

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – OCTOBER 20, 2010

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 20, 2010. Chairman Smith called the meeting to order at 7:35 p.m. Mr. Maloney called the roll.

Those present:

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

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

PUBLIC COMMENT

Mr. Harold Koopersmith, 612 B Wren Song Road, asked if the Board has set the dates for the Budget Workshops. Mr. Smith stated the dates are Thursday, November 4 at 7:00 p.m., Wednesday, November 10 at 7:00 p.m., and Thursday, November 11 at 7:00 p.m. Mr. Smith invited the public to attend. Mr. Koopersmith encouraged all of the Supervisors to seek additional terms if their terms are up.

Ms. Virginia Torbert, Citizens Traffic Commission, invited the community to attend the Safe Driving Event to be held on Saturday, October 23 at William Penn Middle School from 10:00 a.m. to 12:30 p.m. She stated the event is free, and they will focus on teen driving and the dangers of distracted driving. She stated they will have a driving simulator. She stated they are encouraging parents and their teens to come together. Ms. Torbert reviewed a number of statistics related to teen driving. She stated the crash risk for sixteen to nineteen year olds is four times that of adults.

Ms. Lisa Huchler-Smith, Disabled Persons Advisory Board, stated they have a vacancy on their Board, and she encouraged those interested in serving to send a letter of interest to Mr. Fedorchak. Ms. Huchler-Smith stated they are currently working on the Community Access Award which will be for businesses/offices in the community that are responsive to those with disabilities. She stated any recommendations should be provided to the Township office. Ms. Huchler-Smith stated they would also like to work with

Park & Recreation on an inclusive playground at Memorial Park provided there is money in the Budget or Grants available. Mr. Caiola stated he is aware of some companies that have Grants available for such facilities.

Mr. McLaughlin asked the number of playgrounds currently in the Township. Mr. Fedorchak stated besides Kids Kingdom, there is a small facility in Macclesfield Park and another small facility in the Cardinal Drive area. Mr. McLaughlin asked if any of the existing facilities are set up for those with disabilities, and Mr. Fedorchak stated they are not. Mr. McLaughlin asked Ms. Huchler-Smith if she has an estimate of the number of children in the community who would benefit from such a facility, but Ms. Huchler-Smith stated she did not have specific numbers.

Mr. Stainthorpe stated a Plan has been laid out for such a playground at Memorial Park. He stated they were planning on proceeding with it pending Grant money; but since they did not get the Grant money, the project was put on hold. Ms. Huchler-Smith stated she will work with Park & Rec since she knew there were Plans for a playground at Memorial Park, and they would like to enhance it to make it inclusive.

Mr. Smith asked Mr. Fedorchak to describe how Kids Kingdom came to fruition; and Mr. Fedorchak stated this was a community effort, and the entire Kids Kingdom facility was the result of businesses and the private sector. He stated the entire facility was put together over a three-day period. Mr. Smith asked Ms. Huchler-Smith if she feels it is possible that they could do this again for this new playground; and Ms. Huchler-Smith stated an inclusive playground would involve much more, although they could look into this further. Mr. Smith stated he feels many in the community would be willing to help with this. He stated he also feels there are a number of skilled people in the community who could work on this. Ms. Huchler-Smith stated she will report back to the Board of Supervisors after talking to Park & Rec and looking into Grants.

APPROVAL OF MINUTES

Mr. Caiola moved and Mr. McLaughlin seconded to approve the Minutes of October 6, 2010 as written. Motion carried with Mr. Stainthorpe abstained.

APPROVAL OF WARRANT LISTS

Mr. McLaughlin moved, Mr. Caiola seconded and it was unanimously carried to approve the September 4, 2010, October 4, 2010, and October 18, 2010 Warrants Lists, and September, 2010 Payroll as attached to the Minutes.

APPROVAL OF ORDINANCE NO. 386 ADOPTING A LOCAL SERVICE TAX FOR THE YEAR 2011

Mr. Truelove stated at the end of last year, the Board of Supervisors enacted a Local Services Tax. He stated this tax is \$52 per year for those working in the Township. He stated this amount is representative of the benefits received by those working in the Township for public safety services, etc. He stated what is being considered tonight is a more comprehensive version; and the Ordinance will be perpetual, unless repealed by subsequent Boards, and they will not have to reenact this every year. He stated the Ordinance has been properly advertised.

Mr. Caiola moved and Mr. Stainthorpe seconded to approve Ordinance No. 386.

