

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – FEBRUARY 18, 2009

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on February 18, 2009. Chairman Maloney called the meeting to order at 7:35 p.m. Ms. Appelton called the roll.

Those present:

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

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

PUBLIC COMMENT

Mr. Vern Smith, Jenny Drive, stated the residents have been presented with the choice of killing deer with a bullet or bow and arrow, and he feels they should instead question how they should best manage the relationship between humans and the deer and whether there are non-lethal, more effective, and ultimately cheaper ways to manage the deer. He stated once they start killing the deer, the Township will be locked into a perpetual cycle of killing. He stated it has been scientifically proven that there is a rebound effect that the deer that remain will give birth to multiples to fill in the vacuum left by the ones killed. He stated this fact has been ignored in the Shissler study. Mr. Smith stated he understands that the Board has been pressured to take action about the deer problem and he feels something can be done to address these concerns. He asked why they are only discussing lethal options and feels killing the deer should be the last resort. He also questions why they are considering bow hunting when the Shissler report condemned this approach as ineffective on page 26. He stated he feels they should study the issue further and not rush to judgment. He stated he has research documents he can provide that show that killing the deer will not decrease the incidence of Lyme's Disease or the number of deer/car collisions. He asked that they convene a Committee representing all stakeholders and evaluate best practices and recommend the best course of action to the Board. He stated he feels the Board must establish for the tax holders that they have chosen the most cost effective and durable solution to this issue. He stated non-lethal options are longer lasting, more humane, and less expensive. He stated he and his wife would be willing to serve on such a Committee and as researchers and educators, are

willing to do this work for free. He stated he understands that \$50,000 has been Budgeted for this issue and requests for proposals have already been circulating to individuals who are in the business of killing deer which he feels is premature. He left documents with the Board this evening as well as his card so that the Board could contact him.

Ms. Helen Bosley, 546 Palmer Farm Drive, asked how much the closing of Black Rock Road has been taken into consideration in terms of any deliberations with respect to Ferry Road. She stated she lives in the north end of the Township and is now using Ferry Road rather than Black Rock Road. She feels one third of the traffic that wants to get to River Road is being taken up by College, Lechtworth, and Ferry Road. Ms. Bosley stated while she was not present when the Budget was passed, she understands that revenues are 10% lower than what they need to be to cover expenses. She stated the Projected Cash Balances were projected at the beginning of 2009 to be \$7.258 million; and given that they will be overspending in the amount of \$2.387 million, the projected ending Cash Balances have been reduced by \$2.487 million. She stated she is concerned that no one raised this at the meeting and that it was “glossed over.” She stated if there is a \$3 million “hole” in the 2009 Budget, the taxpayers for 2010 will be asked to make up not only that “hole” to have a balanced Budget to begin 2010 but also any increases in spending will have to be made up by the taxpayers so that they do not further reduce the cash balances. Ms. Bosley stated when you access the financial information in the Township they are shown “Projected 2008,” and while she understands that audits need to be done, she feels it would be helpful once the audits are done that those figures should be included on the sheets so that everyone can see where they projected for 2008 and where they actually ended in 2008. Ms. Bosley asked when the audited figures will be available for public review.

Mr. Fedorchak stated they do post the audit on-line so the actual numbers are reflected in the audited financial statements. He stated he and Mr. McCloskey could discuss this further and possibly they could change the Budget form to add an extra column so that the public can see what the number is. Mr. Fedorchak stated he expects the audit to be done by mid-April.

Mr. Maloney stated the Citizens Budget Committee has been monitoring with Mr. McCloskey how the projections compared to the actual figures as they got closer to the year end.

Ms. Bosley stated they are deficit spending on revenue versus expenses which she feels is a concern; and she hopes that whatever report comes from the Budget Committee, there is an analysis in the first quarter in terms of how the Township is doing. She stated if there need to be changes in terms of operations, there should be a commitment from the Board to make these tough changes.

Mr. Maloney stated while overall there has been a deficit position on the cash flow, a significant portion of that was the sewer system where they had built up a large fund balance over time; and he personally feels Government should not be a “savings and loan institution,” and when cash balances get too large they should make sure that they are not overtaxing when they do not need to in the interest of just preserving large cash reserves. He stated on the General Fund it is quite close to cash neutral that they have been taking over the past couple of years.

Mr. Smith stated at the December meeting they did not “gloss over” the Budget, and there was a significant discussion among the Board and the public as to where they stood and they considered many of the issues Ms. Bosley has raised this evening. He stated there was discussion about the Township proceeding in a fiscally-responsible fashion. He stated there are issues on the Agenda this evening which relate to this including the discussion of the status of Elm Lowne. Ms. Bosley stated Elm Lowne would be a one time item as they would only be able to sell it once and the Township will continue to have other expenditures. Mr. Smith stated at the December 17 meeting they did discuss this and they look into this continually. Mr. Fedorchak stated there would be savings on a going-forward basis from the sale of Elm Lowne in addition to the money realized from a sale should the Board decide to sell that property as they would be reducing operating expenses by at least \$100,000 per year.

Mr. Keith Pladsten, Brookfield Road, asked the reporting relationship between the Board of Supervisors and the Zoning Hearing Board. Mr. Stainthorpe stated there is no reporting relationship, and the only authority the Board of Supervisors has is to appoint the members of the Zoning Hearing Board. He stated the Zoning Hearing Board operates as an independent body and is a quasi-Judicial body. He stated if there is something before the Zoning Hearing Board which the Board of Supervisors feels is important, they send the Township solicitor to either support, oppose, or participate. He stated if the Zoning Hearing Board makes a decision the Board of Supervisors does not support, their only recourse is to Appeal it to the Court of Common Pleas in Doylestown.

Mr. Truelove stated the Municipalities Planning Code is the statutory authority for the creation of the Zoning Hearing Boards in the Commonwealth of Pennsylvania, and their rules are governed by that Code.

Mr. Pladsten asked what is the Zoning Hearing Board’s charter relative to serving the interests of the Lower Makefield Township residents if there is a contentious issue such as the Frankford Hospital issue. Mr. Stainthorpe stated the Zoning Hearing Board is required to take testimony, fact finding, and apply it to the law; and there is really no popular sentiment brought into that. He stated this is to be on an impartial, non-political basis. He stated they operate very differently than the Board of Supervisors operates.

Mr. Maloney stated in terms of representing the viewpoint of the residents, this would be only insofar as the fact that they are five residents who he would hope are being appointed to that position because they are viewed as being representative of the Township. He stated the Township has changed dramatically over a period of time, and a number of the members of that Board have been on it for some time.

Mr. Smith stated prior to the Frankford Hospital issue, there was no televising of the Zoning Hearing Board meetings. He also noted that the Board of Supervisors does send a Liaison to the Zoning Hearing Board but they do not have a vote on that Board and the public seeing these meetings or attending them in person may mistakenly believe that the Supervisor Liaison does have a vote.

Mr. Pladsten stated he feels putting the Hospital at the proposed location would result in the need for five additional Police Officers which would be an additional mil. He stated at the start of the Zoning Hearing Board meeting last evening, the Chair indicated he appreciated the receipt of the letters the Board received but indicated that they would not read them or consider them which concerns him as an individual who took the time to write a letter. He stated the Chair also indicated at the start of the meeting that the issue would ultimately be decided not by the Zoning Hearing Board but by a Court of Law. Mr. Pladsten stated he feels if the Zoning Hearing Board is to represent the Township, they should hand the Judge the “best script” to indicate they do not really want this Hospital.

Mr. Stainthorpe stated he feels the Chair meant that each side has indicated that they will Appeal the Decision to a higher Court depending on how the decision goes. Mr. Maloney stated he still feels that they should not shirk their responsibility just because they are not the final decision makers. He stated he is concerned as it is his understanding that Appeals Courts tend to favor the original Decision so it is not an inconsequential point as to how the Zoning Hearing Board rules.

Mr. Truelove stated on the issue of the letters he understands Mr. Pladsten’s frustration but as a matter of evidence letters are technically hearsay, although the way he reads the Zoning Hearing Board rules and the MPC he would try to make the argument that some of this evidence should come in which is why this matter was brought up last evening as he had sent a letter to the Chairman asking him to make a decision on the status of the letters. He stated now that a decision has been made, the option for Mr. Pladsten and others who attend the meetings is to do what he is doing now. He stated insofar as the Record being made, he recognizes that this may seem tedious, but the point is that they have to make sure that everything important that they believe should be considered is in the Record because if it is Appealed, and the feeling is that it will be Appealed by either side which loses, that Record is all that the Judge will see since it is rare that a Court or Judge will say they need to take more evidence. He stated his concern in representing the

Township and its residents is that they need to make sure that they are developing the best Record.

