

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – OCTOBER 7, 2009

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 7, 2009. Chairman Maloney called the meeting to order at 7:40 p.m. and noted that the Board met in Executive Session for two hours prior to the public meeting to discuss contracts, litigation, and real estate 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. Fran McDonald, 937 Randolph Drive, stated he is angry after last night's Zoning Hearing Board meeting where the Board voted three to two in favor of Frankford Hospital. He stated he is disappointed in the actions of the Board, and it is his opinion that they did not take into account the concerns of the neighbors and the Township. He stated on 8/26/08 Mr. Kim stated, "The Board will be looking at the health, safety, and environmental impacts relative to the use of the land." On 10/21/08, Mr. Malinowski stated, "The only issue before the Zoning Board is whether the use of the land for a hospital would have an adverse impact on the health, safety, and welfare of the Municipality." Mr. McDonald stated in looking through the Zoning Board Minutes, he did not see any discussion about this or any weight put to those things which is a concern. He stated he saw an Editorial in yesterday's paper that the only concern brought up was traffic by the residents, which he does not feel is true. He stated in the paper today, Mr. Malinowski said that the only concern brought to the Zoning Board was traffic, and Mr. McDonald stated this is blatantly not true. Mr. McDonald stated he feels the Zoning Board, and specifically Mr. Kim and Mr. Malinowski should show the community how their actions last night positively impacted the health, safety, and welfare of the community since he does not see it.

Mr. Maloney stated the Zoning Hearing Board voted three to two in favor of awarding a Special Exception to Frankford/Aria to allow them to construct a hospital on the northern part of Shady Brook Farm. He stated the case had been before the Zoning Hearing Board for over a year, and the Township professional staff represented the Township very well as the Township tried to oppose the Application. Mr. Maloney stated the Board of Supervisors has been opposed to this since the beginning and do feel it adversely effects the health, safety, and welfare of the community. He stated he was distraught by the fact that there was absolutely no public conversation at the Zoning Hearing Board meeting with regard to the Conditions that were placed, and it felt eerily decided by the time the meeting took place. Mr. Maloney stated he was troubled by this particularly after the ruling came right after a twenty minute Executive Session; and particularly troubling given the fact that the Township has been moving in a direction that they consider to be open and honest government in all cases and on all topics. He found the unanimity of the majority portion of the Zoning Hearing Board deeply troubling.

Mr. Zachary Rubin, 1661 Covington Road, stated what happened last night was a travesty. He stated the residents must understand that it was not about building a 375,000 square foot hospital and two 40,000 square foot office buildings. He stated Jerry Gruen, a member of the Zoning Hearing Board offered an Amendment to ban Frankford's expansion for the next seventy-five years on contiguous land, and this was voted down three to two. He stated Paul Bamburak and Jerry Gruen voted to Amend, and the three other members voted to oppose. Mr. Rubin stated this means that there is no question that the Hospital is going to expand past forty-one acres. He stated there are over 200 acres of pristine farmland that in the very near future, because of the Zoning Hearing Board's refusal to limit the expansion, will be a medical campus which will be more than just the three buildings proposed. He stated he is also concerned with the impact of this corridor with the expansion of Lockheed which is only a couple hundred yards away. Mr. Rubin stated last night the Zoning Hearing Board put on Conditions for the Special Exception which included every single traffic mitigation that Frankford and their engineering firm asked for, which he feels is inadequate. He stated the mitigating traffic improvements on the intersection at 332 and Stony Hill will not even help the Hospital when it is built; and when Lockheed is built and the Hospital expands to the rest of Shady Brook Farm, it will be a "nightmare." He stated this is why whatever the Township's investment to fight this development is, it is miniscule compared to what the living conditions and quality of life will be when the whole area which is farmland now will be a large aerospace manufacturing center and an expansive medical center. He urged the Township, led by the Board of Supervisors, to do whatever they can and whatever monies have to be expended, to protect the way of life in the Township.

Mr. Truelove stated he issued a comment a few weeks about the Board of Supervisors' position, and the Board has made its position very clear with respect to the current issues; and he respects the right of any Supervisor to state what they feel about last night's decision. He stated it should be understood that anything said by a Supervisor is a

comment only on that decision and not any potential Land Development issues that might be going forward.

Mr. Chris Lanberger, 110 Eton Road, stated Black Rock Road has been repaved from Westover to Glen Drive. He stated it is the most dangerous stretch of pedestrian/bikepath area in the Township. He stated there are currently no stripes, and the cars are taking advantage of the smooth highway. He stated with the towpath open and being very well used, he is concerned with the speeds being traveled by the cars. He stated in April, Traffic Planning & Design came up with an excellent design, and he asked about how this is moving forward. He stated there is a 65' stretch over top of the Canal that is growing grass rather than being paved. He stated in April when the contractor finished the overpass, it was felt it would be a good idea to add on the paving which would be 2" of asphalt on top of 6" of stone; and he asked if this had happened, and if not what would be the next steps to accelerate this as soon as possible. Mr. Majewski stated it is not simply just paving over that area, and there are issues with access and making it accessible for people with disabilities and to making sure it is safe to carry people down the road and across the towpath. He stated until they are in a position to install the entire towpath, he is not sure if it would be advantageous to pave that section of grass area next to the culvert. Mr. Lanberger stated this is the most dangerous part going down and tying into the path. He stated there is a design with handicap access taken into account for this section, and it would be 65' of asphalt at a cost less than \$5,000. He stated he is concerned that someone is going to get hurt and asked that they reconsider and get this one piece done, and then take the additional time to do the path.

Mr. Maloney stated when they saw this on the Road Tour in the summer, there was a discussion about this, and he did not feel that everyone was in agreement on how to go forward with this site or that they all agreed that the right thing to do was to pave over that section without any divider between the road surface and the bikepath.

Mr. Lanberger stated this particular section is curbed higher so that it is separated.

Mr. Maloney stated he is talking about some type of rail or other raised divider.

Mr. Simon stated he was concerned that by paving that area even with the raised curb it would be creating a smooth path for those who wished to skateboard or bike, and it would expose them to risks in traffic. Mr. Lanberger stated they are doing this already, and the option is to go out in the street which is what they are doing. Mr. Simon stated while he understands this, he feels that creating an inviting environment that could allow that to happen might create additional exposure, and they need to take a closer look at this. Mr. Lanberger stated there is a final design from the Township engineer.

Mr. Maloney stated the Board has still not agreed to go forward with that Plan, and he is not sure that it will not create more traffic in the roadway. He stated if the argument was that everyone who is going to go down there is already doing so and the paving would provide a safer route of travel, he would agree; but the other argument is that by putting it there, more people will be willing to take that route and may do so in a less

responsible manner, and they will not have made the situation any safer. Mr. Simon stated he agrees that they have to create a path, but he is concerned that they may be creating a tunnel for young people to skateboard/curb jump, etc. and he suggested that they create more of a barrier environment rather than just a raised curb so that people do not find themselves on the road. Mr. Lanberger suggested that they consider the same gravel that is on the towpath which would be a rougher surface, and asked that the Board look into this issue further.

Mr. Christopher Hewlitt, 700 Ardsley Court, stated he feels there is a contradiction in a Township Ordinance and the interpretation of the Ordinance with regard to impervious surface. He stated he has been in contact with a number of members of the Township Committee, and one of the Township Committee members answered his e-mail and in that answer he said, “Lower Makefield’s Ordinance do not acknowledge the use of permeable, hard surfaces.” Mr. Hewlitt stated he went to look at all the Township Ordinances and found under Ordinance #363 Section H which instructs the Township to “utilize pervious paving surfaces such as porous pavement and pavers for roads, driveways, parking lots, or other types of drivable or walkable surfaces.” Mr. Hewlitt stated he feels there is a contradiction between an interpretation and what the Ordinance says. He stated as a Township resident he has always tried to follow the Township rules, and he was refused a recent Permit Application because he was trying to use a permeable paver on his property because the Ordinance said he could. He stated when people look at the Permit, they are saying that any paver that he puts down on his property is impervious; and he feels this is a contradiction.

Mr. Maloney stated where it may not be a contradiction is that what 363 is discussing is that in the case where otherwise impervious surfaces are going to be used, it would be looked upon favorably if they use permeable hard surface; but in calculating the impervious surface, you do not get credit for pervious hard surfaces. He stated he feels it is in everyone’s interest to take advantage of whatever technology is available, however, when he was in attendance at a recent Zoning Hearing Board case, he heard about the maintenance involved with these pervious surfaces which can be significant and it puts a lot of burden on the owner of the property now and in the future to keep up the surfaces in order for them to remain permeable. He stated there is an issue whether the Township is willing to proceed to codify and accept these surfaces since so much maintenance is required of the property owner in terms of whether or not they are successful.