Mr. Joe Menard asked if it is only for non-residents, and Mr. Truelove stated it is for anyone who works in the Township, and there are some provisions for some residents who may be self-employed who work primarily outside of the Township but also do some work inside the Township. Mr. Stainthorpe stated it is for anyone who works in the Township; and if you live and work in the Township, you are also subject to it. Mr. Truelove stated there are some people who have transient work sometimes working inside the Township and also outside of the Township, and he is not sure how this is assessed; and this would be determined by Berkheimer. Mr. Truelove agreed that those who live and also work in the Township would be subject to the tax as well. Mr. Truelove stated this has been enacted across the State for years, and Lower Makefield is probably one of the last Municipalities in Bucks County to enact it. He stated the purpose is to help offset the costs assumed by the Township for providing services. Mr. Smith stated this applies to everyone who works in Lower Makefield whether it is in an office or a business out of their home, and it is assessed against both residents and non-residents.

Mr. Tim Malloy, 1902 Makefield Road, asked if they have hit the projected revenue for the year; and Mr. Fedorchak stated for this year, \$180,000 was Budgeted, and he estimates that they are currently at less than \$100,000. Mr. McLaughlin stated he feels they are running approximately 25% below their projection. Mr. Malloy asked if they anticipate that this will increase, and Mr. McLaughlin stated there is an assumption that this will scale up as people are more familiar with it and there is greater compliance. Mr. Malloy asked what they are Budgeting for next year, and Mr. Fedorchak stated he will recommend approximately \$130,000 for 2011. Mr. Malloy asked if it will be \$52 a year, and Mr. Truelove stated it will until the State raises the cap.

Ms. Helen Bosley, 546 Palmer Farm Drive, stated she felt there was a threshold over which you had to earn for this to be applicable; and Mr. Truelove stated this is correct, and it is \$12,000 and fixed by State law. He stated people can claim exemptions if they can show that their income/net profit from all sources within the political subdivision is less than \$12,000 within the calendar year. He stated there are also exemptions for

military. Ms. Bosley stated possibly there could be a chart or graph provided to explain this to make it easier to understand. Mr. Truelove stated he could provide something to be put on the Website.

Mr. Bob Neubaum, 1604 S. Crescent, asked if this is a new tax, and Mr. Smith stated it was ratified by some members of the Board last year and went into effect this year. Mr. Neubaum stated they have not met the projection for this year. Mr. Maloney stated there is a phase-in approach, and they are trying to make the best estimate based on what they have been collecting for the past few months. Mr. Neubaum stated he recognizes that \$52 is not a lot of money, but given today's economy, this \$52 does make a difference. Mr. McLaughlin stated while he understands this, all the surrounding Townships have such a tax, and residents who work in other Townships are paying this in those Townships. Mr. Maloney stated it is the objective of the Board of Supervisors to keep the expense side of the income statement as low as possible; and as a result, they need to raise revenue needed to meet the obligations of the Township. Mr. Neubaum stated he would not call taxes revenue since it is not earned. Mr. Maloney stated the Board is required to adopt accounting standards, and the accounting standards refer to it as revenue. He stated the revenue they earn through taxation is the money they need to meet the minimum services the Board of Supervisors has determined are necessary such as Police and fire protection. He stated this money can come from real estate taxes, this tax, and some other fees. He stated they can tax all residents or share some of the burden with non-resident workers in the area who rely on the Township services for the time they are working in the Township. He stated having them contribute to that is a logical and reasonable concept. Mr. Neubaum stated he feels the businesses and residents in the Township are taxed enough.

Motion carried with Mr. Smith opposed.

APPROVAL OF RESOLUTION NO. 2213 APPOINTING BERKHEIMER, INC. TO COLLECT THE LOCAL SERVICE TAX

Mr. Truelove stated the purpose of this Resolution is to appoint Berkheimer, who was appointed last year to collect the tax, to collect the tax going forward with the new Ordinance.

Mr. McLaughlin asked if Berkeimer is the only one who collects these local taxes, and Mr. Truelove stated they are one of a few. Mr. Fedorchak stated they are one of the leaders in the field. Mr. McLaughlin stated a part of the success of this tax is active participation by the collection agency, and he asked if they are happy with the services Berkheimer has provided. Mr. Caiola stated he feels that the reason they are below what was projected is because it is the first year they have done it. He stated if it does not turn around by next year, he feels they could consider replacement further. Mr. Fedorchak

stated up until now the Finance Director had been dealing with this matter, but from this point forward he will be more actively involved. He stated he would recommend going with Berkheimer for this next year, and he will have a conversation with them to consider this matter further.

Mr. Caiola moved and Mr. McLaughlin seconded to approve Resolution No. 2213. Motion carried with Mr. Smith opposed.

