

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – MAY 6, 2009

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 6, 2009. Chairman Maloney called the meeting to order at 7:30 p.m. noting that prior to the public meeting, the Board met in Executive Session to discuss legal and real estate matters. Ms. Appelton called the roll.

Those present:

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

Others: Terry Fedorchak, Township Manager
 David Truelove, Township Solicitor (joined meeting in
 progress)
 Vince Magyar, Township Solicitor (left meeting in
 progress)
 James Majewski, Township Engineer
 Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Ms. Sue Herman, Chairman of Residents for Regional Traffic Solutions, Inc. read a letter into the record (copy attached to the Minutes) a letter from R.R.T.S. to the Board expressing their concerns about the 4/15/09 meeting Minutes where there was discussion about the Stoopville/Washington Crossing Road intersection and the Stoopville traffic calming project.

APPROVAL OF MINUTES

Mr. Caiola moved, Ms. Appelton seconded and it was unanimously carried to approve the Minutes of April 15, 2009 as written.

APPROVAL OF APRIL 6 AND APRIL 20, 2009 WARRANT LISTS AND MARCH, 2009 PAYROLL

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to approve the April 6 and April 20, 2009 Warrant Lists and March, 2009 Payroll as attached to the Minutes.

REPORT OF SPECIAL EVENTS COMMITTEE

Ms. Donna Liney and Ms. Rebecca Cecchine were present. Ms. Cecchine stated the Special Events Committee will hold an event on May 30 which will be called “An Evening in the Park.” She stated the event starts at 5:30 p.m. and there will be a DJ present and family games followed by the movie, “Hotel for Dogs” which will be displayed on a 26’ by 28’ inflatable screen. Parking is available at Kids Kingdom, the Edgewood School, and across the street from the Township Building. Ms. Cecchine stated refreshments will be sold by the Veteran’s Committee with all proceeds going to Veterans Square. This will be a “Shine Only” event. She stated more information is available at specialevents@lmt.org or by calling 267-274-1116. Information is also available on the Township Website. Ms. Cecchine thanked Mr. Smith, their liaison, and the rest of the Board for their support.

Mr. Smith suggested that they include in their information that this event is being held at Kids Kingdom as some residents may not be familiar with the location of “Community Park.” Mr. Smith noted that this event is free and no reservations are needed.

Ms. Cecchine thanked Ms. Marielle Wolf for the job she did last year as Chair of the Special Events Committee. Mr. Smith noted you do not have to be a member of the Special Events Committee to come to their meetings and be involved.

APPROVAL OF GRANT OF CERTIFICATE OF APPROPRIATENESS FOR SIGN AT 668 STONY HILL ROAD (WARREN FARRINGER HOUSE)

Mr. Stainthorpe moved and Mr. Caiola seconded granting Certificate of Appropriateness for a sign at 668 Stony Hill Road.

Mr. Stainthorpe stated HARB spent a significant amount of time discussing this, and recommended approval.

Motion carried unanimously.

ZONING HEARING BOARD MATTERS

With regard to the David and Janet Goodwin, Jr. challenge to the validity of the Order, Appeal of the determination of the Code Enforcement Officer, and Variances to permit construction of a single-family home on Pine Grove Road it was agreed that the Township should participate.

With regard to the Jeffrey Dayton, 1561 Silo Road, Variance request to permit construction of a shed not located within the fourth of the lot farthest removed from the abutting street and encroaching into the special setback of Yardley-Langhorne Road, it was agreed to leave the matter to the Zoning Hearing Board

With regard to the Jacob Gublo, 1550 Clark Drive, Variance request to replace a wooden deck with a slightly larger paver deck resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS' REPORTS

Mr. Caiola stated the Township map will be available shortly and 10,000 copies will be printed for free. The map will highlight businesses in Lower Makefield and surrounding communities. Mr. Caiola stated the Historic Commission held their Open House Tour on Sunday and while attendance was impacted by the bad weather, those attending were very responsive. He stated they sold some of the new Township tiles, and there is information on how to purchase these on the Township Website. Mr. Maloney thanked the Township staff and Township volunteers for helping with this event. Mr. Caiola stated the Bucks County Performing Arts Council will be putting together five to six groups who will be performing at this year's Community Pride Day. The Bucks County Performing Arts season will begin in the fall and there will be a fundraiser in late June. This will be their thirty-first year.

