

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – SEPTEMBER 16, 2009

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on September 16, 2009. Vice Chairman Smith called the meeting to order at 7:35 p.m. Mr. Simon asked for a moment of silence in remembrance of Detective Mike Buben. Mr. Smith noted there will be photos on the Township television channel beginning this Friday from the recent Community Pride Day. Mr. Caiola called the roll.

Those present:

Board of Supervisors: Matt Maloney, Chairman (joined meeting in progress)
 Ron Smith, Vice Chairman
 Greg Caiola, Secretary
 Pete Stainthorpe, Treasurer
 Jason Simon, Supervisor

Others: Terry Fedorchak, Township Manager
 David Truelove, Township Solicitor
 James Majewski, Township Engineer
 Captain Thomas Roche, Police Department

PUBLIC COMMENT

Ms. Jeanne Bray, 12 Terracedale Road, stated a letter was sent to neighbors of Five Mile Woods about the deer management program. She stated she recalled that a majority of the Supervisors voted against bow hunting in favor of sharp shooting; but she understood that the Game Commission might require the Township to have some bow hunting in addition to the sharp shooting which she felt would only be a few days. She stated she did not expect that there would be fifty-two days of bow hunting as noted in the letter sent to residents, and she would like to know if this was the Game Commission's requirement.

Mr. Fedorchak stated the Pennsylvania Game Commission is requiring that there be a public hunt on all the properties where they will be allowing the sharp shoot. He stated it was felt that the best location to start the public hunt was Five Mile Woods as it is a large site which the Township can control. He stated the PA Game Commission did not mandate that they have a hunt for a specific period of time, and the number is flexible; but they felt what they have proposed was the best approach in order to effectively remove the deer. He stated White Buffalo has been hired to perform a sharp shoot in the Five Mile Woods which he anticipates will occur the end of this year or early next year. Mr. Caiola stated it is his understanding that there will never be bow hunters and sharp shooters in any of the areas at the same time, and Mr. Fedorchak agreed.

Mr. Smith asked why Mr. Shissler did not tell the Township about this component at some point during his numerous appearances. Mr. Smith stated he voted in favor of bow hunting and against the sharp shooting because of the expense; but he is now being told that there has to be some period of time for a bow hunt using the archers that had made a presentation to the Board and would have cost the Township very little, and now they are having a bow hunt and adding on the expense of White Buffalo. Mr. Fedorchak stated at the time of the discussions, it was mentioned that there was the possibility that there would be a public hunt requirement. He stated at that time they were not sure exactly what the PA Game Commission would require; and since the Township began the Application process with the PA Game Commission, this information came out from the Game Commission.

Mr. Caiola stated part of the reason why they could not give a set date as to when the process would move forward was because they were waiting for a determination from the Game Commission. Mr. Fedorchak stated there are still a number of questions that are unanswered, and they will not have answers for them until the Township has the Permit in hand. He stated the Township has submitted everything they could to the Game Commission. He stated White Buffalo is required to take and pass two tests. He stated one is a wildlife nuisance control exam which they took recently and passed. He stated the second is the deer control operators' exam which he understands they will take on October 1. He stated assuming they pass, then the PA Game Commission will be in the position to give the Township the Special Deer Control Permit. He is not sure when this will be received, although he hopes it will be received late October/early November; and they will then be able to see what conditions have been attached.

Mr. Smith asked if another letter to the residents in the area will be sent out, and Mr. Fedorchak stated they will send out another letter when they engage White Buffalo to start the sharp shoot.

Mr. Maloney joined the meeting at this time.

Mr. Caiola stated there is not really a set number of days for the bow hunt even though they listed a number of dates.

Mr. Simon stated at the end of each two-week interval, he feels the Board of Supervisors should have a discussion as to where they are at so that they can minimize this as much as possible. He stated when the hunt is off, the Woods will be reopened so that they are not shutting down the Five Mile Woods for months at a time.

Mr. Fedorchak stated during the time when there is a hunt, the Park will be closed and they have posted notices around the perimeter of the Park that there will be a hunt and the dates are listed. He stated they sent out 250 letters to the surrounding neighbors advising them of what to expect.

Ms. Bray asked exactly what the Game Commission said and asked if they put something in writing. Mr. Fedorchak stated it is a regulation and it states that they must have a public hunt. He stated a literal interpretation is that the Township would be required to open up the Woods to anyone who wanted to hunt, and the Township's response was that this was unacceptable and they did not feel that they could guarantee that every hunter there would have the necessary skills. He stated they went back to the Game Commission and indicated that the Township needed to be able to control the hunters in some way by testing them/screening them, and the Game Commission indicated that they understood this since many of these sites are located near Residential areas. Ms. Bray asked who will test them, and Mr. Fedorchak stated they worked out an arrangement with the Big Oak White Tail Management Association, and they have screened applicants who have been given proficiency tests and noted their experience. Mr. Fedorchak stated the Township Police Department has also conducted background checks of all the applicants. He stated there are approximately thirty-three hunters who have qualified. Ms. Bray asked how many of these will be chosen, and Mr. Fedorchak stated thirty-three were chosen but he is not sure how many will actually hunt and this would depend on scheduling and availability.

Ms. Bray asked where the fifty-two days came from, and Mr. Fedorchak stated this was a discussion they had with Big Oak White Tail Management trying to balance maximizing the efficacy of the hunt and also keeping the Park open during the fall and early winter. He stated at some point in time White Buffalo will also be conducting a sharp shoot in the Woods. Ms. Bray asked what they will check for after the two-week period, and Mr. Fedorchak stated they will have numbers of the harvest which they will provide to the Board of Supervisors along with any other information they have.

