

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JULY 6, 2016

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on July 6, 2016. Chairman Benedetto called the meeting to order at 7:35 p.m. and called the Roll.

Those present:

Board of Supervisors:                    Jeff Benedetto, Chairman  
    John B. Lewis, Vice Chairman  
    Kristin Tyler, Secretary  
    Judi Reiss, Treasurer  
    David Fritchey, Supervisor

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

**PUBLIC COMMENT**

Mr. David White, Gayle Drive, stated he has seen a copy of the projected completion for the Quiet Zones with implementation in November. He stated he assumes that the estimated completion date is the date when the train horns will stop, and Ms. Tyler agreed.

Mr. Larry Madak, 1648 Dobry Road, stated he was present last fall in reference to a C-3 property on the corner of Oxford Valley and Dobry Roads. He stated at that time they had an interest in selling their property, and there was an interest by the Township of possibly keeping it for open space; and he wanted to know if there is still an interest in that. Mr. Benedetto stated Mr. Madak's property is the parcel that has the house on it which is approximately three acres. Mr. Fedorchak stated Mr. Madak's parcel has been of interest to the Township, and the Township received an appraisal for it. Mr. Fedorchak stated the Board has been discussing the possible purchase of a number of properties for open space reasons, but they have not yet discussed Mr. Madak's parcel. Mr. Benedetto asked Mr. Madak to continue to keep in touch with the Township Manager or any Supervisor.

**APPROVAL OF MINUTES**

Ms. Tyler moved and Ms. Reiss seconded to approve the Minutes of June 15, 2016 as written. Motion carried with Mr. Lewis abstaining.

#### DISCUSSION AND APPROVAL OF BOND ISSUE ORDINANCE

Mr. Bucky Closser, Curtin & Heefner, was present and stated they have prepared the Bond Issue Ordinance for the Board's consideration. He stated this would authorize the issuance of the Bonds discussed by the Board previously for the refinancing of the outstanding 2011 Bonds and for various Capital projects. He stated it would authorize the financial adviser, Public Financial Management (PFM) within the requirements set forth in the Ordinance to go out and market the Bonds trying to obtain the best interest rates and terms in the marketplace. Mr. Closser stated the Ordinance would also authorize Curtin & Heefner as the solicitor to proceed with all the necessary action required to obtain State approval once the Bonds have been priced and sold and to prepare all the necessary Closing documents, etc. that are required.

Mr. Closser stated he understands Mr. Schlesinger from PFM hopes to get to market sometime in mid-August with the Bonds; and if that occurs they would then be able to apply to the State for approval immediately thereafter, and hopefully have a Closing sometime in September.

Ms. Tyler asked how the Township selected this Bond Counsel and asked about the fees. Mr. Benedetto stated Mr. Closser handled the 2011 Issue which was a factor. Mr. Benedetto stated he would like to see the Township moving forward not to play politics with the Bond Counsel, and would like to see the Township rotate Bond Counsels as he feels that this shows that they are not favoring Democrats or Republican. Ms. Tyler asked about the fees, and Mr. Fedorchak stated they are \$19,000 which is the same as the last 2011 Bond Issue.

Mr. Benedetto asked when the Board would get the money, and Mr. Closser stated it would be at the Closing.

Mr. Lewis stated when the Board voted to proceed with \$15 million, he was concerned about the potential for negative arbitrage where the Township would not be spending the money fast enough and would be paying interest on it. Mr. Lewis asked about restrictions or allocations on the \$15 million. Mr. Closser stated there would be one amount for the refinancing and the other the \$15 million set aside for the Capital projects. He stated within the \$15 million the Ordinance designates \$5 million of it as Electoral Debt which is authorized pursuant to the 2008 Referendum, and that would be restricted for the purchase of open space which was the purpose of the Referendum. Mr. Lewis asked if they would be prohibited from spending more than the \$5 million on open space if they needed to, and Mr. Closser stated they would not. Mr. Lewis stated there may not be sufficient opportunities to spend the \$5 million on open space, and he asked what would happen if the Board did not use the \$5 million in the three-year time period. Mr. Closser stated they



could re-characterize the debt in that circumstance by amending the Ordinance and transfer it from Electoral Debt to non-Electoral Debt and use it for other purposes. Mr. Lewis stated he does not want to be in a situation where they are paying interest for money that they have not spent.

Mr. Fedorchak stated the \$5 million will not go into the Township's borrowing base, and it will go into a completely different category which is "off the books."

Mr. Fedorchak stated the purposes for the funds include upgrades and improvements to the sewer systems, acquisition of property or interests for the Township's open space program, acquisition of Public Works and other Municipal equipment, and acquisition, construction, and improvement of other Township properties, roads, and facilities including the Community Center. He stated they crafted the language to give the Board some flexibility.

Mr. James Schlesinger, PFM, joined the meeting at this time.

Mr. Benedetto moved and Mr. Fritchey seconded to approve the Bond Issue Ordinance.

