard testimony from Verizon experts that have been hired by Verizon and have heard no other testimony that indicates there is a gap. Mr. Maloney stated they want to make sure that they are providing the least relief, and they would be setting the Township up for litigation if they reject something without legal grounds to do so. Mr. Truelove stated the Township cannot change the standards that are in the law. He stated the Applicant has submitted Exhibits including a recommendation from the Township's Planning Commission and the Township's engineer. Mr. Hyman stated the tower is visible from I-95 and he feels this will be even more of a distraction for drivers on I-95 when it is extended. Mr. Caiola stated he does not feel it is a distraction since these towers are everywhere and are a necessary evil. Mr. Smith stated there have been other Applicants coming through and each one is reviewed by the Township and are approved if they meet the requirements. He stated there have been times when Applications have been rejected which resulted in litigation against the Township which involved costs to the Township.

Mr. Truelove stated Mr. Majewski previously submitted a report and asked if he had anything to add to the testimony this evening, and Mr. Majewski stated that the subsequently submitted Plans and reports have satisfied the comments in his letter.

Mr. Wild moved admission of Exhibits A-1 through A-17, and the Board had no objection to these being admitted.

Mr. Stainthorpe moved, Ms. Appelson seconded and it was unanimously carried to approve the Conditional Use.

REQUEST BY PENNSBURY SCHOOL DISTRICT FOR RELIEF FROM PERMIT FEES FOR RENOVATION PROJECT AT MAKEFIELD ELEMENTARY SCHOOL

Mr. Maloney stated they are tabling this item.

GRANT EXTENSION TO NORMAN AND PATRICIA O'ROURKE

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to grant an Extension to Norman and Patricia O'Rourke Minor Subdivision, Washington Crossing Road, to 4/21/09.

APPROVE GRANTING CERTIFICATE OF APPROPRIATENESS FOR CARRIAGE HOUSE AT 1761 YARDLEY-LANGHORNE ROAD

Mr. Caiola moved and Mr. Stainthorpe seconded granting Certificate of Appropriateness for repairs and painting of the detached carriage house located at 1761 Yardley-Langhorne Road.

Mr. Richard Brown, architect, was present representing Mrs. Katsoff, owner of the property. Mr. Maloney stated there is a review letter from the Historic Architectural Review Board dated 1/12/09, and Mr. Brown stated they have not received that letter. He was provided a copy this evening. Mr. Maloney stated HARB has requested that certain conditions be met before this is approved including that a certain type of windows be used, that a certain color and type of roof shingles be used, that doors and windows have a certain number of panels, and that the siding if replaced be wood. Mr. Katsoff agreed to those conditions.

Motion carried unanimously subject to compliance with the 1/12/09 HARB letter.

ZONING HEARING BOARD MATTERS

With regard to the Michael Scott and Maura Beede, 1028 Lafayette Drive, Variance request to construct an addition resulting in greater than permitted impervious surface it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the JAM Enterprise Variance request to construct a handicapped access to a house located at 400 Collins Grant Court which would result in encroachment into special side, front and rear setbacks, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Gary McClister, 506 Sony Hill Road, Variance request to permit a 3 foot setback from the rear property line for an existing detached garage, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. Caiola stated Mr. Ethan Shiller was elected Chairman of the Citizens Budget Commission and Kenny Martin was elected as Vice Chairman.

APPROVAL OF RESOLUTION NO. 2179 APPLYING FOR TIMOTHY P. U'SELIS TO ATTEND A POLICE OFFICER BASIC TRAINING PROGRAM

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to approve Resolution No. 2179.

APPROVAL OF RESOLUTION NO. 2180 APPLYING FOR BRIAN HOLDER TO ATTEND A POLICE OFFICER BASIC TRAINING PROGRAM

Ms. Appelton moved, Mr. Caiola seconded and it was unanimously carried to approve Resolution No. 2180.

APPOINT BIRDSALL ENGINEERING AS TOWNSHIP'S ENVIRONMENTAL ENGINEERS

Mr. Caiola moved and Ms. Appelton seconded appointment of Birdsall Engineering as the Township's Environmental Engineer.

Mr. Maloney stated Birdsall has agreed to freeze the 2009 rates based on their 2008 rates.

Motion carried with Mr. Stainthorpe abstained.

APPOINT GILMORE ENGINEERS AS SEWER AND CONFLICT ENGINEERS

Mr. Caiola moved and Mr. Stainthorpe seconded to appoint Gilmore Engineers as the Sewer Engineer and Conflict Engineer for 2009.

Mr. Caiola stated they had an opportunity to meet with them prior to this evening's meeting and ask questions, and they are a very capable group.

Motion carried unanimously.

APPOINTMENTS

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to re-appoint Chip Kern to the Golf Committee and appoint Dan McLaughlin to the Farmland Preservation Corporation.

There being no further business, Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to adjourn the meeting at 11:15 p.m.

Respectfully Submitted,

Teri Appelson, Secretary

