

RESOLUTION NO. 2013-08-20

A RESOLUTION OF UPPER MAKEFIELD TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE RIPARIAN RESTORATION AND PRESERVATION GRANT PROGRAM TO IMPROVE AND REMEDIATE RIPARIAN CORRIDORS AND TO ASSIST TOWNSHIP RESIDENTS WHOSE PROPERTY HAS BEEN DAMAGED BY EROSION, STORMWATER, OR OTHER NATURAL CAUSES

WHEREAS, the Upper Makefield Township Riparian Restoration and Preservation Fund (“*Riparian Fund*”) was established from private monies available from the Reeve Settlement Agreement (“*Reeve Agreement*”) which was approved by court order of the Bucks County Court of Common Pleas on October 20, 2006;

WHEREAS, the Riparian Fund was established in order to carry out riparian buffer restoration and preservation activities in specified areas within the Township;

WHEREAS, Upper Makefield Township determined that streambank properties within the township are in need of restoration, replanting, and other protective activities to minimize future erosion, improve water quality, and minimize property damage;

WHEREAS, the Upper Makefield Township Board of Supervisors, by Resolution 2007-6-20-1 and Resolution 2009-06-03, established procedures for administration of Riparian Fund grants; and

WHEREAS, the Upper Makefield Township Board of Supervisors, upon recommendation of the Upper Makefield Environmental Advisory Commission, has determined that it is necessary to make changes in the procedures for administering grant funds and to amend the regulations to clarify the permissibility of the use of grant funds for stormwater management facilities which will affect the riparian corridor;

NOW, THEREFORE, the Riparian Fund and Upper Makefield Township Riparian Buffer Restoration and Preservation Grant Program (“Grant Program”), is hereby subject to the following terms and conditions:

A. Use of Riparian Fund

1. Subject to the terms and conditions of this Ordinance, the Riparian Fund may be used for the following purposes:
 - a. Riparian buffer restoration, including tree planting and other restorative vegetation located within two hundred feet (200') from the bank on either side of the stream.

- b. Providing for long-term maintenance and replacement of tree canopies in riparian areas.
- c. Maintaining and improving water quality, stream flow characteristics, and stormwater management, including stormwater management facilities which will affect riparian areas of the township.
- d. Streambank repair and improvements.
- e. Protection of riparian plantings from potential deer damage.
- f. Construction or professional services relating to any of the foregoing activities.

B. Administration of the Grant Program-Reviewing Applications

1. Any landowner within Upper Makefield Township may apply for funds from the Grant Program for the purposes listed in Section A.1.a-e of this Resolution. The procedure for preparing, receiving, and reviewing applications for funds from the Grant Program shall be as follows:
 - a. The property owner shall submit a letter of interest to the Township, which will be forwarded to the Environmental Advisory Commission (“EAC”).
 - b. The EAC shall conduct a site visit, with a minimum of two EAC members, to determine if the use of Riparian Fund monies to remediate stream conditions is warranted.
 - c. If the EAC determines that the benefit to the Riparian Corridor from use of the Riparian Fund monies does not justify the expenditure of those monies, the EAC shall recommend to the Board of Supervisors that no funding be allocated for the property. If the Board of Supervisors concurs with the recommendation of the EAC, the application will proceed no further.
 - d. If the EAC determines that the Riparian Corridor would most benefit from the planting of trees and shrubbery on the property, the EAC will advise the property owner to submit an application for a grant for plantings only (“Planting Grants”). Applications for Planting Grants shall include the following:
 - i. The application shall be in letter form, specifying the nature of the request, the name and address of the property and property owner;

- ii. The application shall include photographs of the area in which plantings are proposed;
 - iii. The application shall include a planting plan, which may be hand-drawn, but which shall include a scale;
 - iv. The application shall include a list and number of native plants proposed for planting, together with the cost for installation of the plantings, which cost shall include the cost of deer protection.
- e. If the EAC determines that the Planting Grant application is acceptable, it shall recommend approval to the Board of Supervisors. If the EAC determines that the application is not suitable for approval, it shall either work with the applicant to draft an acceptable planting plan or the EAC shall recommend to the Board of Supervisors that the application be denied. The Board of Supervisors shall accept or reject the recommendation of the EAC as it determines to be in best interest of the health, safety, and welfare of the Township.
- f. Upon receipt of an application for funding, a copy of the application shall be forwarded to the EAC for review. If the application involves earth-moving, installation of bioengineering components, the installation of hardscape or structural components, a copy of the application shall also be forwarded to the Township Engineer for review. The review of the Township Engineer shall:
- i. Address compliance with Township ordinances, regulations, and requirements related to proposed construction activities;
 - ii Determine the impact, if any, of the proposed construction activities on existing infrastructures such as stream culverts, etc.
 - iii. Indicate whether the design and construction cost estimates are reasonable for the scope of the construction components of the project.