Mr. Joe Menard, 917 Putnam Drive, and Chairman of the Citizens Budget Committee stated the Committee met since the Board of Supervisors met and approved the \$15 million amount; and it was the consensus of the Committee that the paying of Bond money for Public Works equipment should not be done. He stated the Township does not have a history of funding equipment in that way, and they do not feel that they should start now. Mr. Menard stated between reserves or a tax increase, they should be able to pay for the Public Works equipment. Mr. Menard stated the Committee looked at all the Public Works equipment and its useful life to come up with an estimated turnover, and they went out twelve years. He stated he feels this is the way they need to plan to finance equipment for the Township. He stated Public Works equipment is the same as Police cars which are not included in Bond Issues. Mr. Menard stated if it takes a tax increase to pay for the equipment, that is what the Township should be doing; and they should not be playing "catch up" using Bond money.

Mr. Benedetto stated other than the \$5 million, there is language that gives leeway as to what the money is spent on.

Mr. Menard stated he personally is concerned that they discussed the Budget starting last year, and now they are talking about borrowing all this money. He stated the population from 2002 to 2010 went down. Ms. Reiss stated the population is going up as many homes that had only two people residing in them have recently been sold to households with more people.

Mr. Menard stated he does not feel they have had a good open discussion on what the Township needs are and why, and he added he is still not convinced that spending \$5 million for open space does anything for him as a homeowner. He stated he chose to live in Lower Makefield and not Upper Makefield where he would have a one or two acre tract or an earned income tax. He stated if the demographics are changing, and there is an aging population, the Township needs to look at all the aspects of this. He stated moving forward they are looking at \$50 million to \$70 million for the sewers, and this will not have the same effect on households as a millage increase would. He stated the sewer assessment will be per user for the residential customers. He stated he feels the Board has an obligation to take this into consideration.

Mr. Benedetto stated they have had public discussion about a lot of the items being considered for the \$15 million as well as the sewer needs. He stated he understands that there are differences of opinion as to the value of open space. He stated the purchase of the Patterson Farm in 1999 was the last significant purchase of open space in the Township. He stated they are allocating \$5 million of the \$15 million that was approved for open space by Referendum in 2008.

Mr. Menard stated he still has not heard a sound argument as to why or how more open space than they already have will benefit him as a taxpayer. Ms. Reiss stated Colorado State University among other studies have indicated that open space adds close to 20% to property values if you live in a community which values open space. She stated open space is healthy and it provides oxygen. She stated she moved here forty years ago because of the farms and open space. She stated the residents voted overwhelmingly twice to authorize spending money on open space. She stated she feels she was elected because of her interest in open space and connectivity of walking and bike paths. She stated when she was campaigning no one talked to her about taxes.

Mr. Menard stated he does not feel the Colorado study “holds water.” He also stated he does not feel anyone knew in 2008 what was to happen years later. He stated the Board needs to look ahead as to what this is going to do to the taxpayers.

Ms. Catherine Beath, 1049 Countess Drive, stated at the July 1 meeting when the Board discussed the \$15 million, they indicated there was \$2 million in there for the Community Center; and she stated she felt the Board had previously approved \$2.3 million, with \$300,000 for professional fees, and \$1 million from the State, so that would be \$1 million. Mr. Benedetto stated his thought behind the \$15 million was \$7.5 million for the sewer, \$3.5 million for open space, \$2 million for Snipes, \$1 million for the Community Center, and \$1 million for Public Works. He stated now they are discussing \$7.5 million for sewers and \$5 million for open space and the rest would encompass Public Works, the Community Center, Snipes, and a



number of other projects. Mr. Benedetto stated the Bids for the Community Center will be back the end of July, and at the second meeting in August they will discuss the Community Center since they will not be having the first meeting in August.

Mr. Fedorchak stated when they last discussed the Community Center a few months ago with the architect, the Board agreed to go out for two different buildings – one at around 7,500 square feet and another around 5,000 square feet so the \$2 million included other items; and they are trying to put in a number that made sense although it is a guess. Ms. Beath stated she was reviewing the Motion where the Board approved that they would go to \$2.3 million total with \$300,000 being professional fees. Mr. Fedorchak stated they are now at a different set of circumstances, and they will see what happens when the Bids come in.

Ms. Beath stated the Board should then review this again and have a different Motion, and Mr. Fedorchak stated the Board will consider that when the Bids comes in and see the final numbers as there may not have to be an alteration to the previous Motion.

Ms. Beath stated she would like the Board to spend the money on open space as there are a lot of ball fields, a golf course, soccer fields, football fields, the pool, tennis courts, and basketball courts; but she feels there is very little of what she would call true open space. She stated in Upper Makefield it is either open space or farmland, and that does add value. She stated she moved here for open space. She also stated open space does not cost anything; however, Ms. Tyler stated it does cap their ratables. Ms. Beath stated they are adding to the wear and tear on the roads with all the traffic the recreation facilities bring into the Township, and open space does not bring anyone in. Ms. Beath stated she would like the Board to commit that every time they take out open space like they are about to do at the Samost Tract, that they will put more open space into inventory. Mr. Fritchey stated the Township purchased the Samost Tract for the purpose of recreation, and it was not intended to be vacant open space. He stated he does agree that open space is extremely important, but everyone needs to understand that there are costs to having open space which is that if there is property that they are not going to develop, that means that it will be off the tax rolls. He stated if there is development, there are ratables which can keep the taxes down. Ms. Beath stated when they put in a recreation facility, they are also adding costs because of the increased traffic.

