

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES - SEPTEMBER 15, 2003

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on September 15, 2003. Chairman Godshalk called the meeting to order at 7:33 p.m. noting that the Board had been meeting in Executive Session discussing personnel and legal matters. She noted Mr. Hackman's absence due to his need to secure his property in New Jersey in preparation for the approaching hurricane.

Those present:

Board of Supervisors: Grace Godshalk, Chairman
Frank Fazzalore, Secretary/Treasurer
Scott Fegley, Supervisor
Pete Stainthorpe, Supervisor

Others: Terry Fedorchak, Township Manager
John Koopman, Township Solicitor
Robert Williams, Township Engineer
Kenneth Coluzzi, Chief of Police

Absent: Wes Hackman, Vice Chairman

PUBLIC COMMENT

Ms. Sue Herman, Boxwood Drive, asked if the Board of Supervisors will be discussing the TIP Program. Mr. Fedorchak stated they just completed this, and he was going to review it at the end of the Agenda as an informational item. Ms. Herman read into the record the letter sent out to various individuals by Residents for Regional Traffic Solutions, Inc. (copy attached to the Minutes and provided to the Board this evening) regarding implementation of traffic calming measures on Lindenhurst Road and the Stoopville Road project being submitted by Newtown Township. She stated they would like the Lindenhurst Road project to be their number one priority and asked that Lower Makefield representatives be present regarding this at all public forums. She stated they are also asking that Andrew Warren withdraw from the decision-making process for this project. She noted the location of his home in relation to the Newtown Bypass and feels he is aligned with politicians who are encouraging commercial traffic to bypass the Bypass and diverting them onto less-appropriate roads. With regard to the Stoopville Road project which is being submitted by Newtown Township **which requests that the intersection** located in Lower Makefield Township be made into a "T" intersection, Ms. Herman's group feels this will be a step toward the Northern Bypass. She stated this will encourage higher volumes of traffic at greater speeds along Lindenhurst, Stoopville, and Worthington Mill Roads. Mr. Fedorchak stated the Stoopville Road item being discussed by Ms. Herman is the intersection which is actually in Lower Makefield and Upper Makefield - not Newtown. Ms. Herman stated Newtown is submitting this as part of traffic calming measures for the area. Mr. Stainthorpe stated the Board of Supervisors did vote in favor of the Lindenhurst Road **calming measures project**. He stated with regard to the Stoopville Road project, he would have to review this further before making any comment. Mr. Fazzalore stated he is not sure that the Lower Makefield Township Board of Supervisors has the right to tell the State to take Mr. Warren out of this job. Ms. Herman stated she feels this is a conflict of interest and he should withdraw himself. She noted

Board members in the past have removed themselves from votes because of a conflict of interest.

Ms. Virginia Torbert, Yardley-Newtown Road, asked for an update on the Board of View relating to the Golf Course property. Mr. Koopman stated it is scheduled for September 25, and they are hopeful that this will be the last Hearing. Ms. Torbert asked who has caused the delays, and Mrs. Godshalk stated the attorney for the Dalgewicz family has had a number of personal matters and illnesses which have caused the delay. Ms. Torbert asked if the Township will have to pay interest because of the delay, and Mr. Koopman stated they will not.

Ms. Torbert asked if Mr. Fedorchak has heard anything from the State regarding the ramp. Mr. Fedorchak stated they were visited by appraisers two weeks ago who left information on the amount of taking necessary, and this information was forwarded to PCS to verify the drawings. Mr. Williams will report back to the Board and the Township Manager on this. Ms. Torbert stated she has heard nothing regarding her family's property. Mrs. Godshalk stated it appears from the map that what they are taking on the Torbert side is in the right-of-way. Mr. Williams was asked to provide a copy of the map to Mr. Fedorchak to provide to Ms. Torbert.

