

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

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 21, 2009. Chairman Maloney called the meeting to order at 7:30 p.m. adding that the Board met in Executive Session prior to the meeting to discuss legal and personal matters. Mr. Caiola called the roll.

Those present:

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

Others:

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

PUBLIC COMMENT

Mr. Simon congratulated Mr. Smith and his wife Elise who are celebrating their 30th wedding anniversary.

Mr. Maloney asked the public to hold their comments on the Frankford Hospital matter until the Other Business section of the meeting where the matter would be discussed.

Mrs. Kaaren Steil, 1027 Darby Drive, said the Commission has for years envisioned creating a Township tile and accomplished that this year. The Commission has plans to write a history book about Lower Makefield Township and has started collecting artifacts, copies of newspaper articles and photos from residents about the Township's history. Through this process of collecting information and artifacts the Historical Commission and Historic Society came up with the idea to share the Township's history through the stories of long-time Township resident and will present the first chapter of "Sharing History" a live cable program on Sunday, November 15th at 1:00 pm in the Township Building.

Doreen Kaplan, 1111 Roelofs Road from the Special Events Committee stated on Sunday, November 8th at 1:00 pm, the Township will be having the Veterans Day parade and any Veteran is welcome to walk or ride in the parade. She stated a bus has been donated to provide transportation to and from the parade should any Veterans need transportation.

Ms. Virginia Torbert from the Citizens Traffic Committee, stated on Saturday, October

24th from 10 am to 12:30 pm the Citizens Traffic Committee will host a program on teen driving. The program will touch on topics such as distracted driving and impaired driving to educate young drivers on responsible driving. Ms. Torbert stated they would have guest speakers from the Police Department, Citizens Traffic Committee and LYFT. She stated the statistics show the highest number of accidents are reported in the 16-19 age group. The program applies not only to the drivers themselves but teen passengers. Students in the Pennsbury 10th grade Drivers' Education program can earn 10 points towards out of class assignment by attending.

Zachary Rubin, 1661 Covington Road, requested a member of the Board make a motion to move up the Frankford Hospital issue on the agenda. He said it is not an agenda item and it could be moved up at the Chairman's discretion. Mr. Maloney stated he would like to leave matters already on the agenda in place. Mr. Rubin asked for a motion by the Board. Mr. Smith moved and there was no second. The motion did not carry.

APPROVAL OF MINUTES

Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of October 7, 2009 as written.

APPROVAL OF THE OCTOBER 5 AND 19 WARRANT LIST AND SEPTEMBER, 2009 PAYROLL

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to approve the October 5 and October 19 Warrant List and September, 2009 Payroll as attached to the minutes.

APPROVAL OF APPLICATION TO 2010 FEMA FLOOD MITIGATION AND SEVERE REPETITIVE LOSS PROGRAMS FOR FUNDS TO ELEVATE HOMES

Mr. Majewski stated the Township would like to submit an application for funding to elevate three (3) homes in the Township out of the Flood Plain. There are two programs for which we are possibly eligible for funding. One is the Severe Repetitive Loss Program and one home is eligible for that program which will fund 90% of the cost to elevate the home and the homeowner would pay the remaining 10%. There are two other homes along River Road that are possibly eligible for the Flood Mitigation Assistance Program and that program funds 75% of the cost to elevate the home and remaining 25% would be paid by the homeowner.

Mr. Maloney asked for a motion. Mr. Caiola moved, Mr. Stainthorpe seconded the motion to approve application to 2010 FEMA Flood Mitigation and Severe Repetitive Loss Programs for funds to elevate three homes in the Township.

Mr. Smith noted that Yardley Borough has had great success with receiving funding on behalf of homeowners to elevate homes. He asked if Lower Makefield has a good chance of receiving funding. Mr. Majewski replied yes. He noted the Township just received funding on an application that was previously denied.

The motion carried and was unanimously approved.