Mr. Hewlitt stated the installation of most of the permeable pavers requires the installation of an infiltration system beneath so that the pavers are actually only the walking surface; and if the infiltration system is correctly done, the whole area is not impervious.

Mr. Stainthorpe asked if he is trying to construct something and been refused a Permit because he is over the permitted impervious surface, and Mr. Hewlitt agreed he is already at his limit. Mr. Stainthorpe stated he could go to the Zoning Hearing Board and request a Waiver; and added he feels it would be in his favor that he was using a pervious type material. Mr. Hewlitt stated he was told that if you go to the Zoning Hearing Board and pay the fee, you are still at the whim of the Board; and you would then be out the amount of the fee.

Mr. Maloney stated while he cannot speak for the Zoning Hearing Board, he has seen that they take into account these mitigation devices Mr. Hewlitt is considering. He stated there is a difference in legal precedence that is created when you codify it and indicate that these materials will be acceptable in all circumstances. He stated what is currently in place allows the Zoning Hearing Board to make sure all the right considerations have been taken into account. He stated he feels the Zoning Hearing Board would be amenable to Mr. Hewlitt's course of action. Mr. Hewlitt stated his attorney received a letter from the Township that said that certain surfaces are not pervious such as pavers, but also decking; and the Township allows decking because the water runs between the cracks, but they do not allow a paver which is especially engineered so that the water runs off the four edges, and this is where he is having a problem.

Mr. Truelove stated this is a combination of legal and engineering issues, and the Board of Supervisors may want to look at this in conjunction with the engineer and the attorney since some of these issues should be reviewed from time to time. He stated it may be time for the Township to look into this due to the new technology. Mr. Maloney stated he and the Township engineer have been discussing changes that should be considered to the Ordinance, and he feels that they will do this within the next year or two.

Mr. Steven Mosley, 1558 Brookfield Road and a member of Residents Against Frankford Relocation, stated they are concerned that the new Hospital will not be required to pay taxes and therefore will require, as the Police Chief has stated, an additional number of Police Officers that will cost the Township \$4 million or more over the next ten years. He stated this will become an unfunded mandate for increased taxes to pay for the traffic and safety concerns that this unneeded Hospital will bring. Mr. Mosley stated he was concerned about criticism of the Board of Supervisors for the amount of money they are spending to fight this Hospital, and he feels these monies will actually help to save taxes and avoid the \$4 million or more over the ten years. He stated he feels there are a lot of people who support the Board of Supervisors' actions. Mr. Mosley stated RAFR also feels that the Zoning Hearing Board was derelict in its duties according to its own rules. He stated the Zoning Hearing Board does not have a traffic plan from Frankford/Aria that will guarantee that the increase in traffic will be adequately managed. He stated RAFR does not understand why the Zoning Hearing Board went out of its way in obvious favor of the Hospital based on Zoning Hearing Board rulings which overwhelming favored the Hospital.

Ms. Irene Koehler, 25 Spring Lane, stated the overwhelming majority of the Lower Makefield Township residents oppose this unneeded Hospital, and feel the residents will be subsidizing this Hospital since the Hospital will not pay taxes, and the residents will have to pay taxes for the Hospital services. She stated if there were a taxable office park at the location proposed for the Hospital, it would greatly enhance the revenues in the Township. Ms. Koehler stated there will be 2,730,000 additional vehicles a year as a result of this Hospital as opposed to 1,225,000 additional vehicles if it were an office park. Ms. Koehler stated she does not understand how three non-elected members of a Township Board can approve the Hospital when it has such an obvious detrimental effect on the community.

Mr. Scott Finder, Jenny Drive, stated he is concerned about the proposed cellular tower to be erected at the Brookside Swim Club. He stated at the Zoning Hearing Board meeting last night, Liberty Towers representing T-Mobile and Sprint requested a Variance to erect a 150' cellular tower in a Residential Zone. He stated he hopes that the Township will not give in and decide to allow this tower, and he asked that they consider the families who live in this area. Mr. Finder stated as testified by the Applicant's engineer, the closest house to the tower would be only 400' away. The Applicant's engineer also testified that it would not be easy to see because it would be hidden by the trees and "clutter" of the houses; and those who live in the houses do not consider their neighborhood "clutter," and this will hurt property values. Mr. Finder stated the tallest trees in the area are approximately 80' and the cellular tower will be approximately 150'. He stated the reason for this height is due to T-Mobile's outdated technology that requires their antennas to be at such a high height. Mr. Finder stated he recognizes that Brookside stands to gain from the location of this tower on their property and that it is a revenue source for them; and while many have financial difficulties, and a source of revenue is good to consider, he feels they should save the value of their homes and the character of the neighborhood over that of a private pool. Mr. Finder stated Liberty Towers indicated the Township needs the coverage, but if you look at the Websites of the various carriers it indicates that there is good coverage, and no one is complaining about their cellular coverage. Mr. Finder stated they have over 125 signatures of those opposed to the tower.

Mr. Maloney stated the Township has entered as a Party to participate; and the view of the Board of Supervisors on this matter is that the Federal law in effect preempts local law on the basis of erecting cell towers to the extent that coverage cannot be achieved; but it is a nebulous area as to what this means. He stated this is why they are participating in this case, and the Applicant would need to prove that they cannot achieve coverage. Mr. Maloney stated all the carriers' Websites indicate that Lower Makefield has good coverage.

Mr. Stainthorpe stated there have been a number of these cases, and the Township's only obligation is to provide some area where the towers can go; and the Township does have a cell tower overlay district. He stated while they need to listen objectively to the

Applicant's case, the fact that T-Mobile's service is not as good as another carrier, is a business problem for them and not a burden that the Township has to take on or put onto the citizens. He stated the FCC could overrule the Township in the future, but he is resolved that this tower should not be in this location or anyplace else in the Township as they have provided an overlay district as required.

Mr. Smith stated the Board of Supervisors faced a similar problem a few years ago with regard to billboards, and they provided a separate district where these were permitted in the Township. He stated he is concerned about "out-of-towners" trying to impose things on the Township, and he feels that they should either improve their technology or put them into the area where they are permitted. He stated he will not vote in favor of building cell towers in any Residential neighborhoods.

Ms. Kristin Tyler, Jenny Drive, asked if the Board of Supervisors could provide their group with some of the knowledge they have gained through the prior Applications, and asked who they could contact at the Township on this issue. Mr. Maloney stated while they have a standing policy not to have the professionals interact directly with the community because of the fees involved, in the cases where there have been citizens participating in cases, if they have adopted counsel, that counsel could confer with the Township's counsel and share resources and strategies. He stated if the group could agree on a point person to get advice, this would also be reasonable. Mr. Caiola stated they have developed partnerships with other organizations that are active and concerned about the quality of life in the community, and having a point person is critical. He stated if they hire an attorney there could be cooperation between the attorneys. He stated the Zoning Hearing Board at the Hearing last evening did ask a number of poignant questions so he feels some of them already have some trepidation. Ms. Tyler stated she has been selected as the point person. Mr. Maloney stated he feels Mr. Truelove has the support of the Board to interact with Ms. Tyler directly; and he asked that other members of the community filter questions and contact through her.

Mr. Simon stated he feels that this could be a fight with the FCC. Ms. Tyler stated on the five prior Applications, the same issue was present; however, one of them was denied the day it was filed, another was denied two weeks after it was filed, and three of them are pending with no decision and no activity since 2008. Mr. Truelove stated the issue for the Zoning Hearing Board is the issue of hardship, and the FCC issue may or may not interplay depending on the case. He stated hardship is not easy for an Applicant to demonstrate. He stated he will confer with his partner who was present to hear the Liberty Towers case last evening, and they will communicate about this issue going forward. Mr. Simon stated if this issue escalates, they could wind up with the FCC; and if this is the case, there is a mandate in place. He suggested that as they go forward they keep this in mind. Ms. Tyler stated she is aware of the Tele-Communications Act of 1996.

Ms. Tyler asked in addition to hardship, do they also have to explore gap in coverage; and Mr. Truelove stated gap in coverage may be intertwined with hardship, and this may be where the FCC issue comes into play. Ms. Tyler stated Liberty Towers is not a cell phone communication company but is a contractor/builder of cell phone towers and may not have standing to bring the action; and she would like this point explored. Ms. Tyler asked if there is anyone on the Board who does not support resisting the cell phone tower in their Residential neighborhood, and all Supervisors indicated they do not support a cell tower in their Residential neighborhood.