Mr. Simon stated they will need to check back with the Game Commission to determine when the Township has reached satisfactory completion of the public hunt. Mr. Maloney stated the Board's intention when they approved the hunt was that they would do whatever the Game Commission required and nothing more beyond the scope of what they approved which was the Contract with White Buffalo. He stated in the meantime, they have engaged Big Oak White Tail Management to do whatever the Game Commission requires. He stated if this means that there is a quantity of deer they would like to see the sportsman harvest through their recreational bow hunting or a certain number of days they would like to see it open, the Township will continue to monitor this and maintain contact with the Game Commission; and as soon as the Township has met that threshold, they will move onto the sharp shoot which was the intention of the Board in the first place. Ms. Bray stated she felt that the Game Commission did not give a precise number of days or number of deer; and Mr. Maloney agreed and stated this is why they will stay in touch with them. He stated there is a level of arbitrary attitude on the part of the Game Commission, but the Township will continue to maintain contact until they have been able to satisfy their requirements.

Ms. Bray stated she understands that at the end of two weeks, the Township will contact the Game Commission and advise them of the number of deer that have been killed and ask them if they can stop. Mr. Fedorchak stated they will have a conversation with the PA Game Commission throughout the process, and see if they are in agreement with what they are doing, and if they have done enough to satisfy them and their requirements for what they define as a public hunt.

Mr. Jim Bray, 12 Terracedale Road, asked if the Board of Supervisors is indicating that the hunt will be confined to the Five Mile Woods only. He also asked why they would allow any hunting until they have a Permit in hand. He stated the hunt is scheduled to start September 19, and they will not have the Permit in hand at that time. Mr. Fedorchak stated they are not clear as to all the conditions the PA Game Commission will impose upon the Township for the approval of the Deer Control Permit. He stated it is possible that the Game Commission will require that the Township conduct a public hunt on all the sites where the intention is to have a sharp shoot. He stated they could also condition the Permit such that the public hunt has to occur prior to a sharp shoot. He stated the hunting season runs from September 19 to early January; and if the Township does not get the Permit from the Game Commission until late November, it could be impossible for the Township at that late date to satisfy the public hunt requirement, so they are trying to be proactive and get the public hunt portion started now in the event that the Game Commission states they must have the public hunt in advance of the sharp shoot.

Mr. Bray stated he feels the Township is agreeing to a set of parameters that they do not know, and he feels this is dangerous and careless. He stated he does not feel it makes sense to proceed until they have the Permit in hand. He would be in favor of holding off the hunt for another year until they have a clear cut answer from the Game Commission.

Ms. Sue Herman noted it was stated that the PA Game Commission did not specify a specific number of days that a bow hunt had to be conducted, and Mr. Fedorchak agreed. Ms. Herman asked if they could choose to have a bow hunt for one day on each of the Township locations where there will be a sharp shoot. Mr. Fedorchak stated it is his opinion that it would be unlikely that the Game Commission would approve this. Mr. Maloney stated they have a relationship with the Game Commission that they are trying to maintain. He stated the Township is being asked to cooperate in good faith. He stated he does not feel that the Game Commission would be in favor of a hunt for one day. Ms. Herman asked if they have asked the Game Commission what would be the minimum number of days they would expect. Mr. Maloney stated they have been asked to conduct a hunt, and Mr. Fedorchak has sent out a letter to the surrounding residents setting out the parameters; and he has the flexibility to administer the program. He stated they will keep it as minimum as possible, and they will adhere to the rules of the Game Commission.

Ms. Herman stated she is a voter who attended numerous Township meetings as a proponent of the non-lethal measures for controlling deer and then imploring the Board to do the sharp shoot versus the bow hunt because the bow hunt is inhumane. She stated it now sounds like they are conducting both – a full-blown archery hunt and a full-blown sharp shoot, and she feels deceived as a voter. Mr. Maloney stated he feels when the Board voted, they made their vote contingent on the requirements of the PA Game Commission, and they are continuing to adhere to that; and at the time they acknowledged that this would probably require some level of bow hunting, but that it would be kept to a minimum.

Ms. Jean Kirk stated she lives in Yardley Borough and is a life-long resident of Bucks County and an advocate of open space and wildlife. She stated she has been in touch with Mr. Fedorchak and is not satisfied with the numbers of deer which has been indicated are in the Five Mile Woods. She stated these areas where they are proposing to conduct hunts are the only pockets of land that are left in Lower Makefield. She stated she felt the Board were the protectors of this land, and now they are sending in archers and sharpshooters into a Preserve which belongs to Scouts, children, and elderly people. Mr. Maloney stated there will be nothing left of Five Mile Woods if they continue to allow the current population of deer to be in the Woods. Ms. Kirk asked what this is based on, and Mr. Maloney stated it is based on deer exclosures which were built in the Woods and have demonstrated that when deer are kept from those parts of the Woods, that the vegetation restores itself in the understory. Mr. Fedorchak stated both the Friends of the Five Mile Woods and the Naturalist and Park Manager, John Heilferty, have approached the Board of Supervisors imploring them to conduct a deer hunt at Five Mile Woods because of the damage to the plants there. Ms. Kirk noted the other parcels near Edgewood School, Sandy Run, and Patterson Farm which all little pockets of land; and the animals are there because the people are now here, and they have bulldozed everything away and are now sending in sharpshooters to wipe out the rest of the deer population. She stated she feels the Township is doing this for convenience and they do not have enough information or facts.

