

Veteran's Cemetery Finally a Reality

By Dan Worden

The saga began in 2003 after efforts to locate a new VA cemetery in Valley Forge were rebuffed. Representative James Gerlach of Chester County and Senator Specter had sponsored legislation authorizing a new national veteran's cemetery. It was signed into law by the President in 2003. Bucks County's Director of Veterans Affairs, Dan Fraley, a former Lower Southampton Supervisor, attended a late evening informal meeting at the VA's Philadelphia office and learned about VA's criteria for selecting a new site in Southeastern Pennsylvania. While there were a dozen possible sites in Montgomery and Chester County there did not appear to be many in Bucks County. Toward the end of 2003 on two occasions Fraley, Senator Arlen Specter, former Congressman James Greenwood, State Representative Scott Petri, Robert Toll and then-Bucks County Commissioner Mike Fitzpatrick checked out a site in Dolington.¹ They all agreed that the site exceeded all of the VA criteria, had the added plus of historic significance and had easy highway access

While there was no question that Dolington was the ideal location, there were major problems. PennHurst was being pushed by Governor Rendell and various State veteran organizations as the best site for the cemetery. The Pennhurst State School and Hospital² had been established in 1908 to help people with mental and physical disabilities. The patients would be separated by their intelligence level in different buildings; some could almost function on their own, and others could not feed or bathe themselves. The most severely stricken patients would lie in cribs all day, barely able to move or roll. It was a rundown site that the State finally abandoned in 1987. Bucks County veterans did not feel that PennHurst was an appropriate site for a final resting place for veterans. The estimated cost of cleanup and demolishing the buildings was estimated to run into the tens of millions of dollars.

By contrast, the Dolington tract, which was under an agreement of sale to Toll Brothers was projected to be worth \$25 million just for the land. The Dolington Tract had been in litigation for eight years. The Dolington Land Group and Toll Brothers had sought to develop 1200 housing units on the 311 acres of land that contained a significant amount of agricultural soil and which had been reserved for conservation and agricultural uses in the Newtown Joint Zoning area. The Pennsylvania Supreme Court³ ruled on 12/30/03 in favor of Township's zoning ordinances and against the Dolington Land Group. The decision was a victory for multi-municipal planning and zoning giving judicial approval of land use planning based upon reasonable projections of future demands for development.

¹ WWW.Phillyburbs.com January 22, 2006 Jerry Jonas

² http://www.opacity.us/site30_pennhurst_state_school.htm

³ http://www.10000friends.org/downloads/Summary--TWS_version_031104.pdf 3/11/04

By mid 2004 it became obvious that Dolington's use as a cemetery was not going to work out unless something changed, so Fraley and U.S. Army Vietnam veteran Tony Albano called an Emergency Summit meeting of all the veteran organizations throughout Bucks County. Petitions were circulated and over 5,000 Bucks County residents signatures were obtained and forwarded to Senator Specter and the VA. In early 2005 newly-elected Congressman Fitzpatrick began negotiations with Toll Brothers, the VA and Bucks Community leaders. These negotiations resulted in a letter from Toll to the VA indicating that the VA could buy the property for \$7 million. Additional meetings were scheduled, including meetings with residents of the Village of Dolington who had concerns about housing density and the preservation of their community⁴. (A decision on a conditional use development for the property that would have allowed 282 houses to be built on the 311 acres was pending at the time.)

In December Congressman Gerlach met with VA Secretary Nicholson and made a strong case for PennHurst. The following day representatives of Upper Makefield Township, Newtown Township, Council Rock School Board, Fitzpatrick and Fraley presented their arguments to Nicholson supporting Dolington as the best site. Within days of the meeting Secretary Nicholson made his decision which was announced to the public at the Washington Crossing Visitors Center State Park on January 8, 2006. The enthusiasm surrounding the choice of the Dolington tract was heightened due to Upper Makefield's historic location, since several Revolutionary War soldiers are buried behind the Thompson Neeley House in the Upper State Park.

Meanwhile the development company said that in exchange for selling the land to Veterans Affairs at a reduced amount of \$7 million, it would need an agreement of sale with a provision that it be allowed to develop the remainder of the property and another site and build 235 houses. The additional properties included the 111 acres next to the proposed cemetery and the Melsky Tract owned by the School District. Toll said they would use the \$7 million payment from the VA to pay for the 96 acre Melsky Tract.