Ms. Dorothy Belcher, 26 Spring Lane, stated she has heard that the Township is considering making Spring Lane and Hillside one way. Mr. Fedorchak stated this is one of the items being considered because of the 20' cartway. The Police Department has been evaluating the neighborhood and attempting to come up with a configuration that will make it safe for everyone in the neighborhood to park and travel. He added that with the 20' cartway, they do not have much room for two cars to get by. He stated they plan to invite the public to a meeting when this is discussed. Mr. Stainthorpe asked what Ms. Belcher would prefer. Ms. Belcher asked why the Board did not make the road wider. Mr. Stainthorpe stated the Board went along with the requests of the residents who were present at the meetings and asked that the road be constructed to this length. Ms. Belcher stated she feels the Board took the recommendation of Ms. Koehler only. Mr. Stainthorpe stated there was a large group present who made a compelling case, and the Board felt they were being responsive to the residents. Mrs. Godshalk stated she would not vote in favor of a one-way street in this configuration because people would have far to go if it were one-way. She stated while this is a narrow street, there are other streets in the Township which are this narrow. She stated people will not be able to park so many cars in the street. She stated the Board did what the majority of the people asked for in this neighborhood. She stated the residents called in a Morris Arboretum representative who discussed the impact on the trees if the road were wider. Ms. Belcher stated if they decide to permit parking on only one side of the street, it should be on Ms. Koehler's side. Mr. Stainthorpe stated he would not vote in favor of this being a one-way street. Ms. Belcher asked about a light at Spring Lane and Lindenhurst. Mrs. Godshalk stated they are doing a study of the entire area and a light may be in order for this area although nothing has been decided at this time.

Mr. Zachary Rubin, 1661 Covington Road, stated he wanted to review the Comprehensive Master Plan and the Feasibility Study for the Golf Course. He asked why they cannot upload public documents on the Township Website so there is access to public documents without residents having to go to the Library or the Township Building to view them. Mr. Stainthorpe stated they could consider this. Mr. Fazzalore stated he feels they would need to hire more employees to do this. Mr. Fedorchak stated they would have to consider what documents would be put on the Website and which would not. He stated in terms of

all of the information they have in the Township, this could present a problem. Mr. Stainthorpe suggested that they look into this further.

Mr. John Mahoney representing K. Hovnanian stated they have a Subdivision (Valley Day) that was approved in March and a revised set of plans was submitted in July. He stated if the linens are ready to be signed, they would like to get them recorded. Mrs. Godshalk stated they cannot do this until the Development Agreement is approved.

APPROVE PROMOTION OF OFFICER BRIAN OMLOR TO THE DETECTIVE DIVISION

Chief Coluzzi announced that in June, 2002, several Lower Makefield Township Police Officers were given the opportunity to compete for Detective, and Brian Omlor ranked #1. Chief Coluzzi stated they need to re-align staffing and promote an officer to the position of Detective. Chief Coluzzi reviewed the resume of Brian Omlor. Officer Omlor was present this evening with members of his family and the Police Department.

Mr. Fegley moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the promotion of Officer Brian Omlor to the Detective Division.

The gold shield of Police Detective was presented to Detective Omlor this evening.

APPROVAL OF MINUTES

Mr. Fazzalore moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the Minutes of August 18, 2003 as written.

APPROVAL OF SEPTEMBER 1 AND SEPTEMBER 15, 2003 WARRANT LISTS AND AUGUST, 2003 PAYROLL

Mr. Fazzalore moved, Mr. Stainthorpe seconded and it was unanimously carried to approve September 1 and September 15, 2003 Warrant Lists and August, 2003 Payroll as attached to the Minutes.

APPROVAL OF RESOLUTION NO. 2038 CREATING A DISABLED PERSONS ADVISORY BOARD

Mrs. Godshalk stated approximately one year ago the Board was asked by some citizens to create a Disabled Persons Advisory Board. She stated they have also received requests by a number of people interested in being appointed to such a Board. Mr. Fegley stated Mr. Robert Shanberg is present this evening and is a member of the Middletown Township Disabled Persons Advisory Board as well as the Bucks County Council for Individuals with Disabilities and is available to answer any questions.

Mr. Fazzalore read the Resolution into the record.

Mr. Fegley moved, Mr. Stainthorpe seconded and it was unanimously carried to approve Resolution No. 2038 creating a Disabled Persons Advisory Board.

DISCUSSION AND APPROVAL OF SURFACE TREATMENT TO BIG OAK ROAD

Mr. Jim Coyne was present and stated they have a bid for surface treatment to Big Oak Road and he is asking permission to extend the contract to include Township Line Road from the schoolhouse to the railroad. He noted they have looked at this area on a number of road inspections, and the road is starting to fail. He added that this road was to be improved by Matrix but this matter is now in litigation. He stated he does not feel they can wait any longer to improve the road with another winter coming on. He would like to seal coat the road and level it until a decision is made on a permanent repair. He stated there is currently no drainage. Matrix was going to rebuild the road to Township specs including drainage.