Mr. Smith stated he has been present as a spectator at the Zoning Hearing Board meetings for Frankford Hospital, and there is a perception by many of the public that the proceeding is “disgraceful.” He stated this is unfortunate as many of the Township Boards, including the Zoning Hearing Board on many occasions, do a great job.

Mr. Barry Wood, 20 Glen Drive, stated his home is in the area between the River and the Canal. He stated on September 3, five days before Black Rock Road was closed, he was present to express the concerns of residents from his area; and he was assured that it would only take two to three months. He stated on Election Day he heard many complaints asking why this was not being completed. He stated he saw Mr. Caiola that day and he advised that it would be complete by mid-January and Mr. Wood so advised a number of people of this that day. He stated it is now five months since the road was closed. He stated on the Lower Makefield TV Channel it indicates that the anticipated completion will be late March/early April as there is a need of four days of forty degree temperatures. He questioned why they did not know this when they first started the project. He stated the project was supposed to start in June and two to three months was reasonable, and they would not have had this problem. He stated the residents are frustrated and angry and now doubt the seven month completion date. He stated in September they were concerned with re-routing trips to various places including the polls, and because of this they feel they lost approximately 100 voters who voted in 2004. He stated they are also concerned about the potential slowness of Police and fire responders and re-scheduling of bus routes. Mr. Wood stated the Black Rock Road closing has also aggravated the situation on East and West Ferry Road. He stated he has lived here for fifty years and prior to September had gone on East and West Ferry Road only two times, and since the closing of Black Rock Road he has driven on that route every day. He stated there are also problems on Lechtworth and Afton Avenues in Yardley. He stated they are fortunate that there has only been one flood scare during this period of time. He stated he recognizes that the project was necessary and hopefully it will alleviate the problem, but he feels their patience has worn thin.

Mr. Maloney stated the Board has been frustrated as well, but because it is a State project, it is out of the Township’s hands. He stated the project did not get started when they hoped, and they also ran into the weather situation. Mr. Fedorchak stated all of the dates Mr. Wood identified came from the State as targets for completion. He has been in contact with the project engineer at least once a week for the last two to three months getting periodic updates. He stated there is a solid two weeks of construction work left before the road can open up. He stated all the work is weather dependent, and before they can put down any paving they need temperatures to be consistently in the 40’s.

He stated the State Contract with the contractor terminates the end of March so this is why they are seeing this as the completion date for the project. Mr. Maloney stated when the Township contacted the State last week when there were a number of days that were to be 40 degrees, they were not met with favor.

Ms. Fran Lanberger, 110 Eton Road, stated originally when they were asking about the bikepath on Black Rock Road, they were led to believe that there was no bikepath as part of the culvert bridge replacement and money was approved at the November Supervisors meeting to come up with a design for a bikepath for the culvert. She stated there is a curved path to the side on the new culvert bridge that is already there, and she wanted to make sure that the Township was not spending money to have a design put together for something that is already there. Mr. Stainthorpe stated the design was for the path leading down to the culvert along the road and not actually on the culvert. Ms. Lanberger asked if it costs \$50,000 just to do this path design, and Mr. Majewski stated the path also goes on the other side of the Canal and has to cross over the small stream near the parking area and continue to Glen Drive. He stated it is not an easy design to do due to the slopes and the curve in the road. He stated TPD is working on the design for this. Ms. Lanberger stated she felt the people were concerned about the path over the bridge itself, and she feels they may not be spending money wisely to build a path rather than just paint lines down the side of the road. She stated there is a wide area on the road from Westover down to the bridge currently, and it would only be from the bridge to Glen Drive at that point. She wants to make sure the Township is being fiscally responsible as in many cities they only add a painted path and narrowing down the roads so that bikes can be used on city streets. Mr. Majewski stated safety is the ultimate consideration.

Ms. Sue Herman stated she supports the suggestion that a Stakeholders Committee be formed as to how to best manage the deer, and she would like the Citizens Traffic Commission to participate in such a group. She stated they have a Safe Driving Campaign Sub-Committee which she feels would be ideal for participation in such a group.

Ms. Helen Bosley stated she had previously argued about the engineering costs for Black Rock Road for the bikepath, and they have just heard from someone who lives there indicating that in her mind they do not need to construct a \$200,000 to \$300,000 bikepath if they could just paint lines. Mr. Maloney stated this is a very challenging, steep slope area; and he is not going to take it on faith that adding a wider culvert that allows people to take their bikes down is going to be in the best interest of public safety. He stated there are young people taking this path and the geometry of the area could make it difficult for less experienced riders. He stated he relies on the Township engineer's advice that this is something that they need to be doing.

Ms. Virginia Torbert stated the Board of Supervisors has already approved the construction of the bikepath from Westover to the culvert, and the only issue was that they were going to wait until the culvert was completed and the next phase was the construction of the bikepath. She stated they have already discussed how dangerous the road is for children and bicyclists going down that road to access the Canal and Macclesfield Park. Mr. Stainthorpe stated what has been approved was \$50,000 for a design. They have not approved a final plan and they will not know what it will cost until it is designed. Ms. Torbert stated she did not feel that the Board of Supervisors felt that there was any question that there was a need for this path, and Mr. Smith agreed and stated they were very concerned about safety. Ms. Torbert stated the Citizens Traffic Commission received numerous complaints about this area, and this included residents from the area who indicated they had cars come into their front yard. Mr. Smith stated the Board of Supervisors also received numerous complaints and pleas to protect the children in this area.

Ms. Jean Bradley, Yardley-Newtown Road, commended the Board on having calm, professional meetings. She stated she is in support of organizing a group to look at the deer issue. She stated the University of Pennsylvania has a number of studies going on regarding different ways to control the deer, and she would ask that they allow a group to discuss this and come up with recommendations. She stated she has had deer in her yard eating her plants and she has learned about using different plants. She stated she does not feel landscape should be a reason to kill the deer. She stated if the Board feels they must kill the deer, she would ask that they not do it with bows and arrows and asked that they use sharpshooters if necessary. She added she would be willing to serve on a Committee to consider this issue.

APPROVAL OF MINUTES

Mr. Caiola moved, Ms. Appelson seconded and it was unanimously carried to approve the Minutes of February 4, 2009 as written.

APPROVAL OF FEBRUARY 2 AND FEBRUARY 16 WARRANT LISTS, AND JANUARY, 2009 PAYROLL

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to approve the February 2 and February 16, 2009 Warrant Lists, and January, 2009 Payroll as attached to the Minutes.

REPORT OF THE VETERANS COMMITTEE

Mr. Kevin Treiber and Ms. Kathy Kraeck were present. Mr. Treiber stated at the Veterans Day event, they re-named the Township's pocket park which is located at Edgewood and Heacock Road – Veterans Square. He stated they are working on their goal of having a Veterans monument in that park. Mr. Treiber stated they want this to be a park for people to use as a park and to be able to pay their respect to Veterans. He stated they did have a Wreath ceremony over the holidays. He thanked the Park & Rec Department for helping them erect a sign on the property. He stated they have been interviewing architects and two local architects, Jennifer Stark and Michael Sullivan, have been helping them. He stated a local sculptor, Robert Girandola, is volunteering his services as well. Mr. Treiber asked the status of the 501C3 which they need in order to do fundraising in the community.

Mr. Maloney stated the Board met in Executive Session prior to this evening's meeting to discuss legal issues related to this; and while it is moving forward, the Board will not be drafting a Resolution tonight to adopt this yet. He stated it remains a priority for the Board, and they understand that the Veterans Committee needs to have this to have their fundraising events and begin to collect money. Mr. Caiola stated Mr. Truelove has discussed the possibility of having a temporary number before the full paperwork is completed. Mr. Truelove stated they would have to apply for Corporate status in the Commonwealth of Pennsylvania which is easily done; and once the Corporate status is established, there is an Application needed to go to the IRS for the 501C3. Once you have applied for it you can say that the 501C3 status is pending, and the people can contribute at that point; and once the status is confirmed, they can make their tax deductions official at that point.