Mr. Simon stated he understands her concerns and this was part of the Board's original discussions of whether or not to have a deer hunt. He stated what they are discussing tonight is doing the least amount of an open hunt so that they can get the Permit to proceed with the sharp shoot that the Board has already approved. He stated the farmlands have been converted into suburban tracts; and if people were concerned about the fact that the deer were here first, they should not have bought their homes on this type of land that was previously woodland or farmland. He stated the Township is doing as little as possible to satisfy the PA Game Commission so they can get the Permit and do this in a controlled environment. He stated there is a problem with the deer population, and the Police Department can speak to the traffic incidents involving deer. He stated property value and other issues associated with home ownership also come into play in this decision. He stated the herd will be thinned. He stated they are doing everything

possible to manage this in a controlled environment and working with the PA Game Commission. He stated they have identified the Five Mile Woods which he feels is the least Residentially-impacted of the tracts, and are containing the public hunt to this tract in an attempt to prevent them from having a wider public hunt on the other lots in the Township that are involved. He stated the Police are actively involved in screening the public hunters who have to go through a stringent process to be licensed to participate in this public hunt.

Mr. Maloney stated the Board of Supervisors has voted to proceed with a hunt, and they have discussed this from 2006 through 2009. He stated they are not going to change their decision on whether or not they will have a hunt. Ms. Kirk stated this is not a hunt – it is a slaughter as the deer are baited and killed. Mr. Maloney stated the Board has already discussed and voted on this issue.

Ms. Kirk asked if Yardley Corners and Tanglewood residents received the notice as she went through these neighborhoods, and they were not aware of the hunt. Mr. Fedorchak stated they sent out 250 letters notifying those in the immediate area. Mr. Maloney stated the Board has also had meetings about this for over three years, the meetings were on television, and there were numerous articles about this matter published in both local papers.

Ms. Kirk asked who will be taking the counts of the number of deer taken. Mr. Fedorchak stated Big Oak White Tail Management Association will have a hunt manager on site and will be responsible for collecting data. Ms. Kirk stated she is an educator and she questions how they can be okay with having hunters on the same land which children use. She stated they are setting up the animals to be lured and slaughtered. She asked how many deer are in the Woods. She stated she was told there are 115 deer in the Woods, and if there are 33 hunters in the Woods for 52 days, she does not feel there will be any deer left in Lower Makefield.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, stated she does not feel the Township has done everything they can to advise the public. She stated the last time this matter was discussed was in April when they voted three to two for a sharp shoot subject to Game Commission regulations. She stated she felt everyone understood that they were going to have to go to the Game Commission and see what they would require; however, since that time there has been no substantive discussion at a public meeting as to what would happen other than the time when a resident asked for a Deer Committee, and Mr. Maloney stated they were still waiting to see what would be required by the Game Commission. She stated in August, Mr. Maloney indicated that they were probably going to discuss this matter at the September 16 meeting and give dates, times, and locations; however, this matter was not on this evening's Agenda. Mr. Maloney stated he and Mr. Fedorchak had a phone conversation about one week ago about the plan to discuss this on this Agenda, but he did not put it on the Agenda because they are not debating the

topic tonight. He stated as he indicated to the Courier Times months ago that when it was discussed at a public meeting, they would disseminate the information. He stated items that are put on the Agenda are items that are up for a vote or future consideration for a vote, and this is not the case here. Ms. Torbert asked if they do not put items on the Agenda when they are just disseminating information. She noted the item on the Agenda, "Community Pride Day Wrap Up," and asked if they will be debating this. Mr. Maloney stated that will be a presentation. Ms. Torbert stated she has been coming to meetings for twenty-five years, and items are put on the Agenda to disseminate information.

Ms. Torbert asked when they hired Big Oak White Tail Management as she did not see this in any of the Agendas or Meeting Summaries. She asked if they went out to bid; and Mr. Fedorchak stated they did not, and Big Oak White Tail Management Association has provided the service he described earlier at no cost to the Township. He publicly thanked Big Oak White Tail Management Association for their involvement.

Ms. Torbert stated the Game Commission is requiring that there be a public hunt, and she asked if they are requiring them to have a public bow hunt. Mr. Fedorchak stated they are not, and it states public hunt. Ms. Torbert asked if they could theoretically have a public hunt with guns/rifles, and Mr. Fedorchak stated they could depending on the nature of the hunting season. Ms. Torbert asked if they could go back to the Game Commission and request that White Buffalo train a certain number of local hunters to conduct a public hunt not with bow and arrows but with rifles and see if this would satisfy the Game Commission. Mr. Fedorchak stated the Township had a bid submitted by White Buffalo that included the training element, and he feels it was going to cost between \$15,000 and \$20,000 for that service. He stated Big Oak White Tail Management Association is doing this for the Township at no charge.

Mr. Stainthorpe stated they could not have a hunt with firearms because of the Ordinance that was discussed at a prior meeting as you are not permitted to discharge a weapon in any of the Parks. Ms. Torbert stated they just passed an Ordinance that makes this legal, and Mr. Stainthorpe stated this is legal only for the contractor. Ms. Torbert stated it was also for anyone associated with the contractor. Mr. Stainthorpe stated he feels the Game Commission is requiring that they have a hunt, but common sense and public safety indicates it can only be done here logistically with bows and arrows, and he does not feel they can have people firing high power rifles close to homes. Ms. Torbert stated this is what they are going to do when White Buffalo comes in. Mr. Stainthorpe stated those will be highly-trained professionals, and they cannot open this up to the public. Ms. Torbert stated White Buffalo could train those in the Township who already hunt with guns/rifles, and White Buffalo could train them to be just as good as anyone they are using. She stated White Buffalo operates all across the Country, and she does not feel the head of the company is going to be doing this himself, but will be using people he has trained. She feels they would be able to train Lower Makefield residents who are already proficient in weapons. She asked if they could not go back to the Game Commission and

ask if they could do this. She stated the Ordinance indicates that anyone associated with the Contractor can do this and not just the contractor. She stated she does not feel it has to be a bow hunt and it just has to be a public hunt.

