

**Upper Makefield Township Board of Supervisors
December 15, 2010 Meeting Minutes**

The December 15, 2010 public meeting of the Upper Makefield Township Board of Supervisors was called to order by Chair Bud Baldwin at 7:35 p.m. In attendance were the following members of the Board of Supervisors: Chair Bud Baldwin, Vice Chair Tom Cino, Member Dan Rattigan and Member Mary Ryan. Also in attendance were Township Manager Stephanie Teoli, Township Solicitor John Rice, Esq., Township Engineer Larry Young, P.E. and Director of Planning & Zoning Dave Kuhns.

There were also members of the public and representatives of the press present.

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE:

Mr. Baldwin led in the recitation of the Pledge of Allegiance which was followed by a moment of silence.

ANNOUNCEMENTS:

Mr. Baldwin announced that the Board of Supervisors has extended the deadline for Letters of Interest to fill the vacancy created by Supervisor John Silvers' resignation to December 22, 2010.

Mr. Baldwin also announced that an Executive Session was held prior to the meeting to discuss personnel matters and that the Reorganization Meeting of the Board of Supervisors will be held Monday, January 3, 2011 at 7:30 pm at the Municipal Building.

PUBLIC COMMENT:

Bob West, Wrightstown Road, congratulated Board of listening to the residents and provided comment on the budget. He expressed his disagreement with the decision to eliminate the deer management program from the budget.

APPROVAL OF MINUTES AND BILLS PAYABLE:

A motion was made by Ms. Ryan and was seconded by Mr. Cino to approve the December 1, 2010 minutes. Motion carried by unanimous vote.

Ms. Teoli read into the record the bills for December 15, 2010. A motion was made by Mr. Cino and was seconded by Mr. Rattigan to approve the December 15, 2010 Bills Payable List in the amount of \$149,252.38. Motion carried on a unanimous vote. Mr. Baldwin recused himself from voting on the Grim, Biehn & Thatcher bill.

SPECIAL ITEMS

A motion was made by Mr. Rattigan and was seconded by Ms. Ryan to reluctantly accept the resignation submitted by Supervisor John Silvers, effective December 15, 2010. Motion carried by unanimous vote.

A motion was made by Mr. Baldwin to appoint Ms. Ryan as Treasurer. The motion was seconded by Mr. Cino and carried on a unanimous vote.

MANAGER'S REPORT:

Fund Balance Report

Ms. Teoli provided highlights of the Fund Balance Report.

Brownsburg Park Increased Field Maintenance

Ms. Teoli provided an overview of a request by the Park and Recreation Board to include spring overseed and triple aeration of the fields at Brownsburg Park in the 2011 Township Landscape Bid at an estimated cost of \$5,400. This approach proved beneficial to the two fields treated last season and the board feels it is the most cost-effective way to improve current conditions. In conjunction, they would like to close fields 1-5 until mid summer, at which time they will be reevaluated for fall use.

After some discussion, it was agreed by common consensus, that the recommendation of the Park and Recreation Board should be implemented. In addition, the Board directed that all field rebuilding be shifted to the Park and Recreation Capital Fund.

Ms. Ryan then recognized Mr. Baldwin for his volunteer efforts to assist in the field rehabilitation.

ENGINEER'S REPORT:

Eagle Road Drainage Improvements and Resurfacing Project - Change Order #3 –Rock Removal

Mr. Young provided an update and recommended approval of Change Order #3 in the amount of \$6,270 due to unexpected rock excavation. After brief discussion, Mr. Baldwin made a motion which was seconded by Mr. Rattigan to approve Change Order #3 in the amount of \$6,270. Motion carried on unanimous vote.

Eagle Road Drainage Improvements and Resurfacing Project – Payment Request #3

Mr. Young recommended approval of Payment Request #3 in the amount of \$72,948.16. After brief discussion, Mr. Cino made a motion which was seconded by Ms. Ryan to approve Payment Request #3 in the amount of \$72,948.16. Motion carried on unanimous vote.

Engineer's Report

Mr. Young reviewed highlights of the Engineer's Report.

DEPARTMENT REPORTS:

Planning and Zoning Department

Mr. Kuhns highlighted the monthly Planning and Zoning Department Report.

Police Department

Chief Mark Schmidt highlighted the Police Department Report.

Mr. Baldwin announced that the following reports were included in the Board packets:

- Fire Department Report
- Fire Marshal Report
- Public Works Department Report

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

There was no new business.

PUBLIC COMMENT AND MEDIA QUESTIONS:

There were no additional public comments or media questions.

EXECUTIVE SESSION:

Mr. Baldwin announced that an Executive Session would be held after the meeting to discuss matters of personnel and litigation. No action will be taken.

ADJOURNMENT:

A motion was made by Mr. Rattigan and was seconded by Ms. Ryan to adjourn the meeting at 8:34 p.m. Motion carried on unanimous vote.

Approved: January 5, 2011

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December 15, 2010

HAND DELIVERED

Upper Makefield Township
Board of Supervisors
1076 Eagle Road
Newtown, PA 18940

Wrightstown Township
Board of Supervisors
2203 Second Street Pike
Wrightstown, PA 18940

Newtown Township
Board of Supervisors
100 Municipal Drive
Newtown, PA 18940

Re: **Proposed JMZO Ordinance No. 2010-3**

Dear Board Members:

This office is local land use counsel to Toll Brothers, Inc. (hereinafter "Toll"). As the Board Members are aware, Toll is now the legal owner of both the White and Melsky tracts, all or portions of which are located in both Upper Makefield as well as Newtown Township. Currently, both the White and Melsky tracts are included within the limits of the FCO Overlay in the CM-Conservation Management Zoning District. The FCO

Overlay was originally adopted by the Jointure Municipalities in 2006 and thereafter subsequently reenacted in 2007.

Based on recent newspaper accounts, it appears that the Newtown Area Jointure is considering a repeal of certain sections of the FCO Overlay which would, if approved, exclude the White and Melsky tracts from the Overlay. Toll strenuously objects to any effort made by the Jointure municipalities to repeal the FCO Overlay as contemplated by JMZO Ordinance No. 2010-3.

The Board Members will certainly recall the many months of public debate, negotiation and planning that ultimately gave rise to the FCO Overlay based upon the common desire and goal of the community at large to develop and agree upon a land use pattern that would accommodate the National Veterans Cemetery in Upper Makefield Township.

Now that the Washington Crossing National Veterans Cemetery is a reality, it is difficult to understand the rationale for the potential of Jointure action to repeal significant elements of the FCO Overlay. All of us who participated in the debate at the time know full well that the FCO Overlay was universally regarded as a model of sound land use planning as well as an example of what can be accomplished when divergent views and opinions coalesce to seek a common goal for the overall good of the community.

Given such a positive result, it is impossible to fathom what circumstances could have changed in the intervening four years since the FCO Overlay's adoption to now suggest

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the need for the repeal of the "heart" of the FCO Overlay. The only logical and apparent answer is one of political expediency.

Toll would urge you to reconsider this precipitous action which will only further serve to burden the Jointure municipalities with future litigation costs and expenses. Further, if any litigation ultimately proves successful, money damages may also result. Recognizing the challenging and unprecedented economic environment the Jointure municipalities now confront, the prospect of the repeal of the FCO Overlay and its attendant consequences seems even more irresponsible.

Thank you, in advance, for your consideration of this request.

Sincerely yours,



Edward F. Murphy

EFM:bhl