Ms. Kraeck stated they have a fundraiser scheduled for March 22. She stated in speaking to local businesses, they have indicated they are more likely to get involved if this 501C3 is in place. She stated their vision is to create a destination for the community to come with their families. She stated the monument they feel which will be constructed will be a timeless monument which would honor the past, present, and future Veterans. They would like to create a park where people can come and teach their children to respect Veterans. She stated the local sculptor who has donated his services, donated his services as well for a very-moving memorial for Engine Company No. 6 in New York City after 9/11. She stated they feel the park project will take three to five years to complete and there will be three phases. She stated they will set up a number of fundraisers with the Kick-Off event to take place on March 22. She stated Frank Lyons, the owner of the new Continental Tavern in Yardley, is a Veteran; and for \$25 from 3 p.m. to 6 p.m. there will be beverages, a light meal, and entertainment. They also have a number of basket raffles and there will be a 50/50. They will also sell chances on a piece of artwork which was shown this evening which was donated by the Makefield Women's Association and will be shown at their various fundraisers with the drawing to take place at the Veterans Day

Ceremony. Ms. Kraeck stated they are considering a number of other fundraisers including a chili cook-off, flea market, and a formal auction in early November for which they are looking for donations from the community of items and services. She asked that those interested in helping contact the Township office or their Website, www.lmtmemorial.org. She stated any checks should be made out to Lower Makefield Township with Veterans Committee written in the memo portion. Mr. Caiola asked that they discuss with him an option similar to Pay Pal which does not take as much as Pay Pal and is strictly for non-profits.

Ms. Kraeck stated at this point they are considering one or more flag poles, a sculpture designed by Mr. Girandola, a memorial area, and a commemorative area. They will also do pavers and benches which can be bought as well. She stated they are looking into the possibility of having a pavilion/shelter so that they can have concerts in the park.

REPORT OF THE ELM LOWNE PRESERVATION COMMITTEE AND APPROVAL TO OBTAIN APPRAISAL FOR THE PROPERTY

Ms. Jennifer Stark and Mr. Craig Calabria were present. Ms. Stark stated the presentation they are showing this evening was provided to the Board in their packet. Mr. Maloney stated this information did not get into their packets, and Ms. Stark stated she does have the presentation on a CD for each of the Board members. Ms. Stark stated the Committee spent nine months putting this presentation together. Ms. Stark stated the property was built in 1750 and is a 12 acre site including a three-story stone farmhouse, a large barn and a hay house, a tenant house, a springhouse, and a corn crib although this is not original to the site. Ms. Stark stated the property has been designated historically accurate as far as its integrity and meets the criteria to be on the National Register, although it is not listed at this time.

Ms. Stark stated the property was acquired by the Township in 1995 in order to preserve the character and bucolic landscape for future generations and preclude possible mini-development. The Township paid \$690,000 for the property, and it was funded with a bond issue. Presently they are carrying \$55,000 per year as debt service and they have a \$59,000 per year operating Budget for operations and maintenance. She stated these figures are from their 2007 data. She stated the revenue generated in 2007 was \$37,000 through the activities which were happening on the property which were primarily through Open Aire Affairs; however, this usage was determined to be inconsistent with the Residential Zoning of the Site, and Open Aire Affairs ceased their activities after their calendar was completed in November, 2008.

Ms. Stark stated the Committee was asked to develop recommendations for the future disposition of the property and the question was should the Township maintain its ownership or divest itself of ownership. She stated they wanted to consider a number of

alternate uses for the property if the Township maintained ownership with protection easements in place so that the twelve acres would remain intact. They considered an art or cultural center, a senior center, a B & B, a private residence, professional office with low-intense use, and a commercial operation that would generate little traffic and noise and have restricted hours of operation. She stated the other option was for the Township to divest itself of Elm Lowne with protective caveats in place such as a Deed Restriction, Façade Easement, or Zoning Overlay which could work together or be single in application.

Ms. Stark stated they did not want to consider this property alone but wanted to look at it in context with other historic properties in the Township and those under the Township's control. She stated there are more than 250 historic sites and structures in the Township today. She stated part of this data was taken from the 1988 Historic Landmarks Guide which was put together by the Historical Commission. She showed a map of fifty properties that are listed in that Guide which are scattered throughout the Township. Ms. Stark stated they identified five properties owned by the Township – Elm Lowne, the Patterson/Brown House, the Patterson/Satterthwaite House, the Dagewicz/Slack Manor House, which is on the Golf Course, the Warren-Farringer House, which is near the Giant, and the Five Mile Woods. These properties were shown on various maps.

Mr. Calabria stated they decided to look at these various properties measuring them against criteria and against themselves. He stated in measuring them against criteria they used a matrix analysis approach; and to measure them against themselves, they looked a pair-wise analysis. He stated for the matrix analysis they established criteria including the acquisition date, physical characteristics, structural age, financial considerations of the purchase price, debt service, operating and maintenance costs, revenue from operations, lost tax revenue, restoration costs, and from the historical, cultural, and social characteristics what the architecture was, the archeological significance, historical significance, and the social/heritage conservancy evaluation and whether it was eligible for the National Registry. He showed the properties placed in the Matrix with the criterion placed. He stated some of the data was quantitative data where they were able to secure numbers and others were qualitative data where they made a judgment as to the value of the information. Mr. Calabria presented a slide which combined some of the nineteen criteria they had combined in eight columns where they assigned a value of high medium and low and then added the number of highs. They then assigned a numeric value for high, medium, and low and added them across the page to give a numeric value. In doing this Matrix analysis, the Elm Lowne site became number 3 out of the six properties.

Mr. Calabria stated they then looked at each property comparing it to the other properties which was the pair-wise analysis. He showed this analysis where Elm Lowne was compared to the Brown House with the Brown House being more desirable; and they went through this routine for each of the properties, and the result was that Elm Lowne

became the third ranked property. Mr. Calabria stated they believe that the Township should divest itself of the Elm Lowne property, and place a Deed Restriction on the property before the divestment.

Ms. Stark stated they felt that there were other issues that could be commented on. She stated they realize that they are an advisory board, and this was more than they were asked to explore; but the Committee felt compelled to bring these issues to the Board's attention. She stated they do not feel that the Township has adequate resources to own or operate historically-significant structures and properties. She stated a number of them are in disrepair and there are financial, technical, and administrative issues that come into play when maintaining properties. She stated the Township does not have a Department dedicated to acquiring, evaluating, purchasing, operating, and maintaining historic properties and open space. She stated there is also not a funding mechanism for long-term maintenance and operation. She stated they feel the Township is prepared to own historic properties without structures or structures which are occupied by the Township or designees if they are self supporting. She noted the Five Mile Woods and the Warren-Farringer House as examples. She stated the Committee would recommend the Township retain ownership of the Five Mile Woods and continue its current function. She stated they feel the Dagewicz/Slack Manor House is an interesting opportunity as it is in an area of public use at the Golf Course. They recommend that the property be rehabilitated and that they take the functions that were at Elm Lowne and transfer them to that property. She stated there is a benefit to having a historic home that is available for Township use. She stated with regard to Patterson Farm, they feel this is a wonderful piece of open space and would recommend that they retain the agricultural land only and that the Township divest itself of the Patterson Farm structures with a lot of acreage around each structure (the Brown House and the Satterthwaite House) so that they can be put into private hands and become well-maintained apart from Township funds. She stated the open space would therefore be preserved as well.

Ms. Stark stated they feel the Township should continue to selectively search out and acquire open space land and historic properties; but post acquisition, the Township should impose Deed Restrictions or other protective mechanisms to preserve the property and then divest itself of the structure so that the Township is not perpetuating the problems they have now.

Mr. Stainthorpe stated he feels what has been presented this evening is very concise and to the point and was exactly what the Board needed to see and understand. He stated he agrees that without a specific public purpose, these homes should not be under Township ownership and should be back on the tax rolls in private hands so that there is someone living in them, nurturing them, and taking care of them and it is not the responsibility of the taxpayers. He stated he agrees that the structures at Patterson Farm should also be looked at; and in many ways, are even more costly than Elm Lowne. He feels it would be worth looking at using the house at the Golf Course for events, and asked if they were

considering a tent at that location. Ms. Stark stated they did not explore this much further as this was not their charge. Mr. Stainthorpe stated there are issues with the home that need to be looked at. He stated they tried to market it as an office and other uses but it does need a lot of work.

Mr. Stainthorpe stated the next step is to get an appraisal done on Elm Lowne and also consider what should be done with the barn as there have been concerns expressed that the barn is not sound. He stated a large portion of the Elm Lowne property is a parking lot and he asked if this should be preserved or spun off for modest development of one or two houses. He would also like to move forward with the Satterthwaite House to subdivide this out of Patterson Farm.

