

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES - NOVEMBER 5, 2014

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on November 5, 2014. Chairman Dobson called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors: Dobby Dobson, Chairman
 Dan McLaughlin, Vice 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

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B. Wren Song Road, advised the Supervisors and the Chief of Police that he will be going around the Township and the County with a proposal that was rejected by October 9 by the Pennsbury School Directors. He stated he will be soliciting financial institutions in the area for a loan, and if anything materializes he will present it to the School Directors.

Mr. Kevin Treiber, Veterans Committee and President of the Veterans Square Foundation, announced that construction was completed today on the Veterans Monument. He thanked this and previous Boards of Supervisors for their support. He also thanked Ms. Liney and her crew in Park and Recreation who helped them get this done and helped with Parade preparations. He also thanked Mr. Fedorchak for his help, support, and patience over the years. He thanked the Farmers' Market for their patience this summer working around the construction. He also thanked the community and all the donors who helped get the Monument built as it was truly a community effort with the businesses and the people. He invited everyone to join with them on Sunday, November 9 at 1 p.m. at Long Acre and Edgewood for the Veterans Parade; and he noted those wishing to march in the Parade including Scout groups, area Veterans, and civic organizations are welcome. He stated immediately following the Parade will be the Monument dedication.

today they received a comment from the Bucks County Planning Commission indicating that they would want some additional language in one section about manifesting the increase in the rate for tree replacement every three years.

Mr. Jim Bray and Mr. Alan Dresser from the EAC were present. Mr. Bray stated they had a power point presentation prepared; however, the hook up to the computer is not working and the Township technician has not been able to fix the problem. Mr. Bray provided a handout to the Board that lists what was on the power point.

Mr. Bray stated these Ordinance changes are minor in scope. He stated there is a small change to the Street Tree Ordinance and a small change to the Tree Replacement Ordinance; however, they feel it is important since what they are doing is setting up a Tree Bank.

Mr. Dresser discussed the benefits of trees including home energy savings, increased property values, reduction in stormwater run off, improving air quality, providing food and habitat for wildlife, reducing noise pollution, and having aesthetic appeal.

Mr. Dresser stated the purpose of the Tree Replacement Ordinance is to encourage developers to preserve existing large trees and not build in wooded areas.

Mr. Benedetto asked if they are encouraging developers not to build in wooded areas or mandating this. Mr. Dresser stated they are encouraging it. He stated if the developers take a tree down, they have to plant replacement trees; and if they do not take trees down, they do not have to plant replacement trees.

Mr. Garton stated what is being discussed is an Amendment to the existing Ordinance, and they are proposing to have criteria for the preservation and to create some meaningful way of determining what the tree replacement fee would be. He stated you need to read this in context with the rest of the Section of SALDO.

Mr. Dresser stated they want to maintain the current tree canopy in the Township. He stated the Township's tree canopy has been adversely effected the last few years due to recent storms. He stated the Tree Replacement Ordinance will help minimize the impact of development on the tree canopy.

Mr. Dresser stated they are making this change because the present system is not working well. He stated specifically it is not working well when the developer decides that they do not want to plant the replacement trees on their site. He stated the current Ordinance states that when that happens, they can pay a Fee-In-Lieu of for each tree, but currently there is no value for a tree listed in the Ordinance and there is no Tree Account. Mr. Dresser stated currently the developers plant the trees with the guidance of the Township, but this has not worked well since the

developer is not motivated to do this, and there is no specific time by which the replacement trees must be planted. He noted Final Approval was given to Edgewood Corners in May, 2010, and they still owe trees to the Township.

Mr. Benedetto noted the figure of \$315 per tree, and he asked about this number being adjusted moving forward. Mr. Garton stated Bucks County Planning Commission has suggested language similar to the language with regard to the Traffic Impact Fee so that every three years the Board of Supervisors would adopt a Resolution confirming the new rate so that it is clear to the public what the new rate is, and they could incorporate that element so it is clear as to how the increase is manifested.

Mr. McLaughlin asked why the Township is owed so many trees, and Mr. Fedorchak stated they have some ideas where they want some of the trees to go. He stated the trees are spoken for in the Escrows, and the Township just needs to determine where they want the trees to be. He stated some of the trees owed from the Edgewood Corners Development will be part of the buffer for the Veterans Monument. Mr. McLaughlin stated they have received the money, and Mr. Fedorchak stated they have them spoken for in Escrow. Mr. Fedorchak stated what is being proposed will make it a lot cleaner and a lot easier. He stated the money will be set aside in a special Tree Bank Fund, and they will then decide where they want the trees to go. He stated the EAC is working on a tree planting program, and he anticipates that they will be using the money from this Tree Bank to purchase trees toward that end.

Mr. Dresser stated they are making a change to the Street Tree Ordinance because the Best Horticultural Practices for planting and maintaining trees changes over time, and the current Street Tree Ordinance does not allow for those changes as it indicates a specific way so that they would have to change the Ordinance every time the Best Management Practices change.

Mr. Dresser stated they are not proposing modifications in any way to expand, change, or modify the existing Native Plant Ordinance. He stated they are also not making any changes that will impact individuals homeowners, and there are no changes to the street tree selection.

Mr. Dresser stated they are establishing a Township Capital Account that they are referring to as the Tree Bank. He stated if the Board approves this, a developer may pay a Fee-In-Lieu of \$315 per tree into the Tree Bank instead of planting the replacement trees on site. He stated they came up with the \$315 figure by surveying three wholesale plant nurseries, and they also asked one of the developers what they have been paying for trees. Mr. Dresser stated payment to the Tree Bank will be required when the Development Agreement is executed so there is a time limit when it has to be done.

Mr. McLaughlin asked who would manage the Tree Bank including the tree selection, payment, and implementation of the planting of the trees; and Mr. Fedorchak stated he would with the input of the EAC.

Mr. Dresser stated with regard to the Street Tree Ordinance they would be establishing Best Planting Practices by reference. He stated the Ordinance will be tied to the current Best Practice National Standard documents. He stated these documents will be changed by the professionals that publish them, and they will be incorporated in by reference.