PRESENTATION OF BUSINESS PLAN FOR PROPOSED VETERANS MEMORIAL

Mr. Maloney stated we had an aesthetic presentation by the Veterans Committee at the last meeting to show the design of the monument to Veterans, which appealed to both the visual and emotional senses. The Board requested the Committee come back to the Board with a concrete plan for how the money would be sourced both during construction and for maintenance after construction.

Mr. Kevin Treiber, Mrs. Kathy Kraeck and Mr. Chris Desmond introduced themselves from the Veterans Committee and noted the other members on the Committee who were not present at the meeting. Mr. Treiber read the Committee's mission statement and showed a conceptual slide of the design of the memorial. Mr. Treiber stated they plan to build the memorial in phases and went over the costs of the monument features in phase I at a cost of \$111,250, phase II - \$239,500 and phase III - \$18,000. Mr. Simon asked if labor is included in the estimates and Mr. Treiber replied yes and they are hoping to have some labor and materials donated to reduce projected costs. So far, they have raised \$22,200 from donations and fundraisers, \$9,000 has been pledged from corporate sponsors and they received \$1,000 in merchandise sales. They created a projected cash flow statement out to the year 2013. Mr. Treiber stated they have not sought any grants yet but would in the future.

Mr. Simon asked when the group would like to break ground with phase I. Mrs. Kraeck replied by the end of 2010 and would like to start with the flagpole, walkway and anticipates raising 100,000 by then. Mr. Simon noted by his calculations the Committee will have raised \$69,000 by 2010 and just wants to make sure the Township and taxpayers would not be burdened by this project. Mrs. Kraeck explained additional fundraising opportunities such as selling bricks and the auction are planned. Mr. Simon asked how expenses are compared to revenue. Mr. Treiber said expenses are coming in at about 20% of revenue.

Mrs. Kraeck reiterated how special this project is and how they have received unwavering support from the local businesses and the community they have approached for donations. Mr. Simon stated he and the Board fully support this project but want to make sure the project has a reasonable financial plan that can be achieved and will not burden the taxpayers and the Township and the plan must be crystal clear before he can vote on it.

Mr. Maloney agreed with Mr. Simon's comments and wants to make sure the group has a business plan for at least 5-years plus an endowment. Mr. Treiber stated the Committee came up with an endowment in the amount of \$335,000 to cover maintenance expenses of approximately \$8375 per year. The group worked with Ms. Linney from the Parks and Recreation Department who suggested the maintenance for this park would be approximately \$10,000 per year. Mr. Treiber stated they inputted \$8375 per year because they anticipate volunteers will do some of the work at the memorial to reduce the maintenance costs. Mr. Smith asked Mr. Fedorchak if the Committee's projected amount of \$8375 per year is consistent with his experience in maintenance of such a facility. Mr. Fedorchak said he feels comfortable with a range of \$6,000 to \$10,000.

Mrs. Kraeck said \$10,000 is too high and she anticipates many volunteers including veterans, Boy Scouts and landscapers to donate time for maintenance of the monument. Mr. Simon asked if they have any information or data from other communities about their success of donations from volunteers on an ongoing basis. Mr. Desmond stated he is a Veteran and is involved in several local memorials and can attest to the constant stream of volunteers tending to local memorials.

Mr. Maloney stated there still has to be a source of funding for maintenance and he asked if the endowment would start now or later. Mr. Treiber stated they plan to put aside a certain amount of money now and going forward to fund the endowment.

Mr. Smith moved to allow the Veterans Committee to move forward with their project. Mr. Maloney asked to amend the motion to include approval of the plan presented last week and this week. Mr. Simon requested there be regular reporting from the Committee to the Township. Mr. Maloney stated that the Committee is already required to report to the Township, especially since they are under the Township as a 501(c). Mr. Simon seconded the motion.