Mr. Benedetto stated they are committed to \$5 million for open space which is more than has been spent in the last twenty years.

Ms. Denise Kram, 1150 Waterwheel Drive, stated Mr. Fedorchak indicated that the \$5 million portion of the Bond would be Electoral Debt and off the balance sheet; and she asked if there is any existing Electoral Debt. Mr. Fedorchak stated there

is approximately \$3 million left, and that was for the purchase of open space land. Ms. Kram asked where that is reflected in the Financial Statement, and Mr. Fedorchak stated it is in the Audit. Ms. Kram stated she has reviewed the Audit, and asked where that would be; and Mr. Fedorchak agreed to get her this information. Mr. Fedorchak stated he feels it may be the Snipes Tract, but he would have to check into this. Mr. Schlesinger stated a portion of that debt is from the DelVal loan from 2004 which is currently \$1.2 million and a small portion is the 2015 Bonds that were refunded. Ms. Kram asked if the 2004 Note includes Electoral Debt, and Mr. Schlesinger stated it is in a Footnote. He stated 2004 had a couple of purposes, the major one being the Electoral open space. Ms. Kram stated if you read the audited Financial Statements the Footnotes describing liabilities of the Township are inclusive or not inclusive of Electoral Debt, and it should be apparent to the reader. Mr. Fedorchak stated he can provide Ms. Kram with the breakdown. Ms. Kram stated she feels to be transparent it should be in the Financial Statement since they are audited.

Ms. Kram asked if they have looked into refinancing any of the other existing indentures at this time since rates are so low. Ms. Tyler stated they have been refinancing as they are able to. Mr. Schlesinger stated this year they are refinancing the 2011 Bond which will result in a savings of \$600,000. Ms. Tyler stated she understood that the next one they could refinance would be in three years, and Mr. Schlesinger agreed. Mr. Fedorchak stated they typically have five-year call provisions which is why they are now refinancing the 2011 Bond.

Ms. Kram asked about the 2002 Bond, and Mr. Schlesinger stated that is a DelVal loan and there is no benefit to refinancing that. He stated currently it is a variable rate, and whenever the Township decides they can make it a fixed rate. Mr. Fedorchak stated currently the rate is approximately .92%. Ms. Kram stated that is not clear in the Financial Statements.

Mr. Menard asked if it has been decided when and how they are taking the savings from this Issue. Mr. Schlesinger stated based on current conditions, the savings would be \$624,000; and the expectation is to take it in the first year. Mr. Menard asked when the first principal payment will be due, and Mr. Schlesinger stated for the refinancing portion it will be March, 2018, and on the new money it will be March, 2017. Mr. Menard stated they will need to take into account at Budget time that by doing this they are switching some principal to debt. Mr. Menard asked if there will be discussion as to what the \$624,000 savings will be used for, and Mr. Benedetto stated they will discuss this at the Budget Workshops in October.



Mr. Mike Brody, 509 Brookbend Court, stated he feels the Township suffers from an “identity crisis.” He reviewed reasons he feels he and others live in the Township. He stated the Township keeps taking on all different “pet projects;” which while they are important, they are not needs. He stated the Township is also stopping all businesses from coming here because there is no alcohol and they do not want apartment projects. He stated he does not feel that they should take open space that is a lot with “overgrown trash” over a highway. Mr. Brody stated he feels they need to take a step back and take a real look at how they want the Township to be.

Mr. Benedetto stated he believes that they now have the best Board of Supervisors they have had in the fifteen years he has lived here, and they are trying to balance all the different interests and be responsive.

Mr. Brody commended the Township for the changes made to the Township Website which now has lots of information available. Ms. Tyler thanked Mr. Fedorchak and Ms. Todd for working on this.

Mr. Zachary Rubin, 1661 Covington Road, stated he agrees that the Township has an identity problem because they do not have a Zip Code or a Post Office; and he feels they should get these in the Township. Mr. Rubin stated he agrees with Mr. Menard with regard to raising taxes versus borrowing money. He stated the leadership in the past seven years had been proud of the fact that they had not raised the Real Estate taxes, but he feels that this is the reason they now have to go in debt and pay Debt Service. He stated if they were to raise taxes 1 mill, his taxes would go up \$44 per year which would raise approximately \$500,000 for the Township. He stated if they were to be raised 2 mills, the Township could buy \$1 million worth of Public Works equipment. He stated he feels Capital improvements such as that should be paid for with a tax increase. Mr. Rubin stated he does feel that they should borrow money for open space adding this is the time to borrow money because of the low interest rates.

Mr. Rubin stated the Regency/Toll Bros. development is nearing their last phase of development, and they were supposed to give five acres of open space to the Township with a pavilion; and he asked the status of this. Mr. Eisold stated that is not in the works at this time, and he will look into this further.