Ms. Tyler stated 178-81F deals with planting trees under utility lines, and she feels this is an opportunity to address the ongoing problem they have in the Township with developers and others planting trees that end up impacting the power lines. Ms. Tyler stated she has discussed this Ordinance with the Electricity Reliability Committee as she would like them to weight in on this. She stated she feels the amending of this Ordinance is an opportunity to address that issue. Ms. Tyler also stated that when they discuss replacement trees to be selected in compliance with the Township's Native Plant Ordinance, this may also be an opportunity to discuss the applicability of the Native Plant Ordinance to the street trees so that they can be far more defined as far as what trees they would allow to be planted in close proximity to power lines. Ms. Tyler stated while she is in favor of what has been proposed, if they are going to amend the Ordinances, she feels they should do it comprehensively and address these other issues.

Mr. Bray stated under the Section Ms. Tyler noted when they put the Native Plant Ordinance into effect 2007 that was when the verbiage was created about trees near power lines, and there are explicit guidelines already in the Ordinance. Ms. Tyler stated these are recommendations only and not requirements, and she feels this is the opportunity to mandate what can and cannot be planted in proximity to utility lines.

Mr. Benedetto stated Mr. Gruen noted that at the mosque across the street from Charles Boehm they just planted trees along where the power lines are so he agrees with Ms. Tyler, and he feels they should be all encompassing if they are going to amend the Ordinance.

Mr. Dresser asked that the Board approve what has been submitted at this time, and they would then address that issue which could take some time. Mr. Bray agreed adding that people have spent a great deal of time with respect to this Ordinance, and as it stands right now they can move forward with at this point, and then treat as a priority the issue of trees growing under power lines. He stated they would be willing to meet with the Electrical Reliability Committee and come up with different

wording recognizing that this would take longer than a week or two. He asked that the Board give approval to what is before them with the stipulation that the EAC treat the overhead power and easement situation as a priority and work on it right away.

Ms. Tyler stated while she appreciates this, she added that this is not the first time she has raised this issue, and she had previously asked that this be looked at. She stated looking at Section F all it states is “as well we recommend low-growing trees ...” and while she does not want to undermine the work done by the EAC, if they are going to proceed with this, she would want to do it as comprehensively as possible. She stated the issue of trees in power lines is a very significant issue and not one that she would like to put on the “back burner.” She stated if they change Section F and try to be specific with what trees can and cannot be there based on the EAC’s expertise, this will also impact the Native Plant Ordinance; and she would like to get it all done together.

Mr. Bray stated they have a finished product that a lot of people have worked long and hard on. He pledged that they will not put the issue of trees under power lines on the “back burner,” and they will treat it as the highest priority and consider it at their meeting next week moving forward as expeditiously as possible. Mr. Bray stated he would like this piece being proposed this evening out of the way.

Ms. Tyler asked what is the urgency to get this in place right away adding they could direct Mr. Fedorchak to incorporate into the procedures what it is they feel they need to have in place immediately. Ms. Tyler stated she does not see the point of passing an Ordinance twice within six months.

Mr. Benedetto asked Mr. Garton if the Board has to approve this as advertised or can they approve a portion of it and reject another portion. Mr. Garton stated if the Board makes substitutive changes, they would have to re-advertise; however, if they make minor changes, they do not have to re-advertise. He stated the Board could also approve all or a portion of the provisions.

Mr. Stainthorpe stated he agrees with Ms. Tyler that they need to better define what can go near power lines. He stated the key benefits that have been presented tonight include establishing the Fee-In-Lieu and establishing the Best Practices. Mr. Stainthorpe stated he does not see a problem approving what has been presented, and they should come back within a month or so on the issues Ms. Tyler has discussed. Mr. Bray stated they have a meeting in one week, and they will immediately establish a Committee and start working on that aspect.

Mr. Benedetto read from a Section regarding the tree replacement on Page 3, Section 2, Sub-Section A amending Sub-Section H 4B which indicates that all trees to be removed are to be measured at a height of four feet above finished grade level. He asked what this is referring to, and Mr. Garton stated this refers to measuring the caliper of the tree. Ms. Tyler stated they are setting a standard as to where the measurement is to be taken. Mr. Bray stated this has not been changed, and it was already in the Ordinance.

Mr. Benedetto stated he is concerned about how intrusive they are with the standards being set especially if they are only going to be waived by the Planning Commission and the Board of Supervisors. Mr. Bray stated what Mr. Benedetto is referring to is already in the Ordinance. He stated what they are proposing is setting up the Horticultural Practices to the Best Management Practices. He stated all the nurseries and landscapers use these Best Management Practices, and they are the standard in the industry. He stated making this change will save the taxpayers money since they will not have to change the Ordinance as it will automatically self fix it.

Mr. McLaughlin asked if the developer will now not plant any trees; and Mr. Garton stated this refers to times when a development cannot accomplish placing additional trees on site, and they would then create the Tree Bank so that the Township can put them where they wish within the confines of the Township. Mr. Garton stated the standards Mr. Benedetto was questioning are about how the trees are planted and maintained. Mr. McLaughlin asked if the developer will plant the replacement trees or will the Township plant them. Mr. Fedorchak stated the Township will have the money to plant the trees. He stated the \$315 per tree will cover this. He stated this is the same as the Park & Rec Fee-in-Lieu. Mr. McLaughlin stated the tree planting will be a cost that the Township will now have to bear. Mr. Fedorchak stated they have discussed this with the EAC and they feel the \$315 number will cover the cost and planting of most trees. Mr. Fedorchak stated they could have Park & Rec or Public Works employees plant the trees, and in some cases the EAC is willing to plant the trees as well.

Mr. Bray stated the \$315 should cover the basic cost of the tree, the delivery, the installation of the tree, and insurance for approximately one year on the tree. He stated they have done a good analysis of this number, and the developers they spoke to felt this number was reasonable and fair.