Mr. Stainthorpe asked if the burden of proof is not with the Applicant with regard to the gap in coverage, and Mr. Truelove agreed and stated this is true for both hardship and gap in coverage.

Mr. Smith stated based upon the technology, he feels it comes down to a marketplace issue, and Mr. Truelove stated there is marketplace issue and there may be some technologies available now that could mitigate against some of the gap in coverage claims.

Mr. Simon stated he has been impressed with how the neighborhood around the cell tower has organized and created awareness. Ms. Tyler stated they also have another issue with regard to notice of the Hearing. She stated she looked through the submission and apparently they posted a 16" by 20" notice on a stick in front of the Brookside Swim Club in July. She stated the residents who live 400' from the proposed site did not receive a letter notifying them of the Hearing. She stated she is pulling the file to see how many letters were actually sent and determining who was entitled to be notified. Mr. Maloney stated in the Municipalities Planning Code there is a specific radius where they have to notify and beyond that they do not. Mr. Smith stated he feels the Board has been proactive in compelling the Township Manager to advise those in a certain area when there is an issue that may impact them. Ms. Tyler stated on a prior cell phone tower Application this same issue came up, and the Board far surpassed the requirements and decided to canvass over 250 families in that Application and this did not occur in this instance so they have taken it upon themselves to advise their neighbors.

Ms. Virginia Torbert, Citizens Traffic Commission, stated they will be holding their second annual safe driving event on 10/24/09 from 10:00 a.m. to 12:30 p.m. in the Township Building. She reviewed statistics about the danger of texting and use of cell phones while driving particularly for teenagers. She stated this event will focus on both parents and teens. Experts on teen and distracted driving will be present, and there will be opportunities for the teenagers to participate in interactive activities which will be offered by the Township Police Department.

Mr. Harold Koopersmith, 612 Wren Song Road, expressed concern with the State Budget and asked the status of the Township Budget. Mr. Maloney stated the Township Budget is being put together, and there will be workshops open to the public the first two weeks of November with advertisement of the Budget targeted for the middle of November, and a vote by the end of December as usual. He stated they have been in negotiations with the Police Officers Union for the past few months; and once this is finalized, they will be able to finalize the Budget and move forward.

APPROVAL OF MINUTES

Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of September 16, 2009 as written.

RECOGNITION OF NATIVE PLANT GARDEN

Ms. Laura Brandt, Environmental Advisory Counsel, was present to report on the native plant demonstration garden. She showed pictures of the area around the Township Building before and after the installation of the plants. She stated they received a grant from Bucks Beautiful Organization which is a 50/50 match for \$1,000. She stated one of their requirements is that it be visible from the road. She stated the plants used are native to southeastern Pennsylvania. She stated there is additional information on the plants on the EAC Website. She stated they do need volunteers to help with the garden, and they hope to get additional Grants to do more planting in the future. She stated this type of landscaping reduces turf and has increased ability to absorb rainfall. She stated when there is turf it increases the amount of pesticides used which can run off into the road. Ms. Brandt reviewed the benefits of using native plants. She thanked Mr. Fedorchak for allowing her to work on this proposal as well as the EAC and other volunteers who helped her with this project.

VETERANS COMMITTEE PRESENTATION

Ms. Kathy Kraeck, Mr. Kevin Treiber, and Mr. Brian Mann, architect, were present. Ms. Kraeck stated they are present with the proposed design for the Veterans monument at Veterans Square Park. She stated they are a volunteer committee of Veterans and residents who came together about one and a half years ago to celebrate freedom and express gratitude to the Veterans. She stated the site chosen for the Veterans monument is at Veterans Square Park on the corner of Edgewood and Heacock Road. She stated the site was renamed by the Board of Supervisors in November, 2008. Ms. Kraeck stated they chose the site for the monument because it is the site of the ceremony following the Veterans Parade, and is also well known as the site of the Farmers' Market which will continue to operate at this location after the monument is built. Ms. Kraeck stated they

see the monument as being the gateway to the rest of the community and hope it will one day link Edgewood Village to the Township Municipal Complex. She stated they would like to create a timeless monument and it will not reflect any particular war or conflict. She stated they wish to honor the Veterans of the past, the present, and those to come in a peaceful, community park setting. She stated they want to create an opportunity to educate the children about the sacrifices of servicemen and women. She stated they are fortunate to have a design team donating their talents to create this monument including Brian Mann, Michael Sullivan, Jennifer Stark, and Robert Giarndola, artist and sculptor. Ms. Kraeck stated they have chosen for the monument the symbol of the eagle, and Mr. Giarndola will be executing this in bronze.

Ms. Kraeck stated they had a kick-off event in March at the Continental Tavern which was attended by over 150 people. She stated they have had a number of events over the summer. She stated they are getting ready for their major fundraiser of the year which is to be an auction to be held on November 7 at Makefield Highlands. She stated they have the support of numerous community businesses, the local media, the Pennsbury School District, and members of the community.

Mr. Mann, the architect, stated his firm answered an ad about working on this project and were selected to serve on this Committee. He stated what they have proposed is not a typical monument in a natural, elegant master park plan. He stated the flight of the eagle inspired their design. He stated there is a specimen oak tree on the site, and they propose bringing the memorial in line with this oak formalizing the space and setting up layers of movements from the busy street, to the stately flag, and to the contemplative gathering place under the oak. He stated the memorial took the form of curved walls rising from ground to the sky. The base of the statement wall features a cast bronze relief of the eagle, and at the highest tip of the named dedication wall, they will have a full-sized bronze eagle taking flight. A picture of the proposed monument was shown.

Mr. Mann stated they have proposed a plan for the rest of the site including a design which maintains the existing uses such as the farmers' market as well as accepting additional uses including School trips, music and theatre, and holiday gatherings. He stated they plan on expanding the parking lot and formalizing the edge, creating a formal edge along Edgewood Road featuring a potential for on-street parking, a bikepath, a colonnade of specimen trees, a low wall and fence line to demarcate the park boundary, and entrances at the center and corners. He stated they also propose a formally-landscaped berm along the rear to screen the CVS. They are also proposing a possible presentation area in the northeast corner and a possible playground which would be more natural and sculpted than the playground that is there now. He showed on the Plan the proposed internal pathways, a gathering area below the central lobe, a natural edge to replace the non-needed edge that exists now along Heacock Road, and the Memorial.

Mr. Mann stated they have placed the Memorial at a location which is visible from both streets and readily accessible from the parking area and the procession area. Mr. Mann stated the Memorial is intended to be constructed of durable, natural materials at a cost of approximately \$350,000. He stated the Civic wall will be inscribed with a quote or motto still to be selected and will also feature the revived Woodside Honor Roll. The name dedication wall will honor those who died. The exterior path pavers will be available for donation from the community. He showed the location of the flag pole and the name dedication wall which goes from 24" above grade to 9' high which is the point where the eagle in flight sculpture will be located.

Mr. Robert Giarndola showed a model of the eagle which is 1/6th the actual size.

Mr. Mann stated the inside of the monument is paved with granite pavers, and there is an engaged landscape along the right side of the named dedication wall. He stated the brick pavers outside the wall form the outside edge, and the pavers are available for donation. He showed a picture of the proposed monument taken at night. The flag would be lit and flying 24 hours a day.

Mr. Kevin Treiber stated the intent is that the cost of \$350,000 will not be from tax dollars, and they are seeking private funds; and if the community wants this, the community will help them build it. He stated currently they have approximately \$20,000. Mr. Caiola stated they are part of the Township's 501C3. Ms. Kraeck stated they will be seeking grants as well.

Mr. Simon asked if the cost of \$350,000 takes into account ongoing maintenance, and Mr. Treiber stated Mr. Fedorchak has discussed this with them, and part of their fundraising will be some kind of endowment to make sure funds are there for maintenance. Mr. Maloney stated that it does seem that they are considering ongoing maintenance through their choice of natural, durable materials. Ms. Kraeck stated the cost of the monument might be higher up front, but they want to build it with durable materials so that it will cost less to maintain. Ms. Kraeck stated there was unanimous support and approval from the Park & Recreation Board for this plan.

Mr. Treiber stated they need the help of the community in order to make this happen. He reviewed a number of businesses who have been involved with them in fundraising.