Motion carried unanimously.

DISCUSSION AND MOTION TO CONTINUE HEARING ON CONSIDERATION OF ORDINANCE NO. 400 TO AMEND THE ZONING ORDINANCE TO PERMIT MULTI-FAMILY USE IN THE (O/R) OFFICE RESEARCH DISTRICT AS A CONDITIONAL USE

Mr. Truelove noted Mr. Dwyer is present this evening. Mr. Truelove stated at the last meeting they opened the Hearing and Board members provided comment. Mr. Truelove stated he received an e-mail today from Mr. Dwyer requesting a Continuance of this matter until the fall to give time to consider other issues including the Comprehensive Plan that may be relevant to this.

Mr. Dwyer stated he would be willing to answer any questions this evening from the Board or members of the audience; and while they could continue to discuss it this evening, he felt it was best to give the Board of Supervisors more time to discuss the Comprehensive Plan and have discussions with the Village Planner that the Board recently hired as he feels that would help the Board decide what the best use is for his client's property in the O/R.

Ms. Tyler moved to Continue the Hearing to a date to be determined in the future.

Mr. Benedetto stated there have been discussions about the viability of the O/R District. He stated the Comprehensive Plan was adopted in 2003, and an updated Plan was presented to the board, but has not yet been formally adopted. He stated the Board would like to look at it and needs more time to do so and hopefully they can make a decision by the end of the year.

Mr. Dwyer stated he attended the Planning Commission meetings when they discussed the Comprehensive Plan for a number of years, and all the user groups and the community had the opportunity to weigh in on it. He stated the Bucks County Planning Commission produced it, and the Township spent a lot of money on it. He stated he hopes that they will consider the February, 2015 Draft that was recommended to the Supervisors. Mr. Benedetto stated there are now three new Supervisors, and he feels they would like time to look at that. Mr. Benedetto stated he appreciates the time Mr. Dwyer has been putting into this over the years, and they will continue to work with him; and they want to make an informed decision.

Mr. Dwyer asked that they look at his proposal which he feels would have a positive impact on the Village.

Mr. Benedetto seconded the Motion.

Mr. Rubin asked if the Board hired a Community Planner. Ms. Tyler stated they did not hire a Planner; however, Mr. Carter VanDyke was brought in some time ago when they were working on the Overlay District/Edgewood Village. She stated they



have asked him to come back in and educate the public and the Board as to what the obligations are with respect to the District. She stated he will be at the Planning Commission meeting on Monday.

Mr. Rubin asked if the Township has hired a Finance Director. Mr. Fedorchak stated the cut off for resumes was July 1, and they received a number of resumes from interesting candidates. He stated the interviews will start in two weeks; and he hopes by the end of the month, he will be able to make a recommendation of a short list to the Board of Supervisors.

A gentleman asked if the Board would take comments this evening concerning Ordinance No. 400 or would it be better to wait until the resumption of the Hearing later this year, and Mr. Benedetto stated he feels it would be best to wait until they get more information.

Mr. Mike Brody stated he has had discussions with Mr. Dwyer about his project and the Township in general, and Mr. Brody stated he feels they should have a broader discussion on the O/R. Mr. Brody stated he hopes the Board looks at the merits of Mr. Dwyer's project itself and not in terms of a "bail out" and what it would do positively and negatively to the community.

Motion carried unanimously.

#### DISCUSSION AND AUTHORIZE ADVERTISEMENT OF BAMBOO ORDINANCE

Mr. Truelove stated his office was authorized to draft a Bamboo Ordinance, and this was submitted to the Board of Supervisors after much discussion and contribution from Mr. Dresser. Mr. Truelove stated at the Board's direction he reviewed several Ordinances supplied by other Municipalities, and he spoke to a number of solicitors about their respective Ordinances. Mr. Truelove stated the one area that he did not include which was in some Ordinances was Township removal of bamboo from private property. He stated there are notice and fine provisions for private property as well as for Township property which is already in place in Chapter 84 of the Ordinance with respect to vegetation. Mr. Truelove stated he has designed the Ordinance so that it would be an adjunct to the existing Chapter 84, and it is entitled Chapter 84A.

Mr. Benedetto asked that this draft Ordinance be put on the Township Website.

Mr. Benedetto asked about the setbacks, and Mr. Truelove stated it is 40' from the edge of the paved/travel portion of any public roadway and at least 10' from any property line. Mr. Benedetto stated he understands that new bamboo could not be

planted, and Mr. Truelove agreed. Mr. Benedetto stated current bamboo would need to have a barrier, and Mr. Truelove agreed. Mr. Truelove stated there is specific material that would be required to contain existing bamboo, and any bamboo that is currently within the 40' or 10' setbacks, would have to be removed to the point that it was no longer impeding into those areas.

Ms. Tyler asked if the Ordinance addresses bamboo on Township property going onto private property, and Mr. Truelove stated the Township would be subject to the same regulations everyone else would be.

Mr. Lewis asked Mr. Fedorchak if he knows if there is any bamboo on Township-owned property; and Mr. Fedorchak stated while he does not know this for certain, it would not surprise him if there were some spots since the Township owns 1,200 acres of land.