Mr. McLaughlin stated his concern is that they are putting more responsibility on the Township, and he is concerned whether they will have to add to the head count. Mr. Fedorchak stated this will not effect the head count.

Mr. Stainthorpe stated developers will still be required as part of the Development Agreement to plant a certain number of trees on the street and on each lot as they do now. Mr. McLaughlin asked if the developers could not just pay the \$315; and Mr. Bray stated they could not, and the Board would have to approve this.

Mr. Benedetto stated he is still confused as to which trees they are looking to have replaced and what mature trees they are looking to preserve. Mr. Dresser stated a developer can take down any tree, but they are encouraging them not to since when they take down a big tree, they will have to plant the replacement trees. He stated if they take down a tree, they have to measure the caliper four feet above the ground; and if it is between 10" and 18", they have to plant four replacement trees. He stated if it is between 18" and 30", they have to plant seven replacement trees, and if the diameter is greater than 2 ½', they have to plant ten replacement trees.

Mr. Benedetto asked who will do this calculation, and Mr. Stainthorpe stated the engineers will do this.

Mr. Stainthorpe moved and Mr. Dobson seconded to approve the Ordinance as presented with the additional requirement that the EAC begin working on standards for trees under power lines with the Electricity Reliability Committee and including comments from the Bucks County Planning Commission about manifesting the increases every three years by Board action.

Mr. Tim Collins stated the builders could care less about trees, and they will bulldoze whatever is in their way as opposed to going around the trees. He stated they will knock down a one hundred year old tree to save costs. He stated paying \$315 a tree is nothing to them. Mr. Collins also asked where the Township will continually plant trees since they will run out of space to put all these owed trees.

Mr. Collins also stated that a number of months ago they were discussing accountability of homeowners with regard to their trees and the power lines. He asked if they have considered going around the Township and identifying particular trees which are jeopardizing the power lines and sending a letter to the homeowners. He stated they could also contract some tree pruners at a legitimate rate and give that to the homeowners. Ms. Tyler stated this is one of several things the Electricity Reliability Committee is addressing. She stated she is concerned that the EAC and the Electricity Reliability Committee will be unable to reach an agreement on that quickly, so it may be wise to approve what is being presented this evening.

Mr. Benedetto stated he would prefer to see everything addressed at one time. He feels trees in the power lines is an increasing problem and making sure that the trees do not encroach on the lines will improve the quality of life for the citizens.

Mr. Dan Sullivan, Sutphin Pines, stated he is the President of the Lower Makefield Tree Tenders. He stated they currently have twelve members who plant, mulch, prune trees, and water trees in the Township. Mr. Sullivan stated there is quite a bit of public property that can accommodate trees with the proviso that there should be a plan for maintaining them. He noted there are a number of maples that are dying at Macclesfield Park which should be replaced and there are non-playing areas in Macclesfield Park where they could plant trees. He also noted the property surrounding the softball fields and the public property next to that which is targeted for the Community Center which will take up only a small portion of the actual plot.

Mr. Sullivan stated with regard to the planting of trees under power lines, people need to realize how large a small tree can become. He noted that the Tree Tenders are willing to help.

Mr. Benedetto asked how "developer" is defined; and Mr. Garton stated it would be any developer who is proposing a Subdivision or Land Development.

Mr. Benedetto stated the Township is owed 177 replacement trees right now, and he stated it seems that nothing is getting planted. Mr. Fedorchak stated as he noted earlier, they have places for most of the 177 trees; and one example he has given was buffering for the Veterans monument. He also noted that when they were discussing the Community Center, the Board promised the residents that there would be a tree buffer. He also stated there are some trees that technically the Township owes itself for the baseball fields that were constructed. He would recommend that they take the 177 trees and initially put them in those three places in the spring or in the fall.

Mr. Benedetto stated he is concerned that in the future that Fund could grow pretty large, and the fund could be \$65,000 and it would solely be for the purpose of planting replacement trees; but added there was the Fee-In-Lieu with Park & Rec where they did use the funds as discretionary funds. Mr. Fedorchak stated he feels the way this is being presented, it will be restricted for the planting of trees. Mr. Benedetto stated he is concerned that if there is \$65,000 to \$70,000 in the future, the money could just sit there because there is no place to plant trees. He stated he feels this money would be an attractive thing to use for different expenditures such as planting bushes or something else. He stated he feels 177 replacement trees is a big number to be sitting there, and it will probably continue to grow. He stated his sole concern is that they should address everything at once.

Ms. Tyler stated after listening to the discussion and recognizing the amount of work that the EAC has put into this, she will agree to vote in favor of the Motion; however, this is not the first time the issue of trees under power lines has come up, and she had asked that it be addressed previously, and she is again asking that it be addressed. She stated she will put the EAC in contact with the Electricity Reliability Committee, and she would like this done on a short time frame. Mr. Bray stated when he was asked about this one month ago, whether trees under power lines was covered, he had indicated that it was covered although it may not be covered to their satisfaction. He stated they will address this quickly as requested.

Mr. Stainthorpe suggested that they include the Tree Tenders in their discussions as well since they are a resource that he was not aware of, and Mr. Bray stated they will include them. Ms. Tyler stated the scope of this will be large, and they do need the Tree Tenders. She stated they are going to have to look at the existing trees to determine what is going to need to come down.

Motion carried with Mr. Benedetto opposed.

Mr. Dobson thanked Mr. Bray and Mr. Dresser for all the work they have done on this issue.

DISCUSSION OF SLACK CEMETARY

Mr. Walt Jamison and Mr. Jim Twining, representing the Newtown Presbyterian Church were present. Mr. Jamison stated they are present to discuss relocating a small family cemetery which is in Lower Makefield Township on Quarry Road in the middle of the Moon Nursery area which is soon to become an Orleans Development. He stated they refer to it as the Slack Cemetery since it is on the farm that was originally owned by Abraham Slack. He stated it evolved into a cemetery in the mid-1700s. He stated it is a 40' by 70' parcel very close to the road on Quarry Road. Mr. Jamison stated it is owned by the Newtown Presbyterian Church and has been for a number of years.