Mr. Fazzalore stated the estimate given seems low compared to other projects they have done in the Township. Mr. Williams stated the price was based on May, 2003 rates. Mr. Stainthorpe asked how much the seal coat will cost and how long it should last. Mr. Coyne stated it will cost \$16,500 to double coat it under the bid with the supplier. Mr. Stainthorpe noted the number of commercial vehicles going into Middletown on this road and asked if this will last with only a seal coat. Mr. Coyne stated this will stop the water from penetrating. He stated a double coat should last three years and hopefully by that time they will be out of litigation. Mr. Coyne stated he needs the Board's approval to extend the bid. The low bidder has agreed to extend the bid at the same price. Mr. Fedorchak stated there are funds available for this project. Mrs. Godshalk stated she would be in favor of Middletown contributing to the cost of this since there are a number of trucks going in and out of Middletown on this road. Mr. Coyne noted the road will have to be closed for some time to protect the workers. The project should take less than one week, weather permitting.

Mr. Fazzalore moved and Mr. Stainthorpe seconded to approve the surface treatment of Big Oak Road.

Mr. Zachary Rubin, 1661 Covington Road, stated Mr. Coyne indicated that the reason the road was not improved was because Matrix is in litigation. He stated since Matrix has final approval they would be permitted to do the work. Mr. Koopman stated while they have approval, the approval is on appeal; and he does not feel any developer is going to go ahead with a multi-million dollar project when it is in the Courts of Pennsylvania. Mr. Rubin stated he understands that Bellemead spent millions of dollars but did not develop. Mr. Stainthorpe stated the Township spent this money and the Township was going to get reimbursed by Matrix once they developed the property. Mr. Stainthorpe stated the Township is now trying to be responsive and keep the road safe.

Mr. Hank Miiller asked how much the lawsuit has cost the Township. Mr. Fedorchak stated the Township has spent approximately \$60,000 to date which includes all Zoning Hearing Board proceedings. Mr. Dobson stated this is because RAM is holding up the project. He stated this is taxpayer money being spent which they would not have had to spend if it were not for RAM.

Motion carried unanimously.

PUBLIC HEARING AND TABLING OF 2003 COMPREHENSIVE MASTER PLAN UPDATE

Mr. Al Roeper and Mr. John Pazdera of the Planning Commission, Ms. Nancy Frick, Director Zoning, Inspection & Planning, and Ms. Gail Freedman of the Bucks County Planning Commission were present. Mr. Koopman stated the Comprehensive Master Plan is an overall Plan that speaks to the development of the Township including private and public sectors. Under the MPC, the Master Plan is to be updated periodically. The last Comprehensive Master Plan was adopted in 1992. The Planning Commission has been working on this Revised Plan since 2001 and is now recommending its approval. It has been advertised for a Public Hearing before the Board of Supervisors this evening.

Mr. Roeper stated in the early part of 2001, the Board of Supervisors assigned the Planning Commission the task of updating the Master Plan. They also approved using the Bucks County Planning Commission to assist in this task. In the spring of 2001, questionnaires were sent to all Township organizations, Committees, and Departments; and in August questionnaires were sent to every fourth household in the Township. All of this information and discussions with numerous individuals as well as data gathered by the Bucks County Planning Commission was used to **prepare an initial draft**. Three more drafts were prepared as details were reviewed and **further comments were** received from interested parties. On May 12, 2003, the Planning Commission held a Public Hearing to discuss the fourth draft. Comments made at that Public Hearing plus the latest information from the Administrative Departments and other organizations are reflected in the draft being considered this evening. In its recommendation for approval, the Planning Commission asked that a Street Hierarchy Map, which was sent to the Board of Supervisors, be included as Map 10. A copy of the draft was sent to all adjoining Townships. Comments were received from Yardley Borough and an acknowledgment was received from Upper Makefield. A copy of the Yardley Borough comments will be sent to the Board of Supervisors. Mr. Roeper thanked the Bucks County Planning Commission for their help with particular thanks to Gail Freedman and Lynn Bush and to Nancy Frick, Director of Zoning, Inspection and Planning and her staff.

Mr. Stainthorpe commended the group for their work on this project. There were no further comments from the Board, and the meeting was opened for public comment.

Mr. Pat Frain, 16 Delaware Rim Drive, asked what this means to Lower Makefield Township. Mr. Fegley stated the Comprehensive Plan is a statement of policy. It is not a regulation or anything that has any enforcement provisions like the Zoning Ordinance or the Subdivision Regulations. It is a statement of policy indicating what they would like the Township to look like in the next ten years.

Ms. Sue Herman commended everyone for their work. She stated she has put together a number of requests which she read into the record. She stated she is in favor of the 1992 verbiage regarding a balance of traffic circulation. She asked if the Township could include the road hierarchy function classification. She stated in the 1992 Plan it stated they should continue to work with Newtown Township to include a Northern By-Pass for better circulation to I-95 and she asked that it be stated in the updated Master plan that the Township is not going to support the Northern By-Pass. Mrs. Godshalk stated she does not feel they would put into a Comprehensive Plan that they are not going to support something. Mr. Stainthorpe stated he does not feel their Plan should include something

about another Township. Ms. Herman stated if nothing is stated, she feels it may indicate that they are in favor of it.

