

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JUNE 4, 2014

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on June 4, 2014. Chairman Dobson called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors:       Dobby Dobson, Chairman  
                                      Pete Stainthorpe, Secretary  
                                      Kristin Tyler, Treasurer  
                                      Jeff Benedetto, Supervisor

Others:                         Terry Fedorchak, Township Manager  
                                      Jeffrey Garton, Township Solicitor  
                                      Mark Eisold, Township Engineer  
                                      Kenneth Coluzzi, Chief of Police

Absent:                         Daniel McLaughlin, Vice Chairman

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B. Wren Song Road, asked what he is going to be able to say at meetings since at the meeting on May 7 he was reprimanded for something he said about his arrest. He asked if he is going to be banned which would not surprise him. He stated he tries to limit his remarks to facts that relate to the Township; and if they do not accept the premise that there is not enough money to go around, this is fine. He stated he does not care to be remanded since he never gets out of line. Mr. Dobson advised Mr. Kupersmit that he would not be banned; and since this is a public meeting, he has the right to speak. He stated they will not allow him to get off topic or allow any type of abusive behavior; and he believes that the Chief was correct at that meeting asking Mr. Kupersmit to sit down since he was getting loud and out of control.

A member of Troop 10 was present to discuss his Eagle Scout project. He stated he is building and installing benches at Veterans Square Park. He stated he is in the fundraising stage, and one of the fundraisers is a car wash to be held June 14 from 12 to 5 p.m. at the Masonic Lodge. He asked that this information be put on the Township Website, and he provided information on this to Mr. Fedorchak. Mr. Dobson stated Troop 10 is a very active Troop, and they have had a number of Eagle Scouts.

Dr. Helen Heinz, 1355 Edgewood Road, stated she is concerned about Scammell's since she has seen nothing other than a sign installed. She stated she had a call from the individual who had been interested in purchasing the house, and he indicated that the developer had requested of him a Performance Bond for \$1 million and a timeframe within which the work had to be done. He stated that while this was not enough to dissuade him from the project, the developer also wanted creative control of his design and to approve whatever he did; and there was a clause in the Contract that if he did something they did not like, it would have to be removed at his expense. She stated this is why he walked away and he subsequently purchased an old house in Doylestown Township which he stated was in far worse condition than the Scammell House, and he is almost finished with that property.

Dr. Heinz stated her property recently experienced a power outage from a storm, and she is anxious to see the Committee formed which Ms. Tyler has discussed. She stated the Township should be aware that there are houses in Lower Makefield that have private on-site septic and wells; and when the electricity goes out their wells and septic go out. She stated possibly she could get a generator, but they do not generally last more than three to four hours.

Dr. Heinz suggested with regard to the Harris property with the current real estate decline, the Township should re-visit that parcel. She stated while it came in for Preliminary Plan, it sounded "dire;" and that the developer was not going to make enough money in that development. She stated the only things left in Lower Makefield now are the "troubled" parcels. She suggested that the Township condemn the Harris property and it would be a convenient site for the leaves. She stated the "dump" should be encapsulated, and the Township has some moral responsibility over that dump. She stated it could be paved with pervious surface pavers and perhaps made into a LMT SEPTA lot since a lot between Woodbourne and Yardley would be ideal since it is not safe currently to get to the Yardley Train Station by foot or by bike.

Dr. Heinz stated nothing is happening at Historic Edgewood Village, and the National Register properties are looking "abysmal." She noted two properties owned by Mr. Troilo which are undergoing demolition by neglect, and she asked the Township to take action and cite Mr. Troilo and other people who own properties. She stated there are people in Edgewood Village who would purchase those properties and have done nice jobs on their restorations.

Dr. Heinz noted the recent crisis on Patterson Farm at the Janney-Brown House where apparently there was run off and a lot of it flowed across Mirror Lake Road. She stated the Supervisors need to look at this run off as there were issues as to whether or not there was sewage in the run off. She stated she feels the problem can be fixed with some good annual maintenance on the property's septic systems.

Dr. Heinz stated she did get texts and e-mails from people she knows in Buck Creek who were very upset about the smell of the creek and animal carcasses which washed across the street. Dr. Heinz stated those individuals contacted Township Administration and did not get "too far." Dr. Heinz stated the Environmental Advisory Council should have been contacted and people downstream should have been alerted to take their children out of proximity to that stream. Dr. Heinz stated she would like to know where the Supervisors stand on the issue of maintenance of that property, and consider if LMT should do the maintenance on the property to prevent these kinds of unlawful discharges. She also asked what the Board feels about the kind of notification that is necessary when there is an event like this including farmers upstream spraying a field or something coming down any of the streams or the River. She stated there are now tank cars going through Lower Makefield; and if there is an oil spill, there should be a way to notify people who are downstream, and she suggested that the Environmental Advisory Committee compile a list of people who might be effected so that they can be notified.

Mr. Benedetto stated with regard to the Patterson Farm Janney House, there was a complaint about a potential sewage overflow at the Janney House on June 29. He stated a resident called the Health Department and there was to be an inspection on June 2 which was postponed until today so that Mr. Jones, the Township Facility Manager, could be present. Mr. Benedetto stated the individual from the Health Department did a dye test of the three bathroom lines. He stated there is a bathroom on the first floor, one on the second floor, and one in the basement. Mr. Benedetto stated the bathrooms on the first and second floors lead to a sewage tank in the back yard that is for the main house, and there is one on the side of the building which leads from the kitchen and the basement bathroom. The inspector put in dye and will be back to do the inspection tomorrow and Friday. Mr. Benedetto stated he himself was present when the Health Inspector put in the dye today. Mr. Benedetto stated they looked into the three tanks on the property – the one for the cottage, the one for the main house, and the one that was recently discovered in the last year or so that services the basement bathroom and the kitchen. Mr. Benedetto stated according to his discussion with Mr. Fedorchak he does not feel that any of them have been serviced.

Mr. Benedetto stated he feels an easy solution would be to have the three tanks pumped out, and this would cost approximately \$200 to \$300. He stated they would then have a base line established. He stated there is a dispute as to whether they have ever been pumped out or when they had been pumped out. He stated Mr. Jones had indicated it was maybe four to five years ago that the main house tank was pumped out. Mr. Benedetto stated there is money in the Budget as there is a separate Patterson Farm Budget, and he feels it makes sense to pump all three out and establish a base line. He stated they will also find out if there is a problem.