Mr. Jamison stated they are looking at the possibility of relocating the cemetery to their historic Church cemetery in Newtown. He stated the first installed pastor of their Church, Reverend Henry Martin, is interred at the Slack Cemetery as well as his wife, Elizabeth, who was a Slack which is why they are interred there. He stated they were buried there in the middle 1700s. Mr. Jamison stated they feel it makes sense to have him close to their Church.

Mr. Jamison stated one of the primary caretakers of the cemetery was Moon Nurseries, and for a number of years they worked on the stone wall that surrounds it, and took care of the property; and since Moon Nurseries is no longer there, they are concerned about the care of that cemetery in perpetuity in its existing location.

Mr. Jamison stated their historic Church in Newtown was built in 1769 and is on the National Historic Register and has a cemetery behind it with many Veterans of five different wars including thirty Revolutionary War soldiers. He stated that cemetery will be cared for in perpetuity which is why they feel it is an appropriate place to relocate this particular cemetery. Mr. Jamison stated in the middle 1970s they had another occasion where they moved a small cemetery owned by the Church that was impacted by the Newtown By-Pass, and the markers and remains were moved and placed in the cemetery at the historic Church on Sycamore Street in Newtown. Mr. Jamison stated they would propose to put the Slack markers and the remains in the area to the front of the Swamp Road cemetery remains. He stated there is space there to do that.

Mr. Jamison stated there is a potential benefit to Lower Makefield Township for doing this as there is a serious turn in Quarry Road right at the Cemetery, and there is a blind spot. He stated if the Cemetery were not there, the road could be a straight line which would do away with any sight line issues.

Mr. Jamison stated they have an estimate of approximately \$40,000 for the relocation, and the total cost including the physical cost of the relocation, the use of ground-penetrating radar to find any remains, which there will probably not be many after two hundred and fifty years, the use of an archeologist, documentation, and legal fees. Mr. Jamison stated the Church would need help from Lower Makefield Township, possibly Orleans, and possibly a Grant in order to do this. He stated at the present time their Church is without a head Pastor and has been for a few years; and when you lose your head Pastor for a period of time, financial problems develop in a Church. He stated they could probably cover the legal fees as their part of the project.

Mr. Stainthorpe stated the next item on the Agenda is Approval of the Preliminary Plan for Moon Nursery, and he feels this where they could discuss financial assistance. He stated he does not feel the financial assistance would come from the taxpayers of Lower Makefield, although the developer may possibly help with this.

Mr. McLaughlin asked what would happen with the land if the remains were removed, and Mr. Twining stated they would be willing to donate the land to the Township. Mr. Jamison stated the property is 40' by 70'. Mr. Benedetto asked

what Moon Nursery will have on the site if it is donated to the Township, and he asked if there would be homes or a roadway there. Mr. Stainthorpe stated this would present the opportunity for the Township or the developer to consider straightening out the road. Mr. Benedetto asked if that proposal is part of the Moon Nursery Plans as presented tonight, and Mr. Fedorchak stated it is not.

Mr. Benedetto asked if the Slack family has been contacted about this, and Mr. Jamison stated they have contacted a number of Slacks in the area; but the Slacks they contacted do not have any direct relationship to this property.

Ms. Tyler asked that Chief Coluzzi comment on this road, and Chief Coluzzi stated it is a dangerous road, and for years they discussed straightening the road out so this would be helpful. Mr. Stainthorpe stated he believes they did discuss straightening out this road years ago, and there was a group that stated they did not feel it should be straightened because it was part of the heritage of the Township, and they did not want a straightened road. Ms. Irene Koehler stated it does make the traffic slow down, and she feels it will be a "speed way" if it is straightened out; and Chief Coluzzi stated that argument was made that if they straightened out the road, the cars will go faster. Chief Coluzzi stated they did reduce the speed to 25 miles per hours on Quarry Road.

Mr. Garton stated this is not something the Township has to approve, and the Church can move the Cemetery if they choose to provided they go through the requirements that may be imposed by the State Museum Commission. Mr. Garton stated the Township has no jurisdiction to prevent them from moving the Cemetery although the Township could deal with the road issue. Mr. Jamison agreed there are a lot of requirements to do this which they would have to address.

Ms. Koehler, Spring Lane, stated they would like to keep the curve there because they will have a "speedway there" if they do not have the curve. She stated there are three Elementary Schools there, and she is passed all the time on a double yellow line. Ms. Koehler stated she also felt there were Indians buried there as well, and she asked if they plan to move all of the bodies or just the prominent Slack family members. Mr. Twining stated there are approximately thirty-five graves there although they will not know the exact number until the survey is done with ground-penetrating radar. He stated the plan is to move everything that they find there. Ms. Koehler stated she also felt this was a historic site, and Mr. Twining stated it is not on the National Registry.

Ms. Koehler asked Chief Coluzzi's opinion if straightening the road increases the speed of cars, and Chief Coluzzi stated it would be difficult to say. He stated the speed limit has been lowered, and flashing lights were erected recently in the School Zones. He stated it would be difficult to foresee what is going to happen, although it is dangerous now especially when there are sleet and ice conditions.

Mr. McLaughlin asked if there are any statistics on accidents at this location, and Chief Coluzzi stated they do not have any accidents as far as vehicle versus vehicle; but they do occasionally have to respond and pull cars out of the embankment.

Ms. Koehler stated the speed limit and flashing lights do not slow the existing traffic down.

Mr. Benedetto asked the Church representatives why they would not sell this property to Moon Nursery since they need it, and Mr. Twining stated they are not interested in it, and it does not encroach on any of the properties in the proposed development. He added it is next to open space where there are already trees.

Mr. Twining stated this property is out of sight of any property that the Church owns. He stated the Trustees have tried to interest their volunteers in going over there to do some work on the site, and it has not happened. He stated they felt it would be better to move it to a spot where it would be taken care of.

Mr. Benedetto asked if PennDOT paid the Church to move the Swamp Road cemetery, and Mr. Twining stated PennDOT did the entire move.

