

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – OCTOBER 21, 2020

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held remotely on October 21, 2020. Dr. Weiss called the meeting to order at 7:30 p.m. and called the Roll.

Those present:

Board of Supervisors: Frederic K. Weiss, Chair
 Daniel Grenier, Vice Chair
 James McCartney, Secretary
 Suzanne Blundi, Treasurer
 John B. Lewis, Supervisor

Others: Kurt Ferguson, Township Manager
 David Truelove, Township Solicitor
 Andrew Pockl, Township Engineer
 Kenneth Coluzzi, Chief of Police
 Monica Tierney, Park & Recreation Director

COVID-19 UPDATE

Mr. Ferguson stated they have received a number of calls at the Township about whether the Township Building will still be used as a polling place. He stated the Building will be open on Election Day, and the building will be safe to be used as a polling place

COMMUNITY ANNOUNCEMENTS

Dr. Weiss stated information about Park and Recreation digital recreation opportunities can be found on the Township Website.

Dr. Weiss stated the EAC will be holding a Styrofoam Recycling Event on October 31 from 10 a.m. till Noon in the Township parking lot.

Mr. Grenier stated if anyone has a question about the status of their Ballot whether it was mailed in or dropped off at a drop box, they can check Votes Pa.com.

Ms. Blundi stated there will be a tree planting on November 7 at Patterson Farm which the EAC is putting together. She stated those interested in volunteering should sign up on the Township Website. Ms. Tierney stated there are one hundred volunteers signed up already.

APPROVAL OF MINUTES

Mr. Grenier moved, Mr. McCartney seconded and it was unanimously carried to approve the Minutes of October 7, 2020 as written.

TREASURER'S REPORT

Mr. Ferguson stated the Warrant list is a bit higher, and there are some items listed which are one-time payments. He stated there is an amount for Fire Safety which totals approximately \$290,000; and he stated that is Fire Relief money that comes to the Township, and then is re-distributed to the two local Fire Departments. Mr. Ferguson stated there is also a \$475,000 payment for Sewers which is relative to a Bond Payment. He stated we also provide front-end cash for the Golf Course Operation which constitutes part of the bills for this period.

Approval of Warrant Lists from September 21, 2020, October 5, 2020, and October 19, 2020

Ms. Blundi moved, Mr. Grenier seconded and it was unanimously carried to approve the Warrant Lists from September 21, October 5, and October 19, 2020 in the amount of \$2,176,330.30 as attached to the Minutes.

Approval of September Interfund Transfers

Ms. Blundi moved, Mr. Grenier seconded and it was unanimously carried to approve the September Interfund Transfers and Payroll in the amount of \$895,507.97 as attached to the Minutes.

APPROVE REMOVING THE PEDESTRIAN PUSH BUTTONS AT THE INTERSECTION OF WOODSIDE AND LINDENHURST

Mr. Joe Fiocco was present. Mr. Ferguson stated the Board received a memo from Mr. Fiocco regarding this issue. He stated this was an item which came before the Citizens Traffic Committee.

Mr. Fiocco showed a picture of the intersection of Woodside and Lindenhurst. He noted the location of the pedestrian push button on a signal pole that pre-dates the pedestrian trail that runs behind the signal pole. Mr. Fiocco stated prior to the pedestrian trail being there, people would need to walk along the shoulder and push the button if they wanted to cross Woodside Road.

Mr. Fiocco stated the original request was to re-locate the pedestrian push button, and his office was directed to look into what would need to be done to do that. He stated his “signal guy” advised that the way the signal operates Lindenhurst has the green light all the time unless someone comes on Woodside and needs to get a green. He stated if they were to change the timing of the signal so that whenever you have a green for Woodside, you would also have a walk signal to cross Woodside, when a car would come on Woodside, that is when you would have the flashing hand, and the signal would then go to red. Mr. Fiocco stated there is essentially no need for the button any longer. He stated when Lindenhurst has the green, people are allowed to cross; and when Lindenhurst has the red, the pedestrians would have the red hand. Mr. Fiocco stated this is a simple change, but they would need to get PennDOT’s approval.

Mr. Ferguson stated a resident made the request that the button be moved so that he would not have to walk out to the pole. Mr. Fiocco looked into that and indicated it would be less expensive and more efficient to do what was just described. Mr. Ferguson stated they wanted it understood that they were not simply removing the pole, and this would actually be improving the situation. He stated they will re-time the light, and put on the pedestrian notification which will be triggered when a car pulls up; and this will actually be safer.

Ms. Blundi thanked the resident for bringing this to the Township’s attention as he had indicated that to get to the button it was necessary to traverse an area which was not really safe. Ms. Blundi stated she feels this is the appropriate

solution. Ms. Blundi also thanked the CTC, Mr. Ferguson, and Mr. Fiocco. She stated she hopes that PennDOT signs off so that they can move forward with this project.