Ms. Tyler stated all this Ordinance would do is give the Township the right to fine the residents for non-compliance; and Mr. Truelove agreed. Ms. Tyler stated this Ordinance would not help Ms. Maguire who is having a bamboo problem other than the Township would be able to fine her neighbor. Mr. Truelove stated Ms. Maguire would still have the private right of action which he understands is ongoing, but this would also provide a separate course of action for the Township. He stated in addition to the fines, they could impose a lien if there was non-compliance.

Ms. Tyler asked if there are any State prohibitions against bamboo; and Mr. Truelove stated they have not passed anything since if they had, the Ordinances would not be required because the State would supersede the local Ordinances. Mr. Allan Dresser stated bamboo is not on the State list of invasive/noxious weeds, and he has not heard that they are putting it on that list although he does not understand why the State is not doing anything about it. Mr. Dresser stated he feels what is proposed by the Township is typical for a Bamboo Ordinance although there are some which are stricter. He stated there are Ordinances which require that bamboo be 100' from a property line.

Mr. Paul Roden, 307 Daleview Drive, stated he is directly impacted by the bamboo which is coming onto his property from the woods behind his property; and he has been dealing with it for a few years. He stated he feels if this is passed, they should put something on the Township Website telling property owners not to do this and how to get rid of it in an environmentally safe way.

Ms. Tyler asked if the Ordinance addresses origination of the bamboo since the bamboo runs. She stated the property could be coming from one property onto a number of other properties, and she asked if the subsequent properties would be responsible for it going onto adjoining properties even if they did not plant it; and



Mr. Truelove stated the Ordinance discusses the originator so he feels the enforcement would be against the originating property owner, and they would have to take it all back to their property.

Ms. Tyler stated they are now placing an obligation on landowners who may have had the bamboo on their property when they purchased it. She asked if those properties would be grandfathered for this existing condition. Mr. Truelove stated he does not believe they are proposing to grandfather anyone, although they would be allowed to keep it on their property following the requirements so that it does not become a nuisance to adjoining properties.

Mr. Joe Menard asked what a property owner is required to do if they have bamboo on their property, and Mr. Truelove stated they have to take it back to the 10' or 40' and/or put it in a container so that it does not exceed the area. Mr. Menard asked if the fines collected will go into a reserve so that the Township can initiate clean up. Mr. Truelove stated that would be a decision for the Board. He stated currently the Ordinance does not have a provision where the Township itself, except for its own property, would remediate on private property. Mr. Truelove stated if the owners do not comply, they would be fined; and it could be converted to a lien. Mr. Truelove stated the Board did not want the Township to be going onto private properties with backhoes. Mr. Truelove stated this is a work in progress, and he would suggest they see how this goes with regard to the enforcement process.

Mr. Menard asked about the costs for removing bamboo, and Mr. Truelove stated it would depend on the extent of the area covered. Mr. Truelove stated Ms. Maguire has indicated that it would cost several thousand dollars to remove the bamboo from her property.

Mr. Menard stated he has heard that certain kinds of bamboo are very difficult to contain, and everyone agreed. Ms. Tyler stated there is a remediation method for containing it which is digging a 36" deep trench, using thick gauge plastic, and encircling it.

Mr. Menard asked who will be enforcing this, and Ms. Tyler stated this will require the Township to undertake a private right of action. Mr. Truelove stated this would be done by the same Township Code Enforcement people who currently enforce the vegetation and Property Maintenance Code issues. He stated they might see this as they are driving around the Township, or the Township could be notified by other residents.

Mr. Patrick Frain, 16 Delaware Rim Drive, stated he is very sympathetic to those having issues with the bamboo; however, he stated they should take into consideration that there are other residents in different situations where it is not

effecting their neighbors. He stated there was bamboo on his property before he purchased his home, and it does act as a safety and personal barrier from activities taking place at the Golf Course. He asked that the Board understand that the bamboo is helpful to some of the residents. Ms. Reiss stated there are different kinds of bamboo, and there are some that are not running bamboo. Mr. Frain stated he has lived at his property for almost twenty-one years, and the bamboo has not moved and it is clumping.

Mr. Dresser stated clumping bamboo would not be covered by this Ordinance as it is not a problem, and it only pertains to the running bamboo type.

Ms. Tyler asked if there is anything in the Ordinance that the Township will investigate upon written complaint from a homeowner. Mr. Fedorchak stated that is typically what they do. Mr. Truelove stated this is the same as how the Township handles issues such as tall grass, etc.; and if the Township is notified, they will come out and look at it. He stated if there is a violation, they will follow the necessary steps.

Ms. Reiss moved, Mr. Fritchey seconded and it was unanimously carried to authorize advertisement.

Mr. Truelove stated the Board met in Executive Session beginning at 6:30 p.m. and items of Real Estate sales were discussed.