APPROVAL OF ORDINANCE NO. 387 REVISING THE HOLDING TANK PERMIT ORDINANCE

Mr. Trueloves stated this is an Amendment to update language in the existing Ordinance to comply with Act 537 and other requirements. He stated they have coordinated some language with the Department of Health who has ultimate oversight and granting of the holding tank Permits.

Mr. Caiola moved, Mr. Maloney seconded and it was unanimously carried to approve Ordinance No. 387.

DISCUSSION OF AN AMENDMENT TO O/R DISTRICT HEIGHT RESTRICTION

Mr. Truelove stated there has been some internal discussion with regard to some issues related to the O/R District generated in part by the Frankford Hospital Hearings; and they may need to consider some changes to provide the Township more flexibility in the event that on the remaining parcels in the O/R District, the Township is given some creativity in allowing some buildings to be higher than they are currently allowed to be with the caveat that if they are higher, there would also be a substantial larger setback required. He stated this would result in less impervious surface and would promote the LID and other green concepts. He stated the idea behind the potential Amendment would be to allow up to ten feet of additional height but only if a setback addition of one foot of height for every ten feet of additional setback is provided. He stated you would therefore need another one hundred feet of setback to obtain the additional ten feet of height. He stated this would restrict the impervious surface coverage. He stated the Township would then have some creative control.

Mr. Truelove stated there are currently four parcels remaining in the O/R District which are undeveloped – the Frankford parcel which is currently in litigation, the Shady Brook parcel, the parcel across the street on which there an Application by BPG properties, and the Prickett property. Mr. Truelove stated while these properties may not be developed, in the event that they are, this gives the Township some leeway in looking at the projects.

Mr. Truelove stated the Prickett and BPG parcels on the east side of Stony Hill Road would not be able to take full advantage of the proposed setback/height requirement because the setback amount is not sufficient to allow for the full ten feet of additional height.

Mr. Stainthorpe stated the existing Floral Vale building exceeds this height limit, and Mr. Truelove stated this was built in 1990. Mr. Stainthorpe stated this creates extreme confusion, and there could be a challenge since a developer could say they had already exceeded the height limitation; and they would have to do it for them as well. He stated by requiring this setback provision, it gives the Township some aesthetic control over what can be done. Mr. Stainthorpe stated he is concerned that if they let a developer build a five-story building, the next developer may request six stories; and unless there is something to manage this, it could get out of control. He feels what is being considered is an effective tool to manage the footprints of the buildings which will result in a greener concept and bring clarity to what is now an area of confusion.

Mr. Smith stated other than the Floral Vale building, there is nothing else in the Township which is higher; and Mr. Stainthorpe agreed. Mr. Smith stated the Board is considering limiting horizontal growth but allowing upward growth. Mr. Maloney stated as a matter of perspective, the further away you are from something, the less tall it seems; so if you force the developer to put it further back off the road, it will make the tall building not seem that much taller and the aesthetic impact to the community will be diminished.

Mr. McLaughlin asked the current cap, and Mr. Majewski stated the maximum number of stories currently permitted is a three-story building, and what is being proposed would allow for a four-story building if they agreed to set it back further. Mr. Majewski stated according to the definition in the Ordinance with regard to stories it is that any stories below the ground are included in the three-story limitation.

Ms. Virginia Torbert stated she feels this is a terrible idea particularly when they are still in litigation with Aria, and she feels it would undercut the Township's legal position. She stated now a builder could come in and be permitted to build a four-story building, and there is nothing to stop the builder from asking for a setback Variance. She stated the Board of Supervisors already has the power to grant Variances and do quid-pro-quo. She stated she is also concerned that existing buildings in the O/R District could come in and request adding a story. Mr. Maloney stated they would not be 100 feet setback, and Ms. Torbert stated they could request a setback Variance. Mr. Maloney stated while he does not feel that the Zoning Code has to be as "tightly-clamped" as possible; if you feel there is a rational give and take which you can define in writing you should do so rather than leave it to subjectivity. Mr. Maloney reminded that the Board of Supervisors has no authority over the granting of Variances. He stated in the past, the community has been at complete odds with the Zoning Hearing Board, and he feels it would be better to define

in writing the types of Variances they would want to be granted. Ms. Torbert stated she feels they are loosening at least one of the restrictions that they do have. She stated while they could put setback requirements in the Ordinance, a developer could go to the Zoning Hearing Board and claim a hardship and obtain a Variance. She stated this would then result in four-story buildings without the required setback. She stated she also feels this should not be considered now, and they should wait until the Aria case is settled.

Mr. Truelove stated this does not undercut the Township's legal position because the current legal situation with Aria is a Zoning matter and not Land Development.