Upper Makefield residents have historically limited development because open space is desirable and a Township objective. The problem with the Dolington site was that the farmers had already signed agreements with the developer so it was clear that the site was not going to continue to be farmed. The question was how to limit the number of houses that could be built to preserve the village and keep as much land as possible from being developed. When the news was announced people indicated they liked the concept of a cemetery but did not want additional houses. In an attempt to find a solution the Supervisors formed a Citizen's Roundtable Group to gather and evaluate factual information, discuss the issues and reach a consensus position to recommend to the Supervisors.

In the meantime due to these discussions and delays Congressman Gerlach met with the Department of Veteran Affairs on 3/16/06 to discuss the cemetery's future and the possibility of moving it from Bucks Co. to PennHurst. The state-owned site, was

⁴ The Bucks County Courier Times 11/13/05 Residents Fight to Save Farm Land

originally rejected by the VA because of certain rock formations and other topographical issues as well as the cost of cleanup.

Two days earlier The Save Historic Dolington Committee indicated in a compromise move that they could accept fewer houses and 27 Dolington residents signed a petition in favor of rezoning to help safeguard their community from runaway development. On March 31, 2006 the Citizen's Roundtable recommended that the cemetery be built but that only 210 homes be constructed.⁵ On April 6, 2006 the Board of Supervisors voted to authorize the solicitor to draft a zoning amendment that would allow a cemetery and up to 210 houses. Then in June, 2006 Save Historic Dolington announced that they had reached an agreement with Toll Brothers to reduce the proposed housing from 210 to 170 (80 on the 111 acre Dolington site and 90 on the 94 acre Melsky Tract. A week later a resident that owned 65 acres next to the Melsky Tract indicated that he would like to make an offer to the School Board for the Melsky property.

Senators Specter and Santorum along with Upper Makefield and Newtown Township officials, Congressman Gerlach and the VA at the urging of Congressman Fitzpatrick met in Washington in July 2006 to again review progress. Bucks County officials were urged to accelerate the project or PennHurst would be given additional consideration.

In October 2006 a new Federal Cemetery Overlay (FCO) Ordinance was approved by the three Townships (that make up the Jointure) that would permit a cemetery as an approved use and the 170 houses (125 in Upper Makefield and 45 in Newtown). In addition, a new sewage treatment plant to serve the 125 new housing units adjacent to the cemetery as well as a previously approved senior citizen development of 96 units was announced that would be built and paid for by the units it served. The existence of the second Township owned sewage plant in Upper Makefield allows the Township to provide service within the Township and stop any competing sewer authorities from entering the Township thus further protecting the existing zoning.

In November 2006 Congressman Fitzpatrick was defeated and Congressman Patrick Murphy picked up the VA Cemetery baton. In December the Bucks County Commissioners agreed to buy the 27 acres of land across from the cemetery from the developer and make it part of the open space requirements and a County Park in honor of veterans.. January 4, 2007 the Newtown Zoning Hearing Board began its hearing on the FCO appeal by the resident who offered to buy the Melsky Tract. In March 2007 a second resident submitted an offer to buy the Melsky Tract. In May the Council Rock School Board approved the offer to sell Melsky to Toll and Leo Holt. In the meantime Mr. Holt withdrew his appeal of the FCO before the Newtown Zoning Hearing Board.

On September 25, 2007 15 residents filed suit against the Newtown Township, Upper Makefield Township and the Newtown Township Zoning Hearing Board to stop all activities on actions relative to the cemetery.

⁵ The Bucks County Courier Times 3/31/06 Panel OKs Vet Cemetery Deal

In October 2007 Upper Makefield approved final conditional approval for the Dolington (White) Tract and their portion of the Melsky Tract. Newtown Township also approved their portion of the Melsky Tract. Shortly thereafter the Bucks County Judge who had to rule on whether the sale of the Melsky Tract was proper began the hearing.

On November 10, 2007 word was received that Toll Bros and the VA had signed an agreement of sale for 205 acres in Dolington for use as a National VA Cemetery. What remained to be accomplished was that the agreement had to be reviewed by the Justice Department and the land sale closing had to take place. As part of the agreement the VA increased their bid to \$10.5 million if Toll Bros took care of all future legal expense. The next day, Veteran's Day, about 200 veterans assembled at the proposed site to hold a memorial ceremony and to celebrate the good news.

In January 2008, the Judge rendered her opinion that the sale of Melsky was proper. This decision has since been appealed by the dissidents. Finally, on March 27, 2008 the VA and Toll Brothers closed the real estate transaction and the VA Cemetery became a reality⁶. It has a name: WASHINGTON CROSSING VA NATIONAL CEMETERY⁷.

⁶ The Bucks County Courier Times March 26, 2008 Vet Cemetery A Done Deal

⁷ The Bucks County Courier Times March 28, 2008 It's Official: Washington Crossing VA Cemetery