**APPROVAL OF STORMWATER MANAGEMENT ORDINANCE AMENDMENTS –  
ORDINANCE NO. 401 AMENDING CHAPTER 173-14A(1) STORMWATER  
MANAGEMENT - NESHAMINY CREEK WATERSHED BY AMENDING SECTION  
173-14A(1) AND ORDINANCE NO. 402 AMENDING CHAPTER 174, SECTION  
174-14A(1) ENTITLED STORMWATER MANAGEMENT DELAWARE RIVER SOUTH  
WATERSHED BY AMENDING SECTION 174.14A(1)**

Mr. Truelove stated this matter has been advertised for consideration this evening changing one word in both Ordinances from “should” to “shall.”

Ms. Tyler moved and Mr. Lewis seconded to approve the Stormwater Ordinance Amendments.

Mr. Dresser stated this will help with Low Impact Development. Mr. Dresser was thanked for his help in this matter.

Motion carried unanimously.



APPROVE CHANGE TO FINANCIAL SECURITY FOR SCAMMELL'S CORNER

Mr. Truelove stated he was approached by a representative of JP Orleans, the developer of Scammell's Corner, requesting consideration to modify the financial security from the existing Letter of Credit to a Performance Bond both of which are recognized in the MPC and the various Township Ordinances. Mr. Truelove stated he has drafted a Motion that would allow for this with the Board's approval that includes several Conditions.

Ms. Tyler asked why they are requesting this, and Mr. Truelove stated it is less expensive. He stated it will not change the protections to the Township with the Conditions attached. He stated a Letter of Credit to a bank is more expensive to the developer than would be a Performance Bond. Mr. Truelove stated possibly the parent company has more projects coming up, and maybe they have an arrangement with a Performance Bond company that would prefer that all their projects come under that. Mr. Truelove stated while he did not explore this with the developer's representative, he could do that if the Board wishes him to do so; and they could consider this at the next meeting.

Ms. Tyler asked if it matters to the Township whether it is a Letter of Credit or a Performance Bond provided it insures that the developer will do what they are obligated to do, and Mr. Truelove stated the Township has recourse either way.

Ms. Reiss asked if this is the developer that was supposed to tell new residents about the tree buffer; and Mr. Truelove stated he understands that they did this, although he is not sure how vigorously. Ms. Reiss asked if they could add a Condition on this Approval that they do so more vigorously, and Mr. Truelove stated the financial security would not be extinguished without compliance with all the Agreements which would include that the proper buffers are adhered to.

Ms. Tyler stated if this request does not change the Township's recourse under the law, she does not have a problem. Mr. Truelove stated they have tried to word it so that it as airtight as possible.

Mr. Lewis stated he feels that this particular developer who is in the process of restoring the Scammell's property has tried every way they could to get out of this for a long period of time. Mr. Lewis stated prior Boards have expressed similar concerns with this particular developer and that property. Mr. Truelove stated they could Table the matter this evening and ask them to come to a future meeting.

Ms. Tyler stated the developer came to a HARB meeting when representatives from the Historic Commission and the Planning Commission were also in attendance, and they showed the Plans for the renovation of the Scammel House which was unanimously approved. She stated the purchasers of the property were also present, and they are very knowledgeable about the property.

Ms. Tyler moved, Mr. Benedetto seconded and it was unanimously carried to amend the Development Agreement by and between Lower Makefield Township and JPO Scammell's Corner, LP, and the Financial Security Agreement, by and among Lower Makefield Township, JPO Scammell's Corner, LP and Susquehanna Bank, both dated January 14, 2015, each of which is related to the Scammell's Corner development project, to permit, among other things, the replacement of a Letter of Credit with a Performance Bond to secure the balance of the improvements to be completed, with a reputable bonding company, and at an amount commensurate with the requirements of the Municipalities Planning Code, and such other changes, modifications or updates as the parties thereto deem necessary and appropriate, and subject to Solicitor and Engineering review and approval.

#### ZONING HEARING BOARD MATTERS

With regard to the Michael and Jodie McVan Variance request for the property located at 1357 N River Road in order to permit construction of an in-ground pool resulting in construction within and disturbance of the 100 Year Flood Plain, it was agreed to have the Solicitor participate.

Ms. Tyler stated the Community Rating System which the Township entered into places a lot of obligations onto the Township to safeguard and enforce the regulations they have agreed to. She stated when there is anything happening in the flood plain, they are asking counsel and the engineers to be involved so that they can prove to FEMA and PEMA that the Township is doing exactly what they are supposed to be doing and that they do not jeopardize the Community Rating.

#### SUPERVISORS REPORTS

Mr. Benedetto noted the letter from Mr. Kingham, Chairman of the Electricity Reliability Committee, regarding recommendations for action. He stated Supervisor Tyler had previously worked closely with them, and they have been very steadfast in coordination with PECO on improvements. He reviewed the recommendations outlined in their June 10 letter. Mr. Lewis stated he believes PECO has fixed a number of the circuits, but they need to go back to them and asked where they are



on the capital improvements they have made since it is clear that there are still pockets where there are still issues. He stated they need to see their current capital program for Lower Makefield Township.