Ms. Torbert asked if the Courts would not take Judicial notice of this; and Mr. Truelove stated they would not, and it has no relevance in this issue. He stated the Aria litigation has to do with the use of the property as opposed to any dimensional issues. He stated he feels what is being discussed now would actually give the Township more strength in restricting and possibly allow the Township to say they need to reduce their footprint and offer this as a way to do it and have less of an impact on some of the issues that were raised during the Hearing.

Mr. Smith asked if this could not be considered spot zoning. Mr. Truelove stated it is not spot zoning. He stated the only reason he noted specific properties is because they are the only ones remaining in the District. Ms. Torbert stated in spirit she feels it is spot zoning. Mr. Truelove stated an argument could be made as noted by Mr. Stainthorpe that there is already one building in the Township right next to I-95 which is four stories high without these setbacks. He stated that property was approved under a prior Ordinance. Mr. Truelove stated they are now trying to look ahead from a planning and legal perspective. Mr. Truelove stated he feels they had a weak Ordinance to defend in the Frankford experience. He stated he feels that over the last few the Township has been very forward thinking with the LID Ordinance and some other items, and what is being considered now may be a way to give the Township some enforcement powers and creativity with regard to some of these concepts. He stated the Board would not have to grant this, but they are allowing for some flexibility if they desire.

Mr. Smith stated he is concerned about the proposed Ordinance and feels not enough people have been given an opportunity to weigh in on this. Mr. Caiola stated this is not up for a vote, and they are only discussing it at this time.

Mr. Zachary Rubin, 1661 Covington Road, stated he is on the Executive Board of Residents Against Frankford Relocation, and they are against the building of the hospital at the proposed location. He stated RFR was aware of the discussion tonight since it was on a previous Agenda and was continued. Mr. Rubin stated originally Frankford Hospital proposed a five-story building on the parcel, but the Township Zoning Ordinances had a three-story height limit. He stated Frankford felt they were not going to be granted a Variance on this from the Zoning Hearing Board, so they scaled back the hospital to three stories. He stated the current litigation has to do with the Special

Exception, and it has nothing to do with height. Mr. Rubin stated RAFR wants to make sure that when they are successful, and Aria does not get the Special Exception, whoever comes in to build at that location, that the Zoning Hearing Board enforces the Ordinances. He stated if what is being proposed tonight gives the Township more say over the Zoning Hearing Board, he has no objection to it for future development at that site. He stated for forty acres, he does not feel there is sufficient setback to put in a four or five story building. He stated they must make sure that they do not give Aria any more leeway when they write an Ordinance on this.

Mr. Stainthorpe stated the Township had some developments which were forced on them by the Courts, and they are without exception the worst planned developments in the Township. He stated he is concerned about things that can be forced on them in the future. He would like to have much more discussion on this matter, but would look to be forward-looking and put as much control as possible in the Township hands and not in the developer's hands.

Mr. Rubin stated no one from RAFR opposed the Floral Vale building, and they do not oppose development on O/R Zoning. He stated what they oppose was the Special Exception at the proposed location because they feel a hospital does not belong on that parcel of ground. He stated RAFR supports the Board's position as long as the developers are responsible and adhere to the Codes. He stated if the Board wants to make the Codes tougher to provide more flexibility, RAFR would not oppose it.

Mr. Smith stated he feels there are other ways to go rather than opening the door to a potential height increase in future buildings. He stated he feels they can tighten up the Ordinances if necessary in some manner, but does not feel they have to open it up to four-story buildings.

Mr. Caiola stated he feels they need more discussion, but does not feel it would be bad to have something that is four stories with a smaller footprint which is farther away from the road. Mr. Caiola stated using the hospital as an example, three-stories spread out all over could be extremely onerous, but four stories on a tighter fit would make more sense environmentally and from a business perspective. Mr. Smith stated he feels a Court could then force them to permit expansion horizontally as well. Mr. Caiola stated he feels they could make the argument they have adjusted things to try to provide opportunity, recognizing that there is limited land left in the Township.

Mr. Rubin stated given the track record and performance of the Board of Supervisors in their opposition to Aria Hospital over the last two years, RAFR is confident that the Board will continue to fight this whether they change the height restrictions or not; and would fight any Variance to raise the height there if they ever go before the Zoning Hearing Board.

Mr. Maloney asked Mr. Majewski the current setback for a three-story building in the O/R, and Mr. Majewski stated it is 100'. Mr. Maloney stated if you move a building one hundred back even further and add ten feet to the height, the building would actually look smaller from the road. He stated he would be interested in adding more "teeth" to the Ordinance. He stated if the Court is reviewing a hardship case and look at the Ordinance and sees that they can get an additional ten feet in height if they move the building back one hundred feet, he feels they would rule that there was no hardship. Mr. Smith stated the problem may be whether the second hundred feet is considered to be reasonable; and if it is not, they would then be stuck with both horizontal and vertical growth.