Ms. Virginia Torbert stated there is a reference in the Plan about the Patterson Farm remaining in agriculture. She stated in the original Charter for the Farmland Preservation Corporation, the intent was that the Farmland Preservation Corporation would manage all the farmland that the Township had control over. She was shown this text by Mr. Conti. She stated this is in fact not what is happening, and the only farmland that Farmland Preservation Corporation manages is what developers donate to the Township. She feels they have moved away from the original intent of the original Charter and asked why this is so. Mr. Fazzalore stated the Farmland Preservation Corporation is a separate Corporation. He noted the Township gets \$120,000 from Mr. Tanner for the Patterson Farm and this money does not go to the Farmland Preservation Corporation. Mr. Stainthorpe stated the Patterson Farm was purchased with Open Space money through a Referendum and was not a Farmland Preservation property and was not turned over to the Corporation. The Farmland Preservation Corporation's purpose is to manage land turned over through the Farmland Preservation Program only. Ms. Torbert stated she would like to know the future of farming in the Township and the future of farming at Patterson Farm. She feels the Township is moving toward using the Patterson Farm as a recycling center. Mr. Fazzalore stated when they purchased the Patterson Farm the only thing they stated was that it would remain open space. They did not indicate it would always remain in agriculture. Ms. Torbert stated she feels this is not what is indicated regarding the Patterson Farm in the Comprehensive Master Plan. She stated they are also putting leaves on the Vargo Farm. Mr. Fegley stated the recycling of leaves is still an agricultural process and saves the Township thousands of dollars. Ms. Torbert stated because they are not having an Agricultural Board oversee this, they are fast reaching a point where the ground cannot take much more of the leaves before they reach saturation. She stated when Mr. Patterson was alive, he handled these leaves differently and with so many leaves, they are degrading the property. Mr. Fegley stated they do have a farmer farming this property and he feels that individual would advise the Township when and if there was a problem. He stated as long as they have a farmer willing to farm this property, he feels the farming use will most likely continue. He stated if there are no farmers interested in the property, they will have to consider an alternative use. Mr. Fedorchak stated what they are doing serves as a model for other Municipalities of how to do things the right way. He stated they routinely get commended by the EPA for keeping the leaves out of the landfills. He stated they are also keeping 235 acres not only as open space but also still in farming by leasing the Patterson Farm to the Tanner brothers. He stated Mr. Coyne is sensitive to the advice of the farmers, and he routinely asks for their advice. He stated the Agriculture Department has been out onto the property as well.

Mr. Steve Santarsiero stated he does not feel there is any reason why they cannot put in the Plan the statement that Lower Makefield Township is opposed to a Northern By-Pass. He stated this would make clear the Township's position.

Mr. Richard D'Avino, Yale Drive, stated he disagrees with Mr. Santarsiero's comments and stated he does not feel they should take a position on something that does not exist.

Mrs. Godshalk asked if there was any change in designation as to Zoning, and Mr. Roeper stated there was not. He stated there have been some items which the Board of Supervisors may wish to consider, but the Zoning Map is the same.

Mr. Fazzalore stated the prior Board of Supervisors should be praised because the Township has turned out to be one of the finest in the State.

Mr. Hank Müller stated he feels this is one of the better Master Plans he has seen and they should be commended for their efforts.

Mr. Fazzalore moved to adopt the update.

Mr. Stainthorpe asked if they should consider adding some of the comments made this evening.

Mr. Koopman stated the Resolution could be adopted with certain additions or deletions as deemed appropriate. Mrs. Godshalk stated Mr. Hackman may wish to add comments as well. Mr. Koopman stated they could table the matter to a date certain.

Mr. Stainthorpe moved, Mr. Fegley seconded and it was unanimously carried to table the matter to October 6, 2003.