Mr. Treiber showed a picture of the Woodside Honor Roll which was taken down in the 1950's, and they want to make sure that these names are included in this monument. Mr. Simon asked if they will also be getting names for the wall apart from this photo, and Mr. Treiber stated this will have to come from the community as the VA and VFW cannot release this information. Ms. Kraeck stated there is an opportunity for people to submit names on their Website, www.lmtmemorial.org. She stated for those who lost their lives, they are looking for proof of this since the Memorial Committee wants to pay

for the cost of having those names engraved; but there are also opportunities to purchase bricks, etc. to honor other Veterans. Those who are not Veterans can also purchase a brick. These will be in three separately designated areas with the interior of the wall being the area where names are engraved of those who gave their lives, there would be a commemorative area for Veterans, and outside of this is an area where names of the public could be engraved in bricks.

Mr. Caiola asked about existing parking, and Mr. Treiber stated it is impervious surface with some painted lines. He stated they feel there are 26 existing parking spaces, and they will have to determine through discussions with the Township how much parking they want. Ms. Kraeck stated they do have reciprocal parking arrangements in effect with the Masonic Temple and Woodside Presbyterian so that overflow parking can be handled at those sites for larger events. Mr. Caiola stated they have also shown parking on Edgewood Road, and Ms. Kraeck stated this is part of the Master Plan. She stated originally their design team put together a Master Plan; and it was scaled down quite a bit because it was cost prohibitive, and they felt a volunteer group of twelve people would be unable to raise all of these funds. She stated there is a place for a playground, presentation area for neighborhood theater, landscaping, and a streetscape which are all possibilities for the future. She stated they hope that one day it will be approved and created by the Township. She stated the streetscape shown along Edgewood Road shows curbs, parking, etc. and this would all have to be discussed with the Township in the future.

Mr. Caiola asked about the Farmer's Market, and Ms. Kraeck stated there is room for the Farmer's Market as there is 115' between the edge of the monument and the curb. She stated there is room in the front and on the side, and they would want the Farmers' Market to be close to Edgewood Road for visibility purposes; and if more space is needed they would make an "L" along Heacock Road. She stated they want to encourage the Farmers' Market and other events. She stated the Memorial Committee has hosted a number of events at this location. She stated they want people to stay in the area with their families if they are there to see the monument.

Mr. Maloney stated it appears that the parking that is contemplated is further from the tree than where there is currently gravel. Ms. Kraeck stated Mr. and Mrs. Cimino own the property next door to the site, and they did request that the parking be adjacent to their property so that if there were people congregating, it would be slightly removed from their property line.

Mr. Maloney asked about the Veterans Day Parade, and Ms. Kraeck stated it will be held on November 8 at 1:00 p.m.

Mr. Maloney asked if the \$350,000 is for everything, and Ms. Kraeck stated this is only for the monument. The price for everything in the Master Plan was approximately \$1.4 million. Mr. Maloney asked if they will wait until they have the \$350,000 before they begin any construction, and Mr. Treiber stated they would like to start out with the flagpole and the lights in order to get the community interested in the site. He stated they are hoping that the upcoming auction will help with their fundraising efforts.

Mr. Simon stated the Township and the Committee need to be economically-sound, and they cannot allow the Township to be burdened with significant operation and maintenance costs going forward as they have with other projects similar to this. He stated he would like to see a financial plan submitted to the Township. He stated there may be ways to partner with other Committees in the Township such as the EAC to help find Grants that may help with this project.

Mr. Smith asked for more information about the lights, and Mr. Treiber stated they were going to use lights at the base of the flagpole to light the flag and continue to light the area around it with lights based in the walls that would shine down on the ground.

Mr. Smith asked if they have approached State Senator Santarsiero or Congressman Murphy about obtaining funds. He noted Mike Fitzpatrick had previously been instrumental in getting funds for the Garden of Reflection.

Ms. Jennifer Stark stated she is excited about the project. She stated the site is adjacent to the Historic District, and the design team was very aware of the complexity of putting something here that would have an impact on the Historic District. She stated the Secretary of the Interior Standards for the design and treatment of historic properties are guidelines put together by the Federal government. She stated they are not dealing with a building in this case, but are dealing with a site; and they can apply the guidelines in a loose way, yet they are still helpful. She stated this site would be considered rehabilitation. She stated there are ten guidelines and three are particularly significant in this case. She stated one is that they want to make sure that the changes do not create a false sense of historic development such as adding elements that are not appropriate. She stated the materials they are considering are appropriate for the site, but are not mimicking something that was never there. She stated another guideline discussed new work that would be differentiated from the old but would have to be compatible with historic materials, and this would be the features, the size, the scale, the proportion, and the massing; and they are looking to preserve the integrity of the site and the environment, and this is what they are doing with the size and scale of the monument proposed. Ms. Stark stated the last guideline to be considered is reversibility, so that if at some point an addition or an augmentation to a historic site or building needs to be taken down, will the original integrity still be intact; and she stated in this case it will. She

stated she wanted everyone to make sure that they were cognizant that they are at the gateway, and this is why the streetscape concept came into play as it relates to the Design Guidelines for the Historic District of Edgewood.

Mr. Danny Quill, a WWII Veteran, was present this evening, and stated he is in favor of the monument proposed.

Mr. Stainthorpe stated he has seen the presentation previously and feels it is a great design. He reiterated the need to go out and get Grant money as it could take a significantly long time to get all the funds from the community. Ms. Kraeck stated they are continuing to work with Mr. Fedorchak on this.

Ms. Michelle Stambaugh, Historic Commission and HARB, congratulated the Veterans Committee for the design they have proposed. She reiterated Ms. Stark's comments on the guidelines, and asked that they try to use the proper materials that are interpretive to Bucks County and Lower Makefield such as fieldstone, bluestone, and red brick. She stated she agrees the design is timeless, but from what they are trying to convey in Bucks County, the proposal seems contemporary. She stated they should recognize that this location is the gateway to the Historic Village.

Ms. Roseanne Friehs, Historic Commission, stated she recognizes all the work the Veterans Committee has done, but stated they need to have the design be historic in nature because the park is the gateway of historic Edgewood Village. She stated they want the gateway to be a way for the community to see what Edgewood Village could be in the future. She stated she does not feel they want a modern, curved, spiral memorial gateway to Edgewood Village. She stated she does not feel it fits the historic feel of the area. She stated if it were made of stacked stone, fieldstone, bluestone, or red brick it would be more appropriate for the Village. She stated the Township was historically a village hamlet, and a memorial should have that ambience in the design. She stated the cost of the Memorial is \$350,000 which she feels is quite high for what is proposed, and it may be more reasonable if it were scaled down more in keeping with the Edgewood Village concept. She suggested they look at famous villages such as Williamsburg, Sturbridge, and Greenfield Village which are great examples of how to do memorials in a historic way that would have the ambience needed in Lower Makefield. She asked that they try to make their design not only timeless but also classic.

Ms. Kaaren Steil, Historic Commission, asked if there is a way they could compromise and have not all concrete and granite but some fieldstone as well like the Tomlinson Store and the Warren-Farringer House.

Mr. Ken Martin, Historic Commission, Veterans Committee, and a Veteran, stated he feels the monument is elegant and feels the Historic Commission would like to consult with the Veterans Committee on an advisory basis noting that there are seven different

opinions on the Historic Commission. He stated he feels there are 52 parking spaces existing as part of the Farmers' Market.

Ms. Judy Curley, 551 River Road, stated she wants something in her community to recognize and revere the service of the Veterans. She feels what has been proposed is an elegant design and she would urge the Board to allow it to proceed as presented since she is concerned they will lose time.

Mr. George Williams, 220 E. Washington Avenue, Newtown, stated he is a Veteran of three wars. He stated a majority of the people present are confusing the difference between a Memorial and a Monument. He stated this is a Monument as a Memorial pays tribute to those that are deceased. What they are proposing is a Monument since it pays tribute to the past, the present, and the future. He stated he feels some of the funding will come from Newtown Township, Newtown Borough, and Northampton.

Mr. Dave Shuster, Bluestone Drive, stated he is impressed with the efforts of the Veterans Committee. He suggested that they move the focal point on the monument on a diagonal more in line with Edgewood Road away from the oak tree as oak trees frequently drop leaves, limbs, etc. and this may impact the monument.

Mr. Maloney stated he does feel it would be rash to approve this tonight as the Historic Commission has expressed some significant concerns. He recognizes that the Veterans Committee would like the Board to adopt this prior to the auction and Veterans Day Parade, and he would be willing to put this back on the Agenda prior to that time.

Ms. Kraeck reiterated that the Auction will be held on November 7 at Makefield Highlands from 7 p.m. to 10:30 p.m. She reviewed the items that have been donated for the auction. She stated tickets are available on their Website.