Mr. Fedorchak stated he believes that for all three of the septic tanks, the lids were up at the time of the inspection; and when they looked into them, none of them were close to being filled. Mr. Benedetto stated this is incorrect as the third tank that was recently discovered had a concrete slab over it. Mr. Fedorchak stated for two of three they know that they are not filled, and he does not feel it would be necessary to pump out those tanks at this time. He stated they may reconsider this once they have the results of the inspection. Mr. Fedorchak stated up to now the Township staff has reported that they do not believe that there are any discharge issues with the septic system, but the dye tests will reveal this.

Mr. Benedetto stated he understood from Mr. Fedorchak following their discussion on Monday that these three tanks have never been pumped out; however, Mr. Fedorchak stated this is incorrect. He stated he checked with Mr. Jones who indicated that he had pumped out at least two of the tanks right before the Artists of Yardley took over the facility.

Dr. Heinz stated you cannot wait for a septic tank to get totally filled to pump it out, and Mr. Fedorchak stated they understand how to properly maintain the tanks. He stated it is their assertion that the system is operating fine, and there are not any issues; however, rather than debate that this evening, they will find out what the results are from the test. Dr. Heinz stated a family member has a similar system, and there is a cistern that routinely takes gray water off the top of any sewage effluent; and that gray water is discharged in a separate cistern. She stated most septic tanks have pipes that come out of them at about shoulder height to the septic tank, and it should never get to those pipes. She stated if it is covering those pipes, you have a failed system.

Mr. Fedorchak stated right now they do not believe that they have a failed system. He stated his staff has also walked the entire area due east and due southeast of the Janney-Brown farmhouse so they did not limit their investigation to the immediate back yard of the House, rather they went well into the field behind the Janney-Brown House and looked throughout that entire area, and reported back that they had seen no evidence of any sort of sewage discharge. He stated there are some wet areas which is understandable considering the lay of the land, but they did not see any sewage discharge.

Mr. Stainthorpe stated they are having professionals evaluate this; and if there is a problem, it will have to be fixed.

Mr. Fedorchak stated last year the Department of Health did investigate that entire system and they were at the Patterson Farm at that location. He stated they did a visual inspection, and they concluded that they saw no visual evidence of a sewage discharge.

Mr. Benedetto stated he finds this less than proactive and feels it makes infinite sense to actually pump the three tanks so that they are at a baseline. He stated he had discussions with Mr. Stewart who farms the land and Mr. Kall, the Public Works Director, and they said the same thing. Mr. Benedetto stated he feels that the Township is waiting for there to be a problem. Mr. Benedetto stated Mr. Fedorchak has indicated that the tanks have not been pumped in three to four years; and there is a dispute about that since when he spoke to Mr. Fedorchak, he indicated that he had no record of it. Mr. Benedetto stated Mr. Jones did state that it was about four to five years. Mr. Benedetto stated it does not matter when it was since it was not recent, and they are not being proactive but are waiting on the Health Department. He stated when the Health Department was out there last year, it was because there was a complaint by a neighbor; and the Township was not being proactive. He stated the cost of pumping the three tanks is about \$200 to \$300 so it could end up being approximately \$1,000; and he feels they should establish a base line which was the comment made by Mr. Stewart and by the Public Works Department Director. Mr. Benedetto stated he feels there is a reluctance to take action, and the action taken was only because the neighbor asked the Health Department to check this out.

Mr. Dobson stated the Health Department has gone out, and they are checking to see if there is a problem; and if there is a problem, the Township will fix it.

Mr. Benedetto asked Mr. Fedorchak if the tank that services the cottage and the main house was pumped out about four years ago; and Mr. Fedorchak stated he would have to defer to Mr. Jones for an exact date, but he recalls that he indicated it was three to four years ago.

Mr. Benedetto stated there was also an e-mail about a resident indicating that there were deer carcasses washing up by Mirror Lake Road by the pond. He stated there were concerns for health reasons, and he asked if something could be done about removing them. Mr. Fedorchak stated the Township does not permit deer carcasses to be disposed of on the Patterson Farm. He stated he understands that approximately three years ago the Game Commission contractor may have used the Patterson Farm as a site and may have placed one or two deer carcasses in the area of the leaf piles. Mr. Fedorchak stated they the Township has made it clear that is not an acceptable policy.

Mr. Benedetto asked what they can do if this happens again; and Mr. Fedorchak stated he would hope to engage the Game Commission in the process and look to direction from them to see how they want to handle disposal of carcasses.

Mr. Fedorchak stated this is a Farm of over two hundred acres; and while the Township watches what is going on, it is impossible to see everything. He stated the Township staff have assured him that they are doing the best they can monitoring the situation.

Mr. Stainthorpe stated he feels they need to be on record with the Game Commission that the Patterson Farm is not to be a repository for deer; and if they were doing this some years ago, he would like to know where, and perhaps they need to be removed. He stated if a deer carcass washed up from the rain, they are not buried deep enough; and the Game Commission should be responsible for removing them. Mr. Fedorchak agreed to follow up on this.

#### APPROVAL OF MINUTES

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to approve the Minutes of May 21, 2014 as written.

#### UPDATE ON QUIET ZONES AND MOTION TO FILE REQUEST FOR RE-EVALUATION REGARDING THE CATEGORICAL EXCLUSION

Mr. Eisold stated last month there was discussion about the Quiet Zones, and he had indicated that they would have the consultant he had been working with, Mr. John Samean from Gannet-Fleming, present at this evening's meeting. Mr. Eisold stated Mr. Samean is a railroad systems engineer and has a lot of experience with this kind of Application.

Mr. Samean stated his discussion this evening is about the process of implementing a Quiet Zone which is a five-step process. He stated they need to install safety improvements that meet the requirements of the law. He stated if they follow the requirements of the law and put in supplemental safety measures in the manner and format prescribed by the law, there is really nobody that can stop the process.

Mr. Samean stated Step 1 of the process is to identify the grade crossings. Step 2 is to provide written Notice of Intent to create a Quiet Zone. Step 3 is a Diagnostic Team Review of Improvements. Step 4 is design and construction of safety improvements, and Step 5 is to provide formal notification of the new Quiet Zone.