Mr. Maloney asked what they would recommend for a Deed restriction. Ms. Stark stated there are Management Conservation Districts, Deed Restrictions, and Façade Easements. She stated they want to maintain the property intact with twelve acres and not allow subdivision. She stated they are also interested in maintaining the historic integrity and character of the property so that they are looking at Façade Easements so the view driving by looking at the house is not destroyed. She stated if it would be just for this property, the legal vehicle would be a single use; but if the Township is looking at multiple properties, a District concept might be better served. She stated she has information on what Wrightstown did recently with their Smith Farm. Mr. Smith stated this was sold at auction, and Ms. Stark agreed.

Mr. Maloney asked that the Board focus on Elm Lowne tonight. Mr. Maloney stated with respect to the Deed Restriction, he assumes they are suggesting that it be specifically to prevent subdivision of the property. He asked if the Façade Easement would be just for the home or the other structures as well. Ms. Stark stated you would identify the significant structures and have language particular to each one. She stated they contemplated providing the Board with templates, and she has collected some from other Municipalities and she could provide these at a later date.

Ms. Appelton asked how they would go about getting the property listed on the Historic Registry and would it be beneficial to have it so listed prior to selling the property. Ms. Stark stated it has been deemed eligible which is a big step and actually placing it on the Registry for a private owner has little impact and it would be more important if it were to be a commercial or business use where they would be looking for Grant money since Federal funds do not extend to home ownership. She stated some people feel it is a hindrance and would be concerned that they could not do what they wish with the property. She feels the Deed Restrictions being placed would be more onerous than having it on the National Register. She stated there could be problems if it were on the Register and someone did something that caused it to be de-listed. Mr. Maloney stated unless it is a Commercial use, the National Registry would not be a significant advantage to the property; and Ms. Stark stated this would depend on the buyer as there are some

people who would enjoy the status of having a home on the Register, and she stated they could put it on themselves. Ms. Appelton stated it does not appear to be of benefit to the Township to have it Registered prior to the sale; and Ms. Stark stated she does not feel they need to if they indicate that it has been deemed eligible since this is the first step, and if the homeowner were interested in this, they could pursue it.

Mr. Smith asked Ms. Helen Heinz of the Historic Commission to offer her opinion, and Ms. Heinz stated she feels that this property should have been divested a long time ago. Mr. Smith stated he recalls that over the years she has been concerned about historic properties in the Township which have been purchased by private individuals and then there was demolition by neglect. Mr. Smith stated he agrees that they should sell the property, but he wants to make sure that there is an enforcement apparatus that allows the Township to move in to correct the demolition by neglect. Ms. Heinz stated current Zoning would take care of many of the problems that are occurring with the historic properties, but the Board of Supervisors must have the Township enforce this, and have the Township do the corrections and then bill the homeowners. Mr. Smith stated if they sell Elm Lowne, he would want it built into the Agreement of Sale that if there are problems, the Township would be able to move in and take the corrective action.

Ms. Heinz stated the Façade Easement referred to would take care of this.

Ms. Heinz stated there are some problems with Façade Easements since many homeowners want to put on an additions, and the Façade Easement could restrict the homeowner. She stated they must carefully word the Façade Easement so that people can add onto the properties in certain areas. She stated the houses need to be modern and usable. She stated there is also the possibility that the Township could have the right of first refusal for the next sale so that the Township could acquire a property back. She also stated she feels getting the National Register Certification would be a good thing for the Township to do because it improves all of the property values the more houses there are on the National Register. She stated they also contracted with the Heritage Conservancy almost six years ago to do that, and she would like to see the research she gave them come to fruition.

Ms. Heinz stated they are scheduled to come in the first meeting in March to inform the Board what they have looked at for the Patterson Farm. She stated she feels it will be much more difficult to subdivide those structures if the Township wishes to do so.

Mr. Smith stated he was concerned that a great deal of money was spent last year on the Satterthwaite barn when he felt it should be in private hands.

Mr. Smith asked Mr. Fedorchak if he ever gets inquiries as to the availability of Elm Lowne for purchase, and Mr. Fedorchak stated he was recently approached by someone who knew this property was on the Agenda and indicated he was very interested in acquiring the property. He stated he has also had three individuals in the last three months contact him about the status of Elm Lowne and each of those had the financial resources to purchase the property.

Mr. Maloney stated he wants to make sure that they are not undercutting themselves if they sell the property at this time; but added they could put this out to bid, and if they do not wish to accept it, they can decline it.

Mr. Maloney stated he feels they should turn this matter back to the Committee and ask them to provide the Board with an example of what they would suggest with regard to restrictions on the property.

Ms. Heinz stated she feels the Historic Commission will be addressing the Slack house as well when they make their presentation in March.

Ms. Appelson asked if the barn at Elm Lowne has any historical significance or is it just the house itself; and Ms. Stark stated they always looked at the entire property as being significant because it is a setting. Mr. Stainthorpe stated they have received conflicting information on the soundness of the barn. He stated some years ago they considered use of the barn for a Performing Arts Center. He stated if it is found that the barn is not sound, he assumes they could take it apart and sell the pieces to someone. Ms. Heinz stated she feels the decision on this should be made by the next owner. She stated someone with the funds to do so would probably be able to do more with the barn than could the Township. Ms. Stark stated if there is something that is an emergency stabilization issue, the Township would have to address that before a sale; but other than that, she agrees with Ms. Heinz that the next homeowner should take this task on. Mr. Fedorchak stated he has had barn experts look at the barn on a regular basis. He stated the Township staff is attentive to it, but it is a very old structure and it is sometimes difficult to predict what will happen and a collapse could occur. He stated last year they spent approximately \$8,000 repairing the roof and did do some realignment of the beams where a part of the dormer started to collapse.

Mr. Smith asked if there was any thought given to the use of the property as a Bed and Breakfast if it were sold to a private individual and asked if there was any opposition from the community to this use. Ms. Stark stated the Committee always talked about low intensity uses; and if they were to consider anything other than private use, they would have to talk about Variance requests and there would have to be Public Hearings. Mr. Maloney stated he feels a Bed and Breakfast could be a Conditional Use or a Special Exception in that District. Ms. Heinz stated she feels it would fit those criteria. Mr. Truelove stated he would have to look at the Zoning Ordinance to see if this would be permitted. Ms. Heinz stated it is in the Zoning that if you are owner/occupied, it is permissible.

Mr. Maloney asked that they come back to the Board with a more specific plan for the restrictions they may want to pursue.

Mr. Stainthorpe moved and Mr. Caiola seconded to get an appraisal for the property.

Ms. Virginia Torbert asked if there was not a problem with the Deed Restriction/Façade Easement for the house that was sold recently on Dolington Road; and Ms. Heinz stated it is an issue of enforcement, and it is up to the Township to make sure that the Restrictions are carried out. She stated there are ongoing issues with the homeowner. Ms. Torbert asked if there is some improvement that can be made to the Ordinance, and Ms. Heinz stated she feels the newer Façade Easements do have better mechanisms than did the ones from ten years ago. Mr. Stainthorpe stated the one on Prospect Farm worked out well.

Ms. Torbert stated she feels they need to consider if the barn at Elm Lowne is worth saving; and if the Township wants it to be saved, they should include this as part of the Agreement. Mr. Smith stated they could bring in an independent professional to determine whether the barn could be saved and at what cost, and this could be considered in the future.

Ms. Torbert asked who decided that the Elm Lowne Committee was going to look into the Patterson Farm, and Mr. Caiola stated it was not part of their charge, but they have come to some conclusions and they did it because they wanted to compare Elm Lowne to other properties in the Township. Ms. Torbert stated she takes exception to what they said and believes their basic premise is incorrect adding it is the “Patterson Farm” and not the homes on the Patterson Farm and the land. She stated it was purchased as a farm and she would urge the Board to consider it as a farm. She stated the houses should not be looked at in isolation. Mr. Caiola stated he feels they will consider this at their first meeting in March.

Ms. Sue Herman stated she also believes the Patterson Farm should be kept together and is interested in exploring using the Farm for educational purposes to educate children about agriculture and she hopes that they will look at all opportunities for doing this.

Ms. Heinz asked that the Board considering authorizing some additional work to be done at Elm Lowne as the springhouse needs to be finished, woodwork painted, etc. Mr. Fedorchak was asked to work with Ms. Heinz on this.