Ms. Kraeck asked the Board what they would like the Veterans Committee to do before they come back before the Board of Supervisors. Ms. Simon stated since this is on public land, there could be on-going costs, and they would like to see a long-range plan to not only build the monument, but also an endowment that will provide for the upkeep and maintenance going forward. Mr. Maloney stated he recognizes that they will not have detailed engineering plans, but the Board wants to review this further and hear more about their timeframe.

A short recess was taken at this time. The meeting was reconvened at 10:05 p.m.

APPROVE CERTIFICATE OF APPROPRIATENESS
1793 YARDLEY-LANGHORNE ROAD

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to grant the Certificate of Appropriateness to replace siding and shutters on home located within the Historical District at 1793 Yardley-Langhorne Road, T.P.N. 20-014-002

PUBLIC HEARING TO CONSIDER CONDITIONAL USE APPLICATIONS
FOR CLEARWIRE US, LLC

Mr. Truelove stated these are four existing towers in the Overlay District, and the proposal is for co-locations which have been reviewed by the Township engineer and others.

Mr. Truelove read the Notice for the Clearwire US, LLC, proposed co-location on existing tower located on Old Oxford Valley Road, T.P.N. 20-32-2. He stated this was properly advertised and the following Exhibits were entered into the record.

- B-1 – Notice of the Hearing
- B-2 - RTF Overlay District Provisions in Section 200-50.1 of the Lower Makefield Code
- B-3 – Section 200-90 regarding Conditional Uses
- B-4 – Letter from the Planning Commission dated 9/29/09 recommending Approval subject to compliance with the Remington-Vernick letter dated 8/28/09 which is attached to the Planning Commission memo and incorporated by reference

Dolores Roberts, attorney for the Applicant, was present and indicated she had no objection to these being entered into the record.

Mr. Mario Calabretta, engineer, and Mr. Arnold Dawinan were sworn in. Mr. Calabretta stated he is licensed in the Commonwealth of Pennsylvania and has been working in the tele-com field for ten years. He is present to answer questions related to the site plan or civil engineering issues on the project. Mr. Calabretta was offered as a qualified expert, and Mr. Truelove stated there is no objection. Mr. Dawinan stated he is the radio frequency engineer and has over fourteen years experience in tele-communications specializing in RF design for wireless networks. Mr. Dawinan was accepted as an expert.

Ms. Roberts stated she has submitted the following Exhibits which she asked be entered into the record:

- A-1 – Zoning drawings that have been revised through 10/2/09
- A-2 – Electromagnetic emissions analysis report dated 8/14/09
- A-3 – Structural report dated 9/28/09
- A-4 – Radio Frequency propagation maps proposed coverage without PA PHL 041

A-5 – Radio Frequency propagation maps proposed coverage with PA PHL 041

A-6 – Lease Agreement between the tower owner and Clearwire

A-7 – Lease Agreement and Assignment of the Lease between the tower owner and the underlying property owner.

Ms. Roberts stated this is an Application for a Conditional Use Approval. She stated Clearwire is an FCC licensed tele-communications carrier and is proposing to co-locate a communications facility on an existing approximately 132' monopole located at 135 Old Oxford Valley Road which is within the Overlay District. She stated currently Clearwire is starting its network and is hoping to launch in the start of October. She stated there are existing antennas on the tower, and the highest is located at approximately 130'. Clearwire proposes to add three panel antennas at approximately 91' and three microwave dishes at approximately 120'. The overall height of the monopole is not being increased. She stated they also propose one equipment cabinet to be located on a 3' by 6' platform within the existing fenced-in compound, and the fenced-in area will not be expanded.

Ms. Roberts stated the structural report that was submitted into evidence indicates that the design for the proposed facility meets the requisite standards, and the facility can accommodate Clearwire's proposed facility. She stated the site will be unmanned with occasional visits by Clearwire technicians for maintenance. No additional parking is required, nor are any additional driveways, gravel, parking or fencing required; and the existing access can be used. She stated the site complies with all electro-magnetic frequency standards, and there are no health concerns as a result of this site. She stated the radio frequency emissions from the site will not produce any dust, noise, odor, glare, pollution, or additional lighting; and there will be no interference with electronic devices as a result of this site. No signage is proposed.

Ms. Roberts stated Clearwire is FCC licensed to provide broadband wireless internet service and is mandated by the FCC to provide reliable wireless communication service for this area. As shown on the radio frequency propagation map, Exhibits A-4 and A-5, there is an existing significant gap in coverage for this area, and the proposed facility would fill an existing gap. The proposed height is the minimum height needed to fill this significant gap. The proposed facility is located in an existing tower within Lower Makefield, and the use of existing towers is encouraged by the Ordinance, and Conditional Use Approval is required.

Ms. Roberts stated the Plans have been revised and re-submitted to address comments made by Mr. Majewski in his review letter; and the proposed facility conforms to the requirements of Section 200-50.1 of the Ordinance. No dimensional relief is needed. Ms. Roberts stated the proposal is consistent with the spirit, purposes, and intent of the applicable Zoning District as well.

Mr. Calabretta agreed that the summary provided by Ms. Roberts accurately represents the testimony he would have provided to the Board. Mr. Dawinan agreed that the summary provided by Ms. Roberts accurately represents the testimony he would have provided to the Board.

Mr. Truelove stated there is no objection to the admission of the Exhibits into the record. Mr. Majewski stated he did review the revised Plans, and agrees that they have been modified in accordance with his recommendations of 8/28/09.

Mr. Stainthorpe moved and Mr. Caiola seconded to approve the Conditional Use Application for the facility at T.P.N. 20-32-2 consistent with the testimony and evidence seen and heard tonight.

Mr. Kristin Tyler asked if the Application is granted, will their company have complete coverage of Lower Makefield Township, and Mr. Dawinan stated they will not. Ms. Tyler asked if he expects the need for additional poles within the Township, and Mr. Dawinan stated they do not as of today, but as the market matures and the network grows, they would come back to the Township if there is the need for them to put another site in Lower Makefield. Ms. Tyler asked that the Exhibits be made public, and she was provided copies this evening.

Mr. Smith asked Mr. Dawinan how the technology has improved in the last ten years, and where it will go in the next ten years. Mr. Dawinan stated this is fourth generation high speed wireless internet service, and it provides the speed of home cable wirelessly. He stated the plan is to connect laptop, notebooks, and mobile internet devices wirelessly at the same speed or greater than the home cable services. He stated they are also coordinating with wireless companies to have wireless electronic devices such as portable DVDs and digital cameras which can connect directly to the internet wirelessly and you would not have to be tied up with a hot spot or within your home cables. He stated they are trying to speed up the data speed you get from smart phones and home cable internet provider so you can connect wirelessly with the same output.

Motion carried unanimously.

Mr. Truelove stated the next three Applications are co-locations on existing towers in the Overlay District. Nicholas Talvacchio, attorney, was present representing Clearwire. Mr. Truelove stated since the evidence is similar for all three Applications, he will read all three Notices into the record. Mr. Truelove read into the record the Notice for the Stony Hill Road location, T.P.N. 20-16-41-5, (Board Exhibit 1A), Notice for the Edgewood Road location, T.P.N. 20-34-22-1, (Board Exhibit 1B), and Notice for the Woodside Road location T.P.N. 20-17-47-1 (Board Exhibit 1C).

Mr. Truelove entered into evidence the following additional Board Exhibits:

Exhibit 2-A – Section 200-50.1 of the RTF Overlay District

Exhibit 3-A – Article 22 referenced in the Notice Conditional Uses

Exhibit 4-A – Planning Commission letter dated 9/29/09 indicating recommended approval for the Stony Hill Road location subject to compliance with the Remington Vernick letter dated 8/28/09 which is attached to Exhibit 4-A and incorporated by reference

Exhibit 4-B – Planning Commission letter indicating recommended approval for the Edgewood Road location and incorporating the engineering report from Mr. Majewski

Exhibit 4-C – Planning Commission letter dated 9/18/09 indicating recommended approval for the Woodside Road Application with an attached report from Mr. Majewski dated 9/18/09

Mr. Talvacchio had no objection to the Exhibits being offered into evidence.

Also present with Mr. Talvacchio were Mario Calabretta and Arnold Dawinan who were sworn in. Mr. Truelove stated they have heard their qualifications and would agree to stipulate to their qualifications.

Mr. Talvacchio stated they are in the Overlay Zone and feel they meet all the requirements of the Ordinance, and they are locating on existing structures. He stated they are not only meeting the spirit of the Ordinance, but also the literal requirements of the Ordinance in terms of co-locating on existing structures. He stated Clearwire is an FCC licensee and they are required by their license to provide reliable service in their service area, and they need these sites in order to meet those requirements.