Mr. Samean stated with regard to Step 1 there are a number of things they must do to establish a Quiet Zone. He stated by law the Quiet Zone corridor has to be at least a half mile in length; and the three grade crossings that they are going to address, Heacock Road, Stony Hill Road, and Edgewood Road together will be far more than a half mile in length so this requirement is met. He stated there is also a requirement that active warning devices be installed at each grade crossings which would be flashers and gates and a bell on at least one of the gate masts.

Mr. Samean stated the law is that the locomotive must blow its horn constantly for half a mile approaching the grade crossings which is why the Township is getting a lot of complaints. He stated when you quiet the horn it reduces safety so the way you are allowed to establish a Quiet Zone where the locomotive does not blow its horn anymore is by adding safety improvements that bring the risk threshold back to where it was to match the risk threshold as if the locomotive was blowing the horn.

Mr. Samean stated he knows there was some concern about the constant warning times, and the law does require that constant warning time devices be installed if reasonably practical and if they will operate reliably. Mr. Samean stated there was a letter from CSX in this regard in 2008, and they had indicated that the Township could not establish a Quiet Zone because constant warning time was not going to work reliably. Mr. Samean reviewed the systems in place and stated that SEPTA has recently talked to the FRA which is the ruling authority in this matter, and they have indicated that CSX will need to install constant warning devices on their track; but on the two SEPTA tracks, they will not need to do it. Mr. Samean stated CSX installs constant warning devices on all their crossing improvements anyway, and they will put them in here.

Mr. Samean stated a lot of data needs to be collected to comply with Step 2. He stated the FRA has a grade crossing inventory sheet on every highway grade crossing in the Country, and he reviewed the information included on these sheets. He stated they utilize this information to establish a risk threshold for each highway grade crossing and annually they update the nationwide significant risk threshold. He stated the Quiet Zone corridor needs to come under that threshold. He stated the process they will go through is establishing supplemental safety measures in order to bump up the risk threshold for the removal of the sounding of the horn. Mr. Samean stated there are also FRA accident history reports so that they are aware of the type of accidents that occur at the grade crossings which will help determine the improvements. He stated there will be a field investigation to decide what needs to be done. He stated the law requires that the inventory sheets be updated to current status, and this will require that a traffic study be performed. He stated the law requires that within six months of the Notice of Intent, you must have up-to-date traffic data. He stated they will also need to calculate the risk index and be assured that the safety improvements will qualify.

He stated once all of the information is obtained, there will be a diagnostic team review which includes the presentation of a schematic conceptual design to all the stakeholders which in this case would be SEPTA, CSX, PennDOT, the PUC, the Township, and the FRA. He stated everyone has equal opportunity to make recommendations.

Mr. Samean stated Step 4 is the design and construction of the safety improvements which begins with the filing of a Notice of Intent letter in accordance with the Code, and this is sent out to all the stakeholders. He stated usually the Townships advertise this in the local newspaper, and there is a sixty day comment period during which the public and the stakeholders can raise their concerns. He stated all of the comments need to be addressed; and those agencies that do not respond have to be followed up with a letter asking them to respond or state that they have no comments. He stated they can then start the process of design for each of the crossings, and they will need to have topographical surveys; and he would recommend that they go at least one hundred feet down the center line of the road from the near rail.

Mr. Samean stated they will then proceed with final design and construction of the median barriers and channelization devices. He stated it is important to coordinate these improvements with SEPTA. He stated they are considering choosing lower cost, safe alternatives of the supplemental safety measures that are available. He stated SEPTA is installing a new track as part of their separation improvements, and they are going to be moving the gates on the north sides of the highway grade crossings thirteen feet further out from where they are today. He stated the law requires that the channelization devices and barriers extend to within one foot of the lower gate, so this means that they will not be able to go in service until SEPTA places the new track and installs the new highway crossing gate so there needs to be coordination. He stated the construction manager who is working that project is present this evening if there is a question as to when this might take place.

Mr. Samean stated Step 5 is to provide a formal notification of the new Quiet Zones, and there is a formalized process to be followed and all stakeholders must be notified. He stated this must be at least sixty days following the formal Notice of Intent and must be mailed at least twenty-one days in advance of the in-service date. He stated once in-service is declared, the Railroads will be notified; and the following morning they are required to stop blowing the horn at those three crossings.

Ms. Tyler asked Mr. Samean for an estimated timeline for what he just discussed. Mr. Samean stated Boucher & James has asked him to help them out with the process, and they feel they will sign a contract with them by the end of the week; and they will then start the engineering. He stated he feels they could work through

the process of formal notices, data collection, and conceptual design within a few months. He stated Mr. Eisold will do the final engineering on the Plans and specs, and there would then be a bid process for a contractor to do the work. Mr. Eisold stated they have discussed this and feel that that the approvals will take approximately four to six months.

Ms. Tyler stated Mr. Samean was discussing the constant warning system that CSX plans on putting in, and she asked if they know when that will be done. Mr. Samean stated he believes they have them at the crossings today. He stated as part of the separation projects all of the signal equipment there today will be replaced; and while he is not working on that project, he believes that SEPTA will be there doing track work starting next spring so he feels the earliest the Quiet Zones could be in service would be following that track work and the installation of the new gate could be late spring or early summer of next year.

Ms. Tyler asked if Mr. Samean has seen the inventory sheets for Lower Makefield; and Mr. Samean stated he has, and they are not up to date. He stated as part of this process the grade crossing inventory sheets would need to be updated.

Ms. Tyler asked Mr. Samean if he could discuss places where Quiet Zones have been implemented, and the impact they have had on the overall safety of the crossing. Mr. Samean stated the law allows these. He stated in the late 1990s/early 2000s Florida East Coast Railroad, where there approximately 600 highway crossings, stopped blowing their horns at the grade crossings because there were a lot of elderly people and it was interfering with their sleeping at night. He stated as a result highway grade crossing accidents went up, and the law then required that every train in the County must blow their horn constantly within half mile of the crossing. He stated before that it was left up to the individual railroad exactly how they blew their horn; and while most of the railroads did sound their horn, the manner in which they sounded it was problematic. He stated the Federal Government now regulates the sound of the horn, and they are very specific about how the horn noise is to be focused. As a result of this regulation, they recognized that there needed to be a way out where if there was an environmental concern, the sounding of the horn could be removed and replaced with additional safety measures.