Mr. Smith noted on the agenda this project is being called the Veterans Memorial and noted it is a Veterans' monument. Mrs. Kraeck said our Committee had a conversation a year ago about the correct usage of both terms. Memorial refers to those who have lost their lives, the deceased and there would be a portion of the monument dedicated to those who have lost their lives. This monument is to honor those who have served, past present and future; it is a universal theme. She noted the support from all over the country is overwhelming. Mr. Smith noted that people who are not Veterans attend the Committee's meetings and the support for this project is gratifying. When the Upper Makefield cemetery and this memorial is completed, with the Garden of Reflection, this area will serve as a gateway to significant memorials paying tribute to those who hold an important place in our history.

Mr. Caiola stated he has questions as to how this memorial fits into the historical aspect of the village it is located in and parking issues and reserves the right to open discussion

again when this project goes through all of the Township Boards and Commissions. Mr. Simon thanked the group for their work to do this presentation in two weeks time and supports this project.

The motion carried and was unanimously approved.

ARIA/FANFORD HOSPITAL MATTER

Mr. Maloney stated there was a vote by the Zoning Hearing Board at the end of September to approve the request for a special exception by Frankford/ARIA to construct a hospital on the parcel in question at the corner of Shady Brook Farm at Route 332 and Stony Hill Road. Mr. Maloney said since that time the Township has received a short form finding or ruling. Mr. Truelove said as many are familiar with the practices of the Zoning Hearing Board in Lower Makefield they can issue a short decision to reflect the actual vote, many times followed by a more detailed decision order which I expect from this case given the submissions by other parties. It is his recommendation that since the 30-day clock starts from the time that the decision was received, that if an appeal is filed, the Township take a position at this meeting. Mr. Truelove stated the Township could take a protective appeal and file that if that is what the Board wants to do and then once the detailed findings of fact are received from the Zoning Hearing Board we can then supplement our appeal at that point. He wants to make sure the Township does not miss the opportunity to take the first step if necessary, if that is the consensus tonight.

Mr. Maloney stated he wanted to share his sentiment that his personal opinion is that the finding that was made was done so not only to his disagreement as far as what the proper decision was but in a way that he found inappropriate and there were a number of incidents during hearings that we view as grounds for appeal regardless of the outcome. With that in mind, he intends to support any motion that may be made during this meeting.

Mr. Smith moved, Mr. Caiola seconded to appeal the Zoning Hearing Board decision and the motion carried and was unanimously approved.

Ms. Irene Taylor, 25 Spring Lane and co-chair of Residents Against Frankford's Relocation wanted to thank the Board of Supervisors for their efforts to hold their position in this matter and commended them. The Board will receive a lot of flack about the cost of the appeal but wanted to say her group understands and the Board is trying to preserve the quality of life in this Township and it is worth the expense of an appeal.

Mr. Caiola stated as the Township approaches the appeal stage it might need the support of the residents at future hearings. Ms. Taylor stated her group would be holding a fundraiser on November 13th from 7 to 10 pm at the Firehouse to raise funds for litigation in this matter.

Ms. Helen Bosley, 546 Palmer Farm Drive asked what was the amount of the transfer tax paid by Aria to the Township when they bought the property from the Flemming's. Mr. Fedorchak said the amount was \$100,000. Ms. Bosley stated that the Township is getting near budget time and asked will there be a line item in the budget for litigation in this matter. Mr. Maloney stated the Township has a practice of funding a line item in the budget to pay for these matters and will take into consideration the past amount spent in this matter to budget for 2010. Ms. Bosley stated the Township needs to look long term on the expense to litigate this matter and should negotiate with the attorneys for a fixed fee because these types of matters can be very expensive.

Mr. Stephen Mosley, 1558 Brookfield Road, Newtown commented on the expense to file an appeal. We need to balance the unknown expenses if the hospital moves and the increase in expenses on Township services to accommodate the hospital should they move which will be more expensive in the long run than the cost to appeal this matter.

Mr. Simon noted the Township will put fiscal management into this appeal and his experience is that this appeal may not cost as much and the Township has agreed to moved forward.