Ms. Koehler stated she would appreciate being notified if there is any further discussion on this matter.

Mr. Jamison stated if it is moved, they would agree to put some kind of marker at the location where the cemetery now is as a historic memorial.

Mr. Benedetto stated he is concerned that there are not just Slacks there, and there could be Indians as well. Mr. Jamison stated there are a lot of unknowns as to who is buried there other than Reverend Henry Martin, his wife Elizabeth Slack Martin, and a Mary Martin.

Ms. Helen Heinz, 1355 Edgewood Road, stated these gentlemen came before the Historic Commission some years ago and the issue then was that an individual had purchased the Slack Cemetery on tax sale and had asked if he could move the stones and put a house on the site; and he was advised that he could not. The Historic

Historic Commission advised the Newtown Church of this and asked that they buy the property back, and they did this and Newtown Presbyterian Church re-acquired the property at that time. Ms. Heinz reviewed the history of the Slack family. Ms. Heinz stated she feels this should be on the National Register as it is an early link of Lower Makefield to Presbyterian religious history. Ms. Heinz stated they should consider protection of the site. She stated she feels they should leave it where it is and give it a wide buffer. She stated she feels they should require the developer to maintain it.

Mr. Benedetto asked the Church representatives if they would be interested in donating it to the Township and have the Township maintain it, or are they only interested in donating it to the Township if the bodies are moved. Mr. Twining stated this would be up for discussion.

Ms. Tyler asked the maintenance required, and Mr. Twining stated currently there is no grass and the walls are falling down. Mr. Jamison stated it needs improvement.

Ms. Michelle Stambaugh, 1566 Woodside, stated she was on the Historic Commission for eight years, and she resides in John Slack's property. She stated there is an extensive history on the Slack family. She stated she feels they need to consider how they would move or maintain the burial site because they will be losing the only opportunity of National Registry status for a historic gravesite in this area. Ms. Stambaugh stated as a volunteer she would like to be involved in this. Mr. Twining stated Abraham Slack is buried in their Church's property.

Mr. Rubin reviewed the history of cemeteries.

DISCUSSION AND APPROVAL OF PRELIMINARY SUBDIVISION PLAN FOR MOON NURSERIES TRACT – ORLEANS HOMES, INC.

Mr. Garton stated the Applicant proposes to subdivide Tax Parcel 20-3-36-1 into fifteen residential lots. The property is located at 1955 Quarry Road located within the R-1 Residential Low-Density Zoning District. Mr. Garton stated at its meeting held on October 27, the Planning Commission recommend approval of the Preliminary Plan subject to a variety of conditions.

Mr. Edward Murphy, attorney, and Mr. Glitzer, engineer, were present. Mr. Murphy stated they had presented a Sketch Plan in late summer of 2013 to both the Planning Commission and the Board of Supervisors. He stated they focused the Sketch Plan on a number of design issues principally dealing with whether or not there would be

any formal interconnection between this property and Hillside Drive. It was the judgment of both the Planning Commission and the Board of Supervisors as well as the neighbors that there be no formal interconnection, and this Plan reflects that there is not an interconnection.

Mr. Murphy stated earlier this evening there was commentary about Quarry Road including speed limits, the cemetery, and the impact it has on the configuration of Quarry Road. He stated at the request of the Township staff, they did an updated speed study; and as a result of that, the entrance that exists today for Moon Nursery has been relocated to the east to further provide an additional safety factor.

Mr. Murphy showed on the Plan the location of the Cemetery that was just discussed. He stated it is 40' deep by 70' long. He stated what they have done to protect it is establish another 150' surrounding it, and they propose to incorporate that into an Conservation Easement adding it is also a steeply-sloped area. He stated this will provide a significant buffer around the Cemetery. He stated this will have no impact on the rear yards of the proposed properties. Mr. Glitzer also noted on the Plan the location of the proposed retaining wall.

Ms. Tyler asked about the slope, and Mr. Glitzer stated Quarry Road is high relative to the site, and it slopes downhill to the lots and ultimately to Core Creek.

Mr. Murphy stated the design has been dictated by the Township's Low Impact Design Ordinance which they have attempted to follow, and some of the Waivers that they are requesting are in direct relation to the Low Impact Ordinance since some of the SALDO regulations have not caught up with the Low Impact Design regulations.

Mr. Murphy stated there was also a fair amount of discussion at last month's Planning Commission meeting about the stormwater impacts of this project, and he asked Mr. Glitzer to review the existing conditions and how they propose to modify them.

Mr. Glitzer stated the primary goal is reduction of impervious surfaces. He stated currently on the site there are a number of buildings and the landscape yard which is compacted crushed stone which is behaving as an impervious surface. He stated there will be an instant benefit in developing the site by converting 8.43 acres of existing impervious surface into lawn. He stated they are striving to not put any more impervious than they need, and they are proposing sidewalk only along one side of the access road. He stated they are also proposing a 24' wide cartway in accordance with LID requirement.

Mr. Glitzer stated there are a series of roadside infiltration swales that will fill up and infiltrate run off from the road surface and from the front of the homes and driveways and provide some initial volume reduction. He stated the whole rear of the site is bounded by Core Creek, and they increased the size of the riparian buffer with a multi-celled naturalized basin which will increase the buffer to over 200' from the top of the stream bank of Core Creek. He stated there are a series of interconnected cells, and there are two infiltration cells where soils were favorable for infiltration and a wetland cell in the bottom at a location he showed on the Plan. He reviewed how the basin will function with its multiple discharge points to mimic the existing hydrology. Mr. Glitzer stated their proposal will result in significant run off reduction. He stated for the two-year storm there is almost a 90% reduction in flow, and in the one hundred year storm they have a 33% reduction in flow.

Mr. Murphy asked Mr. Glitzer to discuss the size of the watershed and how this parcel fits within the overall watershed. Mr. Glitzer stated Core Creek drains a significant area not only of this site but also of an upstream area. He stated the total area to the lowest point of their site's contact with Core Creek is 1,700 acres which flows to Core Creek, and the site under discussion is slightly less than thirty acres.