Mr. Samean stated the Federal Government provides a specific safety ranking for the five supplemental measures that are allowed to be used. He stated installation of supplemental safety measures at each of the grade crossings in the grade crossing corridor also includes improved signage. He stated he does not know of any place where the Quiet Zones were installed where they have considered it to be less safe.

Ms. Tyler asked Mr. Samean if he has reviewed the cost estimates prepared by Mr. Eisold on installation of the Quiet Zones, and Mr. Samean stated they have discussed this. He stated engineering and construction needs to be done, and he feels the estimate is probably okay; and going forward as part of the design, they will sharpen those costs.

Ms. Tyler asked Mr. Samean if he feels the Township has a reasonable chance of being successful in getting approval for the Quiet Zones, and Mr. Samean stated he does not feel there is anything that will stop them. He stated there may be some concern with the residence on the south side of Stony Hill Road since they will not be able to make a left turn out of that driveway anymore.

Mr. Benedetto asked if anyone is present from SEPTA this evening since Mr. Samean had indicated that someone from SEPTA was here however, no one present in the audience indicated they were from SEPTA. Mr. Samean stated he does not believe that anyone from SEPTA is present, but a construction manager who works for Gannett-Fleming is present who is working on the separation project.

Mr. Benedetto stated he understands that Mr. Samean is with Gannett-Fleming, and the Township will be paying him as a consultant. Mr. Samean stated he is currently in the process of sub-consulting with Boucher & James. Mr. Benedetto asked if Mr. Samean's fee is included in the estimated cost of the Quiet Zones of \$350,000 to \$375,000, and Mr. Samean stated it is. Mr. Benedetto asked if the cost of the traffic study is included in the \$350,000 to \$375,000; and Mr. Samean stated it is, and Boucher & James would be doing that work. Mr. Eisold stated it is not a traffic study per se; and the information they need is the number of buses, trucks, and average daily traffic over these crossings. He stated this would be factored into the numbers when the risk assessment is done.

Mr. Benedetto stated Mr. Samean is being brought on by Boucher & James as a consultant to help with the project because he has experience in this area, and Mr. Eisold stated that is the intent although nothing has been finalized. Mr. Eisold stated there are other parts that Boucher & James will do. He added that he will provide to Mr. Fedorchak shortly what the costs going through the process will be both from Gannett-Fleming and Boucher & James. He stated it is a lengthy process, and the Permitting getting this in place will be almost as expensive as building it.

Mr. Benedetto asked Mr. Samean what other Quiet Zone projects he has been involved in; and Mr. Samean stated he was Project Manager on a Quiet Zone for the City of Tempe, Arizona and they also helped Flagstaff, Arizona with their Quiet Zone. Mr. Benedetto stated he saw an article about the Flagstaff project, and the cost there was over \$1 million, and he asked the difference between that and Lower Makefield.

Mr. Samean stated the technology used in Flagstaff was an expensive type of technology. He stated in Arizona in order to use the channelization devices and the median barriers like those planned for Lower Makefield they have to go 100' down the center line of the road if there is no adjacent intersection. He stated if there is an adjacent intersection, the law allow you to only go 60'. He stated Flagstaff was in the center of town where there were a lot of businesses; and according to the law, a driveway to a business or to a private residence where four or more in a family live is considered an intersection. He stated this prevented them from doing what is proposed for Lower Makefield.

Mr. Benedetto stated he is concerned about additional insurance costs that have not been taken into consideration. Mr. Samean stated he does not know if there will be an increase in insurance. He stated the concept behind the safety improvements is to try to prevent someone from driving around the gate. He stated currently they get a warning from the train; but with a Quiet Zone, they do not have that. He stated when you put in what they are proposing, people will generally not drive over it because it would impact their muffler. He stated he is not sure if there will be increased insurance rates. He stated the Township is only responsible for maintaining one of these crossings, since the State maintains the other two.

Mr. Benedetto stated Dobry Road has an individual who lives on the other side of the tracks, and he asked if that will also need a Quiet Zone. Mr. Samean stated Dobry Road is a private crossing; and the law requires that if a private crossing falls within the Quiet Zone corridor, you have to install whatever improvements would be recommended during the diagnostic review meeting. He stated the Dobry Road crossing is outside the limits of the Quiet Zone corridor. He stated he does not know what SEPTA will be doing there as part of their separation project, but it will have no effect on the Quiet Zones.

Mr. Benedetto stated he heard Mr. Samean state that SEPTA will complete their signal crossings by spring of 2015, and Mr. Samean stated he understands that SEPTA will not be building track there until March of 2015. He stated SEPTA will not install the new gate until the track is in; and the barriers and channelization devices have to come within one foot of the gate so the Quiet Zones cannot be put into service until the new gates are in service. Mr. Benedetto stated work was being done at Edgewood last week; and he had a discussion with a SEPTA individual doing work there who stated this was the last crossing they were working on, and he indicted that the signal crossing would likely commence sometime in the fall. Mr. Samean stated he did discuss coordination with SEPTA so moving forward they will have to get better tuned in with SEPTA as to when they plan on doing their work; and if they are moving the gate out in advance, there is no reason the Township could not advance the work at one of the grade crossings.

Mr. Eisold asked Mr. Eisold if he knows if SEPTA has submitted their PUC Application; and Mr. Eisold stated he met last Friday with one of the SEPTA construction managers who indicated they were planning on submitting it the beginning of June, but he does not know if it has been physically submitted at this time. Mr. Eisold stated they did lay out for him a timeline of their work. They are doing some preparation work at the crossings at this time. They were also scheduled on Saturday to remove a section of the Reading Avenue bridge to be refurbished and replaced next to the tracks. He stated next they will construct a retaining wall about one quarter mile from Edgewood off to the right where there are steep embankments, and they will put up a 15' to 18' retaining wall to prevent that wall from sliding onto the tracks; and that will be scheduled in the next few months to be done.

Mr. Benedetto asked the timeframe for the PUC Application during which the Township has the opportunity to make comments; and Mr. Eisold stated he does not know the exact timeframe, but he understands that once it is submitted, the stakeholders will be notified.