Motion to approve getting an appraisal carried unanimously.

UPDATE ON FIELDSTONE DEVELOPMENT – DISCUSSION OF ENVIRONMENTAL ISSUES

Mr. Nick Casey, Quaker Group, Bill Kerr, attorney, Mr. Mark Gallagher, Princeton Hydro, and Mr. Rod Chirumbella, engineer, were present. Mr. Kerr stated Quaker Group is the current owner of this property which has a long and detailed history. He stated they

are present with a new proposal. Currently there are two Plans pending before the Township, but this is a new proposal they are presenting in concept form. They would like to get feedback and then they will move forward to the next formal step either a Sketch Plan or a Preliminary Plan. He stated there is an existing landfill on the property as the prior owner was allowing dumping on the site for many years. They have done extensive testing, and the tests indicate that there is no contamination and it is primarily construction and similar type waste that is contained in the landfill. The current Plan calls for a partial clean-up of the landfill, with the portion of the landfill that will remain to be capped and an open space meadow will be created for the development they are proposing. On the balance of the site which is buildable they are proposing a thirty-five lot Subdivision. The capping concept has been approved by both DEP and Birdsall Engineering. They have also reviewed the Plan with the Township's Environmental Advisory Council, and they have approved it to the level that they have developed the Plans. He stated they have also reviewed the lot yield issues with the property with Mr. Majewski and Mr. Truelove; and they have come to the conclusion that, depending on which Section of the Ordinance you look it, it would allow between thirty-five and forty-four lots.

Mr. Casey stated he is Vice President of Development for the Quaker Group. He stated he has been before the Board of Supervisors, Planning Commission, and the EAC on a number of issues over the years. He stated Quaker Group became involved with the Harris Tract in the late 1990's, and entered into an Agreement with Eastern Equities, who was the contract owner of the property from the Harris Estate. At that time Quaker Group was funding the cost of the approval process but that process was being managed by Eastern Equities. He stated Eastern Equities had presented a Plan to develop the entire site with forty-nine residential lots without any disclosure of the landfill activities that had occurred in the southern portion of the property. He stated this was brought to Quaker Group's attention through the initial hearing process with the Planning Commission at which point Quaker Group pulled back and developed plans for development of the front portion of the site. Those Plans were presented to the Planning Commission in 1999/early 2000 with a revision to the initial Application; and the Application was rejected by the Planning Commission as they did not feel it was an appropriate revision to the Plans that had been previously presented. This is the subject of an Appeal that has been pending since that point.

Mr. Casey stated they went further with the Application for development of twenty-nine lots on the front portion of the site, and at that point Eastern Equities still had control of the property and was the Applicant. Mr. Casey stated they went through the process with the Planning Commission, and the primary concern was who would own and what specifically would be done with the back portion of the site. Mr. Casey stated there had been meetings with DEP, and their requirement was basically to have a closed landfill. Mr. Casey stated Eastern Equity was reluctant to make any firm commitments other than to state that they would divide the back portion of the site off and retain ownership of the

property and would decide what they would do with it at a future date. The feedback given was that they would prefer that Quaker as the developer of the property either own and maintain it or turn it over to a Homeowners' Association for maintenance in the future. Mr. Casey stated there were concerns with compliance with DEP regulations. Mr. Casey stated these meetings took place in 2000 and 2001.

Mr. Casey stated in March, 2002, Quaker entered into an Agreement with K. Hovnanian for the sale of its residential assets which included the Harris Tract. At that time the Harris Estate did not feel that Eastern Equities was moving ahead in a prudent fashion toward approval and declared them in default of their Agreement. In May, 2002, Quaker stepped in to protect its rights and investments and purchased the property. At that time they also entered into the Agreement with Hovnanian and Hovnanian proceeded with the approval process. At that time, they felt it was economically feasible to suggest the clean up of the entire tract and develop the entire tract and proceeded through a number of meetings with the Township with various representations to obtain a recommendation from the Planning Commission of a forty-four lot Subdivision. Mr. Casey stated once this occurred, it was determined that this was based on erroneous information and impractical projections as to cost. He stated their cost for the clean up was six to tenfold what they had originally estimated.

Mr. Casey stated at this point Quaker stepped back in and took control of the approval process and proceeded to meet with the Township representatives, DEP, and started a dialogue with the EAC. He stated they spent from 2005 to 2007 meeting with DEP reviewing practical solutions and meeting with Birdsall Engineering, the Township's environmental consultant. He stated they reached a favorable resolution of capping the landfill, incorporating some of the mandates under the current siting criteria for a landfill which would not apply to a landfill of this nature but would be beneficial to the Township from an environmental standpoint and to adjoining property owners as well. He stated they came up with a proposal that would involve removing some of the waste, primarily the waste within 100' of the stream corridor to re-establish the riparian corridor, removal of the waste within 100' of the residential properties which are at the southeastern corner of the site off of Longacre Drive, and removing any waste within 2' of the surface and grading it to provide proper drainage and grading of the site and establishing a meadow preserve that would be deed restricted and protected. He stated they then began a process with the EAC and went through a year of meetings with them taking in all their comments and suggestions and reached what they felt was a favorable level of approval with them on what was being proposed. Mr. Casey stated the EAC has asked that Quaker continue to maintain dialogue with them as they go through the design process to address the overall stormwater management Plan, type of landscaping and buffering along Edgewood Road, and incorporating Low Impact Development Standards through the development process.

Mr. Merrill stated he has been working with the Township professionals and DEP on the cost of removing materials and a remediation plan that would comply with Act II Closure requirements and meet all DEP criteria to the maximum extent possible. He stated the proposal includes complete removal of waste material within 100' buffer of Brock Creek. He showed on the Plan the location of this area. He stated this would then be backfilled with clean material and the result would be remediation of the waste within that 100' buffer which attempts to retroactively come into compliance with what a new landfill would require and also provides additional floodplain storage for that section of Brock Creek by not grading it back out to the same grade it was prior to removal of the material. In addition, along the left hand side of the property, they will also remediate within 100' of that property line and completely remove the waste material and backfill those areas with clean material. Moving into the interior of the landfill itself, it was quite costly to remove all of that material from the property; and there were also concerns that with the amount of material that had to come out that there could be damage to the Township infrastructure so they proposed to go through a capping process where they would take clean material on site, sort through some of the waste material to have only the clean waste material, and reuse that to have a 2' cap over the entire landfill area.

Mr. Merrill stated they wanted to make sure that they could maintain the wetland area that is to the north of the landfill and insure that hydraulically it is still connected to the stream. It was decided based on the type and amount of waste between the wetland and the stream that they would use a gasket pipe which would be completely sealed and that would convey water from the wetlands to the stream and by pass any contaminated material.

Mr. Stainthorpe stated he assumes that currently the wetlands are draining through the "dump" into the stream, and Mr. Merrill stated this is correct.

Mr. Gallagher stated while this issue does not come up usually in areas like Lower Makefield where there is not a lot of damaged land such as is at the Harris Farm, it is a common practice in more developed areas like New Jersey and urban areas. He stated he has photographs of some brown field to green field projects that were done in New Jersey which they were involved with to show what can happen with damaged land. He stated currently the property has not just a landfill but is dominated by non-native species so in addition to capping it and making it safe, they believe they can create an eleven and half acre warm season grass meadow. He feels this will be an amenity to the community. He stated they have reached out to some of the Land Trusts to see if they would be interested in doing long-term management for the meadow portion of the project, and both the Heritage Conservancy and the Natural Lands Trust were interested in this. Mr. Gallagher stated they feel this is a way to show how damaged land can be restored in a more productive, sustainable manner. Mr. Gallagher stated the riparian area would be replanted with riparian wetland and trees and the new slope created with clean material

would be re-forested with native species. He stated the overall goal is to take the damaged piece of property and allow it to be more productive ecologically. Mr. Gallagher showed the photos of areas in New Jersey where similar work was done.

Mr. Chirumbella stated they have developed a Concept Plan showing thirty-five lots in the north end of the property. He stated this concept conforms to the Township's Cluster Development Ordinance. He stated they considered the grading, conceptual stormwater management locations, and sewer elevations. They feel this is a feasible conceptual lay out. Although the stormwater management has not been designed, they are proposing to do a more current BMP scenario with rain gardens scattered throughout the property and to try to minimize the three detention basins shown on the site with other means of stormwater management such as recharge and infiltration to get stormwater back into the ground. Mr. Chirumbella noted on the Plan the location of St. Andrew's Way which is the entrance road to the development off of Edgewood Road. He stated this road will go through a row of existing pine trees that may be worth preserving; and so they have designed an alternative entrance way moving the road off toward the west. They feel the thirty-five lot lay out proposed is feasible.