Mr. Murphy stated at the Planning Commission meeting they were asked about the impact the re-development of the site has on the floodplain as it might be effected on the Bridle Estates side of the project. Mr. Glitzer noted Bridle Estates on the Plan which is to the east of this site and to the east of Core Creek. Mr. Glitzer stated there will be a reduction in flow coming off their site; but given the overall magnitude of the 1,700 acre watershed, their site is such a small percentage of it that even with the significant reductions they have, you will not really see a reduction in the flood flows. He stated they will not have any added impact, and on a site scale, there will be a significant benefit as to run off.

Mr. Murphy asked Mr. Glitzer to discuss the pond in the area, and Mr. Glitzer noted the location of the off-site pond. He stated there is an Agreement with the adjoining owner that they have to maintain discharge patterns to that pond. He stated the pond is within the one hundred year flood plain of Core Creek so that under certain flow events, the pond will submerge, and then drain back out. Mr. Murphy stated the Agreement they have with the abutting property owner is to insure that water flows to the pond to keep it fed, and Mr. Glitzer agreed. Mr. Glitzer stated they have incorporated a storm sewer catchment that mimics the existing drainage area from the Moon site that discharges to the pond, and they have a diversion structure at a location he showed on the Plan. He added they are going to replace a deteriorated pipe to keep the pond recharged. He stated it does have an aerator, but there is not a significant overland flow or spring flow into the pond; and they want to try to keep the hydraulic balance the same.

Mr. McLaughlin asked the size of the lots, and Mr. Glitzer stated they vary and there are some larger lots. He stated the lots backing up on Quarry Road are oversized because they have to have a net area clear of the Conservation Easement. He stated the smallest lot is Lot #9 at 38,000 square feet so it is a little less than an acre. There are fifteen homes on twenty-nine acres.

Mr. Murphy asked Mr. Glitzer to discuss the Hillside connection, and Mr. Glitzer stated the current Plan does provide for a right-of-way and a paved area that would provide access for two lots; and there is a grass paver emergency connection that would provide emergency-access only to Hillside Lane.

Mr. McLaughlin asked if the Homeowners' Association would own the drainage structure to the right, and Mr. Glitzer agreed.

Mr. Benedetto asked about the Conservation Easement; and Mr. Glitzer stated in addition to the stormwater management feature which is basically an expansion to the riparian buffer, there are existing riparian woods that make up a good part of the site, and the EAC correctly recognized the value of those woods and recommended that it be considered either for Municipal dedication or at least a very strong Conservation Easement. He stated the Plan currently proposes that it will be owned by the HOA, and they could layer that with any Conservation Easement language is deemed appropriate. He stated he does not know that there is any interest in Municipal ownership.

Mr. Benedetto asked if they have looked into tree replacement; and Mr. Glitzer stated they have not studied the new Ordinance, but they are bound by the existing Ordinance that obligates them to replace trees, and they have replacement trees throughout the site. He stated they have one Waiver that addresses discharge of stormwater management through the tree protection zones area as they are trying to keep the natural hydraulic balance and discharge where the site currently discharges into the floodplain of Core Creek. He stated there are several culverts that drain off of the Nursery now into the tree protection zone, and they propose to maintain that point of discharge. He stated he feels from what he heard tonight, he feels they would be consistent with the new Ordinance as well even though it does not apply to their Plan.

Mr. Benedetto asked if they are interested in purchasing the Slack Cemetery, and Mr. Murphy stated he had discussions once with Mr. Jamison who asked him for a copy of the Plan in the summer, but he was not aware that a sale was an option. Mr. Murphy stated the Applicant would have no interest in participating in any sale or purchase of that property.

Mr. Benedetto asked Mr. Eisold to comment on the discussions which took place at the Planning Commission regarding the concerns of the Bridle Estates residents. Mr. Eisold stated there were concerns brought up at the Planning Commission meeting about an issue that has been going on for a number of months with regard to the properties that back up to Core Creek in the Bridle Estates Development. Mr. Eisold stated in conjunction with the new FEMA floodplain maps which are much more accurate, they show the floodplain extending up to the back of those houses where previously it only extended to the rear of the properties themselves. Mr. Eisold stated this is in agreement with what has been happening when there are certain types of rainfall, and there is a lot of water in the back of those properties.

Mr. Eisold stated there was a meeting approximately two months ago with those property owners to discuss the impact from this proposed Development as well as what else could be done to correct the situation. Mr. Eisold stated at that meeting Mr. Fedorchak advised the residents that he would have the Township engineer evaluate the upstream developments to make sure those basins were operating properly, and not creating additional run off that was effecting those property owners. Mr. Eisold stated they are approximately 70% done with the field work, and they will prepare a report to document their findings.

Mr. Benedetto stated the meeting took place in early July, and he asked Mr. Eisold if he has had discussions with the residents; and Mr. Eisold stated he did meet them out on their properties once or twice in the spring, but he has not spoken to them since. He stated when the study is done, the details will be conveyed to them. Mr. Eisold stated those property owners did come to the Planning Commission meeting in connection with the property under discussion this evening, and in reality **this** project, as Mr. Glitzer noted earlier, has minimal if any run off to those properties; and in fact with the impervious surface being reduced, the actual flow from this property will be reduced from 33% to 90% for the various storms. Mr. Eisold stated this property is not the cause of their situation. He stated the improvements from this project will only improve the Bridle Estates situation infinitesimally because it is really the upstream watershed that is creating the run off.

Mr. Glitzer stated they will have a significant site scale improvement for their thirty acres. He showed a Plan of the overall Core Creek watershed, and the Moon Nursery site is under 2% of the total watershed area.