Ms. Torbert stated she does not see anything in the letter that was sent out about what the residents are supposed to do if a wounded/dying deer comes into their yard. Mr. Simon stated he feels they would do the same thing they would do if any wounded animal was on their property and they would probably contact the Police Department. He stated the Woods will be in “lock down,” and the Police will be involved in the process. He stated they have made it as controlled as it can be. Ms. Torbert stated the letter indicates that if there are any questions or concerns that they should call John Heilferty, and she asked if they want the residents to call John Heilferty, and Mr. Fedorchak stated they could or in the alternative they could call the Police Department.

Ms. Torbert stated the letter also indicates that they are going to close Five Mile Woods but they cannot control all the accesses to Five Mile Woods. Mr. Maloney stated they have advised every property owner that abuts the property as to what is going on. Mr. Fedorchak stated they have also posted the perimeter of the site with the dates and times of the Hunt. Mr. Maloney asked if they have received any calls following the dissemination of the letter, and Mr. Fedorchak stated they have received a few calls – one objection, a few “thank-yous” and two to three people who wanted to participate in the hunt. Ms. Torbert asked if they feel that this letter that went out to the residents is adequate in informing them as to what will occur, and Mr. Fedorchak stated he does, and it is his intention in a few weeks to send out another letter and a few weeks after that if they are going to continue through the four cycles.

Ms. Torbert asked if there are any plans on the first day of the hunt to have Township personnel on site, and Mr. Fedorchak stated Mr. Heilferty will be there, there will be at least one Police Officer, and he himself will be there.

Ms. Torbert stated she feels there is a huge difference between what the Board voted on in April and what is going to occur; and there should have been additional discussion and possibly a second vote.

Mr. Dave Kimball, representing the Big Oak White Tail Management Association, stated their hunters will not go onto anyone’s property unannounced or uninvited; and if someone does, that individual will no longer be in their program. He stated rules have been provided to the hunters involved as well as to the Township. He stated the hunters are doing this at their own expense with many traveling hundreds of miles to get the accreditation they need to be included in the program. He stated they are not allowed to bait in a recreational public hunt, and they are about fair chase. He stated their hunters have met or exceeded everything that was asked of them, and the Board agreed.

Mr. Kimball stated they had an Agreement for four, two-week cycles, and he hopes this still stands true. He stated they will fill out the required paperwork and do their daily and weekly reporting.

APPROVAL OF MINUTES

Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of September 2, 2009 as written.

APPROVAL OF SEPTEMBER 8, 2009 WARRANT LIST AND AUGUST, 2009 PAYROLL

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to approve the September 8, 2009 Warrant List and August, 2009 Payroll as attached to the Minutes.

COMMUNITY PRIDE DAY

Ms. Doreen Kaplan, Special Events Committee, and Ms. Donna Liney were present. Ms. Liney stated Park & Recreation was pleased to be a part of Community Pride Day. She stated there was active participation by over 500 exhibitors, vendors, sponsors, volunteers, organizations, residents, and Township staff. She stated there was also a record turn-out by the community. She thanked Bob Copson and the Park & Recreation crew, Sewer Department, Pool staff, Public Works employees, and Chief Coluzzi and the Police Officers who were present that day under difficult circumstances. She also thanked the Yardley Makefield Fire Department and Emergency Squad. She thanked the Special Events Committee volunteers including co-Chairs Becky Cecchine and Doreen Kaplan. She acknowledged the members of the community groups and other volunteers who were involved. She reported on the charitable donations raised and reviewed the entertainment which took place throughout the day. Ms. Liney thanked all the business sponsors who gave their support noting that they had more sponsors this year than last year even with the current challenging economic times. Ms. Liney stated expenses were reduced 20% from 2008. She thanked the Board of Supervisors and the Township Manager for their on-going dedication to the community, support, and vision. She stated they are now looking forward to the Veterans' Parade on Sunday, November 8.

Mr. Smith asked that Ms. Sue Curran and Ms. Hillary Curran discuss the Battle of the Bands. Ms. Sue Curran stated Community Pride Day is an incredible event which has something for everyone. She thanked Ms. Liney and Ms. Cecchine and her Committee

for putting this event together. She thanked the Township for allowing them to have the Battle of the Bands which is a great event for the area teenagers. Ms. Hillary Curran stated she contacts the bands through e-mails and putting ads in the newspaper. She stated there were more participants this year than last year. She stated they had a great turn out in support of the bands.

The Board thanked everyone for their help with this great event.

DISCUSSION OF PROPOSED SALE OF ELM LOWNE

Ms. Sue Curran and Ms. Jennifer Stark were present. Mr. Maloney stated the Board has been discussing the potential sale of Elm Lowne for some time. He stated the Elm Lowne Committee has done a considerable amount of work on potential easements that may be placed on the property.

Ms. Curran stated the appraisal on the property assumed that there would be a façade easement on the main dwelling only, per discussions they had with Mr. Fedorchak. She stated she assumed there would be easements on two to three sides of the main house, but at least one side would not be encumbered; and this would have to be revisited if this were changed. She stated there were five primary properties they used for comparison. She stated there were two sales of similar properties in Wrightstown Township where the Township had put full façade easements on all of the buildings on the farmsteads, and she made adjustments for this because it has been statistically shown that there is somewhat of a reduction in value when a building is fully encumbered by façade easements.

Ms. Curran stated Elm Lowne is a very unique property. She stated she has broken it down into four separate components of value, one of which is the main building and the carriage house which assumes a smaller lot. She stated in Lower Bucks County these types of older stone houses have typically been already subdivided off and are on mostly small lots. She stated she also looked at the potential of a severable building lot which would not be a separate subdivided lot when it was sold, but would have in the easement the potential for a future subdivision of a lot. She stated there is also the remaining deed-restricted land that would not have been with the original home and would not have been in the separate lot, and there is about seven acres left of that which would be deed restricted. She stated the remaining component of value is the apartment that exists in the carriage house which is income-generating. She stated she also calculated out with the potential severable lot and without the severable lot as a result of discussions from the last Board of Supervisors' meeting.