Ms. Appelton stated the Sewer Authority's engineer is continuing to work on the 537 Plan which should be ready in approximately one and a half months. She also noted they have installed two flow meters in Falls Township to look at the actual usage in Falls Township which will provide more accurate numbers. Ms. Appelton stated the EAC had a successful Global Warming Conference last month; and at the next Board of Supervisors' meeting, they will make a presentation on Green Building Code. She stated she and Mr. Stainthorpe went to the George School yesterday to see their library which is a green building being built according to LEED classifications.

Mr. Maloney stated they have found the leak in the lake at the Golf Course. He also noted that the Farmland Preservation Corporation had their tour in April.

Mr. Smith stated the Veterans Committee is working on fundraising and are looking for help. He stated the Special Events Committee is looking for help with Community Pride Day and those interested can contact the Committee or Ms. Liney at the Township. Mr. Smith stated the Citizens Traffic Commission is continuing to work on different projects including the West Ferry study group.

Mr. Stainthorpe stated the Emergency Management Committee met last week to discuss preparedness in the event of a swine flu epidemic. Chief Coluzzi stated residents will find a brief advisory on the Township Website and on the Neighborhood Watch Website which will have a contact number to call if there are questions or concerns. He stated they also discussed the purchase of protective equipment which would be given out to all first responders and a protocol will be set up for the first responders. He stated the Yardley Makefield Emergency Unit will be conducting a short training session with Police as well and will take extra care with Township indoor facilities.

AWARD 2009-2010 FUEL BIDS

Mr. Fedorchak stated they received the new bids for fuel and heating oil from the Consortium and he noted the bids received which are significantly lower than last year. He stated when compared to the Budgeted amounts for 2009, assuming the same amount of usage as the previous year, the Township should realize about \$30,000 in savings compared to what was Budgeted for the fuel oil and approximately \$10,000 in savings for heating oil.

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to award the 2009-2010 Fuel Bids to Sunoco, Inc. and petroleum Traders for the period May 1, 2009 to April 30, 2010 through the Bucks County Consortium.

OTHER BUSINESS

Mr. Maloney stated at a prior meeting the Board indicated that they would discuss the prospect of a Committee to discuss and manage ongoing opportunities to invest in non-lethal opportunities to manage deer. He stated the Board feels that there are currently too many unknowns as to whether they will be able to go forward with what the Board approved previously as to the deer management program; and until there is approval from the Game Commission and it is known that the Township will proceed with the program approved, forming a Committee would be premature as they would not know what the mandate of the Committee would be. Mr. Fedorchak stated he will be meeting with officials from the Game Commission on May 19 when they will have a better understanding of what they will require in order for the Township to secure the Deer Control Permit.

APPOINTMENTS

Mr. Caiola moved and Ms. Appelson seconded to appoint Joe Menard and Michael Landy to the Citizens Budget Commission. Mr. Smith stated they interviewed many good candidates; and if there are openings in the future, they will go back to the list of candidates interviewed to fill those vacancies. Motion carried unanimously.

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to re-appoint the following: Sue Herman to Citizens Traffic Commission, Kevin Treiber and Allyson Kliefoth to Emergency Management, Rick Ewing to the Environmental Advisory Council, and Andrew Newbon to Park & Recreation.

APPROVAL OF PRELIMINARY/FINAL PLAN FOR OCTAGON CENTER – RETAIL CENTER AND LOT CONSOLIDATION

Marc Brookman, attorney, and Mr. Russell Tepper were present. Mr. Brookman stated they are requesting approval of the Preliminary/Final Plan for the retail component of Octagon Center including a Waiver from Section 178.47.A which relates to a requirement for sidewalks around the site. Mr. Brookman stated the Plan has been reviewed by all the Township consultants and received a favorable recommendation from the Planning Commission.