Mr. Benedetto noted the comments in the Boucher & James letter about a number of lots that fall within the floodplain where development is prohibited, and the design engineer has filed a Letter of Map Amendment (LOMA) with FEMA which would remove the area of question out of the floodplain. Mr. Benedetto stated the Bridle

Estates residents now fall within the floodplain, and he asked if the Township could file for a Letter of Map Amendment for those residents since they fall within it now. Mr. Eisold stated as the floodplain is today probably only half of proposed lots would be permitted the way it was defined in the old FEMA maps, and the new FEMA maps are actually moving the floodplain which allows development of the houses in this proposed development. He stated what the Applicant was going to do was file a Map Amendment to get a head start before the new maps were accepted which will probably be March of 2015; however, when they started to go through that process, they ran into some issues and are now in a position to wait for the updated map to come out before they formally move forward with this process.

Mr. Glitzer stated at the time they prepared the Sketch Plan, there was a draft of the new FEMA map that actually accounted for topography; and they felt that by the time their Plan reached Preliminary Plan the map would be enacted. He stated the map was delayed, and the Applicant was going to move ahead so they did a Letter of Map Amendment request and did an independent flood study which confirmed what FEMA has issued as their revised mapping to take effect in March, 2015. Mr. Glitzer stated FEMA recognized that their old map was in error, but the way they can make an adjustment is by the process they are going through which is time consuming so the Applicant decided to wait for the new flood mapping to come out. He stated the new flood mapping is reflected on the Preliminary Plan. He stated unfortunately for the Bridle Estates residents, it does get closer on the their side. Mr. Benedetto stated he feels they actually fall within it.

Mr. Benedetto stated he now understands that once the map is approved in March, the Applicant's lots will be out of the floodplain; and Mr. Glitzer stated all of the improvements will be outside of it even the basins.

Mr. Murphy stated the only reason they relinquished their efforts to obtain their own Letter of Map Amendment was because once FEMA announced that they were going to adopt the map by March, 2015 it did not make sense for the Applicant to continue to push for their own Amendment when in a few month's time, it was going to happen anyway. Mr. Murphy stated but for the new delineated line, they would not have been able to build the naturalized basin along the creek. Mr. Murphy stated that everything they are doing on their Plan will be outside of the floodplain as of March, 2015.

Mr. Benedetto stated he understands that they are requesting seventeen Waivers a number of which are from the stormwater requirements. Mr. Glitzer stated a number of the Waivers are "plumbing details." He noted that a number of these

are due to the fact that effective Best Management Practices need to be close to the source of the run off, need to be of smaller scale, and need to be put in a series. He stated a lot of the Ordinance provisions are not really scaled to Best Management Practices so these are not Waivers of performance but of fittings and other details. He stated the EAC is a strong proponent of Low Impact Development that promotes treatment and control close to the source as are their infiltration swales.

Mr. Benedetto noted Waiver #16 which would allow concentrated run off onto adjoining properties, and it was noted this is the pond. Mr. Glitzer noted on the Plan the point of concentrated run off. He added there is a diversion in an area he showed on the Plan to mimic the pre-development hydrology to keep the balance of the pond in check. Mr. Glitzer stated it would have been easier for the developer not to divert there and to cut off water that was going to the pond, but the Moon Nursery had an Agreement with the neighbor to do what the Applicant is proposing as it is an amenity on that property; and that owner has a vested interest in maintaining the pond so they are trying to accommodate that as well.

Mr. Benedetto noted Waiver #9 which would allow discharge into the tree protection area, and Mr. Glitzer showed on the Plan the multiple discharge points to mimic pre-development patterns, and the discharge into the woods that they are trying to preserve. He stated the run off is routing through that area, and they want to keep the run-off patterns as close to existing conditions as possible.

Mr. Benedetto asked the planned timeline for Final Approval, and Mr. Murphy stated he anticipates they will make a Final Plan submission early next year recognizing that they will not be able to start the project until after March 15, 2015.

Mr. Rubin stated historically when there have been developments, the Township or a City would make a developer put in a school or a playground as a Condition of Approval; and he asked why they would not make one of the Conditions of Approval that Orleans move the Cemetery to Newtown. He asked the legal ramifications of that. Mr. Garton stated there is no requirement in the Zoning or Subdivision Ordinances which would compel a developer to do that, and therefore you cannot impose that Condition without their consent. Mr. Dobson stated it could be a topic of discussion before Final Plan.

Mr. McLaughlin moved and Ms. Tyler seconded to approve the Preliminary Plans dated 11/26/13, last revised 8/22/14 subject to the following:

- 1) Compliance with the Boucher & James report dated 10/2/14
- 2) The Applicant has proposed certain Waivers from the provisions of the Subdivision and Land Development Ordinance as well as the Stormwater Management Ordinance, and those Waivers are noted as Items #1 through #17 within the Boucher & James report and have been discussed in part by Mr. Benedetto in his dialogue with the Applicant
- 3) Compliance with the correspondence received from Captain Tom Roche
- 4) Compliance with the review letter from James V.C. Yates dated 9/27/14
- 5) Compliance with the Tri-State Engineers & Land Surveyors review letter dated 9/22/14
- 6) Compliance with the Bucks County Planning Commission review dated 10/1/14
- 7) Compliance with the Environmental Advisory Council review dated 10/9/14
- 8) Compliance with the Historic Commission review letter dated 9/27/14
- 9) Applicant shall locate trees if necessary to block headlights onto adjacent properties
- 10) Applicant shall pay a Fee-In-Lieu of Recreation in accordance with the standard Township fee schedule
- 11) Applicant shall pay a Traffic Impact Fee in accordance with the Township fee schedule
- 12) Receipt of all Permits from any agencies having jurisdiction over such matters

- 13) Township shall have the right to review and approve the Homeowners Association documents with the understanding that an Agreement shall be prepared and approved by the Township permitting the Township to maintain the basins in the event of default by the Homeowners Association and charge back the Homeowners Association as well as individual lots for those costs
- 14) Applicant shall comply with the Township engineer's recommendation as to stormwater management and Best Management Practices and shall execute a Stormwater Management Agreement
- 15) Applicant shall pay all review and professional fees incurred in accordance with the Township's Subdivision and Land Development Ordinance
- 16) Any signage shall comply with all requirements of the Ordinance and they shall secure all Permits from the Township
- 17) All lighting shall comply with Township Ordinances and no glare shall extend onto adjoining properties and a Note to that effect shall be added to the Plan
- 18) Applicant shall execute a Declaration of Restrictions and Covenants related to the Notes on the Plan which will be recorded with the Final Plans
- 19) The Plans shall be ADA compliant
- 20) Applicant shall pay a Fee-In-Lieu of widening the cartway as well as construction of additional sidewalks with the understanding that the amount of that payment shall be resolved between now and Final Plan approval

- 21) The Township engineer shall finalize their stormwater management study for the Core Creek watershed upstream of Bridle Estates prior to the grant of Final Plan approval. Should the study identify additional opportunities to mitigate existing flooding within the development site, those measures shall be considered for review with the Final Plan

Mr. Murphy agreed to the Conditions of Approval.