Mr. Stainthorpe stated the Board of Supervisors are allowed to have executive session to discuss matters in private and the Township should not discuss any further strategy in this matter until an appeal is filed.

CONSIDER AGREEMENT WITH BUCKS COUNTY REGARDING THE PURCHASING, PROCESSING AND MARKETING OF RECYCLABLE MATERIALS

Mr. Truelove stated he just received the package on Monday, talked with Mr. Fedorchak about it and requests the Board to defer this matter to another meeting so he could look at the paperwork further. He noted there are no time constraints in this matter.

Mr. Fedorchak stated the agreement is between the county, Township and Otters recycling. The Township could receive income from Otters based on the tonnage dropped off to Otters. In 2008 the Township received \$100,000 in income from Otters and in 2009 to date, the Township has only received \$5,000. He stated the significant drop in income is because the demand in materials is down and amount the Township receives is based on the value of recycled materials. Mr. Fedorchak stated this agreement has a significant upside for the Township noting the Township would not owe any money to Otters only payment would be received from Otters.

The Board unanimously agreed to table discussion of this matter until another meeting.

DISCUSSION OF SALE OF ELM LOWNE AND MAINTENANCE REQUIREMENTS OF OTHER TOWNSHIP-OWNED HISTORICAL PROPERTIES

Mr. Maloney stated the Township received the appraisal for the property and there have been several discussions regarding the sale of Elm Lowne. The purpose of this discussion tonight is to determine a plan for the proceeds after the debt is paid off. There are three options of where to place the funds (1) in the General Fund; (2) in Open Space Preservation Fund; or (3) in a fund to improve the Township's historical properties.

Mr. Fedorchak stated the property was purchased in 1998 for \$685,000 and borrowed money for the purchase and there is a debt in the amount of \$400,000 on the property. The property is valued at \$900,000. Mr. Fedorchak stated that Mr. Majewski performed an assessment of all of the historic properties in the Township to assist the Board of Supervisors with making a decision regarding the future of these properties.

Mr. Majewski stated the Township owns several historic properties starting with Patterson farm, which is the largest. He noted the Brown/Janney house is in good condition but needs some work to bring it up to habitable condition. The work would include the cost to repair the chimney at \$24,000, painting, repair plaster in attic, update bathrooms and kitchen estimated at \$52,000. Work on the large barn is estimated at \$48,000 and includes repainting, replace or repair boards, replace missing roof flashing, and repair truss beams. The outbuildings, shed and other building need siding and windows repainted at a cost of \$8,000. Mr. Majewski noted the other outbuildings are in good condition.

Mr. Majewski stated the Satterthwaite house includes five additional buildings. The front of the white house was recently painted with grant funds and the roof was replaced. Extensive repairs are needed to the house estimated at \$500,000 to return the house to habitable condition. There is extensive structural damage to the interior of the house, electrical, plumbing, flooring, and ceiling repair and upgrading is needed. The kitchen and bathrooms need updating as well. Mr. Majewski stated the outbuildings also need work such as repainting, foundation work, repair sagging roofs, and sealing wall cracks at an estimated cost of \$38,000. He noted the rebuilt barn is in very good condition.

Mr. Majewski stated the Dalgewicz/Slack House at the golf course is in good condition but needs interior and exterior work. The kitchen and bathrooms are outdated, the boiler needs replacement, there are broken plumbing and electrical systems, and flooring and ceiling repairs are needed at an estimated cost of \$215,000.

Mr. Maloney thought Mr. Majewski's assessment would include the house in Edgewood Village and 5-Mile Woods. Mr. Majewski stated the Warren-Farringer house in Edgewood Village is in good condition and no work is needed and is occupied by a tenant. He stated the same for the house at 5-Mile Woods.