DISCUSSION OF BUCKS COUNTY DEMOCRATIC COMMITTEE PETITION FOR SPECIAL INJUNCTION AND DISCUSSION AND AUTHORIZATION TO HOLD PUBLIC HEARING ON POLITICAL SIGN ORDINANCE AMENDMENT

Mr. Koopman stated a lawsuit was filed by the Bucks County Democratic Committee to prevent the Township from enforcing regulations regarding political signs contained in the current Township Zoning Ordinance. This petition was filed one and a half weeks ago and a Hearing was scheduled before Judge Thomas. When Mr. Koopman's office received the complaint, he spoke to the opposing attorney, Mr. Otter, and brought him up to date with the fact that the Township has been moving ahead on several aspects of the Zoning Ordinance relating to political signs and had been in the process for some time of amending the Zoning Ordinance with respect to the political signs. The Planning Commission held a meeting approximately one and a half months ago and made a recommendation to the Board of Supervisors that they adopt the amendments to the Zoning Ordinance modifying political sign regulations. This matter is up for discussion this evening. Mr. Otter had not been advised of this previously and agreed to continue the Hearing before Judge Thomas and allow the Township to proceed with the amendments to their Zoning Ordinance. The Township staff had been working on this for approximately six months. The need for the Amendment is due to a number of court cases in the Federal Courts up to the Supreme Court of the United States which has the effect of limiting the manner in which a Township can regulate political signs. The Township cannot require permits or fees. There are certain areas that the Township can legislate such as the time before an election when signs can be erected and the size of the signs. The draft Amendment relating to political signs was included in the Board's packet. Both the Township Planning Commission and the Bucks County Planning Commission have recommended adoption.

Mr. Stainthorpe moved and Mr. Fegley seconded to authorize advertisement of this matter for a Public Hearing to be held on October 6, 2003.

Mr. Hank Müller stated it appears that if Mr. Otter had contacted the Township they could have avoided this lawsuit. Mr. Koopman stated Mr. Otter was not aware of this until he was advised by Mr. Koopman's office.

Mr. Steve Santarsiero stated he is a candidate for the Board of Supervisors and a member of the Lower Makefield Democratic Club. He stated Mr. Otter had not called them about this and added that Mr. Otter has made a name for himself by challenging such issues in Townships like Lower Makefield. He stated he advised Mr. Otter that this lawsuit should be withdrawn. He also spoke to the Chairman of the Bucks County Democratic Committee asking him to ask Mr. Otter withdraw the suit.

Mr. Sam Spear, Tomlinson Lane and a Republican Committeeman, stated many citizens complain to him about the number of political signs in the Township.

Mr. Santarsiero stated his understanding of why Mr. Otter was interested in filing this suit was because Mel Kardos had previously put up rather large signs which the Township decided needed to come down.

Mr. Santarsiero stated he currently has signs on the Torbert Farm, in connection with his bid for Supervisor, which are rather large. Prior to putting these up he did communicate with the Township and was advised these were perfectly appropriate and are Constitutionally protected. Mr. Fegley stated while they may be Constitutionally protected, he does not feel there are appropriate. He stated in the past in the Township signs were only up thirty days before an Election so that the citizens only had to endure them for that period of time; now, they have had to look at the signs all summer and into November. Mr. Santarsiero stated he has spoken to a number of individuals who are happy to see his signs. Ms. Godshalk stated in the past both parties have used good taste with regard to the signs, and she does not feel these huge signs are in good taste. Mr. Paul Krupp stated he and his wife are very unhappy with Mr. Santarsiero's signs on the highway. He stated they should not be put up until three weeks before the Election. Ms. Torbert stated she did check the Township Website about the Sign Ordinance but could not find anything. She feels they should put something on the Website indicating that they are working on this Amendment. She stated the signs were put up on the Torbert property in August so they have not been on view all summer. She is in favor of the signs as posted.

Mr. Ethan Shiller, 367 Lang Court, asked if the residents of Lower Makefield have the right to remove the signs that are located in the common area once the election is over, and Mrs. Godshalk stated they may not since they belong to the individuals who posted them and cannot be touched by others. Mr. Koopman stated they are to be taken down within ten days following the election, and if they are not, there are regulations which can be followed for their removal.

Mr. Zachary Rubin stated one year ago there was an issue regarding a sign on Edgewood Road. This matter was on the Agenda and Mr. Garton indicated that it was a moot point because of Constitutional issues. With regard to the Kardos sign on the Fleming property, that sign was considered by some people as a billboard which is a separate issue. An 8' by 4' sign was recently put on a homeowners property and the Democratic Club contacted the Township Solicitor who indicated the Ordinance was unenforceable. He stated the Supreme Court in 1994 unanimously stated that signs around the Township are a cheap form of communication, the audience can be reached by this means, and signs can therefore be placed around the Township. He added an 8' by 4' sign is not a billboard, they do know what "good taste" is, and they want to uphold the Constitution.

Motion to approve authorizing advertisement of public hearing to consider Political Sign Ordinance Amendment carried unanimously.

APPROVE HUD GRANT PROVIDING \$89,415 TOWARD CONSTRUCTION OF THE 9-11 MEMORIAL

Mrs. Godshalk announced that Lower Makefield Township has received a HUD Grant toward the costs of the 9-11 Memorial. She noted she and Mr. Fedorchak applied for this.