Mr. Talvacchio showed a copy of their propagation study which shows the three sites being proposed, and the white indicates a lack of coverage. He stated when the sites are approved, the white areas become red and green showing coverage. This was marked as Exhibit A-1 and applies to all three sites.

Mr. Simon asked for a definition of what is considered reliable service. Mr. Dawinan stated for reliable service devices can work on the general spectrum license of the FCC the frequency they will provide, you can use your equipment about 90% of the general area of the FCC license.

Mr. Talvacchio stated for each of the three sites they have a structural analysis. For the first site on Stony Hill Road, there is a report prepared by American Tower dated 7/16/09. For the first site, they also have an electromagnetic emissions analysis dated 8/11/09. Mr. Talvacchio stated the structural report indicates that the site is adequate and meets the requirements of the applicable Building Codes. He stated the emissions report

indicates that the site will meet the applicable requirements under the FCC. These reports were marked as Exhibit A-2 and Exhibit A-3.

Mr. Simon stated on the map there is an area shaded in red for in-building coverage and an area in green for on-street coverage. Mr. Simon asked if the same reliable standard exists for in-building as it does for on-street; and Mr. Dawinan stated it does not, and the 90% is for the on-street coverage. Mr. Simon asked if there is a standard for in-building coverage, and Mr. Dawinan stated there is not. Mr. Simon asked what in-building coverage represents on the map, and Mr. Dawinan stated it means that you can use your devices inside your home reliably; but if the devices are outside the red colors, the signal would vary so that it would only work sometimes. Mr. Simon stated the red zones on the map look to be contained within the green zones, and Mr. Dawinan agreed. Mr. Simon stated he would then assume that if he is outside of a building in a red zone, he has reliable service, and Mr. Dawinan agreed.

Mr. Talvacchio stated with respect to the site on Edgewood Road, there is a structural report dated 8/14/08 and an electromagnetic emissions analysis dated 8/11/09. He stated the structural report shows that the tower is sufficient to support the proposed equipment, and the electromagnetic analysis report indicates that they meet the FCC requirements. These were marked as Exhibits A-4 and A-5.

Mr. Simon asked if there are FCC specifications they could provide to the Board that are documented so that they can be entered into the record, and Mr. Talvacchio provided the reports already referenced for these sites. Mr. Simon stated he would like to see a document describing “reliable coverage;” and Mr. Talvacchio stated it would only be Mr. Dawinan’s testimony. Mr. Simon asked about the specifications that Mr. Dawinan cited. Mr. Talvacchio stated the 90% range has evolved as an industry standard for reliable service over a period of many years. Mr. Simon stated the 90% is comprised of dropped calls and inaccessibility; and Mr. Talvacchio stated this is correct and it also includes blocked calls. Mr. Simon stated he understands that it is considered reliable if there is only a dropped call one out of ten calls. He asked if the FCC does not publish a standard by which they need to be, and Mr. Dawinan stated they do not. He stated each operator has their own standards, but normally the general industry standard for dropped calls is 2% and for black holes it is 5% although sometimes they make it 10%.

Mr. Simon asked the minimum reliable coverage required by law, and Mr. Dawinan stated he cannot answer that. Mr. Simon asked Mr. Dawinan if the 90% standard is a standard his company has structured, and Mr. Dawinan agreed, and added this is based on industry standards. Mr. Simon stated he works in the technology industry so they might have an “up time” standard of three nines or .999% of the time you have an up tick on the system, but there is no regulation in his industry, and he asked when the Township is granting access for a “co-lo” is their obligation to percentages of coverage based on Mr. Dawinan’s own set of standards or is it based on an FCC regulation;

and Mr. Dawinan stated it is their own standard, but the general rule is that they provide service on the licensed spectrum as much as they can. He stated what they are trying to do is co-locate on the existing structures; and if there is a need for them to provide additional capacity or coverage based on the network needs, they will come back again to the Board of Supervisors and present their hardship. Mr. Simon stated their needs are based on dropped calls or some type of interruption of service issue as well as capacity on the antenna, and Mr. Dawinan agreed. Mr. Simon asked how they measure capacity on the antenna, and Mr. Dawinan stated this type of technology is a data technology, and traditional cylinders work on the drop calls as 2% and if the threshold for the dropped calls go above 2% normally they do not add a site, and they just optimize the cell site meaning they have some parameters on the cell site that they can adjust such as the hand-off trigger between the cell sites. He stated sometimes there is so much traffic going on the site, there is no more radio, and there is only so much equipment that they can put; and this is when they have to add additional sites for capacity.

Mr. Simon stated he understands that there is some number of standard of activity or data transferring at any one time off of any one antenna so that there is a capacity limit, and Mr. Dawinan agreed. Mr. Simon asked how they measure this, and Mr. Dawinan stated for the technology they have, this is new technology, and they do not have any standard that they are using right now; but for traditional cellular carriers, for the black holes normally they use 5% black holes and sometimes they use 10% and this depends on the carrier. He stated for one sector if they reach 5% black holes, they will add radios or carriers on that sector, but if the equipment is filled out at the location, this is the time they have to optimize the hand-off between adjacent sites so they can share the traffic or the load between the sites in order for them to off load the congested site. He stated if those two sectors are congested, and they still have 5% black holes, they would have to add additional cellular towers.

Mr. Simon asked if there was a larger hand-off between sites so they were asking for more capacity or more reliability in between the hand-offs, that would not necessarily impact anything other than an increased number of dropped calls which might get back to the reliability percentage, and Mr. Dawinan agreed and stated if they off load the congested sector from another site or sector, the problems they are having on the original site might actually go to another site.

Mr. Simon asked if this is an industry standard based on business decisions to be able to handle capacity or is it a technology issue, and Mr. Dawinan stated it is a business decision.

Mr. Talvacchio stated for the Woodside Road site they have a structural report prepared by American Tower dated 6/26/09 and an emissions study dated 7/16/09, and these were offered as Exhibits A-6 and A-7.

Mr. Calabretta and Mr. Dawinan agreed that they would adopt all the information provided by Mr. Talvacchio as their own testimony.

Mr. Talvacchio stated there is no modification to the compounds or access roads. He stated approximately once every six weeks maintenance for approximately thirty to forty minutes will be done. He stated the site has no noise or odor and has very low intense use. He stated they are locating where the Township has indicated they should locate.

Mr. Simon asked Mr. Dawinan as it relates to “industry standard” is there a society or ISO set up as the governing industry standard that drives the reliability which would be a recognized industry standard that would exist across all carriers. Mr. Dawinan stated he has been in this business for more than fourteen years, and he has not seen any governing body, private institution, or government institution that tells that this is the percentage you have to meet for your dropped calls, black holes, etc. He stated it is basically the carrier or operator’s industry standard that they are using. He stated for the dropped calls, they are using 2% and for the black holes sometimes 5% and sometimes 10%.

Mr. Simon asked Mr. Truelove if the Township were to deny a “co-lo” would there be a burden to prove reliability on the part of the carrier or the Township based on the coverage zone; and Mr. Truelove stated reliability is not specifically laid out in either the Conditional Use provisions generally or in the RTF issues, and they are more general terms. He feels as long as they meet the terms and conditions, and if reliability becomes something the Township becomes concerned with, the Township would have the burden of proof in that circumstance. Mr. Simon stated Mr. Truelove is suggesting that there is no burden of proof on the carrier to prove or somehow validate reliability issues on a tower-to-tower basis; but Mr. Truelove stated he is not saying this, and within the Conditional Use process, within the Overlay District, there may not be specifically. He stated this is the distinction between an Application such as this and one in an area where they are not approved.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, asked about the Stony Hill Road location. She stated the last time they discussed this location with another carrier, she thought they were requesting an increase in height of the pole; and she felt the discussion at the time was that the pole was full and there was no more room; and they could either increase the height or construct another pole. She asked how they still have room. Mr. Truelove stated he could not recall the specifics. Mr. Talvacchio stated he has reviewed the Plans, and while he was not involved in the Application being referenced by Ms. Torbert, the tower was increased in height by 14’ at some point in the past. Mr. Truelove stated it appears that there is now additional capacity since that time. Mr. Talvacchio stated the tower is now 132’ high. Mr. Majewski stated during the previous Hearing for Verizon when they raised the tower, it included the Lease that was

already entered into agreement with Clearwire so that was reserved area for Clearwire at that time.

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to grant Conditional use for T.P.N. 20-16-41-5 consistent with the Planning Commission memo and referenced report from Mr. Majewski.

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to grant Conditional Use for T.P.N. 20-34-22-1 subject to and consistent with Mr. Majewski's reports.