Mr. Stainthorpe stated with the two acre severable building lot, it was valued at \$250,000. In the estimate without that lot it still shows seven acres of deed-restricted land, and he asked where the two acres goes; and Ms. Curran stated it should be nine acres of deed restricted land, and the additional and the two acres would be a \$30,000 difference in value, and she could adjust this.

Mr. Maloney asked since there is an existing apartment option in one of the buildings, would this be an existing non-conformity, and Mr. Truelove agreed.

Mr. Stainthorpe asked how the barn factors in and asked if the barn is a positive or a negative. Ms. Curran stated from discussions with Mr. Fedorchak, she was advised to assume that the barn would stay. She stated she did review the Township files on the studies that had been done of the barn which indicated that there are some problems with the barn structurally, and she therefore did not give any value to the existing barn as it exists on the property. Mr. Maloney stated he assumes she did not see the barn as a detriment either, and Ms. Curran stated it could be, but this would be up to the Township as the property owner how they would want to view the potential sale. She stated it also depends on the interest that comes into the Township and how the market would react. She stated a private property owner may want to try to rescue the barn or a portion of the barn. She stated she understands that some of the barn is more usable than other parts.

Ms. Stark stated with regard to the façade easement they are looking to preserving a portion of the manor house which can be seen from the right-of-way. She stated the other structures on the property are important for the historic integrity of the setting and keeping the site in tact, but because they are looking at a saleable property and interested in getting the highest and best value for it, they do have concessions and have discussed allowances for modifications and qualifications as to what they are looking for. She stated there are allowances for deviation from what is existing, but they are looking for similar materials and proportion to be considered when they are doing exterior work so that the integrity of the setting can be maintained.

Mr. Maloney stated currently this would involve a Zoning Variance and asked if the authority could instead be with the Board of Supervisors. Mr. Truelove stated there are two methods to do this; and while one would be in the Contract of Sale, the more permanent way to do it would be that the Easement would be filed with the County and with the Easement itself there would be a condition that any changes would have to come before the Board of Supervisors.

Mr. Smith stated Ms. Stark and her group have been working on this for over a year and put tremendous time into this project.

Mr. Maloney stated he feels the Board still needs to consider the subdivision of the property. He stated he has been advised since the last Supervisors meeting that the property was originally two parcels that the Township consolidated – most notably the two acre parcel that abuts I-95. He stated what is being proposed is to provide in the Easement the opportunity for a future landholder to subdivide back into those two parcels. Mr. Stainthorpe stated he feels they should offer up the possibility that whoever owns it could subdivide it. He stated the back portion is where the parking lot and field are currently located which he feels has no intrinsic historic value. He stated he feels the rest of the parcel should be kept intact. Mr. Maloney stated Ms. Curran has indicated that allowing for this subdivision to the potential owner could have a value of \$250,000 to \$300,000. He stated he is still concerned about separating off this parcel from the rest of the property.

Mr. Smith stated they must also consider, if and when the property is sold, where the money will go. He stated the property was purchased with open space funds, and he asked if they are required to put the money back into open space. Mr. Truelove stated he will have to review the documents. Mr. Stainthorpe stated it appears that if there are no restrictions, it could potentially go into the General Fund if this was the desire of the Board once they pay off the debt. Mr. Maloney stated the outstanding debt is approximately \$400,000. Mr. Smith stated they may want to look into the spirit of the agreement as to where the money came from even if legally they may be able to put it in the General Fund. He stated there has been discussion that the Township does not have the money to take care of the other Township historic properties, and possibly the monies could go to that.

Mr. Maloney stated they could put the proceeds into the General Fund to reduce the general tax burden on the Township, put it back into open space since the Township over time has a millage associated with open space and those dollars were paid by the residents under the guise of paying for open space and this would be return on investment; and the third option would be to allocate it to preservation of historic buildings. He stated he feels since the money was paid by the residents to preserve open space, it should continue to do this and not pay for other historical upkeep or go to the General Fund. Mr. Simon stated it could be considered that the upkeep of buildings that are on existing open space that are in need of repair is part of an open space initiative. Mr. Smith stated they could also split up the net proceeds.

Mr. Simon stated he agrees with Mr. Stainthorpe with regard to subdivision of the property. Mr. Caiola stated he would also be in favor of permitting the subdivision of the two acres since they are not critical to the property.

Mr. Fedorchak was asked to provide a list of the greatest needs for the historic properties if they were to use excess revenue for this purpose. Mr. Truelove was asked to look into review of the documents related to use of the funds from the sale of Elm Lowne.

Mr. Maloney stated he assumes if they are going to proceed, the façade easement will need to be drafted into a more formal document. Mr. Truelove stated they will need to consider authorizing the property for sale and the mechanism to do so. Mr. Truelove stated they could proceed through either public sale or public auction or sell it to a qualified entity that would not require this process such as the County or a non-profit.

Mr. Smith stated he understands that Ms. Curran has done some research on public sale versus public auction. Ms. Curran stated this would be at the pleasure of the seller. She stated the two properties which were sold in Wrightstown – one was through an auction and the other was a sealed bid. Mr. Maloney stated he does not feel it is a process question – rather it is a matter of value. Ms. Curran stated she does not have personal experience with one versus the other; but she feels for these types of properties, the auction process requires a lot of detailed documentation and studies of the properties with a significant amount of information available about the properties available on line. She stated if she were a buyer, she would want as much information as possible. She stated it would depend on how much information the Township has that would be available to the potential buyers.

Mr. Smith stated he assumes that they would be able to require a minimal bid, and Mr. Stainthorpe stated he assumes that the appraised value would be the minimum bid.

Mr. Truelove stated the façade easement would be filed in Doylestown with the Deed for the property, and would not require an Ordinance. Mr. Truelove was asked to work with Ms. Stark on the façade easement, and report back to the Board of Supervisors at their next meeting so that they can consider the next step.