Mr. Stainthorpe stated when you start to look at the numbers for repairs and the amount the Township would net from the sale of Elm Lowne, which best cast scenario would be \$500,000, his opinion is that none of the money should go to repairs at the Satterthwaite house. He suggested that some of the money should be invested into repairs on the Brown/Janney House and the golf course house. Mr. Maloney stated he agrees with Mr. Stainthorpe and noted without success, the Township has tried to put tenants into the golf course house.

Mr. Smith stated the pictures show the Township is not a good steward of historic houses. He sees no objection to put these houses into private hands with covenants of how the property will be maintained and by whom. Mr. Maloney stated we do need to address these issues. He said the properties are in the same condition as when acquired by the Township.

Mr. Maloney stated that we need an agenda item for a future meeting of what to do with the proceeds from the sale of Elm Lowne and the Board unanimously agreed.

Ms. Virginia Torbert asked what will the discussion on Elm Lowne be about on the next meeting agenda? Mr. Maloney said the Board would vote on the type of sale with easements and a possible subdivision and a resolution to distribute the funds based on discussions earlier in the meeting tonight. Ms. Torbert said she disagreed with having a discussion on how to distribute the funds before what should be done with Patterson Farm, stating that we are putting the cart before the house. Mr. Maloney said we must have these discussions regardless of the order. Ms. Torbert said the original mistake the Township made was not to set aside funds to maintain the buildings or investigate the condition of the buildings when the Township bought the properties. The farm should be considered as a whole and this plan Mr. Mr. Majewski presented seems piecemeal.

Ms. Bosley said when talking about the proceeds from the sale of Elm Lowne, the Township should wait until it has the money in hand to make any decisions and asked if there is an agreement of sale on the property. Mr. Maloney stated there is no agreement of sale on the property we are just planning ahead.

ZONING, INSPECTIONS & PLANNING

Mr. Truelove stated the applicant has requested an extension of time to April 23, 2010, for the Capstone Final Land Development Submission. Mr. Caiola moved, Mr. Stainthorpe seconded to grant an extension of time in this matter. The motion carried unanimously.

ZONING HEARING BOARD MATTERS

With regard to the Eileen and James Mahoney, 14 Austin Road Variance request to

permit construction of an addition resulting in encroachment into side yard setback and greater than permitted impervious surface and also to allow existing sheds to remain, which are encroaching into the side yard setback, it was agreed to leave the matter to the Zoning Hearing Board

With regard to the Patricia Donnelly, 198 River Road, Variance request to permit reinforcement of existing foundation and renovations of structure existing in the 100-year floodplain, based on Mr. Majewski's review, it was agreed that the Township should participate.

SUPERVISORS REPORTS

Mr. Maloney stated the cell tower matter has been continued. Mr. Majewski noted the applicant is performing a balloon test for a few hours on Friday and Saturday this week. Mr. Stainthorpe asked what a balloon test is. Mr. Majewski stated it is to test the height of the proposed tower. The applicant can take a photograph of the balloon and superimpose it in a photograph to show the location of the tower. Mr. Smith asked if the public was notified of this balloon test. Mr. Fedorchak said the residents were notified in advance.

Mr. Caiola said next Thursday, October 29th there would be business meet & greet at the Hampton Inn from 5:30 until 7:30 pm.

AWARD CONTRACTS TO ASSIST WITH LEAF COLLECTION TO THE FOLLOWING CONTRACTORS:

| | <u>Machine & Crew</u> | <u>Pull Behind & Crew</u> |
|------------------------|---------------------------|-------------------------------|
| 1. Ken's Lawn Service | \$147 per hour | \$199 per hour |
| 2. Scott's Landscaping | \$144 per hour | \$188 per hour |
| 3. Kent's Tree Service | \$145 per hour | \$145 per hour |

Mr. Caiola moved, Mr. Simon seconded and it was unanimously carried to approve the above contracts.

There being no further business, Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to adjourn the meeting at 9:05 p.m.

Respectfully Submitted,

Greg Caiola, Secretary