Ms. Tyler asked Mr. Eisold if he had an opportunity to discuss with SEPTA cushioning the Reading crossing; and Mr. Eisold stated while he has not, he will discuss this with them.

Mr. Zachary Rubin, 1661 Covington Road, stated when the previous Board of Supervisors explored Quiet Zones CSX categorically said "no;" and he asked if there is any communication with CSX that they will sign on with this project. Mr. Eisold stated he had a discussion and sent an email to Mr. Getz from CSX questioning their 2008 letter; and Mr. Getz responded the end of last week that they are evaluating this, and will have an answer for the Township shortly, but as of today he has not heard their final answer. He stated with separating the tracks, he feels it is a lot easier to address the situation than it was before. He stated now that SEPTA and CSX will have their own tracks, they will each have full control over their tracks which should make it easier for CSX to do whatever they need to do with regard to the warning times.

Mr. Rubin asked Mr. Samean if CSX indicates that they are not going to do this, can the FRA force them to do it. Mr. Samean stated CSX does not have a choice as the law allow the public authority to designate a Quiet Zone by following the process which they will follow. Mr. Samean stated they will need to get information from CSX in order to provide the engineering. He stated they need to get information from them relative to updating the grade crossing inventory forms. Mr. Rubin asked if CSX can be compelled to do this by the FRA since they are a stakeholders, and Mr. Samean stated he feels pressure can be applied by the FRA if it came to that although he has never run into that situation. Mr. Rubin asked if they have had

cooperation from the owners of the track in all the Quiet Zones his firm has been involved with, and Mr. Samean stated the freight lines are never happy about having to deal with a Quiet Zone. He stated it involves installation of signs telling the engineers not to blow the horns. He stated they are generally opposed to the process, and it has been his experience in the other projects that it does add delay.

Mr. Rubin asked Mr. Samean if he knows of any cases where CSX has agreed to Quiet Zones along their track; and Mr. Samean stated he does not, and he has not worked on any CSX Quiet Zones. He stated there are not that many Quiet Zones in the Country as it is relatively new. He stated the law was just written in 2006.

Mr. Rubin requested that once the contract is signed with Mr. Samean that he also explore the ways they can compel CSX to adhere with the law and what procedures the FRA would have to take to do that.

Mr. Dave Kelliher, 591 Aspen Woods Road, noted the Dobry Road crossing will not be part of the Quiet Zone. Mr. Samean stated the Quiet Zone corridor will start one half mile to the south of Heacock Road and continue to a half mile to the north of Edgewood Road. He stated Dobry Road is outside of that limit. Mr. Kelliher asked if a train is approaching Dobry Road, will they still be within Lower Makefield when they are sounding their horn for the Dobry Road crossing, and Mr. Samean stated Dobry Road is fairly far out; however, Mr. Samean stated he has not checked it on a map. Mr. Kelliher stated he feels they should check into this since there is a high concentration of residents there as there is a townhome community in that area.

Mr. Benedetto asked for an update from Mr. Garton regarding the Categorical Exclusion that was granted to SEPTA waiving review. Mr. Garton stated they have had contact with counsel for the Federal Transportation Administration who has advised that there are two avenues available to the Township. He stated the first is to request a re-evaluation of their decision, and generally speaking you have to do this within six months of when the decision was made which would be sometime in July. In addition, you can file action in the Federal District Court challenging the action taken by the Transportation Administration when it chose not to require the various tests and environmental impacts; however, the burden of proof is to prove that the agency acted capriciously, arbitrarily and abused its discretion. He stated his recommendation would be to proceed with the request for a re-evaluation. He stated they have not yet ascertained if this tolls the six month statutory period for Appeal to the Federal Court, and his office is still checking on this. He stated they feel the Township should apply for a re-evaluation based upon the fact that there was no notice sent to the Township, there was no notice sent to any historic societies about the historical consequences, and they feel there were some assumptions made in their decision that were not validated based on the conversation with their counsel.

Ms. Tyler moved, Mr. Benedetto seconded and it was unanimously carried to file the request for re-evaluation regarding the Categorical Exclusion.

Ms. Tyler asked that Mr. Garton's office also look into the potential of the Federal Court filing, and Mr. Garton stated he feels they can discuss this further at a subsequent meeting to see where they are at that time.

Mr. David White, Gayle Drive, noted Step 2 of the process which is the Notice of Intent; and he asked who provides this, to whom is it provided, and how quickly can it be done. Mr. Samean stated the Notice of Intent is a formalized letter which is sent out to the stakeholders including CSX, SEPTA, the FRA, the Township, PennDOT, and the PUC. He stated data collection should be done first, and he feels it behooves them to do the traffic information collection and update of the data sheets first and then run the risk calculator. He stated if they send out the Notice of Intent without that documentation, the FRA will ask them why they do not have updated sheets. Mr. White thanked Ms. Tyler and Mr. Benedetto for their questions this evening. He thanked the Board for their efforts and asked that they continue.

Mr. Jaydeep Nanavaty, 468 Jenny Drive, stated his home is very close to the tracks, and he thanked the Township for the significant progress he is seeing. He stated he feels they should remind CSX that they are waiting for an answer and give them a deadline. Mr. Nanavaty stated he is assuming that funding the Quiet Zones is not a question any more. Mr. Stainthorpe stated if the estimates they have been given by the Township engineer are accurate, he feels they will find a way to pay for this. He stated in 2006, they were looking at \$1.5 million which is much different.

#### DISCUSSION AND APPROVAL OF CTC TRAFFIC CALMING PROTOCOLS

Ms. Amy Kaminski, Township traffic engineer, was present with Ms. Virginia Torbert and Ms. Sue Herman from the Citizens Traffic Commission. Ms. Torbert thanked the Board of Supervisors for the opportunity to discuss how they can better respond to residents' concerns regarding speeding and cut-through traffic through a more structured, understandable, and transparent process. She stated since the creation of the CTC in 2006, they have received numerous complaints from residents regarding motorists cutting through and/or speeding through their neighborhoods.