Ms. Blundi moved and Mr. Lewis seconded to consider removing the pedestrian push button at the intersection of Woodside and Lindenhurst consistent with Mr. Fiocco's report of October 15, 2020.

Mr. Grenier stated he understands that the default setting will be the walk symbol, but he asked if there is any concern that oncoming traffic on Lindenhurst Road will continue making the turn and ignore the fact that people have a walk symbol there. Mr. Fiocco stated it will be exactly the same as it was with the push button, and the only change is that a pedestrian will not have to push the button. Mr. Fiocco stated drivers need to know that when they make a turn at a green signal, there may be a pedestrian crossing, and they need to look for pedestrians crossing on the same green indicator that the drivers have. Mr. Grenier stated he understands that there is a sensor there for the light to change, and Mr. Fiocco agreed.

Mr. Fiocco stated PennDOT did mention that if an emergency vehicle preemption were to come down Woodside and they activate the green light, the pedestrian would need to get the amount of seconds they would need to clear before the vehicle comes. He stated the emergency vehicles would see whether a pedestrian is there.

Mr. Grenier asked Chief Coluzzi if he has any concerns, and Chief Coluzzi stated he would like to look at this area again adding some of the shrubbery may need to be cut back for cars coming down Lindenhurst making a left-hand turn onto Woodside.

Motion carried unanimously.

ENGINEER'S REPORT

Mr. Pockl stated the Board received his Report in their packet. He stated with regard to the Pool Complex repairs, when they completed the work on the perimeter drain around the Olympic pool, they obtained a five-year maintenance plan on that work. Mr. Pockl stated they called the contractor about concerns they had, and the contractor has begun addressing their concerns; and he believes they will complete the work tomorrow.

Mr. Pockl stated with regard to the 2020 Road Program, the contractor returned to Rose Hollow Road and completed the remediation work that was required there and also placed additional topsoil and seed on areas around the ADA ramps that were bare.

Mr. Pockl stated they met with the contractor this morning with Township staff and the Regency Homeowner's Association to review locations for additional plantings along the buffer. He stated Norway Spruce trees were selected because they are evergreens and provide more of a visual screen throughout the year. He stated they were also what was recommended by the contractor's landscape company as far as being readily available at the nursery and able to be planted within a quick timeframe. Mr. Pockl stated they outlined locations where those additional plantings will be installed, and they intend to implement that within the next week. Mr. Pockl stated as far as the site lighting is concerned, they talked to the developer and there are five lights that they have agreed to switch out the light drivers which will reduce the light levels to a lower light level; and it will be approximately a 20% to 30% reduction over what is there now. He stated this will be on five lantern-style fixtures within the front parking lot where they have received complaints about lights shining on houses in Regency. Mr. Pockl stated they have also agreed to put on shields on the wall-mounted light fixtures on the south and west sides of the building which could shine out onto the driveway and potentially impact adjacent neighbors.

Mr. Grenier asked if the Norway Spruce meets the Township's Native Plant Ordinance. Mr. Pockl stated he believes it does, but he will check on that.

Mr. Lewis asked if they have resolved the issue of early work time with the construction workers at Caddis. Mr. Pockl stated they sent several notifications to the contractor and reinforced that with them at the site meeting this morning. Mr. Pockl stated the contractor had requested work to be done this weekend, and he indicated to the contractor that work would not be permitted before 8 a.m. Mr. Pockl stated the HOA members who were on site indicated that they have been better than in the past.

Mr. Pockl stated with regard to Scammell's Corner, the developer has completed the remediation work for the rain garden within the cul-de-sac and completed the work along the edge of the roadway where there was erosion. He stated there were also some grading issues where stormwater run-off from the roadway was by-passing inlets, and they

completed re-grading and put down sod in those areas. He stated they also removed all the weeds from the rain garden on Lot #1, and then re-planted that. Mr. Grenier asked if there is an O & M Agreement in place since weeds will come back if not maintained. Mr. Pockl stated currently there is a maintenance period for the entire development that lasts eighteen months. He stated they have provided a Maintenance Bond. He stated they are required to provide established plantings in the rain gardens. Mr. Pockl stated he has also made an additional request of the developer that before giving them Dedication, he wants to see an established Maintenance Plan for weeding, watering, inspection, etc.

Mr. Grenier asked who will take over the maintenance. Mr. Pockl stated the homeowners are responsible for the rain garden on Lot #1 and the rain garden that shares the three Lots at the top of the hill behind the main house. Mr. Pockl stated the Township will take Dedication of the rain garden within the cul-de-sac and the stormwater management basin.

Mr. Pockl showed photos of the areas where the work was completed by the developer.

Mr. Pockl noted the cul-de-sac rain garden where there is 4' of porous pavers along the perimeter, and mulch and plantings around decorative stone. He stated underneath the decorative stone is an 8' deep infiltration basin. He stated he is satisfied that this will remediate any standing water issues on the surface. Ms. Blundi stated this is the rain garden that the Township will be responsible for maintaining going forward, and Mr. Pockl agreed.