Ms. Tyler stated PECO called the project complete June 30 of last year, but she feels they still need to provide PECO with the requests of the ERC. She stated she knows that the Silo Road area still is experiencing problems. She stated they need to get the reliability reports as outlined by the ERC. She stated previously she made those requests as the Liaison, but she feels the letter to PECO should be from the Supervisor Liaison and John Kingham as the Chairman so that Mr. Kingham has standing to deal directly with PECO on the Board's behalf.

Ms. Reiss stated her street was one of the first areas to be underground but they are connected to the street in front of them which is above ground, and almost everyone on her street has had to put in a generator, and hers still goes on.

Mr. Lewis stated PECO is required to provide a list of their bottom-performing circuits, and they want to make sure that no circuits in Lower Makefield are in that report which goes to the PUC. He stated they should ask Mr. Kingham to talk to the PUC directly, and he has a contact for him so that they can build that relationship so that Mr. Kingham can follow up with the PUC.

Ms. Reiss stated she has learned that the standards for the gauge in New Jersey calls for a much larger gauge compared to what is required in Pennsylvania. She stated with the older sections, this is a problem when there are trees. She stated when there is ice it also breaks easier when it is a smaller gauge.

Mr. Benedetto stated he will work on this with Mr. Kingham.

Mr. Pat Frain stated when he first moved into his home there were outages continuously, but the last few years this has been drastically reduced. He thanked everyone for all the work they did. Ms. Tyler stated she agrees that there have been improvements, but she also stated she feels the weather has been cooperative.

Ms. Reiss stated Farmland had their year-end closing meeting. She stated they sent an e-mail about issues with bamboo which she had sent to Mr. Fedorchak. Ms. Reiss stated the Planning Commission recommended against the Ordinance that was tabled earlier this evening. She stated the Seniors are still waiting for the Bids for the Community Center. Ms. Reiss stated there are some upcoming Special Events including Family Pride Day through Park & Rec, and another is the Home Run Derby.

Ms. Reiss stated for the Home Run Derby they are looking for vendors who would be interested in attending on Saturday, September 10 from 10 a.m. to 2 p.m. on Edgewood Road. She asked those interested to contact herself or Ms. Liney at the Township.

Ms. Tyler stated on July 19 there will be a joint meeting with the Historic Commission to discuss and plan the Graveyard Walk at the Slate Hill Cemetery on October 29 and Special Events will be helping with this. Ms. Tyler noted the LMT.org Website has a lot of new information on the Sewer billing services as the next sewer bill will be the new version, and residents will be afforded multiple ways to pay their sewer bill.

Mr. Fritchey stated Emergency Management met and discussed new equipment acquisitions and new equipment needs. Mr. Fritchey stated the annual Park & Rec Road Tour was going to be held on June 12, but it was moved to July 26 at 6:30 p.m. and all Supervisors are invited.

Mr. Fritchey stated there was a meeting of the Sewer Authority. He stated the Township sewer engineer has been trying for some time to get from MMA the footprint of the current wastewater treatment site to give to major wastewater treatment vendors such as Siemens to get their recommendations for the kind of equipment that could be put there and how the plans could be fixed up. Mr. Fritchey stated he understands that since the Sewer Authority meeting, they did receive that information; and it has been forwarded on, and they are hopeful that they will hear from these major vendors and have a considerably better idea as to how much it will cost to fix the existing plant. Mr. Fritchey stated there is also major pressure from the Department of Environment Protection in Pennsylvania to resolve excessive sewage flows from Bucks County Water and Sewer through the Neshaminy Interceptor. He stated the Township contributes a fraction of its sewage, approximately 25%, into the Neshaminy Interceptor. He stated there are a number of intensive studies underway to determine what the Township flows are and to make sure that the Township is getting credit for controlling I & I.

Mr. Fritchey stated Lower Makefield is one of a dozen Municipalities involved in this matter, and there is major concern as to what impact this will have for new hook ups in the region of the Township where sewage flows go to the Interceptor.

Mr. Fedorchak stated the DEP is considering a ban on future connections to any system tributary to the Neshaminy Interceptor, so there is a lot at stake for the Township.



**APPROVAL OF AWARD OF FUEL BIDS FOR THE PERIOD AUGUST 1, 2016 TO JULY 31, 2017**

Mr. Fedorchak stated the Board received the recommendation from Mr. Carp, Director of Public Works. Mr. Fedorchak stated it is actually the delivery price of the fuel that is being considered as the price of the fuel itself is regulated by the New York Mercantile Exchange, and all that can be controlled is the fuel delivery price. The recommendation is the Bid be awarded to Riggins Incorporated at a guaranteed price of .135 cents per gallon for delivery of diesel fuel and to Superior Plus Energy Services at .0090 cents per gallon for regular fuel delivery.

Ms. Tyler asked how this compares to existing numbers, and Mr. Fedorchak stated they included in the recommendation what is being paid now with Riggins slightly lower and Superior slightly higher. Ms. Tyler asked if they have done business with either of them in the past; however, neither Mr. Fedorchak nor Mr. Carp knew for sure.

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to award the Bids as discussed by Mr. Fedorchak.