Mr. Truelove stated similar Ordinances have been passed in other Townships, and he will try to provide information on places where this has been done previously. Mr. Smith stated he would also like to know if these Ordinances have withstood challenges. Mr. Truelove stated he agrees with Mr. Maloney's interpretation with regard to this, and they would include flexibility in the Ordinance in order to avoid the argument of hardship.

Mr. Arthur Liese, 2005 S. Crescent Boulevard, asked if it would be better for the Board of Supervisors to consider devices that other Municipalities use when they are considering very similar projects. He stated with regard to visual perspective, one of the devices commonly used to control this are found in specifications – particularly landscaping specifications. He stated other Municipalities may have Ordinances that require the planting of 40' trees so that it adds a control measure relative to cost. He stated as you increase the technical aspects of the specifications, this also increases the costs of a project. He stated the requirements of substantial plantings is an onerous one, and they might consider this type of concept as they develop this. Mr. Stainthorpe asked Mr. Liese if he is a landscape architect; and Mr. Liese stated he is a principal in a firm called the Collins Group, and they are engineers and architects in the business of writing specifications and project management. Mr. Stainthorpe stated this is an interesting concept which he feels is worth considering. Mr. Liese stated these issues are relative to site improvements; and the actual site structure in terms of the roads, street specifications, curbing, and sidewalks, their design and nature, are other devices to add significant controls. Mr. Truelove provided Mr. Liese his card and asked that Mr. Liese e-mail to him information on these issues, and he will then report back to the Board of Supervisors.

Mr. Smith stated it is the consensus of a majority of the Board that Mr. Truelove proceed with more research into this matter.

APPROVAL OF CERTIFICATES OF APPROPRIATENESS

Mr. Caiola moved, Mr. McLaughlin seconded and it was unanimously carried to grant Certificates of Appropriateness for 706 Stony Hill Rod (Wachovia/Wells Fargo Bank) as follows:

1. Remove old cedar shakes and replace with new cedar shakes on stone perimeter wall
2. Repaint part of existing building

GRANT EXTENSION OF TIME TO FIELDSTONE AT LOWER MAKEFIELD

Mr. Caiola moved, Mr. McLaughlin seconded and it was unanimously carried to grant an extension of time to Fieldstone at Lower Makefield Plan No. 496N to 12/31/10

DISCUSSION/CONSIDERATION OF A LOCAL TOWNSHIP REQUIREMENT THAT ALL CONTRACTORS/VENDORS DOING BUSINESS WITH LOWER MAKEFIELD TOWNSHIP BE 'E-VERIFY' COMPLIANT

Mr. Smith stated this is utilized by the Federal Government to verify that employees who work for a company are citizens or legal residents, and the Township may want to consider if they want to consider this as a Resolution to make sure that everyone who does business with Lower Makefield is E-Verify compliant and that the people working for them are legal.

Mr. Stainthorpe stated this is a "hot-button" political issue, and he does not feel that there is anyone who feels that people who are here illegally should be here. He stated he looked up E-Verify on-line, and it is a program run by the Department of Homeland Security and utilizes their data base in conjunction with the Social Security Administration data base and provides a tool for an employer to validate a Social Security Number. He stated it has been in effect for a number of years, and is completely voluntary. Mr. Stainthorpe stated before they proceed on this, he wants to take headline grabbing out of this discussion. He stated he feels there could be more consequences for the Township than good. Mr. Stainthorpe stated in 2007 when they were discussing the Responsible Contractor Ordinance, Supervisor Godshalk suggested that they require that any contractor working for the Township be able to verify that their employees were not illegal immigrants. He stated he and Mrs. Godshalk voted in favor of this, but the other Supervisors did not. Mr. Stainthorpe stated if they are going to consider this further, significant research is required.

Mr. McLaughlin stated he feels all they are asking the contractors to do is follow the law. Mr. Maloney stated his concern is they are telling them how to follow the law. He stated there was initially a problem with the E-Verify system in that it had a 5% to 10% failure rate when it first came out. He stated he is concerned that they may be getting on board with a system that has not yet worked itself out. He stated the law is that you cannot hire illegal aliens, but now they are telling them they have to use this system to verify. He asked who would enforce this and asked if they will have to have compliance checks with Mr. Fedorchak going out to the various places of business to check that there is compliance. Mr. McLaughlin agreed that there may be problems with enforcement and there could also be extra costs.