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to grant Conditional Use for T.P.N. 20-17-47-1 subject to the Conditions expressed and set forth in Mr. Majewski's report.

**GRANTING OF EXTENSIONS – FIELDSTONE AT LOWER MAKEFIELD,
GATHERINGS AT YARDLEY, LUTHERAN CHURCH OF THE RESURRECTION**

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to grant the following Extensions:

Fieldstone at Lower Makefield – 12/29/09
Gatherings at Yardley Subdivision – 1/15/10
Lutheran Church of the Resurrection – 1/9/10

**AUTHORIZE ADVERTISEMENT OF AN ORDINANCE AMENDING THE
TOWNSHIP CODE TO INCORPORATE “GREEN” PRACTICES IN
CONSTRUCTION, OPERATION, AND MAINTENANCE OF TOWNSHIP-OWNED
PROPERTIES**

Mr. Truelove stated this Ordinance has been reviewed and revised consistent with what they were asked to do and is ready for advertisement.

Mr. Caiola moved and Mr. Simon seconded to advertise the Ordinance amending the Township Code to incorporate “green” practices in construction, operation, and maintenance of Township-owned properties. Motion carried with Mr. Stainthorpe opposed.

DEFERMENT OF DISCUSSION OF SALE OF ELM LOWNE

It was agreed that this matter would be deferred until the next meeting.

ZONING HEARING BOARD

With regard to the Erin Development Variance request for property on the south side of Big Oak Road across from Charles Boehm Middle School to permit the disturbance/encroachment into the wetland/water course buffers with storm water basin discharge piping, it was agreed that the Township should participate as the EAC has raised some issues.

SUPERVISORS' REPORTS

Mr. Maloney stated they have been meeting with management companies for the Golf Course over the past few weeks, and the Board of Supervisors will make a decision as to the management company in the next few weeks.

Mr. Caiola stated the Economic Development Commission will have their second Meet and Greet on October 29 at 5:30 p.m. at the Hampton Inn. They will have updates on developments, and Ms. Frick will be in attendance to talk to the businesspeople. All Supervisors and the public are invited to attend.

Mr. Simon stated the Sewer Authority discussed repair opportunities and typical maintenance on the Buck Creek trunk and the impending Edgewood Village implementation into the system. They also discussed their relationship with Yardley relative to a new solicitor and engineering firm coming on board.

AWARD 2008-2009 CONSORTIUM SALT BID

Mr. Fedorchak stated the bid to be awarded at \$57.85 per ton is substantially less than the price the Township was paying previously which was \$65.55.

Mr. Stainthorpe moved and Mr. Simon seconded to award the 2008-2009 Consortium Salt Bid to International Salt Company, LLC at \$57.85 per ton.

Mr. Simon asked how much salt is left, and Mr. Fedorchak stated currently they have 300 to 400 tons of salt left. He stated between now and the end of the year they will order another 500 tons which will result in approximately 800 tons which is what is typically used in a snow storm of two to four inches. He stated for the last few years, they have

Budgeted about \$105,000 a year on salt; and this year, they anticipate by years' end they will have spent about \$101,000; and with the reduction in the per ton price, they hope to budget approximately \$85,000 for next year.

Motion carried unanimously.

DEFERMENT OF AWARD OF CONTRACTS TO ASSIST WITH LEAF COLLECTION

It was agreed to defer this matter.

UPDATE ON DEER MANAGEMENT PROGRAM

Mr. Fedorchak stated the public hunt was held at the Five Mile Woods and sixteen deer were removed in the first two weeks. There was 100% recovery of all the animals, and there were no incidents or safety concerns. He stated with regard to the sharp shoot and the Township's efforts to secure a Deer Control Permit from the Pennsylvania Game Commission, he will be meeting with them tomorrow in Reading. He stated he has asked that officials from Harrisburg, Reading, and locally be in attendance so he can review in detail, what the Township has done so far and see what else is necessary, if anything, and what the Game Commission will require on a going-forward basis.

Mr. Caiola asked what they expected to be able to remove in the first two weeks. Mr. Fedorchak stated in conversations he has had with White Tail Big Oak, it was not clearly defined as to the expectations since this was the first time they had done something like this at the Five Mile Woods.

Mr. Smith stated he has been receiving e-mails about opening up the hunt to other areas, and asked if they have made a priority list on this. Mr. Fedorchak stated initially they wanted to conduct a sharp shoot at the Golf Course, Patterson Farm, and Five Mile Woods. Since then he has had conversations with the consultant, Bryon Shissler and White Buffalo, and they are making recommendations that other areas within the Township be considered. Mr. Fedorchak stated one of these areas would be the area behind the Township Building which runs from the Public Works garage to Oxford Valley Road. He stated he will also discuss similar sites with the Game Commission to see if they will approve those sites, and if they do, he will discuss this with the Board of Supervisors to see if they feel they are comfortable including these additional sites. Mr. Smith asked what they are looking to achieve in terms of deer being removed. Mr. Fedorchak stated in his last conversation with White Buffalo, they are anticipating that they will be able to begin baiting sites sometime in December. He stated this is usually a three week period; and then sometime in January, they will conduct the actual

sharp shoot which will take approximately two weeks. He stated White Buffalo is prepared to hunt ten to twelve sites within the Township and would be able to accomplish this in the timeframe just noted. Mr. Caiola asked if there is a sense how long they will have to have the bow hunt, and Mr. Fedorchak stated he would like to go through at least another hunt cycle; and in two weeks, he will come back and discuss this with the Board. He stated by that point he will also have met with the Pennsylvania Game Commission, and they will then know what they are thinking.

Mr. Smith asked if sixteen deer removed in thirteen days is a reasonable expectation. Mr. Dave Shuster stated they never gave a number in terms of their expectations for the first weeks in Five Mile Woods. He stated the deer count in the Woods was questionable at the time, and they never set a target for expectations. He stated sixteen deer in thirteen days averages over one deer a day. He stated they are a volunteer group, and the number of man hours in the woods varied from day to day. He stated it is also early in the hunting cycle and there were some rainy and warm days which presents challenges to the hunters because if you harvest the deer you have to get it out right away before it spoils. He stated he feels sixteen deer in thirteen days is a reasonable number given that the Woods has not been hunted before.

Mr. Smith asked what was done with the sixteen deer; and Mr. Shuster twelve were donated directly to Ely's Deer Processing in Washington Crossing, and these go Hunters Sharing the Harvest which goes to the food bank. He stated there were a couple of hunters who harvested more than one deer, and they did keep a deer for themselves. Mr. Shuster stated they put a lot of safeguards, rules, and regulations on their hunters above and beyond what the normal public hunter would expect to go through for a hunting opportunity in Pennsylvania. He stated their hunters adhered to all the regulations. He stated each hunter was required to buy four doe tags, which will allow them to harvest doe, and it is the targeted depopulation of the herd to remove the mature females. He stated a hunter could not be expected to remove four deer in one or two weeks as archery does take some time. He stated there was 100% recovery, and there were no safety issues.

Mr. John Heilferty stated the hunters are being so careful with their shots at the Township's request and diligently following the safety requirements, that they are not removing as many deer as potentially they could; and the hunters are being very cooperative and sensitive to the situation they have been placed in as volunteers trying to help the Township satisfy the Pennsylvania Game's Commission requirement to have a public hunt.

Mr. Kevin Costello, Hyde Park Place, stated he borders the nature preserve and is present representing the surviving deer that live in Five Mile Woods. He stated he and his family have lived next to the Five Mile Woods for fifteen years, have enjoyed hiking, and have not contracted Lyme's Disease. He stated they have driven on Big Oak Road numerous

times and never had a collision with a deer. He questions if they have just been lucky or have the problems associated to the deer in Five Mile Woods been greatly exaggerated. He stated he and many people he talks to are thankful when they see a deer, and he feels the deer population in the Five Mile Woods has been on decline over the years; and the sixteen deer which were slaughtered during the first fourteen days of the archery hunt point to that fact. He stated it was never stated how many deer are believed to be in Five Mile Woods, and he would like to have that information. He stated the Township used an aerial survey from 2004 that showed 25 deer inside the Park boundaries and 24 outside in the bordering farms. He asked that the Board of Supervisors reconsider the deal with the hunters before the extermination of all the deer in the Five Mile Woods nature preserve. He asked that they also consider the Township residents and put off the hunt so that the residents can enjoy seeing the fall foliage.

Mr. Costello stated during the April meeting, it was mentioned that there would be a map of deer/car collisions that would be provided to the residents so that they would be aware of where dangerous situations are; but to this day he has neither heard nor seen anything about this.