A handout was provided this evening listing complaints/concerns that the CTC has received just in the last year. She stated they have received numerous others over the years. Ms. Torbert stated with the assistance of Ms. Kaminski they have developed a proposed set of guidelines to handle these complaints going forward. Ms. Torbert stated they began this process more than a year ago by reviewing similar policies that Townships such as Middletown, New Britain, and Warminster

have already implemented. Ms. Torbert stated in their view the main point of having these guidelines is to involve as many neighborhood residents as possible in the process of finding solutions to these fairly common problems since they believe it is the only way to build widespread support for potential solutions including, in probably rare cases, actual installation of traffic-calming measures.

Ms. Kaminski stated the CTC prepared this and sent it to her several months ago to do some minor edits, and she did provide them with some other traffic-calming policies she has put together for other Municipalities she works in. She stated they have identified several goals and objectives for the program. She stated the proposal is that when a resident comes in with a complaint about traffic, this is turned over to the CTC and additional information is provided such as photographs, information from the Police Department or other sources including the rate that vehicles are traveling down the road, the volume, presence of sidewalks, etc. and things that might come into the discussion of a traffic-calming program. Ms. Kaminski stated all this information will be shared with the CTC. She stated there would then be a discussion with the CTC determining whether or not the petition has potential; and whether they feel there is enough supporting information that has been provided that traffic-calming should be looked into further. She stated this would take place at a CTC meeting after they have reviewed all of the information. She stated if the information indicates that there is a traffic-calming concern there, it would be turned over to the Township office; and it would be determined if data collection would occur either by the Police Department or the Township traffic engineer. She stated there would be a recommendation coming from the Township traffic engineer or whomever the Board decides would handle this, and this would be brought back and discussed at a public meeting with the CTC. She stated they would discuss different improvements that could be used, and at that point there would be a polling of the residents who would be effected by this including residents who live on the roadway or residents who have to travel through the area because of a development taking access to a larger road and passing through that area. Ms. Kaminski stated at the public meeting there would be a vote by the effected residents, and it would require at least 30% of those residents to attend the meeting to vote. She stated in order to pass, it would need 70% in support. She stated this would then come back to the Board of Supervisors with all the information, and the Board would vote whether or not they wanted to implement traffic calming.

Mr. Stainthorpe stated he feels this is a huge step forward, and he applauds the Committee and Ms. Kaminski for putting this together. He stated there has never really been a process, and they have spent a lot of time over the years on traffic-calming issues that should have never come before the Board of Supervisors and should have been handled sooner. He stated there have also been Supervisors that

set expectation levels that the Township cannot fulfill. He stated he feels what has been proposed is a very thoughtful process, and he is in support of moving this forward.

Mr. Benedetto stated the way it seems this process will work is that residents will bring their concern to either the Township or the CTC, and the CTC will determine if it should be considered by the Township. Ms. Torbert stated while this is correct, there is a lot of give and take. She stated typically there are one or two people who come to the CTC meeting and say there is a problem, and part of the discussion is going back to the residents asking them to discuss this with their neighbors and have them collect information so the CTC can understand the issue. She stated sometimes it may just be a matter that requires a call to the Police for enhanced enforcement or signage. She stated it is understood that the CTC is a voluntary Commission, and these are just guidelines. She stated if a resident comes to the CTC asking for traffic calming, and the CTC indicates that they do not feel at this point there is enough information, they are always told they can go to the Board of Supervisors. Ms. Torbert stated the point of the proposal is that they want people to realize that any changes that are made with regard to traffic calming are going to effect everyone in the neighborhood. She stated the best way to get support is to have everyone on board in the beginning and get everyone's input. She stated the CTC feels it is better to have a set process, but they are not trying to preclude people from coming to the Board of Supervisors.

Mr. Benedetto stated based on his experience with E. School Lane, the reason traffic calming has not occurred in the Township is because the Board of Supervisors does not have the fortitude to actually do it. He stated there are people who live on E. School Lane and W. Ferry who still feel very strongly about this, and nothing has ever been done in either situation. He stated he feels the Board is removing the responsibility of making the tough decisions from the Supervisors and putting it on the CTC. He feels traffic issues are a major problem in the Township. He stated he feels there are even more problems than the CTC has identified, and he noted particularly speeding on Makefield Road which he feels is atrocious; and he would like to make a Motion to look into evaluating the speeding issues on the Township roads like Newtown is doing now. Mr. Benedetto stated while establishing guidelines sounds like a good idea, he feels it ends up being a situation where the Board of Supervisors is taking away their own responsibility and putting it on the CTC; and he is not in favor of this.

Ms. Torbert stated this is a common problem which she feels will only get worse in the future because as noted on the hand out, the reason for the cut-throughs and the speeding is that there are many major improvements that are not getting done because of funding. She stated she would like all residents to feel that they are being treated equally, and that there is a fair process. She stated there is a provision that if

there is something that requires immediate action, they would immediately notify the Township. She stated the CTC would like to see everyone treated the same way, and they want to get the neighbors to buy in and take ownership of their own neighborhoods.

Mr. Benedetto stated he does not feel if this proposed process were in place it would have changed anything about E. School Lane and nothing would have been done under these guidelines; and both W. Ferry Lane and E. School Lane are still problems. Mr. Benedetto stated he feels the 70% figure noted in the proposal is an arbitrary number.

Mr. Stainthorpe stated by the time the Ferry Road project came before the Board of Supervisors there was already a plan in place to block traffic off, and he does not know how that process got that far. He stated the plan was going to divert traffic into other neighbors, and he would never want to go through that situation again. He stated the Supervisors should make decisions based on traffic counts and factual, relevant information; and he feels this is where the Citizens Traffic Commission can serve a great role. He stated there was no consensus from the neighborhood at School Lane; and this is why they did not do anything, because half the residents did not want it and the other half did. Mr. Stainthorpe stated whenever a neighborhood comes in, they indicate that the situation has gotten worse; and while this may be true, this is where a traffic engineer would come in to do a real traffic count and understand what are the actual numbers. He stated he feels the more they institutionalize the process, the better the decisions made will be. He stated except for cul-de-sacs, roads are essentially transportation corridors and are to get from Point A to Point B. He stated he feels having a set plan and a standard is the way to proceed. Mr. Stainthorpe stated he attended a Board of Supervisors' meeting prior to becoming a Supervisor when a group of residents came in from off S. Crescent Road who wanted a road blocked off, and the Board at that time stated the better solution would be to install sidewalks into the neighborhood; and since these were to be the responsibility of the residents, the group disappeared.