Mr. Smith stated whether they use this system or a different system, when a potential contractor or vendor comes to Lower Makefield, he feels it is important that they know that it is a requirement that they cannot have illegal workers. Mr. Maloney stated they could ask the potential vendor/contractors how they check whether their employees are legal or not. Mr. Smith stated when the Unions came in to advocate for the retention of the Responsible Contractor's Ordinance, one of their issues was that they could not compete with vendors or contractors since they were using people who were not legal.

Mr. Caiola stated he feels they need to find a program that works for the Township, and they could research what other communities are successfully doing. He stated they do need to look into the costs of enforcing this and what it means from a personnel perspective if they put something in place.

Mr. Stainthorpe stated this relates to companies doing business with the Township, and the Township would have a degree of control with people contracted by Lower Makefield; and it would be much more onerous if they were making it relate to all people doing business in the Township since the Township could not financially afford to enforce this.

Mr. Smith stated he feels they should continue to research this to see how they could be compliant without it being onerous, and put people on notice that Lower Makefield complies with the law. Mr. McLaughlin stated he would also like to know if there are other Municipalities which are doing this. Mr. Truelove stated he is not aware of any other Municipalities which do this, and he would have to look into this. He stated he feels they could consider doing this at the Permitting process. He stated in the Bid process they do require that they follow State and Federal law which would include the immigration laws. Mr. Truelove stated they must also consider who would be enforcing this recognizing that Mr. Fedorchak, the Police Chief, and Mr. Habgood are already strained.

Mr. Maloney stated they must also consider whether they should enact policy which duplicates the law. Mr. Smith stated they may consider just having a Resolution which indicates that this is how the Board of Supervisors feels.

Ms. Virginia Torbert stated she would object to spending any taxpayer money on this issue at all. She stated immigration is a Federal responsibility. She stated the Township does not have money to proceed with capital projects and questions why they would consider spending any money on this. Ms. Torbert asked if this would require someone from the Township to visit all the vendors they deal with along with contractors and sub-contractors to make sure that they are not hiring illegals.

Mr. Smith stated at this point they are only considering a statement that the Township wants people who do business with Lower Makefield to follow the law. Ms. Torbert stated this is in the laws already. Mr. Smith stated laws are broken all the time. Mr. Smith stated he feels it would be good to make a policy statement that they want those doing business with the Township to follow the law. He stated the statement in the bid documents to follow all State and Federal laws is vague. He stated he would be comfortable saying something specific in a Resolution.

Ms. Torbert stated she was under the impression that there are Budget constraints in the Township and feels any money spent on this would be a total waste of funds to have Mr. Truelove research this at a certain cost per hour.

Mr. Smith stated he does not feel any further research needs to be done, and they could just adopt a Resolution without any further research. Mr. Maloney asked how such a Resolution would be any different from what they have now. Mr. Smith stated he feels this would put people on notice that when they come to Lower Makefield, they must comply with the law. Ms. Torbert stated she feels this would be political grandstanding. Mr. Maloney stated he felt this was an idea Mr. Smith put on the Agenda because he wanted the Board to pursue it; and if they are not going to proceed with any type of Ordinance, he does not feel there is a need to pay Mr. Truelove to research this. Mr. Smith stated he does not feel an Ordinance is necessary, and he would only like to make a general statement that when people come to the Township to do business with the Township, they are complying with the Federal and State laws; and that Lower Makefield will follow the laws whether there is enforcement on the Federal level or not.

Mr. Stainthorpe stated after hearing this discussion, he agrees with Ms. Torbert that there are Federal laws in place that cover this, and he does not feel that they should spend any further money on this. He stated they already require contractors to follow Federal and State laws.

Mr. McLaughlin stated he agrees that they should not spend any money if they are only going to have duplication of law.

Mr. Caiola stated he does not feel there is anything more that they could put in place that would have any more impact that would justify any further costs. He stated if it comes to their attention that there are people working in the Township who have these issues, he feels the Township has every right to ask them whether or not those people are legal individuals. He feels at this point it is best left untouched since the laws are already in place.

Mr. Smith stated he does not want to waste money and would just Resolve that all contractors and vendors doing business with Lower Makefield Township be compliant with State and Federal laws.

Mr. Joe Menard, 917 Putnam Drive, stated this is a major National issue; and while it may not be the direct responsibility of local Government, it may be the time to make a general statement and encourage the State and Federal lawmakers to put some teeth into compliance. Mr. Smith stated he feels that is what his proposed Resolution would do.