Mr. Brookman noted the letter from Mr. Majewski dated 4/21/09 Item A5 which suggests that plugs be used with respect to areas around the rain gardens although the Code does not require these. Mr. Brookman stated they have discussed with Mr. Majewski that in the event that the seeding does not take, they will meet with him and decide whether reseeded is necessary or a combination of reseeding and plugs; but initially they would like to proceed only with the Code requirements and seed that area.

Mr. Tepper showed the Plan of the Octagon Center retail center. To the east is Oxford Valley Road, to the west is Old Oxford Valley Road, to the north is Big Oak Road, and to the south is the existing gas station. They propose two retail buildings – a pharmacy and a bank. They have access off Oxford Valley Road and Old Oxford Valley Road. The access off of Oxford Valley Road is right in, right out only. The accesses were shown on the Plan. Mr. Tepper stated as part of this project, a portion of Old Oxford Valley Road will be relocated to the west by approximately 150 feet. Sufficient parking and drainage systems will be constructed on site to accommodate the development.

Mr. Magyar left the meeting at this time. Mr. Truelove joined the meeting at this time.

Mr. Maloney asked about speed control for the straight drive, and Mr. Tepper stated there are crosswalks, stop signs, and traffic coordination measures proposed in accordance with the Developer's traffic engineer's design and the Township's traffic engineer's review.

Mr. Caiola asked about the size of the proposed CVS, and Mr. Tepper stated it is 11,000 square feet.

Ms. Appelton asked about the tree lines. Mr. Tepper there was previous discussion about the preservation of the tree line on the north side of Big Oak Road along Oxford Valley Road across from the residential community to be developed in the future. There have been some more recent requests about the tree line south of Big Oak Road that front on the retail portion, and a significant portion of that tree line will be maintained. He stated there is a portion of the treed area that is within PennDOT's right-of-way where existing drainage swales will be improved as part of the development. Permits for this were received from PennDOT over two years ago.

Mr. Tepper stated they are seeking relief from the requirement to install sidewalks to be constructed along all street frontages. He stated given the types of roads surrounding this project, they felt it would be most prudent to locate sidewalks along Old Oxford Valley Road toward Big Oak Road that would eventually tie into future sidewalks for the rest of the development. They did not feel sidewalks on Oxford Valley Road would be appropriate since there are no other sidewalks for them to tie into and also because of safety concerns. They are therefore seeking a Waiver for providing sidewalks in certain locations. They will provide sidewalks on site to get pedestrians from the street through the site to the CVS and the bank. Mr. Tepper noted on the Plan the areas for which they are requesting a Waiver

Mr. Smith stated for those heading north on Oxford Valley Road wishing to go to the bank or the pharmacy, it could be difficult to make a left turn onto Big Oak Road depending on the time of day. Mr. Maloney agreed that this does queue quite long during rush hours. Mr. Tepper stated at this time, the off-site road improvements that are being constructed are the re-location of Old Oxford Valley Road and the access point off of Oxford Valley Road. They have an ongoing obligation to install a much greater extent of road improvements as part of the larger project which the developer, the Township, and the other members of the original Settlement Agreement to the project agreed to phase given the small nature of what is being proposed for development at this time in relation to the rest of the project. He stated there was an agreement that the significant road improvements that are contemplated at the intersection of Big Oak Road and Oxford Valley Road would be deferred, and PennDOT has agreed to this as well as part of the amendment to the Settlement Agreement.

Mr. Truelove stated while the Development Agreement and Security Agreement have been prepared, they are still waiting for the final surety amounts so that any approval tonight should be subject to receiving the numbers; and this was acceptable to Mr. Brookman.

Mr. Truelove stated he will read into the record Conditions of Approval noting that he has discussed this with Mr. Brookman. Mr. Truelove stated he will put the approval letter in final form and attach it to the Development Agreement.