Mr. Costello questioned the cost of the deer management program which was produced, and Mr. Fedorchak stated it cost approximately \$12,000. Mr. Costello stated this would be in addition to the \$60,000 to be spent on the sharp shoot, and Mr. Fedorchak agreed.

Mr. Maloney stated the Board has already voted to proceed with a hunt. Mr. Costello stated they will have to make this decision again next year; and Mr. Maloney stated at that time there will be ample opportunity for the public to comment on the experience of the hunt that is going on now. He stated what they are currently discussing is an update from Mr. Fedorchak, and they would be willing to answer questions on the update; but they will not discuss whether or not to have a hunt, as this decision has already been rendered. Mr. Costello stated the deer cannot speak for themselves. He asked if they have considered another aerial infrared survey, and Mr. Maloney stated he feels this would be a discussion to be held next year if and when they decide whether or not they are interested in having another hunt. Mr. Costello stated he assumes that this would normally be done in December which is when the 2004 survey was done, and he feels the Board needs to discuss this now so they can be prepared.

Mr. Costello asked if they are following the deer management practices Mr. Shissler put in his report with regard to ticks since Lyme's Disease was given as one of the reasons for the hunt. He stated they have also not gotten the information on the deer/car collisions. Mr. Maloney stated Mr. Shissler has been working with Mr. Fedorchak on the hunt, he is providing oversight, and they will take his recommendations into consideration. Mr. Maloney stated deer/car collision data will be available once the effects of the hunt can be measured. Mr. Costello stated they indicated there were 72 deer/car collisions last year, and he asked why they cannot tell where these occurred; and

Mr. Maloney stated he feels this information can be provided, and Mr. Fedorchak agreed to handle Mr. Costello's request.

Mr. Costello stated as a resident of Lower Makefield Township he feels they do a lot of things right and they take pride in being a leader in environmental concerns, but he feels they have proceeded with a deer hunt without adequate information. He questions how many deer there are, feels they have grossly exaggerated how many deer there are in Five Mile Woods, and feels this is a waste of taxpayer money.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, asked how many of the sixteen deer that were killed were does; and it was noted there were fifteen does. Ms. Torbert stated she is concerned with the process and felt the last time this was discussed they were going to have two weeks of the hunt and then re-evaluate where they were, and she is not sure what the criteria is for re-evaluating. Mr. Simon stated he feels they have addressed this tonight. He stated they have provided an update on the hunt, and Mr. Fedorchak has a meeting with the Pennsylvania Game Commission tomorrow so the Township can understand the requirements. He stated he felt the idea of identifying the Five Mile Woods for this portion of the public hunt was to try to satisfy the Pennsylvania Game Commission's requirement that there be an open hunt and the Township wanted to contain it in a place which they felt was the most safe for Township residents, and Mr. Fedorchak agreed. Mr. Simon stated the Five Mile Woods is a viable, safer place. He stated the Board has heard from residents since this went public about whether or not the Township could go to various parts of the Township to have a hunt there. He stated he feels they are living up to the standards of the April 15 meeting and the disclosures, and they are reporting this evening post the first segment of the open hunt with a public update.

Ms. Torbert stated what she is asking is whether there was an agreement either oral or written with Big Oak White Tail Management by the Township to have the hunt for a certain period of time; and Mr. Fedorchak stated in his conversations with representatives from Big Oak White Tail Management, they discussed how they could be most effective with an archery approach and at the same time satisfy the Pennsylvania Game Commission's requirement of the Township to conduct a public hunt. He stated there was an understanding between the Township Administration and representatives of Big Oak White Tail Management to conduct the hunt as has been described in two-week segments, four cycles over a two to three month period. Ms. Torbert stated she feels the answer to her question is that the Township has made an Agreement. Mr. Fedorchak stated he feels he has answered the question.

Mr. Maloney stated they came up with a plan, they will have check-ins on the plan, and they will continue to conduct business and give the opportunity for all Supervisors to object to what is going on if they feel things are not going as they should be.

Ms. Torbert stated now that they have established that there is an Agreement, she is trying to determine what criteria they are going to use at the end of each two week period. Mr. Maloney stated he does not have any criteria. Ms. Torbert stated she is also concerned that they are so passive in the process; and they are sending Mr. Fedorchak to the Game Commission who will tell the Township whether they will allow them to hunt in ten locations in the Township, and she feels that the Township should be the ones to decide what locations they want hunters in rather than sending Mr. Fedorchak to Reading to ask them. Mr. Maloney stated there is State law which indicates that if they want to have a controlled deer hunt, the Township needs to go to the Pennsylvania Game Commission and reach an agreement with them; and this is what they are doing.

Ms. Torbert stated she does not feel it indicates that the Game Commission dictates where the hunts have to be in the Township. Mr. Fedorchak stated in order to move forward with the controlled hunt, the sharp shoot, the Township needs to secure a special Deer Control Permit from the State, He stated the Pennsylvania Game Commission will attach whatever conditions they see fit to that Permit, and the location of the sharp shoot is a condition that they can establish and control.

Ms. Torbert stated she does not understand why they are doing anything before they know what the conditions will be. Mr. Maloney stated he feels they have addressed this already.

Mr. Simon stated he was not on the Board when this was approved; but the Pennsylvania Game Commission controls the issuance of licenses for events such as this, and they set conditions. He stated it is unfortunate that they have not given the Township a specific count so that the Township could adhere to it and execute this in an efficient manner that would satisfy those who are opposed to the hunt. He stated he is concerned about the accusational tone that the Board is executing this hunt with no regard for anything that is within the confines of the law of the Commonwealth or the safety of its citizens. He stated he has discussions with Mr. Fedorchak multiple times a week to get an update on the hunt. He stated the Township is trying to take care of a problem that was identified by a number of Township residents. He stated the Board executes the management as well as the professional staff of the Township quite well. He stated to accuse that the Board is “flying blind” because they have chosen to or that they have the power to dictate to the Pennsylvania Game Commission which issues the licenses and Permits, that they will tell them what to do when in fact the Township has to abide by their rules and regulations, he feels is irresponsible; and as a member of the Board he will not allow this to be disseminated to the public. He stated there was a significant amount of debate on April 15 and an acknowledgement by people in the room on the record that they understood that a public hunt was going to occur, and that there was a potential for an archery hunt as part of this. He stated he is not going to advocate that he is supportive

of anything other than what is within the confines of the law and what the Board set out to do. He stated the Board continually has to keep re-debating the issue, and what Mr. Maloney has indicated is that when they get through this and have data to support the efforts that took place on this cycle which is the open hunt and the controlled sharp shooting site; and a future Board has to re-visit it, they will have existing data, evidence, and information that is needed to establish in order to have a base line. Mr. Simon stated this is the base line establishment which is a standard operating procedure for anything done for the first time. He stated they are trying to do this in the most efficient way. Mr. Simon stated in defense of the professional staff and the Chief of Police who monitors the traffic accidents, he finds it difficult to listen to the accusational tone that the Board is being irresponsible. He suggested that people review the 4/15 Minutes adding Ms. Torbert acknowledged that she was aware of the conditions of the hunt. He stated the professional staff is well aware of the obligations and the safety concerns of the residents which has always been the first thing the Board has been concerned about.

Mr. Costello asked how many deer they are going to take and how many deer are going to be left in Five Mile Woods.

Mr. Maloney closed public comment on this issue at this time.

OTHER BUSINESS

Mr. Maloney stated unfortunately a publicly-required meeting of the Planning Commission was scheduled on Yom Kippur, and he feels it would be an appropriate policy for the Board to adopt, given the demographics of the community and sensitivity to not only Christian holidays but Judaic holidays as well, that the three most high holy days be days on which they avoid planning public meetings. Mr. Simon stated the meeting was advertised, and there was an error in the scheduling of the calendar; and the impact of this was a publicly-advertised hearing in which the public can come and testify was held on a religion's high holy day which precluded not only members of the Board from being in attendance, but also members of the public from being able to testify and participate in that meeting.

Mr. Simon stated he has had discussions with Mr. Fedorchak about insuring that a calendar is distributed to all the professional staff and the Chairs of the various Committees. Mr. Maloney stated he does not feel anything needs to be done officially, and it can be handled administratively and it would be appropriate that Yom Kippur, Rosh Hashanah, and Passover be days on which they avoid public meetings. Mr. Smith stated all the Commissions at the beginning of the year should review the calendar and decide what they should do for the balance of the year.

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Mr. Simon stated while it did not occur the night of the Planning Commission meeting, there was the potential threat that they would not have a quorum; and this would have impacted the Applicants.

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

Respectfully Submitted,

Greg Caiola, Secretary