Ms. Curran stated there are several properties in the Township that have historic easements on them currently. She stated some of these have been successful; however, based on her ten years on the Historic Commission, she is aware of at least one where the property owner did not follow the easement requirements; and there is an enforcement issue as far as devoting funds or a dedicated process as to the enforcement of these easements. She stated typically these properties are occasionally inspected, and this could be set forth in the document so that they can check out that the properties are being maintained properly over time. Mr. Maloney stated he would be in favor of anything that is done up front in the document to provide for periodic inspection and enforcement. Ms. Stark stated they have good examples of façade easements which include mechanisms for oversight, and she will work on this with Mr. Truelove.

Mr. Zachary Rubin, 1661 Covington Road, stated he objects to the sale of Elm Lowne. He stated while he appreciates the work done by the Elm Lowne Committee, he does not feel the search to fund the property has been exhausted. He stated a number of months ago the Township created a 501C3 to do certain works that are tax deductible, and he feels there could be a campaign to save Elm Lowne and people could donate to this fund

and get the tax deduction. He stated when the Board discusses dividing up the property, and asking about the intrinsic value of the two acres, he feels it is open space which is priceless. He stated the Township is currently searching to find small lots to purchase as open space, and they already have open space here which they are looking to sell off. He feels this matter should be put on hold and that there be a campaign to preserve this property and other properties in the Township by people making charitable deductions.

Ms. Sue Herman stated she agreed with Mr. Rubin.

Mr. Harold Koopersmith, 612 B Wren Song Road asked the original value of the property, and Mr. Maloney stated the appraised value for the entire parcel including subdivision Mr. Rubin referred to is \$900,000. Mr. Koopersmith suggested that the Board consider leasing the property. He asked if they will have restrictions on what can be done with the property, and it was noted there will be restrictions. Mr. Maloney stated the objective is that the building itself would be preserved in its current form and only be improved to bring it back to a more usable state. Mr. Koopersmith stated he assumes the Board will prepare documents and then decide whether they want to auction it or turn it over to a broker. Mr. Caiola stated as a public entity they have limited options, and they can put it out to bid or have a public auction.

Ms. Sue Herman asked about the two acres being considered for subdivision and asked what excess revenue would the Township get from separating that and selling it separately. It was noted it would be an additional \$250,000. Ms. Herman asked how much the Township would pay for two acres of open space. Mr. Maloney stated this would depend on the where the two acres were located. Ms. Herman stated she does not feel the Township gains a lot monetarily by selling off the two acres. Mr. Stainthorpe stated the potential buyer would buy all the acreage, and that individual would have the option to subdivide the two acres if they choose to do so. He stated by setting it up in this way, it increases the value of the property as a whole by \$250,000. Mr. Maloney stated the potential purchaser may not want to sell off the two acres. Ms. Herman stated even if they do not provide the subdivision option, she feels there would still be people who would be willing to purchase the property which would be a great asset to the Township. She stated if they are given the option, it will probably be exercised; and she does not feel it is worth it.

APPROVAL OF MIDDLEMISS SUBDIVISION EXTENSION

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to grant an extension of time for Middlemiss Subdivision to 12/20/09.

ZONING HEARING BOARD MATTERS

With regard to the Linda Trimble Zadnik, 1537 Brock Creek Drive, Variance request to construct a shed resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Makefield Woodside, LLC, for property on northwest corner of Stony Hill and Langhorne-Yardley Roads, Variance request to permit a portion of the proposed parking area to be within the required five foot setback from Stony Hill Road, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Patrick and Karen Reilly, 6 Alton Road, Variance request to construct a garage and extend driveway encroaching into the rear setback and Variance request to maintain the existing non-conforming 29.7% impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

Ms. Torbert asked about the Makefield Woodside Variance request, and Mr. Truelove stated this property is south of the daycare center on Stony Hill Road approaching the intersection of Langhorne-Yardley Road. Ms. Torbert asked if it is an existing facility, and Mr. Truelove stated this tract is somewhat open and goes to the corner where the old gas station was located. Mr. Majewski stated this is the former Broadway property which is the subject of a Land Development Application called Edgewood Crossing. Mr. Maloney asked the total acreage of the development, but Mr. Majewski stated while it is not large, he did not recall the exact amount. Mr. Truelove stated while the Land Development Plan has been submitted, it has not yet gone to the different Commissions; but as part of the process, they have requested a Variance. Ms. Torbert asked what they are developing, and Mr. Truelove stated it will be retail/office and a bank. It was noted it is part of Edgewood Village. Mr. Majewski stated they are proposing a turn-around area for the parking spaces that will encroach into the five foot setback. Mr. Torbert asked the Township's position, and Mr. Truelove stated they have agreed to leave this matter to the Zoning Hearing Board. He added it will go through the normal Land Development process. Ms. Torbert stated Stony Hill is very narrow in this location. Mr. Majewski stated they are proposing to put curbing along the road and install sidewalks, and the parking lot will be beyond that area. Ms. Torbert asked if TPD will review this, and Mr. Truelove agreed they would as part of the normal Land Development process. Ms. Torbert asked if this is the first phase of Edgewood Village going forward, and it was noted it is. Mr. Caiola stated a number of others will be coming in the future. Mr. Majewski stated the plans for the major subdivision by Cam Troilo in Edgewood Village were recently submitted, and they will go through the Land Development process. This is a ten acre parcel that is the main focus of the development of Edgewood Village.

SUPERVISORS REPORTS

Mr. Simon stated the EAC is continuing to look at the basins in the Township.

Mr. Smith stated the Citizens Traffic Commission will have a safe driving presentation on October 24.