Mr. Stainthorpe moved and Mr. Fazzalore seconded to approve the HUD Grant providing \$89,415 toward construction of the 9-11 Memorial.

Mr. D'Avino stated at a meeting when Mr. Fedorchak announced that Senator Specter had been able to obtain this, he felt this was only for design. Mrs. Godshalk stated it is not for bricks and mortar but for the design and engineering of the Memorial, costs of which will supersede this amount.

Motion to approve carried unanimously.

Mr. Fedorchak stated Mrs. Godshalk hand delivered this Application to Senator Specter's office in Washington D.C. Mr. Fedorchak reviewed the work which can be included under the Grant. He stated they have five years to spend the money. He noted that if the Board of Supervisors is in agreement, next year for the next round of funding, he would like to make an application for "bricks and mortar."

PUBLIC HEARING AND APPROVAL OF ORDINANCE #339 - ANIMAL CONTROL ORDINANCE

Mr. Koopman noted this matter has been advertised for a Public Hearing this evening. Chief Coluzzi stated some time ago they considered updating the Animal Control Ordinance to include other animals including the position of the Animal Control officer. The proposed Ordinance has been prepared which was advertised for consideration this evening and he asked that the Board approve it as written.

Mr. Stainthorpe moved and Mr. Fegley seconded to approve the Animal Control Ordinance.

Mr. Richard D'Avino and Ms. Phyllis D'Avino were present. Mr. D'Avino stated both he and his wife support the efforts of the Township to get colonies of feral cats under control. He stated he feels the Ordinance as written will not accomplish this because taking feral cats away from a patch of land will not get the population down to zero. He stated if a plot of land has a sufficient number of rodents to support a particular number of feral cats, when you take them away, others will inhabit the area. He stated the generally accepted strategy for getting control of the feral colonies is to humanely trap them, neuter them, try to get the mild ones adopted, and release the others back where they were taken from. He stated he and his wife, with minimal help, have contained a colony in Yardley which they have been monitoring for approximately twenty years. He stated when they started doing this, there were approximately thirteen to sixteen cats in various forms of distress and new kittens being born from time to time. They have since trapped and had neutered approximately twenty-six to twenty-eight cats and the colony is now down to only two cats occupying the area which previously was occupied by more than sixteen. He noted they were able to place approximately one third of the animals they trapped at a No-Kill Shelter so that they could be adopted. He stated he is concerned about people using these areas as dumping grounds for unwanted pets. He stated if they want to get the population down and still

have free rodent control, they should impose fines for dumping unwanted pets. He stated they should not impose fines for feeding cats provided the cats are vaccinated and neutered. He stated they should require neutering as a condition of owning a pet.

Mrs. Godshalk stated she does not feel there are many people who would be willing to do what Mr. and Mrs. D'Avino have done. She stated she does not feel it is the right of the Township to tell someone that they have to have their pet neutered. Mr. D'Avino stated his suggestion is that it should be unlawful to dump an unneutered animal onto public or private property. If someone does neuter them, they should be able to put them back in the area where they were found, and this Ordinance will make it unlawful to feed these cats.

Mr. Ethan Shiller stated he supports the Ordinance as it is written. He stated he has had a problem with feral cats and he feels the Ordinance is a tool that will support Chief Coluzzi as well as Mr. Coyne who has helped them in the past with this problem.

Mr. Gary Lipsius, 1080 Gary Drive, stated he supports the Ordinance as currently written. He feels it strikes a balance between the rights of property owners and humane treatment of feral cats.

Mrs. Godshalk stated she is aware of the problems related to these cats as her niece was scratched by a cat, developed an illness, and lost part of the sight in her eye. Mr. D'Avino stated that while this does happen, people should remember not to touch feral cats unless they have long sleeves and heavy gloves.

Mr. D'Avino stated under the definition of Authority as written in the Ordinance, it includes lay people such as the Animal Control Officer and the Naturalist at the Five Mile Woods in addition to the Police Department. Section 79-3 appears to give such authorities the right to make a warrantless search. He suggested that they look into this wording to see if it should be adjusted. Chief Coluzzi stated this language was taken from State law.

Mr. D'Avino noted the Section regarding identification of animals and stated there are State requirements regarding rabies shots and the vet who issued the vaccine could be contacted to determine the owner of the animal. He stated the language of the Ordinance does not provide for the Animal Control Officer to do this. Chief Coluzzi stated any time the Animal Control Officer seizes an animal, she does make every attempt to notify the owner; and he would be willing to have the language modified in this section to "license or otherwise." Mr. D'Avino stated the wording should be consistent in the next Section, and Chief Coluzzi agreed.