Mr. Truelove read the Conditions for the Approval of Tax Map Parcels #20-32-40 and #20-32-38, Plan #335-R for Plans prepared by Gilmore and Associates dated 7/14/06, last revised 3/31/09 as follows:

- 1) Compliance with Remington Vernick Engineers 4/21/09 review letter authored by James Majewski;
- 2) Compliance with Remington Vernick Engineers 4/21/09 sanitary sewer review letter;
- 3) Compliance with Traffic Planning & Design, Inc. 4/30/09 review letter;
- 4) Receipt of all Permits and approvals by any agency having jurisdiction over this Application including but not limited to the Bucks County Conservation District, PennDOT, and Pennsylvania Department of Environmental Protection;
- 5) Compliance with all applicable provisions of the Lower Makefield Township SALDO and Zoning Ordinances;
- 6) Compliance with all applicable stormwater management regulations, Ordinances, and statutes including but not limited to the Delaware River South Watershed Stormwater Management Ordinance;
- 7) Where applicable compliance with the Settlement Agreement dated 5/18/06 by and between Matrix/AEW Acquisition LLC, Residents Against Matrix, Dana Weyrick, Bellemead Development Corporation, and the Township of Lower Makefield;
- 8) Where applicable compliance with the first Amendment to the Settlement Agreement dated 2/18/09 by and between Matrix/AEW Acquisition LLC, Residents Against Matrix, Dana Weyrick, Bellemead Development Corporation and the Township of Lower Makefield;

- 9) Compliance with the 3/24/09 Lower Makefield Township Planning Commission memo;
- 10) Compliance with the Bucks County Conservation District letter dated 5/4/09;
- 11) Compliance with the Bucks County Planning Commission memorandum dated 2/11/09;
- 12) Compliance with Birdsall Engineering Inc. review letter dated 4/21/09;
- 13) Compliance with the review letter of James Yates, Fire Protection Consultant dated 4/22/09;
- 14) Compliance with PennDOT review letter dated 1/21/09;
- 15) Compliance with review memo from the Lower Makefield Historical Commission dated 1/19/09;
- 16) Where applicable, compliance with jurisdictional determinations from the Army Corps of Engineers dated 4/2/07;
- 17) Compliance with review memorandum of Lower Makefield Township Police Captain Thomas Roche dated 4/20/09;
- 18) Execution and Compliance with the Development Agreement signed and approved simultaneously with the Approval granted herein subject to the terms discussed prior to the reading of the draft approval letter.

Mr. Brookman noted the request for the Waiver from Section 178.47.A relating to the sidewalks and with this amendment, Mr. Truelove's draft was acceptable to the Applicant.

Mr. Stainthorpe moved and Ms. Appelson seconded to approve subject to the Conditions noted.

Mr. Zachary Rubin asked the progress with respect to the residential part of the project. Mr. Tepper stated the economy has made that particular component of the project difficult to commence. He stated they have worked hard and made a significant investment in the community, and are hopeful to move forward with that as soon as the economy allows. Mr. Rubin noted the total 186 acres and asked if they have any proposals for other retail centers besides what is being discussed this evening on the Lower Makefield or Middletown tracts, and Mr. Tepper stated they do not.

Ms. Virginia Torbert, Citizens Traffic Commission, stated she did not hear in the list of Conditions compliance with the TPD letter dated 2/2/09. Mr. Truelove stated there was a supplemental letter dated 4/30/09 which is #3 of the Conditions read; and this incorporated the prior TPD review. Ms. Torbert stated the 4/30 letter only referenced the pedestrian facilities and the 2/2/09 letter was the basic letter that addressed most of the traffic improvement issues involved. She stated that letter indicated that so little detailed information had been provided that TPD could not determine if the traffic improvements would be adequate to address the development. She stated when the Citizens Traffic Commission was shown the Plans, they were not shown what is being shown this evening; and the Plan they were shown did not show any of the traffic improvements. She stated they were later told that there would be no improvements to Big Oak and Oxford Valley Road. She stated they have not seen a traffic study. She asked if there was an estimate as to how much traffic this development would generate and if there was a response to the 2/2/09 TPD letter.