**REJECTION OF ALL BIDS AND APPROVAL TO REBID FOR GOLF CARTS**

Mr. Truelove stated he, Mr. Fedorchak, and Mr. Attara reviewed the Bids and would recommend that the Bids be rejected and re-bid. He stated there were two levels of Bids, and there was one Bidder who based the Bid on the RFP and also on the Automatic Bid Process, and that Bid was less so it would make more sense to re-bid and see if Bids would come in less through the Automatic Bid Process.

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to reject the Bids for Golf Carts and re-bid as outlined by Mr. Truelove.

**APPROVAL TO PARTICIPATE WITH THE BUCKS COUNTY CONSORTIUM FOR THE PURPOSE OF NEGOTIATING VERIZON CABLE FRANCHISE RENEWAL**

Mr. Fedorchak stated **approximately** twelve years ago the Township entered into their first Cable Service Franchise Agreement with Verizon. He stated on April 5 the Township received a Franchise Renewal Notice indicating that their records indicate that the Cable Television Franchise granted by Verizon expires on November 15, 2018. The Cable Communications Act delineates formal procedures to be followed

to renew cable television franchises that must be invoked thirty to thirty-six months prior to the franchise expiration date. He stated they have requested that they begin formal negotiations to renew the Contract.

Mr. Fedorchak stated approximately twelve years ago when this first came before all the Townships within Bucks County, those Townships banded together and negotiated jointly. He stated they hired a firm using an individual at that time who had extensive cable franchise negotiation experience, and the Consortium members are again attempting to band together to approach this jointly. He stated the Consortium is recommending hiring the Cohen law group, and he had provided the Services Contract to Mr. Truelove for his review. Mr. Fedorchak stated at this point there are approximately sixteen Municipalities that are ready to join and move forward. Mr. Fedorchak stated the share will be based on population that it was approximately twelve years ago, and it is estimated that the Township's share will be approximately \$6,000 to \$6,500.

Mr. Truelove stated he did review the Agreement; and while his firm or other firms could do this work, this is a firm that specializes in this and Mr. Cohen has been doing this for at least fifteen years. He stated he feels it would make economic sense for the Township to do this.

Ms. Reiss moved and Mr. Fritchey seconded to participate with the Bucks County Consortium for the purpose of negotiating the Verizon Cable Franchise Renewal.

Ms. Tyler stated she understands that when they did this fifteen years ago, they used the Consortium as well; and Mr. Fedorchak agreed. Ms. Tyler asked Mr. Fedorchak if he felt the Township's individual needs were adequately addressed in the group setting, and Mr. Fedorchak stated he feels they were.

Mr. Zachary Rubin stated he is the Chairperson of the Electronic Media Advisory Committee, and he reviewed the history of Cable TV in the Township. Mr. Rubin stated when the last Agreement was negotiated, Verizon had a set of timetables as to when they would build out; and according to the Agreement in 2006, by November of this year, they must reach 100% of the Township's viewing area. Mr. Rubin stated he feels for 2018, it should be a fairly quick negotiation because all they have to do is negotiate what the Franchise Tax will be which is currently 5%. Mr. Rubin stated he agreed with Mr. Truelove that the Cohen firm has the expertise to do this.

Mr. Fedorchak asked Mr. Rubin if EMAC would evaluate the Franchise Agreement with Verizon and offer recommendations. Mr. Rubin stated they do not meet during the summer. Ms. Tyler asked Mr. Fedorchak to provide the reports from the Cohen firm to EMAC to keep them advised.

Motion carried unanimously.



July 6, 2016

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OTHER BUSINESS

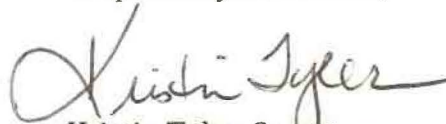
Mr. Eisold stated there are mylars to be signed this evening for Bible Fellowship Church and Moon Nursery. Mr. Eisold stated the Bible Fellowship project is for two additions to the building and some minor sidewalk modifications.

Ms. Reiss stated the original plan for Moon Nursery called for sidewalks on one side of the street only, and she asked if they could get them to put sidewalks on both sides of the street. Mr. Eisold stated originally they had not proposed sidewalks on either side, but the Township was able to negotiate with them to put sidewalks on one side. He stated Toll assumed this project from Orleans, and the Preliminary Plan Approvals carry through. Mr. Eisold stated they could talk to them about the possibility of putting the sidewalks on both sides, but he is not sure the Township has the right to require that. Ms. Reiss stated this will be a family neighborhood. Ms. Tyler asked if they should have this discussion before the mylars are signed; however, Mr. Eisold stated the mylars are really a formality as the Agreements have already been signed.

Ms. Tyler stated with regard to the Bible Fellowship Church this is for an expansion onto to the Church that has already been approved, and it has nothing to do with the open space request they had previously made of the Township.

There being no further business, Mr. Fritchey moved, Mr. Lewis seconded and it was unanimously carried to adjourn the meeting at 9:40 p.m.

Respectfully Submitted,

  
Kristin Tyler, Secretary