Mr. D'Avino stated the Ordinance as written indicates that the animal must be kept for 48 hours and the State law indicates it should be 72 hours. Chief Coluzzi agreed that they should change it to 72 hours.

Mr. Fazzalore moved to table the matter until the changes were made.

Mr. Koopman noted the Ordinance could be approved subject to the two changes which he will make.

Mr. Fegley moved and Mr. Stainthorpe seconded to adopt Ordinance #339 - the Animal Control Ordinance subject to the changes to be made by Mr. Koopman. Motion carried with Mr. Fazzalore opposed.

DISCUSSION AND APPROVAL OF PRELIMINARY/FINAL PLAN FOR PROPOSED RENOVATIONS TO THE SUPER FRESH SUPERMARKET (OXFORD OAKS SHOPPING CENTER)

Mr. Edward Murphy, attorney, was present and stated earlier this year the Board approved a plan similar to the one presented this evening but with a second access. Since that time there has been a change in the upper management of Super Fresh and they have decided not to do the same remodeling. They are now only proposing a single access point. Also a portion of the overall square footage will be leased to another tenant whose identify is not yet known. They hope to proceed as soon as the construction plans are approved by Labor and Industry and the permit is approved by the Township which could take a few months. Waivers identified are the same as those previously requested. All recommendations regarding traffic improvements such as crosswalks, stop signs, stop bars, etc. are still proposed.

Mr. Murphy stated there has been discussion by the Planning Commission that the internal circulation of the parking lot surrounding the bank should be improved. PCS has provided a sketch of what the revisions would look like and they will share this with the shopping center owner and try to get a response. The suggested modifications would cause the loss of twenty-five parking spaces and would require the owners to go to the Township Zoning Hearing Board for a Variance for reduction in the number of parking spaces.

Mrs. Godshalk asked if the new tenant for the square footage being taken away from the food store will be a high-use tenant. Mr. Murphy stated it will be a permitted use for the shopping center and will probably generate the same traffic as the other uses in the center.

Mr. Fazzalore stated he feels the loss of twenty-five spaces would be to the benefit of the shopping center if it helps the traffic circulation.

Mr. Stainthorpe moved and Mr. Fazzalore seconded to approve the Preliminary/Final Plans for Super Fresh Supermarket subject to:

- 1) Receipt of all permits and approvals by agencies having jurisdiction;
- 2) Subject to the PCS letter dated 8/19/03;
- 3) Payment of all Township fees and expenses;
- 4) Continued compliance with all conditions of prior approval.

Mr. Murphy agreed to the Conditions, and the Motion carried unanimously.

APPROVE DEVELOPMENT AGREEMENT FOR BRIAN AND REGINA KEALEY

Mr. Stainthorpe moved, Mr. Fazzalore seconded and it was unanimously carried to approve the Development Agreement for Brian and Regina Kealey in the Austin Meehan Subdivision (Fox Hollow Drive).

APPROVAL OF EXTENSIONS FOR FLOWERS/MADNAY TRACT AND
FIELDSTONE

Mr. Stainthorpe moved, Mr. Fegley seconded and it was unanimously carried to grant an extension of time for Flowers/Madnay Tract (Washington Crossing Road) Major Subdivision until 12/20/03.

Mr. Stainthorpe moved, Mr. Fegley seconded and it was unanimously carried to grant an extension of time for Fieldstone (Edgewood Road) until 12/20/03.

GRANT CERTIFICATE OF APPROPRIATENESS FOR REPLACEMENT SIGN AT
1669 EDGEWOOD ROAD (GRANGE BUILDING)

Mr. Stainthorpe moved, Mr. Fegley seconded and it was unanimously carried to grant a Certificate of Appropriateness for replacement sign at 1669 Edgewood Road (Grange Building).

DENY REQUEST FOR DEDICATION OF THE ESTATES AT PEBBLE CREEK

Mr. Koopman stated the staff would recommend denial of the request for Dedication. Mr. Stainthorpe moved, Mr. Fazzalore seconded and it was unanimously carried to deny the request for Dedication of the Estates at Pebble Creek based on failure to comply with CKS punch list and failure to resolve an agreement regarding potential future maintenance for storm water.