Mr. Bob Neubaum, S. Crescent Boulevard, stated the E-Verify system is already in place and it would not need to be created. Mr. Smith agreed and stated it is paid for by Homeland Security and could be made available for no subscription fee to the contractors who do business with Lower Makefield. Mr. Neubaum stated a Resolution could be passed that all contractors doing business with the Township should use the E-Verify system, and he does not feel it would cost a lot of money to put something together advising that this system is available to them, and they need to verify that they are compliant with this system in order for them to do business with the Township. Mr. Neubaum stated he feels this would be a good idea. Mr. Neubaum asked if one of the contractors has a large group of illegals working for them, does the Township bear responsibility to know this. Mr. Truelove stated he feels they would not other than if they find out about it, they would have to report it.

Mr. McLaughlin stated the Township has hundreds of vendors many of who are out of State.

Mr. Smith stated he feels they could make a policy statement, and no money would have to be spent.

Ms. Helen Bosley stated in doing work with the State of Pennsylvania the contracts are quite specific with respect to abiding by laws. She asked if in the Contracts let by the Township to those bidding for projects for the Township, are there not these provisions already; and Mr. Fedorchak stated there are. Ms. Bosley stated if they want to do what is being discussed, the Township would need to allocate the resources to have someone police this which she feels is unrealistic. She stated they have already spent forty-five minutes discussing this, and there are costs associated for the professionals for the time spent on this. Mr. Smith stated he does not feel it is wasteful to have good discussion.

OTHER BUSINESS

Mr. Truelove stated that the Board met in Executive Session starting at 6:30 p.m. and personnel, real estate and litigation matters were discussed.

ZONING HEARING BOARD MATTERS

With regard to the Toll Bros. Variance request for property located at Oxford Valley Road and Big Oak Road for signage to market and advertise the age-qualified residential development, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Katherine Turner, 69 Bedford Place, Variance request to construct an addition resulting in encroachment into the side yard setback, it was agreed to have the Township participate for the purpose of insuring that certain conditions are met given it is located in the one hundred year floodplain..

UPDATE ON THE SATTERTHWAITE SUBDIVISION

Mr. Majewski stated they now have the Plans from PennDOT for the loop ramp, and the survey should be completed soon. He stated the Minor Subdivision will be ready for submittal to the Township for review by the Planning Commission by the beginning of next month.

CONSIDER APPROVAL OF CONTRACTORS TO ASSIST IN LEAF COLLECTION PROGRAM

Mr. Fedorchak stated last year the Township was charged between \$144 and \$147 per hour for this service. Mr. McLaughlin asked the reason for the difference in hourly rates by the three contractors, and Mr. Fedorchak stated it is just what they are charging. Mr. Smith asked how many people are in a crew, and Mr. Fedorchak stated there is one driver and three workers raking and vacuuming. Mr. Stainthorpe stated when they hire these contractors, they also use their equipment as well; and Mr. Fedorchak agreed. Mr. Stainthorpe stated the Township also hires temporary workers, and Mr. Fedorchak agreed.

Mr. Stainthorpe moved and Mr. Caiola seconded to approve the following three contractors to assist in the leaf collection program:

Corcoran Landscaping at \$130 per hour
Ken's Lawn Service at \$139 per hour
Kent's Tree Service at \$140 per hour

Mr. Smith asked for an update by the second meeting in November with respect to the status of the leaf collection program, and Mr. Fedorchak agreed to provide this.

Motion carried unanimously.

AWARD BID FOR ELEVATION OF EXISTING HOUSE AT 196 RIVER ROAD

Mr. Majewski stated this is to elevate a property that is in the floodplain with the Grant that the Township received from FEMA. He stated the project was bid previously, and the bids came in too high. He stated they changed the scope of work slightly, re-bid the project, and were able to save \$8,000 from the previous bid. The Grant covers 75% of the cost, and the rest is paid by the property owner. He stated nothing is paid by the Township.

Mr. Caiola moved, Mr. McLaughlin seconded and it was unanimously to award the bid for elevation of the existing house at 196 River Road to Bass II Enterprises in the amount of \$188,000.

OTHER BUSINESS

Mr. Maloney stated one of the issues they have had over the past few years is that they oftentimes have long-term commitments to the Boards and Committees and sometimes people's involvement tends to wane, and they end up occupying a space and are not consistently serving. He stated he feels it is in the best interest of the community to make sure that those on the Committee recognize that they owe a responsibility to that position. He stated there should be a policy for removal if someone is not serving consistently. He stated he understands that Committee members can be removed for cause. He suggested that they institute a policy for all Boards and Committees that less than 50% attendance of meetings for a given year will result in removal the following January. Mr. Caiola stated he feels this is actually too liberal, and he would prefer that it be 60% to 70%. It was suggested that it be anything less 2/3rds of the meetings held. Mr. Stainthorpe stated he feels that it should also be subject to input from those on the Committee. Mr. Stainthorpe stated there may be legitimate reasons why someone might miss a meeting, but there are also cases when the members are just not coming; and they

should not be on the Board if they are not going to participate. Mr. Stainthorpe stated when the Board of Supervisors conducts the interviews for vacancies on the Boards and Commissions, one of the questions asked is whether the Applicant has the time to serve.