Mr. Caiola stated the Veterans Committee will have an Open House at the Library on September 30 at 7:00 p.m. to show the revamped sketch of the Memorial.

APPOINTMENTS

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to appoint George Davenport to the Sewer Authority, Helen Heinz to the Historic Commission, and Ken Martin to the Citizens Budget Commission.

OTHER BUSINESS

Tree Trimming

Mr. Simon asked that an announcement be put on the TV Channel and a notice on the Township Website that people should trim their trees which are hanging over the sidewalks and the bikepaths.

Discussion and Motion on Policy for Use of TV Air Space

Mr. Maloney stated the Board received a communication relative to a candidates' forum that is being conducted for candidates for the School Board. He stated over the past few years they have tried to make the facilities available for any appropriate use, but he is concerned that in the current environment there is not a policy for what they feel it should be used for. He stated he would like the Board to adopt a policy for the usage of the facilities and require that any time the facilities are used for a political purpose with regard to television broadcast, that it involve all candidates for a position of office for the entire Township. He stated the School Board has two regions that are covering Lower Makefield, and he would like to see that in the case where they broadcast the candidates' forum for purposes of an election for those seats, that it involves all candidates for Lower Makefield offices.

Mr. Stainthorpe stated in this case, and in most cases, the League of Women Voters is running the debate; and they set the parameters. He stated he understands that this was set up to be the Region 1 candidates, and Region 1 is 100% in Lower Makefield. He stated there is a debate being held for Region 3 candidates, and 2/3 of Region 3 is in Falls Township and 1/3 is in Lower Makefield. He stated the Region 3 debate will be held October 7 in Falls Township. He stated there will be debates for all the candidates. He stated he feels the Board is on “thin ice” when they set the rules for any debate that may take place. He stated as Township Supervisors they should decide whether or not to make the room available, but the Board should stay out of the rules of the debate.

Mr. Maloney stated he is trying to not allow arbitrary rules to exist and wants to make sure that every candidate is involved. He stated in this case, he feels the League of Women Voters is wrong. He stated typically when the political parties approach the League of Women Voters, they take a fairly passive approach and as long as they are content with the rules being dictated, they will go along with them. He stated in this situation, the Township has a public facility where they can broadcast to all homes in Lower Makefield which are not on satellite, and he feels the Board has an obligation to make sure that the residents get their value in this regard. He stated the problem with the Falls Township situation that has arisen in the League of Women Voters forums is that unless you are free to attend the October 7 debate, you will not be able to hear your candidate speak. He stated if they are going to use television to broadcast these forums, it should be all or nothing. He stated he is not indicating that the Board should dictate individual rules and policy; but that if there is going to be a use of the Township facility, all of the residents should have the opportunity to hear their candidates.

Mr. Stainthorpe stated there are two debates scheduled, and the candidates agreed on certain rules, and now they want to change them midway through the process. He stated he does not feel the Board of Supervisors should be part of this argument. He stated they are under no obligation to televise the debates, and if they choose to do it, the candidates pay for it. He stated the Township initially indicated the debate was okay, and now they are saying the rules which were set by the League of Women Voters are not acceptable, which he feels is wrong.

Mr. Simon stated he feels the problem is that there is a significant portion of the population that will go underserved in an equitable fashion based upon what the League has presented, and he is concerned about this. He stated there is a split Region in the Township, and the Township is not offering them equal access for all the candidates of either party to the entire residency of the Township. Mr. Simon stated he feels the reason the request was made to use the Township’s facilities by the School Board candidates was because of its ability to televise the debate.

Mr. Stainthorpe stated since they feel that all candidates should be included, he asked why they would not insist that the Supervisors' candidates also be included in this debate, the auditors candidates, and the District Attorney, etc. Mr. Simon stated it was a School Board event. Mr. Stainthorpe stated he does not feel the Board of Supervisors should be telling the League of Women Voters how to run a debate. Mr. Maloney stated while he is not telling them how to run a debate, he is telling them that if they want to use the Township's facility, they expect that all the Township residents are going to be informed.

Mr. Smith stated he feels that it is wonderful that they are able to televise the debates and make them available to the public. He stated he feels they can look at this on a case-by-case basis in the future. He stated in this example, the four candidates involved are running against each other, and he does not feel anyone is being excluded; and he is comfortable if the candidates are comfortable with it and the League of Women Voters has approved it, and he does not see that the Board should be stepping in.

Mr. Maloney stated he disagrees that this should be done on a case-by-case basis, and he feels that the point of having a policy is to handle things equally for all candidates in the future.

Mr. Stainthorpe stated the Board was polled on this and indicated it was "okay," and after agreeing to have a Region 1 debate, one candidate came forward and indicated he felt he was being left out. Mr. Stainthorpe stated the Township granted the League of Women Voters the use of the room and did not put conditions on it when they did so, and he does not feel that they should now be putting conditions on it a few weeks before the debate. He stated there have been debates at various times over the years, there were arguments about the rules, some people did not show up at the last minute because they did not like the rules, they requested that the rules be changed and then did not show up; and he does not feel the Township Board of Supervisors should be involved in this. He stated the facility has been offered for a Region 1 debate, and he does not feel they should force the League of Women Voters to change it now.

Mr. Simon stated he was concerned when this was brought to the Board's attention that a significant portion of the population would not have access to information; and they are all running for School Board. He stated he feels they are underserving a portion of the population, and one of the benefits of the Township's TV channel is to serve all the Township residents.

Mr. Stainthorpe stated the Township is under no obligation to provide political information. He stated candidates do direct mail, go door to door, etc. to get their information out.

Mr. Simon stated the facility was specifically requested because of its ability to broadcast, and the Board/Township has control of the facility. He stated if the concern for any of the candidates was that they wanted to have a forum with the League of Women Voters, they could hold this debate at a number of other facilities; but there was a specific desire to have this broadcast. He stated he is concerned that 30% of the population will not have access through television to see the candidates debate that they have the opportunity to vote for.