Mr. Casey stated the intent is to treat the landfill area in an appropriate manner. He stated there has been extensive sub-surface investigation including monitoring wells and groundwater testing and the materials that have been buried there are benign. He stated it is a lot of construction waste, wood products, branches, stumps, etc. He stated they are trying to be a good neighbor and will remove the waste within 100' of the properties along Longacre Drive and the stream corridor. They are also looking to minimize the impact on the surrounding neighborhoods and contain as much of the activity as possible on the site and minimize traffic on and off the site. They intend to utilize any of the waste that can be utilized such as concrete, brick, etc. which would be crushed and blended in with soils to be used as backfill. He stated any wood products, other than treated wood components, would be shredded and blended in with the soils to augment the soils. With regard to the fill that is needed to establish proper grade and cover they intend to incorporate from the Grading Plan for the front portion of the site so they will be generating excess material that will be moved to the back portion of the site. They hope to be able to reach a balance so that they do not have to bring in any soil. Mr. Casey stated the transport off site would be limited to the actual waste product that is removed from the property such as metals and debris that would not be suitable for incorporating into the fill activities.

Mr. Casey stated they have agreed to work closely with the EAC to implement the Low Impact Development standards, and they see reducing the traffic for off-site activities to a minimum to be part of the Low Impact Development program. They also intend to incorporate as much infiltration as possible utilizing rain gardens, drainage swales, open bottom inlets that allow infiltration into the soils, and perforated drainage pipe that will allow percolation into the soil.

Mr. Casey stated they have also considered how the site can be handled from a sanitary waste standpoint. He stated the previous plans called for a gravity sewer that would extend out Schuyler and down the cul-de-sac to tie into an existing sewer which would involve excavating down twenty to twenty-five feet and ripping up Schuyler and the cul-de-sac from curb to curb. He stated they have come up with a concept which has been reviewed with Mr. Hoffmeister to tie into the last manhole at Schuyler, extend gravity up, feed all but nine lots with gravity, and install a low-pressure system with ejector pumps for the remaining homes. They have also discussed extending the gravity line up to the property line so that it could be extended to serve existing homes on Edgewood Road that are not tied into the sewer. They also met with the sewer engineer who, while they will have to review the final design standards, is in agreement with the concept. Mr. Casey stated they feel they are at a point where the Supervisors can embrace the Plan, and the developer can move forward to work out the details with the Planning Commission and the appropriate regulatory agencies.

Mr. Maloney stated years ago the Board indicated that they wanted the fill eradicated before any development took place on the property, and they are now proposing going from eleven to twelve acres of fill down to ten to eleven acres. He asked why the Board would be interested in seeing this property developed with ten to eleven acres of landfill still existing on the property. He stated they are only marginally accomplishing the task that they set out to do.

Mr. Casey stated the characterization of the waste that has been identified on the site is benign. He stated removing all of the waste does not create any more benefit than the extent to which they are intending to go. He stated the State mandate would be to insure that there is a 2' cap over the landfill, and does not provide any environmental benefit. He stated they feel that their Plan incorporates the most important elements of restoring the damaged lands. He stated it re-established the riparian corridor, improves the floodwater storage in the area, places the property in a form that can be easily maintained, and preserves it in a meadow environment.

Mr. Stainthorpe stated he was on the Board on 2002, and he recalls that what was on the property was not benign and some of his fellow Supervisors at that time would not even look at the Plan and advised the Applicant to clean up the "dump" and then come back. Mr. Stainthorpe stated he would need assurances from a third party that this material is really benign and is not going to cause illness or disease to people in the future. He stated he would need to know that the Township would be indemnified if any of these things did take place.

Mr. Casey stated they have spent a lot of time with Birdsall Engineering and shared with them all the reports including the characterization of the waste and the monitoring well samples. He stated Birdsall also observed some of the sampling, and has concurred that

it is a sound Plan. He stated he does have a copy of the latest letter from Birdsall Engineering dated 11/13/07. He stated they had prepared a favorable report prior to this. He stated the latest letter is in connection with the Plans and reports that were being reviewed by the EAC. Mr. Casey read the 11/13 letter to the Board this evening which includes suggestions and design issues which Mr. Casey stated will be addressed.

Mr. Merrill stated no lethal gases were encountered in all of the sub-surface investigation and monitoring well testing. Mr. Merrill stated they excavated about seventy test pits over the site as well as the installation of seven wells on top of the three wells that were discovered during their investigation. The testing protocols they used checked for everything, and what they came back with was typical for construction debris and the agricultural use which was on the site and was generally metals and pesticides. He stated the ground water was not contaminated with those metals or pesticides. He stated they would Deed Restrict it to protect the meadow that would be installed and also Deed Restrict it for non-removal of groundwater from that particular section of the aquifer.

Mr. Smith asked how long the landfill has been at this location, and Mr. Casey stated he believes that the primary activities occurred in the mid-60's. Mr. Smith stated usually when the Board gets their packet they get background information in their packet so that they can do some research prior to the meeting, but they did not get anything for this project. Mr. Smith stated it seems that they are doing everything possible but cleaning up the landfill. He asked the estimated cost of doing a partial clean up and doing a total clean up. Mr. Casey stated a total clean up could range from \$7 million to \$12 million and the partial clean up would be \$2 million to \$2.5 million. Mr. Casey stated they would never get a return on the investment made for a total clean up. Mr. Smith stated there was a rumor in the Township that the proposed meadow would be used for soccer fields, and Mr. Casey stated in some of the discussions they had with the Township as for possible uses for the back portion, they did discuss recreation facilities if the Township were interested in that; but they were told that the Township was not interested in this. Mr. Smith stated he would be concerned with children playing on top of a capped landfill.

Mr. Casey stated when they were previously present, there were unsubstantiated statements made that this was a toxic landfill. Mr. Smith stated Mr. Stainthorpe just indicated that a few years ago, it was indicated that this area was not benign. He asked why they would not just clean up the area as it appears to be just a "profit situation." Mr. Casey stated he would not classify this as a "profit situation," but rather there is an undesirable situation which exists now. He stated it is financially impractical to clean up everything that is there and get any return out of the investment. Mr. Smith stated it appears that they are going to only do a partial clean up, put on a cap, and then sell the properties with a partially sealed landfill near the homes. Mr. Casey stated he feels they are going through appropriate standards to insure that the property is properly closed, properly protected, and properly maintained. He stated they have spent a lot of time with

the Township's environmental consultant going through every aspect of the investigation, groundwater testing, soil sampling, and the closure proposal. He stated the review was done by qualified individuals who are knowledgeable in landfill operations and closures. Mr. Smith stated the pictures shown this evening of the other clean up sites seem to be from remote areas and not in the middle of a housing development.

Mr. Maloney stated he is not convinced that it is the Township's duty to be making sure that the developer can achieve a return on investment. He stated he is concerned that in the past things that were felt to be benign were not, and he feels at this point they are in a position to have this cleaned up and the Township would not have to take chances with the safety and welfare of the residents.

Mr. Caiola asked how long they have owned the property and how long have they been doing testing. Mr. Gallagher stated initial testing started almost ten years ago. Mr. Caiola asked if the findings were different at that time than they are today, and Mr. Gallagher stated they were not. He stated when they were first involved in the process and reached out to the DEP to work through the program for re-developing the site with them and working with the Township at the same time, the overall plan for remediating the landfill was initially driven by placing homes where the landfill was and that dictated the complete removal of all waste so that no homes would be built on waste. He stated the overall clean up is based on the future land use. He stated through the whole process, DEP has been satisfied that this landfill can meet their remediation standards by a cap. He stated as the process evolved, it went from removing all of the waste in contemplation of homes there to being a much more sustainable project with homes located in the clean portion of the site, and no home would be built on waste. He stated they also propose capping it in a more creative manner than DEP requires. He stated the thickest area of waste is along the stream; and by taking away the waste 100' from the stream, they are removing most of the waste including most of the waste which is not construction debris. He stated doing this also creates a better buffer between the waste that is left in place and the stream so a lot of the concerns about creating the pathway that exists now to the stream would be removed by a minimum of 100'. Mr. Gallagher stated they feel this provides a good balance for the overall project as they would get enough homes to drive the process and pay for the capping. He stated to do nothing remains an option; and if nothing happens on the site, the stream will continue to run through the waste. He stated there are eroded banks along Brock Creek, and every flood event could put more waste in Brock Creek.