Mr. Benedetto asked Mr. Eisold if he has a timeline for the study that is referenced in the last point, and Mr. Eisold stated he had indicated that they would have that within thirty days of the Planning Commission Meeting which would be in the next two to three weeks. Mr. Benedetto stated he will vote to grant Preliminary Approval, but he still has concerns for Bridle Estates. He stated while he is pleased that the study is being done, they met with the residents in July, and it is now four months later and it still has not been completed although it will be completed before Final Approval.

Motion carried unanimously.

APPROVE CERTIFICATE OF APPROPRIATENESS – 1667 EDGEWOOD ROAD

Mr. Fedorchak stated this was approved by HARB. He stated this is for Woodside Presbyterian Church and is one exterior wall that they want to stucco. He stated the stucco is similar to the rest of the exterior walls.

Mr. Stainthorpe moved and Mr. McLaughlin seconded to approve the Certificate of Appropriateness.

Mr. Rubin stated the Woodside Church was kind enough to make their facility available for the Election and provided food and coffee for the voters, and he feels they should be recognized as a good citizen of the Township. Mr. Tyler stated they also helped the Township with the labor and plantings around the all-inclusive playground, and they are a wonderful community member.

Motion carried unanimously.

APPROVE CERTIFICATE OF APPROPRIATENESS – 1793 YARDLEY-LANGHORNE ROAD

Mr. Fedorchak stated this was also approved by HARB. He stated this Application is to put in a new roof.

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the Certificate of Appropriateness.

APPROVE DEVELOPMENT AGREEMENT - FLOWERS FIELD AT EDGEWOOD RESIDENTIAL PHASE

Mr. Garton stated this is just for the Residential component and it is consistent with the Board's Approval three to four years ago.

Mr. Stainthorpe moved, Mr. Benedetto second and it was unanimously carried to approve the Development Agreement.

Mr. Garton stated the Board met in Executive Session for fifteen minutes prior to the meeting to discuss the four Zoning Hearing Board Applications.

ZONING HEARING BOARD MATTERS

With regard to the Mike Seidler Variance request for the property located at 940 Morgan Drive in order to permit construction of an addition resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Patrick M. and Kim Anne Brennan Variance request for the property located at 1311 N. Delaware Avenue in order to raise the existing home out of the floodplain resulting in less than the required lot area and yard requirements, disturbance of natural resource protection area, and construction within the 100 year floodplain, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the James R. Littlely Variance request for the property located at 16 Green Ridge Road in order to permit construction of two building addition resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Thomas J. Mack Construction Variance request for the property located at 50 Sutphin Road i/n/o Anspaugh in order to construct a garage resulting in greater than the permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. McLaughlin asked Ms. Bobbie Moore, YBA, to discuss upcoming events. Ms. Moore stated on November 28 they will have the Yardley tree lighting at W. Afton Avenue at the Lake, and she reviewed the activities to take place at that event. She recommended those interested in attending to arrive by 5:00 p.m. Ms. Moore also stated that on December 6 the Yardley Christmas Parade will take place on S. Main Street beginning at the Legion at 3:30 p.m.

Mr. Benedetto stated the Veterans Parade and Veterans Square Monument Dedication will take place this Sunday, November 9 beginning at 1 p.m. at Edgewood and Long Acre. Ms. Tyler added that those interested in helping with this event next year contact her or Mr. Benedetto at the Parade.

Mr. Benedetto stated the Citizens Budget Committee will be meeting prior to the next Budget Workshop and will attend the next Budget Workshop on November 13 at 6:30 p.m. in the Township Municipal Building.

RECONSIDER AND AWARD TOWNSHIP BUILDING ROOF BID

Mr. Eisold stated he was before the Board approximately two months ago discussing the Bid award for the upper roof on the Township Administration Building. At that time they recommended the award of the low bid contractor WillCof Construction in the amount of \$34,675. Mr. Eisold stated as they went through the paperwork portion of the details of the project, the contractor notified them that he was unable to meet the insurance requirements for this project; and he asked to be released from the project.

Mr. Eisold stated there were a number of other Bids which were very close, and the second lowest bidder, ProCom Roofing Corporation, was at \$36,000. He stated they have worked with ProCom before, and they know that they can do the job and can meet the insurance requirements.

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Mr. Dobson asked if there is any recourse to go back to the low bidder for the difference, and Mr. Garton stated it would cost the Township more to go after them than the \$1,200 difference. He stated the bidder could not meet the Performance and Payment Bond requirements, and they cannot proceed without that.

Mr. McLaughlin moved and Mr. Benedetto seconded to award the bid to ProCom Roofing in the amount of \$36,000.

Mr. Benedetto asked the specifics as to why they could not meet the requirements, and Mr. Eisold stated Mr. Garton had reviewed this and one issue was that they were a New Jersey company and did not have Pennsylvania authorization. The amount of the insurance was also an issue. Mr. Garton stated they could not meet the bonding requirements of the Commonwealth, and the Township cannot proceed without the right Bonds.

Motion carried unanimously.

There being no further business, Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to adjourn the meeting at 9:50 p.m.

Respectfully Submitted,



Terry Fedorchak, Assistant Secretary