Mr. Smith stated he does not feel this is the obligation of the Board of Supervisors. He stated they are making the facility available for a debate that has been approved by the candidates and the League of Women Voters.

Mr. Simon stated a candidate has come forth and requested access to the facility.

Mr. Maloney stated the League of Women Voters, which on the surface is ostensibly an organization which ensures that a completely objective and fair dissemination of information occurs, has created an environment where some of the candidates in a single Municipal election are being given television time and others are not. He stated if a Democratic and Republican candidate for Supervisor came to the Board and indicated they had reached an agreement with the League of Women Voters to broadcast a debate and it shut out an independent candidate, he does not feel it is right. He stated he is not comfortable when they selectively allow political candidates under their own pre-defined terms with the League of Women Voters to utilize the Township facilities. He stated the Board of Supervisors are policy makers who are here for the public good, and he feels the public good in this case is you cannot use the facility to broadcast public debates unless you make it available for all. He stated if they decide that they want to allow for the use of the TV, they need to have a policy that is all-inclusive and not give the opportunity for the League of Women Votes or certain Party candidates to exclude others from the process.

Mr. Caiola stated he would not be in favor of canceling the upcoming debate, but going forward he feels the Board needs to have a discussion on this. He stated the situation would be different if the League had made a determination to hold the debate at a School, church, etc. He stated the Board has a responsibility to try to get as much as information to as many residents as possible, and he feels it makes sense to have all the candidates involved. He stated he does not feel this is about politics; and if there were a serious independent candidate, he feels they should be invited as well.

Ms. Virginia Torbert asked why the School Board does not have their own TV which would solve the problem. She asked if there is any way they could invite the Region 3 candidates to the Township to have a debate in Lower Makefield as well or could they show the tape of their debate on the Lower Makefield channel since she feels it is shortchanging the residents if they are not shown all of the debates.

Mr. Caiola stated he would prefer trying to work something out with the League of Women Voters since they have had a good relationship with the League.

Ms. Torbert stated she does not feel this is about politics. She stated she was in favor for many years of having the Board of Supervisors' meetings televised; and if they are going to use the TV for other things, it should be done in a fair and equitable manner.

Mr. Maloney stated he feels they should adopt a policy going forward.

Mr. Caiola moved to develop a policy for use of the TV airspace for future debates and discussions that involve all candidates whose names are on the ballots excluding none.

Mr. Caiola asked that they advise the League of Women Votes of this well in advance if this does pass.

Mr. Stainthorpe stated he understands that this will be a future policy and will not impact on the current debate, and Mr. Caiola agreed. Mr. Caiola stated Mr. Maloney may be able to reach an agreement with the League to add the two other candidates which would be his preference, but he does not feel they should tell the League this year that they cannot use the facility because of the compressed timeframe.

Mr. Smith asked if Mr. Caiola would consider modifying the Motion to get together a proposal just for the use of the facilities as he does not feel it has to be so specific. Mr. Maloney stated this would be fine for the facility itself for any use. Mr. Caiola asked what "facilities" he was referring to, and Mr. Smith stated it would be the television capacity. Mr. Maloney stated he agrees for use of the facilities they need to come up with some parameters more broadly, and he suggested they consider this under a separate umbrella as at this point they are trying to clarify for political purposes how to evolve it, and there would be a completely separate set of rules they would need to have as to what it can be used for other than that.

Mr. Simon seconded the Motion.

Upon questioning as to the specifics of the Motion, Mr. Maloney stated it would be "facilities and TV airspace." However, Mr. Truelove stated if the person who Seconded the Motion were to agree to this amendment, it would be "facilities and TV airspace," but if not, it would go back to the original Motion which was "TV airspace." Mr. Caiola agreed to the amendment, but Mr. Simon did not; therefore Mr. Truelove stated the Motion would deal only with "TV airspace."

Mr. Maloney moved to amend that this pertains only to candidates for elected office representing Lower Makefield Township. Mr. Caiola and Mr. Simon accepted this amendment.

September 16, 2009

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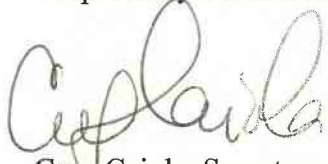
Mr. Smith stated he feels they should consider at a future Agenda a Motion with respect to the facilities in general, and Mr. Maloney agreed to put this on a future Agenda.

Mr. Simon asked if the Cable TV Advisory Board should come back with a recommendation on this. Mr. Rubin, Chairman of the Cable TV Advisory Board, agreed to consider this. Mr. Stainthorpe stated he feels they should have rules about what does and does not go on the TV. He stated there are some things that are somewhat controversial, and they should consider what they feel is suitable for a Township to be broadcasting. Mr. Truelove stated they need to be careful how to craft this taking into consideration the First Amendment.

Motion as amended carried with Mr. Stainthorpe opposed.

There being no further business, Mr. Caiola moved, Mr. Smith seconded and it was unanimously carried to adjourn the meeting at 9:55 p.m.

Respectfully Submitted,



Greg Caiola, Secretary



Township of Lower Makefield

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

**SEPTEMBER 2009 WARRANT LISTS AND
AUGUST 2009 PAYROLL COSTS FOR APPROVAL
SEPTEMBER 16, 2009 BOARD OF SUPERVISORS MEETING**

9/08/2009 Warrant List	\$ 486,568.85	
Manual Checks	10.00	
Total Warrants & Prepaids		486,578.85
<u>PAYROLL COSTS:</u>		
August 2009 Payroll	320,698.95	
8/09 Payroll Taxes, etc.	147,879.08	
Total Payroll Costs		468,578.03
TOTAL TO BE APPROVED		\$ <u>955,156.88</u>