Ms. Tyler stated she has been following the Citizens Traffic Commission for more than two years, and she watched them put the project together and the exhaustive research they did on other Municipality's' solutions to traffic problems that Lower Makefield routinely faces. She stated she feels they have put together an excellent process which was a long time in coming, and she feels it will make the job of the volunteers on the Citizens Traffic Commission easier.

Ms. Tyler moved and Mr. Stainthorpe seconded to approve the guidelines as presented by the CTC. Motion carried with Mr. Benedetto opposed.

Mr. Benedetto asked if Ms. Kaminski is the traffic engineer for Newtown Township since he saw at their last meeting they approved an evaluation of the speeding limits on Township roads. Ms. Kaminski stated she was out of town, and she has not been in contact with them on this. She stated it is not unusual for Municipalities to come in and assess those, and she is working through that with another Municipality right now. She stated they get the Public Works Director, the Township Manager, the Police Chief, and any of the Chief's safety Officers together in a meeting and using a map of the area, they identify things they see routinely that they feel are problems. She stated sometimes the speed limits are set too high for roads, and there could be situations where there is a need for lower speed limits.

Mr. Benedetto moved to start the process of having Ms. Kaminski evaluate with the Public Works Director and the Police Chief the speeding limits on Township roads to evaluate and potentially lower some of the speed limits.

Mr. Stainthorpe stated he feels this is premature. He stated he feels it needs more structure. He stated he would want to know which roads, what they are evaluating, and what would be the standard for evaluation. He stated he feels the CTC should consider this along with data from the Police Department.

Ms. Torbert stated again this year they are trying to get radar passed in Pennsylvania which is the only State in the Country that does not allow its local Police to use radar. She stated this would be a tremendous help to all Police Departments since it would make it much easier to enforce speeding. She stated currently it is a cumbersome process that requires a lot of personnel. She stated she has seen one of the Bills that was introduced in order to do this; and if the Legislature passes this, each Township would likely have to adopt its own Ordinance to that effect. She stated as part of that process they will have to show that all their speed limits are justified by traffic studies, etc.

Mr. Benedetto stated he does not feel that this is going to happen any time soon in Pennsylvania. He agreed to withdraw his Motion, but he asked that this be put on the Agenda for further discussion in the next month or two.

Mr. Dobson stated he is encouraged that the Bill could be passed. He also asked Chief Coluzzi to look at a few of the roads noted by the CTC and do something to try to mitigate the speeding. Chief Coluzzi stated they do rotate Officers at these locations when they can, but there are thirteen or more selective enforcement areas which are high traffic, accident areas where they have to devote the Officers; and they have to prioritize. He stated for quality of life and to answer residents' concerns, they do put Officers at these locations occasionally. He stated they are doing the best that they can but they have to prioritize where people are getting hurt and where they have the most accidents.

Ms. Kaminski stated there could be a proposal to identify some of the locations that are recommended by the Public Works and Chief of Police; and then based on this information, they would want some kind of proposal for doing the analysis on the roadways identified for potential speed reduction.

#### REVIEW OF 2013/2014 DEER HUNT

Mr. Andy McCann and Mr. Dave Kimball from BOWMA were present. Mr. McCann thanked the Township for having them back. He stated this season was different for them; and because of Mr. Fedorchak's endorsement the 2013/14 season allowed them to expand operations into Upper Makefield which followed Lower Makefield Township as a model. He stated this past year they operated in both Townships and there is a symbiotic relationship where the benefits they provide in one, help the other. He stated last night the Upper Makefield Township Board of Supervisors approved their proposal for the upcoming season basically following the proposal they had submitted to them last year which largely follows the proposal they have submitted to Lower Makefield for the last few years.

Mr. McCann stated for the 2013/2104 program overall they removed a total of 144 deer, 71 of those in Lower Makefield and 73 in Upper Makefield. He stated Lower Makefield continues to use BOWMA operations to benefit a local food bank; and of the 71 deer taken in Lower Makefield, 21 were donated to a local food bank which equals 2,940 meals to help feed the hungry. He stated the Township reimburses BOWMA members for the donation to the program which is a processing fee of \$15 to a local butcher, and this resulted in the average cost per deer removed in Lower Makefield of \$4.48. He stated they feel this is an efficient use of Township resources.

Mr. McCann stated they have submitted a proposal to Mr. Fedorchak which was provided in draft; and at the appropriate time he feels Mr. Fedorchak will review this with the Board of Supervisors. The proposal basically follows what BOWMA did last year with two distinctions. He stated the Pennsylvania Game Commission has authorized baiting under certain conditions this year, and the proposal makes mention of that. He stated the other distinction is that based on some resident feedback, they have tailored the operations on one particular property to allow for some competing priorities on that location.

Mr. Stainthorpe asked how many years BOWMA has been working with the Township, and Mr. Kimball stated they have completed five years. Mr. Stainthorpe stated he feels they have done a great job; and while they will review the proposal, he feels they should continue it. He stated five years ago he would get calls all the time from residents complaining about deer in their gardens, and he has not had a call about this in several years; and he feels they are controlling the deer population, and they should continue to do this.

Mr. Kimball stated new Licenses will come out this month for hunters to purchase, and they will have to start buying Permits in July so they will need to know if the Township is approving the program. Mr. Fedorchak was asked to get this matter on the Agenda as soon as possible.

Mr. Dobson asked if there were any incidents or complaints last year, and Mr. Fedorchak stated at the Five Mile Woods it has been requested by some residents that they not hunt in the Woods as many weekends so that the residents can go into the Woods when the weather is nice; and Mr. McCann has addressed this so that they can allow residents to enjoy the property. Mr. Dobson asked if there were any accidents, and Mr. Kimball stated there have been no incidents. Mr. Dobson stated he feels safety must come first, and Mr. McCann stated their hunters have to follow very strict regulations. Chief Coluzzi stated they issue the IDs for the hunters and do background checks on them; and they are very professional, and they have had no problems at all.