Mr. Maloney asked if it would be appropriate to codify this, particularly with regard to the Planning Commission and the Zoning Hearing Board, and Mr. Truelove stated he will need to make sure that this is consistent with the MPC.

Mr. Smith asked that Mr. Fedorchak communicate with all the Boards so that the Board of Supervisors is aware of who is not attending meetings. Mr. Maloney also asked that the Boards be advised when they adopt this policy.

Mr. Menard stated on their Committee they have set up conference bridges for people who travel for work so they can join them in the meetings, and he would ask that this be considered as being at the meeting. Mr. Maloney stated they should also get a good teleconference phone in the Township.

Mr. Maloney moved and Mr. Caiola seconded that the Board adopt a policy for 2010 and years going forward for any Boards and Committees in the Township that a two thirds attendance policy be applied; and that anyone not conforming to that two thirds attendance requirement would be subject to review with the Board of Supervisors the following January. He stated the two thirds should be defined as unexcused absences from advertised meetings.

Mr. Tim Malloy, 1902 Makefield Road, stated he feels this matter requires further discussion and should be put on a future Agenda before the Board votes on this. He asked that the Motion be tabled.

Mr. Truelove stated both the Planning Commission and the Zoning Hearing Board are “creatures of Statute,” and there may be something with regard to whether those Boards could use the phone conference; and he feels they probably could not, particularly if they have to look at Plans, so exceptions may have to be made.

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to table this matter to the next meeting.

SUPERVISORS REPORTS

Mr. McLaughlin stated the Citizens Budget Committee met, and they are preparing a presentation for the Board of Supervisors regarding the capital projects facing the Township, and this will provide a full view of what the next one to five years will look like. He feels they should have this presentation the first Board of Supervisors meeting in November as he would like to hear this before the Budget Workshop sessions.

Mr. Koopersmith asked Mr. Stainthorpe, as Supervisor liaison to the Environmental Advisory Council, if he knows if there are any plans to drill for natural gas in the Delaware Valley Basin. Mr. Stainthorpe stated there are no plans for drilling in Bucks County although there could be plans for drilling further up the Delaware. He stated this is a State-level issue. Mr. Koopersmith stated the Legislature failed to pass a tax for the environmental clean-up; and he is concerned that if they allow them to drill, it may contaminate the whole water supply. Mr. Stainthorpe reviewed the situation in Harrisburg and stated he does not feel anything further will be done with regard to this until January.

Mr. Caiola stated the Veterans Parade will be held on November 7th, and there will be twenty to thirty groups participating with Mr. Frank Fazzalore serving as Grand Marshall. Mr. Caiola stated additional groups and Veterans are welcome to participate. He stated a majority of the costs are being covered by private individuals and businesses. He stated the Parade will end at Veterans Square with a brief ceremony. Additional volunteers would be welcome as well, and they could also use additional contributions.

APPOINTMENTS

Mr. McLaughlin moved, Mr. Caiola seconded and it was unanimously carried to appoint Joy Taylor to the Citizens Budget Committee.

There being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Matt Maloney', is written over a large, faint, stylized signature that is likely a watermark or bleed-through from the reverse side of the page.

Matt Maloney, Secretary



Township of Lower Makefield

BOARD OF SUPERVISORS
Ron Smith, Chairman
Greg Caiola, Vice-Chairman
Matt Maloney, Secretary
Daniel McLaughlin, Treasurer
Pete Stainthorpe, Supervisor

SEPTEMBER/OCTOBER 2010 WARRANT LISTS AND SEPTEMBER 2010 PAYROLL COSTS FOR APPROVAL OCTOBER 20, 2010 BOARD OF SUPERVISORS MEETING

Accounts Payable Warrant Report:		
Printed Checks:		
09/20/10 Warrant List	\$	247,910.43
10/04/10 Warrant List	\$	476,011.35
10/18/10 Warrant List	\$	1,025,696.29
Manual Checks:		
09/20/10 Warrant List	\$	-
10/04/10 Warrant List	\$	246.60
10/18/10 Warrant List	\$	12,000.00
Total Warrant Reports		\$ 1,761,864.67
Payroll Costs:		
September 2010 Payroll	\$	307,473.55
September 2010 Payroll Taxes, etc.	\$	134,268.35
Total Payroll Costs		\$ 441,741.90
TOTAL TO BE APPROVED		\$ 2,203,606.57