Mr. Caiola asked what the landfill would be capped with, and Mr. Gallagher stated the screened material would provide the substrate and then clean soil would provide the final cap. Mr. Caiola asked if he is aware of any situations where this procedure has taken place and there has been a recurring problem with the cap either wearing away or that there have been health issues directly related to something being done ineffectively or improperly, and Mr. Gallagher stated there are none that he is aware of. He stated one of

the elements of a project like this is that the cap requires maintenance. He stated this is part of the Permit with DEP, and they need to assure that the cap is stable. He stated the meadow would provide more stability than lawn and provides a more sustainable, longer-term cap.

Mr. Stainthorpe stated it seems the choice is that they leave it as is or accept their remediation proposal. Mr. Stainthorpe stated he would probably be satisfied if there were very tight assurances that there was nothing that would cause any diseases and provided that there is a plan in place so that this is maintained in perpetuity. He stated the Township would not want to do this and he feels that a Homeowners Association would probably not do the right thing in the long haul. Mr. Gallagher stated they would have to go through a rigorous process with DEP. He stated DEP was present before the Board approximately eight to nine years ago to discuss their requirements for a site like this. He stated they need to satisfy the Township professionals and the DEP. He stated he also believes that a Homeowners' Association is not the group to take care of a landfill like this. He stated this is the reason they reached out to one of the non-profits about managing this grassland as they would have a strong commitment to the maintenance of this. Mr. Gallagher stated if the Board feels what they are proposing is reasonable, the developer would begin the process with DEP.

Mr. Kerr stated the cost to clean up this entire site was determined not to be feasible even before the current economic down turn. He stated as to liability, they have had an environmental attorney looking at this, and this would go through the Act II process with DEP which limits or removes liability provided all the appropriate steps are followed and this would take any liability as to environmental laws "off the books." He stated they have also had indications from the environmental attorney that the mere fact of approval of this project by the Township would not put the Township into any kind of liability under the environmental laws, and they could review this with the Township solicitor as this process goes along. Mr. Smith stated he questions the indication that the Township would not be responsible if something happened after having received full disclosure if they approved this project. Mr. Kerr stated they do not believe there will be any problems based on the results of the testing that has been done. He stated there are also other ways to deal with the potential liability and typically an environmental insurance policy is put in place to address the concerns. He agrees that there are a lot of details to work out. They feel what they have proposed is a viable alternative to the current situation where there is water flowing through the landfill into the stream.

Ms. Appelson asked who would be responsible for the environmental insurance policy, and Mr. Kerr stated he understands it would be the developer. Ms. Appelson stated she is still concerned about giving approval for a Plan that is not removing all of the trash, pesticides, etc. She stated on one hand they are saying it is not toxic, yet on the other hand are indicating that the water is flowing through the landfill and the Board should be concerned about this. She stated she does not feel it is the Board's responsibility to give

approval to do half a job. She stated it is unfortunate that cleaning up the entire landfill will be so costly and that the property cannot be developed in a profitable manner, but she does not feel comfortable sanctioning a partial clean up.

Mr. Caiola stated he is familiar with brown field projects and their success rate and recognizes that you can cap things and they do become safe; but he has some concerns with regard to what appears to be a discrepancy in that on one hand they are saying the reports indicate it is benign, and then on the other hand indicating that what is going into the creek is not benign. Mr. Kerr stated he was just indicating that the water is flowing thorough the landfill to the stream. He stated with their plan, this would not happen. He stated they feel the partial clean up is significantly better than doing nothing on the site. He stated if it is not economically feasible to do something, the property will stay as it is. Mr. Caiola asked when they purchased the property did they consider that the clean up would be so expensive that it would not be economically feasible or did they always plan to do only a partial clean up. Mr. Casey stated it was always their intent to do the partial clean up meeting the mandates of DEP and the appropriate environmental regulatory agencies. He stated they do not mean to imply that the drainage that is flowing through the landfill now is degrading the stream with contaminants. He stated he feels they were trying to represent that the form that the property is in now, with the drainage that is passing through it, is subject to continued erosion which will expose some of the buried debris and wash it into the stream. They intend to properly establish a cover and do stabilization. He stated there is extensive testing that will be required through the entire process through the oversight of DEP and the Township's consultant.

Mr. Caiola asked if there is any legal disclosure that must be made to potential purchasers of the homes, and Mr. Casey stated there would be a public disclosure made to every homeowner. Mr. Kerr stated it would be in the Deed. Mr. Casey stated there would be Deed Restrictions on the property to ensure that proper engineering mandates are met. He stated the conservancy groups they have contacted expressed strong interest in being involved with the management of the property. He stated they fully intend to go through all the proper regulatory and environmental procedures necessary to insure that everything is dealt with properly. He stated there is no additional benefit to removing all the waste than there is going through the exercise they are going through now.

Mr. Kerr stated there are examples of residential subdivisions where this type of situation exists where the landfill was allowed to remain in place, be capped, and residences built around it; and they could provide information on this in the future. Mr. Kerr stated they feel with an appropriate plan they can address the issues and allow this area to become an asset to the community with an open, wildlife area.

Mr. Stainthorpe stated he would like to have Birdsall Engineering come in and give the Board the opportunity to ask some of these questions before the Board proceeds on this.

Mr. Maloney stated he would also like to have information on the residential developments where this has been done and to see the data and reports on work regarding surveying done on the site. Mr. Truelove stated since this is a concept report, if the Applicant would proceed with a Sketch Plan, they would have to go through some environmental studies. He stated the EAC would also be more formally involved. Mr. Maloney stated without further input, he would not approve of where they are proceeding with this project; but if he hears more, his opinion may change.

Mr. Casey stated they are not looking for a firm, favorable approval of everything tonight. He stated they are committed to pursuing the proper regulatory procedures and are going beyond what DEP would require. He feels it would be appropriate to have a meeting with the developer and Birdsall with the full Board of Supervisors or with representatives of the Board of Supervisors. He stated to try and present everything that has been taken into consideration and try and present all the documentation from the investigation in a fashion that the Board would completely understand will be difficult because they have volumes of testing reports. He stated he feels it would be good to have a meeting with Birdsall to present their opinions and the developer's consultants can provide any additional information. Mr. Stainthorpe stated he feels this should be done in front of the full Board and not just one or two Supervisors. Mr. Maloney agreed that this should be a future Agenda item.

APPROVAL OF EXTENSIONS – CINO/HARMONY LANE, KRAMER/CINO, FIELDSTONE, MIDDLEMISS

Ms. Appelton moved, Mr. Caiola seconded, and it was unanimously carried to grant the following Extensions

Cino-Harmony Lane Subdivision	– 6/7/09
Kramer/ Cino Preliminary/Final Lot Line Change	– 3/21/09
Fieldstone 549	– 6/20/09
Fieldstone 496N	– 6/30/09
Middlemiss Subdivision	– 6/21/09

APPROVE AGREEMENT WITH FLORAL VALE AD HOC INVESTORS, L.P. PLACING FORTY-THREE PARKING SPACES IN RESERVE AT FLORAL VALE, PHASE III

Mr. Truelove stated he has drafted an Agreement with Mr. Garton's input. This Agreement is for reserve parking at Floral Vale Phase III. He stated under the original Approval there was an Agreement to reserve parking subject to the requirements of the

Zoning Ordinance which is referenced in the Agreement, and this Agreement will formalize this.

Mr. Stainthorpe moved, Ms. Appelson seconded and it was unanimously carried to approve the Agreement.

CONSIDERATION OF THE FIRST AMENDMENT TO THE SETTLEMENT AGREEMENT FOR OCTAGON CENTER/MATRIX

Marc Brookman, attorney, and Mr. Russell Tepper were present. Mr. Truelove stated Gary Cruzan and Dana Weyrick, Parties to the original Agreement, have executed the Agreement.

Mr. Brookman stated this request is to amend the Settlement Agreement that was entered into by the Township, RAM, an individual protestant, and Matrix Development which called for a series of benefits and burdens to be created with respect to the development of Octagon Center. He stated this was a community comprised of age-qualified homes and two small non-residential components one of which is on Big Oak Road and the other of which is on Oxford Valley Road. He stated the Oxford Valley Road Site Plan has been submitted to the Township for review to be considered in the normal course of land development approval. He stated the Big Oak Road portion of the non-residential component which will be comprised of an office building consisting of no more than 40,000 square feet will be submitted shortly.