ZONING HEARING BOARD

Mr. Fegley moved, Mr. Stainthorpe seconded and it was unanimously carried to:

- a: Oppose the Pratico Variance requests to subdivide the River Road property.
- b: Request conditions for the Ranniello Brothers Variance requests to build two single-family dwellings on Linden Avenue.
- c: Leave to the Zoning Hearing Board the David Holzberg (625 Rosalind Run) Variance requests to permit construction of a fence in an easement.
- d: Leave to the Zoning Hearing Board the Allyn Harth (565 Barn Drive) Variance requests to construct an addition resulting in encroachment into the rear yard setback.
- e: Leave to the Zoning Hearing Board the Thomas and Carolyn Mako (1583 Candace Lane) Variance request to construct an addition encroaching on the rear yard setback.
- f: Leave to the Zoning Hearing Board the Alta Design Associates (2048 Silverwood Drive) request to construct a patio resulting in encroachment into the natural resource area.
- g: Leave to the Zoning Hearing Board the Four Seasons Sun & Shade (1109 Gloria Lane) request to construct a sunroom resulting in encroachment into the rear yard setback.

- h: Leave to the Zoning Hearing Board the Sandra Graver (41 Bedford Place) Variance request to permit construction of an in-ground pool with fence within the floodplain.
- i: Oppose the Anthony and Cheryl Conte (1087 Randolph Drive) request to permit construction of in-ground pool with concrete surrounding resulting in greater than permitted impervious surface.

Mr. Murphy stated he is present on behalf of the Ranniello brothers and asked what conditions they plan to impose. Mr. Koopman stated the only condition other than the ones already agreed to is that the Board desires the applicant escrow for future road improvements or an agreement be approved that they would be billed for their portion of road improvements if and when the Township does this. He stated this was a condition placed on other applicants before the Zoning Hearing Board. The Board of Supervisors is aware that the road has been improved along the frontage across the street but it is only seventeen feet wide. Mr. Murphy stated there will be more discussion on this because they plan on eliminating one of the lots.

Mr. Kevin Young, Arborlea, asked if there is a plan for the area to be developed. Mrs. Godshalk stated there is a plan from forty to fifty years ago and it has been done piecemeal. They do not currently plan to pave the road, but they are taking an escrow when people develop the lots so that funds are available if they do a road project in the future. Mr. Young stated there are five other lots to be sold but they are under the impression that these lots are not buildable. He stated if it is done piecemeal, it does create problems. He stated they would like to see if there is a Master Plan. Mrs. Godshalk stated there was a Plan approved fifty years ago and it is the only plan they have.

SUPERVISORS' REPORTS

Mrs. Godshalk asked that items for the Newsletter be submitted as soon as possible.

Mr. Fazzalore stated the Cable Contract is up in 2005 and he asked that they begin to review the Contract and consider any changes that need to be made. He stated he does not feel they should be victims again in light of the fact that Middletown received \$250,000 when the cable system was sold and Lower Makefield did not get anything. He noted this is a non-exclusive Contract but no one else has come in. He would like a draft of a new Contract presented before the old Contract expires.

Mr. Fazzalore reported that the Pension Committee met last week and while there has been some loss, it is not as bad as the National average.

EXTEND CONTRACT WITH MARSHA KLAYMAN TO PROVIDE FOOD SERVICE AT THE COMMUNITY POOL

Mr. Stainthorpe moved, Mr. Fegley seconded and it was unanimously carried to extend the Contract with Marsha Klayman to provide food service at the Community Pool for the 2004 season in the amount of \$3,000.

Mr. Fedorchak noted this is the same fee as last year. He added that there did not seem to be any problems other than with the bees, and he does feel they need to look into this.

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There being no further business, the meeting was adjourned at 10:10 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Frank J. Fazzalore". The signature is written in dark ink and is positioned above the printed name.

Frank Fazzalore, Secretary



Township of Lower Makefield

BOARD OF SUPERVISORS

Grace M. Godshalk, Chairman
Wesley W. Hackman, Vice-Chairman
Frank J. Fazzalore, Secretary/Treasurer
Scott I. Fegley, Supervisor
Pete Stainthorpe, Supervisor

SEPTEMBER 2003 WARRANT LISTS AND AUGUST 2003 PAYROLL COSTS FOR APPROVAL SEPTEMBER 15, 2003 BOARD OF SUPERVISORS MEETING

09/02/03 Warrant List	\$ 165,866.64	
09/03 Manual Checks	3,556.38	
09/15/03 Warrant List	1,257,861.04	
Total Warrants & Prepaids		1,427,284.06
<u>PAYROLL COSTS:</u>		
August 2003 Payroll	514,556.29	
08/03 Payroll Taxes, etc.	39,364.18	
Total Payroll Costs		<u>553,920.47</u>
TOTAL TO BE APPROVED		\$ <u><u>1,981,204.53</u></u>