Mr. Tepper stated there was a response to the 2/2/09 letter including discussions with the engineers which resulted in the issuance of the subsequent TPD letter. There was also an analysis done by the developer's traffic engineer which was submitted to the Township and TPD to review. There was also an appropriate analysis submitted to PennDOT as a condition of the Settlement Agreement Amendment to analyze the traffic associated with the proposed retail development.

Ms. Torbert asked if they know how much traffic will be associated with the retail development, and Mr. Tepper stated this was provided by the developer's traffic engineer to the Township and PennDOT. Mr. Maloney stated they have received communications from TPD and the various professionals indicating that they have no further objections to the Plan.

Ms. Torbert stated all she has seen is a 2/2/09 letter from TPD indicating that they did not receive enough information on which to base an opinion and then a 4/30/09 letter that just addressed pedestrian facilities. She stated she has no idea how much traffic this is going to generate so the Citizens Traffic Commission cannot make a recommendation to the Board as to whether the proposed traffic improvements are adequate or not.

Mr. Truelove stated the 2/2/09 letter was attached to the Lower Makefield Township Planning Commission memo so it is incorporated into the compliance aspects. Ms. Torbert asked if the Planning Commission attached any Conditions, and Mr. Truelove read the Planning Commission memo as follows: "At the Planning Commission meeting held Monday, March 23, 2009 the Board moved to recommend to the Board of Supervisors approval of the Preliminary/Final Plan dated 12/22/08 subject to compliance with the letter of Remington Vernick dated 2/17/09, TPD letter dated 2/2/09 and the e-mail from TPD dated 3/19/09." He stated they also discuss the Bucks County Planning Commission letter. Ms. Torbert asked how they can comply with a letter that

says they do not have enough information on which to make a decision. Mr. Truelove stated it is his understanding that subsequent traffic studies addressed concerns both by TPD and PennDOT.

Ms. Torbert asked if the developer is willing to advise this evening how much traffic they believe this development will generate at peak hours. Mr. Brookman stated they provided this testimony before the Planning Commission when Mr. Rodgers testified as to the volumes that would be created at the intersection; and based upon that it was agreed upon by TPD that they were not sufficient to require an additional impact statement based on State criteria. Mr. Brookman stated they do not have the exact counts with them this evening. Mr. Truelove stated this was presented to the Planning Commission prior to the issuance of the memo from the Planning Commission recommending approval.

Ms. Torbert stated she is concerned with traffic backing up waiting to make turns into these new facilities and coming out of the site, and she feels they should be making more improvements even though there would not be enough to warrant a traffic signal. Mr. Caiola stated once they begin construction of the residential development, it will be a much bigger issue. He stated he does not feel these uses will create a huge amount of traffic being generated particularly at rush hour just for these two retail uses. Mr. Maloney stated an Agreement has also been entered into by all Parties involved that they would defer the requirement for significant traffic improvements. He stated they cannot now add significant traffic improvement requirements for this portion of the project as they have already signed a legal document indicating they would not do this.

Mr. Majewski stated if TPD had concerns with the traffic, they would have mentioned this in their letter. He stated he does not believe the traffic volumes are significant coming out of the site and heading north on Big Oak Road. He stated he does not feel it would meet any warrant for a traffic light. Ms. Torbert stated TPD did mention a number of concerns in their 2/2/09 letter, and Mr. Majewski stated those concerns were subsequently addressed and they had sent an e-mail prior to the Planning Commission meeting in March narrowing down their concerns after they had spoken to the representatives from Orth-Rodgers and those concerns were minor details such as handicap ramps, striping, etc. Ms. Torbert asked if the e-mail is part of the approval, and Mr. Majewski stated it was part of the approval letter from the Planning Commission and is attached to their recommendation. Mr. Truelove read the e-mail to Ms. Torbert dated 3/19/09.

Motion carried with Mr. Smith opposed noting he is concerned that they only have a speculative date as to when the residential portion will be built.

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There being no further business, Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to adjourn the meeting at 8:35 p.m.

Respectfully Submitted,

Teri Appelson, Secretary