Mr. Brookman stated they are present to request a deferral of some of the site improvements that were part of the Agreement that were designed to deal with what was contemplated to be the residential portion of the site, as at that time everyone felt that portion was going to go first. He stated this did not occur due to the dramatic change in the economy particularly with regard to the housing industry. He stated they are asking that a portion of those obligations Matrix has agreed to comply with, be deferred; and that the approved site improvements to the site the Board may decide need to be modified during the land review process be allowed to be separated from the balance of the improvements. He stated what is being considered by the Township are two small non-residential projects which cannot support all of the economic burden that would be attached to all of the improvements. He stated the request this evening is to amend an Agreement that the Township Solicitor has advised has already been executed by Matrix, RAM, and Dana Weyrick.

Mr. Maloney stated the Township still expects that nothing they would be doing this evening would alleviate the need for the developers to do any of the work that was agreed to in the Settlement Agreement. He asked if it is still their intention not to seek relief at

any point in the future from any of the concessions that were made in the Settlement Agreement including preservation of tree lines and road improvements; and Mr. Brookman agreed.

Mr. Stainthorpe moved and Mr. Caiola seconded to approve the Amendment to the Settlement Agreement.

Mr. Smith stated when this was approved three years ago, while he recognizes that they were not going to immediately start construction, he felt that there was going to be some building of homes within a reasonable period of time. Now he understands that there not going to be any construction proposed other than what they are now discussing until Middletown agrees to something for the balance of the property which is located in Middletown Township. He stated the economic downturn just occurred in the last nine months. He stated there was some expectation that there would be tax ratables to the Township from the residential component. He understands that with this retail component they are proposing a bank, offices, and another type of retail use.

Mr. Brookman stated as part of the Settlement Agreement, Matrix had the obligation to go to Middletown Township and obtain from them something that was compatible as to use. He stated part of the reason for the delay Mr. Smith has described was due to the fact that they had to go to Middletown Township to determine what would be compatible with what was proposed in Lower Makefield. He stated Middletown Township was opposed to age-qualified housing as they felt their Municipality had a sufficient amount of this type of housing. He stated Matrix had to work with them over a period of a year and a half to agree that the access to any development in Middletown Township which is contiguous to this site, would have separate access. He stated what was agreed upon was that the Middletown Township land would be re-zoned to permit residential development that was not age-qualified. He stated this re-zoning did take place; and there will be a separate access with no integration with Octagon Center, and it will be a separate, stand-alone project. He stated the Middletown land at the time the Settlement Agreement was entered into, permitted manufacturing uses and the uses that Middletown Township wanted to put on the fringe of their property line on the other side of I-95. He stated they were not compatible with anything that was approved in Lower Makefield, and they had to go through this process with Middletown. He stated this was a condition precedent; and by the time this process had ended, the housing market has already gone in the wrong direction, and as a result, Matrix was not able to get started. He stated the client had an obligation under the Settlement Agreement to acquire the ground. He stated they did acquire the ground and have been carrying it for two and a half years. He stated they have fulfilled their obligations under the Agreement which were to acquire the ground and get approval in the adjoining Municipality for something that was compatible with Lower Makefield. He stated by that time the development could not begin. He stated the residential portion and all the traffic improvements have Final Approval. He stated the traffic improvements have been approved by PennDOT and are Permitted. He stated they

were also negotiating for water and have done everything they could to be ready to proceed once the economic climate changes. Mr. Brookman stated there is interest in an office building of approximately 12,000 square feet which would be located on Big Oak Road, and the equitable owner of that parcel is present this evening. It will be professional offices for a physician. Mr. Brookman stated with respect to the retail uses which total 15,000 square feet on Oxford Road, they will consist of a bank and drug store.

Motion to approve carried unanimously.

ZONING HEARING BOARD

With respect to the Bryan and Beverly Harpine, 901 Hunt Drive, Variance request to construct a handicapped accessible in-law suite encroaching into the side yard special setback from Langhorne-Yardley Road, it was agreed to leave this matter to the Zoning Hearing Board.

With regard to the Jeffrey Mishler, 599 Washington Crossing Road, Variance request to accommodate realignment and signalized intersection of Stoopville Road and Route 532 and installation of a service drive to be located at the rear of the Village Market resulting in greater than the permitted impervious surface, it was agreed that the Township should participate so that they can insure that there is engineering oversight.

Ms. Sue Herman asked what it means that the Township will participate, and Mr. Truelove stated they are not opposing the request as this is compelled by the road re-alignment of which the Township is in favor, but they do want to make sure there is engineering oversight and they would like to ask some questions and ask the Zoning Hearing Board to impose certain Conditions if necessary. Mr. Maloney stated if the Zoning Hearing Board is compelled to grant relief, they are looking that this relief be consistent with the Board of Supervisors' goals for the intersection. Ms. Herman asked if this would include asking that this go before the Planning Commission for review, and it was noted this would not be part of the Zoning Hearing Board issue. Mr. Truelove stated whether the Township office feels this is a matter that requires Land Development is not before the Board at this time.

Ms. Herman asked the proposed width of the service drive, and Mr. Majewski stated the width of the driveway around the rear of the building is 20' as shown on the Plan. Ms. Herman stated she was under the impression that the driveway was to facilitate a clockwise movement of traffic behind the building exiting northward onto Route 532. She stated with a driveway width of 20' it seems that this could accommodate two-way traffic, and she asked if this is the intent. Mr. Majewski stated he does not believe so, and

it could be narrowed down from 20' to a lesser width to make sure that the traffic pattern is as was presented. Ms. Herman asked when this discussion would take place, and Mr. Maloney stated they could request of the Zoning Hearing Board that the relief that is granted be consistent with those goals. Ms. Herman asked if there would be striping on the service driveway and would this be covered at the Zoning Hearing Board, and Mr. Maloney stated the Zoning Hearing Board is only granting relief for the impervious surface. Ms. Herman asked if the other issues would have to go before the Planning Commission, and it was noted they would. Mr. Truelove stated if it is Land Development, which it appears it might be, it would have to go before the Planning Commission and the Board of Supervisors. Mr. Maloney stated someone still needs to come before the Board of Supervisors to request the reconfiguration of the intersection because it is located in Lower Makefield. Mr. Stainthorpe stated the only issue before the Zoning Hearing Board at this point is to increase the impervious surface.

APPROVAL OF RESOLUTION NO.2184 – APPROVING APPLICATION FOR A SPECIAL OCCASION PERMIT BY THE ANCIENT ORDER OF HIBERNIANS FOR AN IRISH FESTIVAL TO BE HELD JUNE 20 AT SHADY BROOK FARM

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to approve Resolution No. 2184.

APPROVE HIRING OF POLICE OFFICER

Chief Coluzzi stated several meetings ago, the Board approved the hiring of Stewart Grant for the position of Police Officer, but for personal reasons he had to withdraw from that process. He stated an alternate candidate, Edward Zimmerman, has successfully completed all the phases of the background and medical evaluation and he asked the Board's approval of his hiring.

Mr. Stainthorpe moved, Mr. Smith seconded and it was unanimously carried to approve the hiring of Edward Zimmerman as Police Officer.

APPOINTMENTS

Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to re-appoint Doug Riblet to the Farmland Preservation Corporation, appoint Mark Moffa to Farmland Preservation, and appoint Joshua Waldorf to the Cable TV Advisory Board.

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There being no further business, Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to adjourn the meeting at 11:00 p.m.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Teri Appelson', is written over a faint, illegible stamp or watermark.

Teri Appelson, Secretary



Township of Lower Makefield

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

**FEBRUARY 2009 WARRANT LISTS AND
JANUARY 2009 PAYROLL COSTS FOR APPROVAL
FEBRUARY 18, 2009 BOARD OF SUPERVISORS MEETING**

2/2/2009 Warrant List	\$ 400,881.79	
2/09 Manual Checks	2,500.00	
2/17/2009 Warrant List	491,743.55	
Total Warrants & Prepays		895,125.34
<u>PAYROLL COSTS:</u>		
January 2009 Payroll	280,825.40	
1/09 Payroll Taxes, etc.	129,814.34	
Total Payroll Costs		410,639.74
TOTAL TO BE APPROVED		\$ 1,305,765.08