Mr. Benedetto stated in the letter from BOWMA it indicates, "LMT and BOWMA will collaborate advertisement on public access channel and letter campaigns to advise owners of suitable private land generally in excess of five acres within LMT of the availability of BOWMA's deer management services." Mr. Benedetto asked if this would be a private homeowner who may be interested in having a deer hunt. Mr. Kimball agreed that if a private property owner is having a deer problem on their property, this would provide them with how to contact BOWMA to evaluate the property and try to hunt it in a safe and professional manner. He added not all properties are amenable to a hunt.

Mr. Benedetto stated he recalls a comment made by an individual about Five Mile Woods in September/October, and they did not understand that the property was being hunted. Mr. Benedetto stated they are considering a four month time frame from September 20 to January 24, and at the Five Mile Woods there are individuals who would like to use the Woods at that time. He stated at Makefield Highlands they do have restrictions through approval by the management. He stated he feels Five Mile Woods would be just as much of an issue for the early dates, and he would feel the same way about Memorial Park. Mr. Benedetto stated he had conversations with people who wanted to go into Five Mile Woods, and there was not any real notification that there was a hunt. He stated it is possible that this might have been on the Township Website and TV Channel, but residents do not always check those. Mr. Benedetto stated he feels that there should be a sign posted at the location.

Mr. Fedorchak stated they have quite an elaborate early warning system, and each year they send out approximately 1,000 letters directly to every property within a certain number of feet around the areas that are targeted for the public hunt. He stated in addition the Township staff goes out and posts notices throughout the tracts as to the fact that there will be a public hunt and the timeframe.

Mr. Benedetto stated with regard to Five Mile Woods, he would wait to hunt that property until mid-October since earlier there are people who want to enjoy that area. He stated he would be as restrictive at the Five Mile Woods as they are at Makefield Highlands. Mr. Kimball stated they could do this although the most effective time is the early season. Mr. Benedetto asked if the Five Mile Woods is closed when they are hunting the property, and Mr. Fedorchak stated it is. Mr. Kimball stated the gates are closed and there is a sign that says exercise caution.

Mr. Fedorchak stated he would hope that they can look at the Five Mile Woods and the Elin Tract. Mr. Fedorchak asked that the representatives from BOWMA speak to Mr. Heilferty, the Naturalist at the Five Mile Woods, as he has some ideas as well.

Mr. Benedetto asked if the number of deer removed last year was the highest number they have removed; and Mr. Kimball stated he feels it was, and the reason for this was because they did an extra push at the end of the season despite the difficult weather.

#### APPROVE GRANT OF EXTENSIONS TO ARIA HEALTH AND DOGWOOD DRIVE

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to approve the Grant of Extension to Aria Health to December 31, 2014.

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to approve the Grant of Extension to Dogwood Drive to September 30, 2014.

#### APPROVAL OF WAIVER REQUEST FOR 162 CRESTVIEW WAY

Mr. Eisold stated he was asked by the Zoning, Inspection, & Planning Department to evaluate the property at 162 Crestview Way which is a property that had an existing deck at the rear of the property, and they are requesting a Waiver to replace that deck with a stone/paved type deck with a roof. He stated he looked at the draining issues, and the lot flows grade wise toward the street with fairly defined drainage swales along the property line. He stated the deck had been removed when he was there, and the ground underneath the deck was fairly compacted over

the years so even though there will be an increase technically of impervious surface, it is actually currently acting as impervious so he does not feel there will be much of an effect.

Mr. Stainthorpe asked why this matter has come to the Board of Supervisors, and Mr. Garton stated it is Plan restriction as opposed to a Zoning restriction.

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to approve the Waiver request for 162 Crestview Way as requested.

Mr. Garton noted that the Board met in Executive session for approximately fifteen minutes prior to the meeting to discuss a Zoning Hearing Board matter as well as Labor relations.

#### ZONING HEARING BOARD MATTERS

With regard to the Edward and Lee Palumbo Variance request for the property located at 178 Crestview Way in order to permit construction of a covered deck and shed resulting in encroachment into the special setback, it was agreed to leave the matter to the Zoning Hearing Board

#### SUPERVISORS REPORTS

Ms. Tyler stated the Pool enrollment is climbing and they are adding activities. She stated they are encouraging Lower Makefield Township residents to sign up.

Mr. Benedetto stated the Veterans Committee had a site visit today. He stated there had been a discussion about security cameras, and he asked Chief Coluzzi if he is looking into this. Chief Coluzzi stated they met with the engineer last week along with a representative from the security company that the Veterans Square Committee had recommended. He stated they are working out the details on the amount and location of the cameras and whether there are poles needed to mount the cameras. He stated a proposal has not been submitted at this time.

APPROVAL OF RESOLUTION NO. 2280 APPROVING THE INCLUSION OF THE TRAFFIC SIGNAL AT THE INTERSECTION OF RT. 332 AND STONY HILL ROAD INTO THE ADAPTIVE SIGNALS SYSTEM UPGRADE AND APPROVAL OF RESOLUTION NO. 2281 APPROVING THE INCLUSION OF THE TRAFFIC SIGNAL AT THE INTERSECTION OF I-95 AND RT. 332 INTO THE ADAPTIVE SIGNAL SYSTEM UPGRADE

Chief Coluzzi stated these Resolutions are to include two signals in the Township – one at Rt. 332 and Stony Hill and the other at I-95 and Rt. 332. He stated this will include these two traffic signals in the adaptive signal system upgrade that will go across the whole By-Pass into Newtown.

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to Approve Resolution No. 2280 and Resolution No. 2281.

APPROVAL TO CANCEL THE JULY 2, 2014 AND AUGUST 6, 2014 BOARD OF SUPERVISORS' MEETINGS

Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to cancel the July 2, 2014 and August 6, 2014 Board of Supervisors' meetings.

OTHER BUSINESS

Mr. Benedetto asked for an update on the Community Center. Mr. Fedorchak stated Mr. Eisold's firm is working on the Land Development Plan. Mr. Eisold stated they are putting the final touches on the Land Development Plan, and it will be submitted to the Planning Department to go to the Planning Commission and the other Boards and Commissions.

There being no further business, Mr. Stainthorpe moved, Ms. Tyler seconded and it was unanimously carried to adjourn the meeting at 9:35 p.m.

Respectfully Submitted,

Pete Stainthorpe, Secretary