NOTE: *The installation of bioengineering components that do not require earthmoving by machines do not require review by the Township Engineer as they will be reviewed by the PaDEP. In this event, cost estimates will still be reviewed by the Township Engineer.*

- g. If the EAC determines that the Riparian Corridor will be best served by remediation which includes more than plantings, such as earth-moving, installation of bioengineering components, the installation of hardscape and structural components within or adjacent to the stream, etc. the application process shall be as follows:
 - i. The EAC may recommend that funding be released to the property owner to be applied to the cost of retaining a consultant to prepare a grant application;
 - ii. The application shall include the following:
 - iv. A conceptual remediation plan;
 - v. Justification for the proposed scope of remediation;
 - vi. Cost estimates for the design and construction of the remediation plan
- h. Comments of the Township Engineer shall be forwarded to the Township, the EAC, and the property owner and the property owner's consultant by electronic mail. Comments of the EAC shall be issued as soon as practical, but not to exceed sixty (60) days of receipt of the comments of the Township Engineer. Upon resolution of the comments in a manner that is satisfactory to the EAC and Township Engineer, a revised conceptual plan and/or revised cost estimates shall be submitted.
- i. If the property owner engages a consultant and submits an application prior to a determination by the EAC that the project would be appropriate for grant funding, the EAC shall begin the review process with a site visit in accordance with Section B.1.b of this Resolution and continue review as set forth in Sections B.1.c-h of this Resolution.
- j. Upon confirmation that the application is acceptable to the EAC and Township Engineer, the EAC shall make a recommendation for approval to the Board of Supervisors.
- k. If the EAC and Township Engineer are not able to resolve all issues with the property owner, or if the EAC recommends denial, the property owner may request review by the Board of Supervisors.

1. Following the EAC recommendation or upon the request of the property owner (after following a complete review by the EAC), the Board of Supervisors shall approve or deny the application.
2. Following the approval of the Board of Supervisors, the property owner, the consultant for the property owner shall prepare final design plans and shall solicit bids for the construction of the improvements. Bids shall be received from at least three construction contractors.
3. Final design plans, together with the identity of the property owners' construction contractor shall be submitted to the Township and the EAC.
4. If the solicited bids differ by less than 20% of the highest bid and the project cost does not exceed the cost estimate submitted with the application, no further action by the EAC or Township Engineer is required regarding project cost.
5. If the highest and lowest bids differ by more than twenty percent (20%) of the highest bid, and property owner is proposing the selection of the highest bidder, justification for the use of the highest bidder shall be provided to and reviewed by the Township Engineer and EAC. The comments and recommendations of the Township Engineer and EAC shall be forwarded to the Board of Supervisors for final determination of whether the higher cost is justified.
6. The Township Engineer shall review the final plans prior to construction to ensure that all issues raised by the pre-bid review have been satisfactorily addressed.
7. Following the final engineering review, the Board of Supervisors shall make a final determination of whether the project will receive grant funding.
8. All Township professional consultant fees expended in assisting applicants or administration of the Grant Program shall be paid out of the Riparian Fund.

C. Construction and Inspection

1. Construction of the project shall begin promptly, but in no event more than one year following approval of the Board of Supervisors. If construction does not begin within one year of grant approval, the grant approval will lapse and be null and void. A preconstruction meeting shall be held with the Township Engineer, the property owner's consultant, and the construction contractor in attendance.

2. Construction shall comply with all Federal, state, county, and local regulations, including, but not limited to, erosion and sediment controls as mandated by the Bucks County Conservation District.
3. Construction shall be inspected by the Township Engineer at such intervals as the Township Engineer shall determine appropriate at the preconstruction meeting.
4. Construction shall be completed within the time period established at the preconstruction meeting and confirmed by letter of the Township Engineer following the preconstruction meeting.

D. Reconciliation of Grant Funds

1. Upon completion of construction or a significant phase of construction, the property owner shall forward to the Township a written request for payment, accompanied by an invoice from the construction contractor.
2. Upon receipt of the written request for payment, the Township Engineer shall review the request and inspect the work included in the invoice.
3. If the Township Engineer determines that the work has been completed satisfactorily, the Township Engineer shall send a letter to the Township recommending payment to the property owner for the work completed.
4. Upon receipt of the recommendation of the Township Engineer that payment be made for the work completed, the Township shall issue a check to the property owner for the amount of the approved invoices.
5. If the Township Engineer determines that the work which is the subject of the invoice has not been satisfactorily completed, the Township Engineer shall provide the property owner with a written list of the deficiencies in the construction.
6. Within sixty (60) days of the completion of the entire project, the property owner shall provide the Township with copies of cancelled checks which demonstrate that the contractor and consultant have been paid in full for services rendered as part of the project.

SO RESOLVED, this 20th day of August

, A.D., 2013.

ATTEST

Judy Caporiccio
Sally Slook, Township Manager
Judy Caporiccio
Assistant Township Manager

UPPER MAKEFIELD TOWNSHIP
BOARD OF SUPERVISORS

[Signature]
Daniel Rattigan

[Signature]
Conrad Baldwin, Jr.

[Signature]
Thomas F. Cino

[Signature]
Mary Ryan

Larry S. Breeden