Mr. Lewis thanked Mr. Pockl for his diligence in holding the developer accountable on the rain gardens over an extended period of time. Mr. Pockl stated they are not walking away from this project, and they understand that it takes time for rain gardens to establish plantings, and they will keep on the developer to make sure that a viable rain garden has been established. Mr. Lewis asked if the developer has any other projects anticipated in Lower Makefield at this time, and Mr. Pockl stated they do not to his knowledge.

Mr. Pockl stated with regard to Flowers Field, he will be meeting with the developer early next week to review punch list items for the completion of the development.

PROJECT UPDATES

Mr. Ferguson stated with regard to Item d. – the Multi-Use Trail, PennDOT will be putting out to Bid; and he anticipates that will happen in November.

Mr. Ferguson stated SAFE Engineering is taking over projects on the signal upgrades for Item f – Big Oak/Makefield Road and Item g – Route 332/Mirror Lake. Mr. Ferguson stated he anticipates for the Big Oak/Makefield project, he will have something before the Board on this in November with the potential to have it Bid out in December/early January; and he anticipates that it will be a spring project.

Mr. Grenier stated work is taking place at Taylorsville Road at the Scudder Falls Bridge, and there were flaggers and lane closures. He stated it is frustrating that we did not get notice from the Bridge Commission in advance of that taking place.

Mr. Grenier asked Mr. Ferguson if he has anything further about repaving Maplevale. Mr. Ferguson stated it is getting late in the year, and he feels that will be a paving project to be done in 2021.

MANAGER'S REPORT

Mr. Ferguson stated they have been part of the discussion about the Verizon Franchise Agreement, and he has provided the Board with some preliminary language. He stated this discussion has been going on for a number of years. He stated Verizon entered the market in this area a little more than ten years ago; and at that time, Verizon originally wanted to do something longer than a ten-year Agreement. He stated the Consortium at the time wanted to limit it to ten years. Mr. Ferguson stated Verizon has now pushed back very hard against any long-term Agreement which is what has been the hold-up of getting an Agreement finalized. Mr. Ferguson stated we are part of about fifty communities that are part of the discussions.

Mr. Ferguson stated Cohen & Associates has come back with what they feel is as far as the Consortium is going to get which is a five-year Agreement. He stated what they spent the last six months discussing was Verizon's insistence of a sixty-day opt-out, which means that they could give the Township notice that they are getting out of the Cable business at any time with sixty-days' notice. Mr. Ferguson

stated the Township gets a couple hundred thousand dollars a year in Franchise Fees from them so there are financial implications. Mr. Ferguson stated the implication that Verizon has given during the discussions is that it seems like it is their intention at some point to exit the wired Cable business as we know it.

Mr. Ferguson stated he put in for funding for a PEG Grant for our TV Channel, and about a half dozen communities have put in a request for that; and that is still being negotiated. He stated this can be used to upgrade our equipment, and that was part of the request that he put in on behalf of Lower Makefield. Mr. Ferguson stated as he noted in his Report, the Towns without a Government Channel will be seeing a Draft Agreement first; and the Towns with a Government Channel will get it afterwards.

Mr. Ferguson stated he is on the Negotiating Committee, and it has been very difficult. Mr. Ferguson stated if we are not happy with the Agreement, the only option would be to not approve it, hire separate Counsel, and try to negotiate on our own directly with Verizon. He stated the Consortium is using the Law firm that specializes in these Agreements, and he does not believe that the Township would get a different result by trying to go off on our own and negotiate something separately. Mr. Ferguson stated there was a point in time when Verizon was trying to get a ruling against Townships that said for Townships that had a Government channel, they would get assigned a market value to them; and that amount would be deducted off of the Franchise Fee, and that would have essentially eliminated the Franchise Fee altogether. Mr. Ferguson stated with this five-year deal, he does not know whether they are still pursuing that or not. Mr. Ferguson stated we still have Comcast so Cable would not go away.

Mr. Ferguson stated they will get a full report from Cohen soon; and he hopes that in the next few months, there will be a full Draft Agreement for the Board to review and eventually approve.

Mr. Grenier asked if the Agreement includes any discussion about the open Internet approach where we would have to opt in or out as to whether or not they check our data. Mr. Ferguson stated Mr. Cohen does not believe it could be part of a Franchise Agreement, and it would not withstand a legal challenge of what authority we would have in a Franchise Agreement. Mr. Truelove stated he looked at the Agreement for another Municipal client,

and since the last Agreements were entered into, Federal Law has been much more favorable for the providers in many respects. He stated until things change at the Federal level, he would not expect the Township to be able to do much.

Mr. Lewis asked if there is an updated count of the number of people who are FiOS and Comcast customers. He stated the challenge that the Township faces is that more and more people “are cutting the cord,” and are choosing to have an Internet-only relationship with their broadband provider; and they are using “over the top services” which are not subject to the same FCC rules. Mr. Lewis stated he understands why Verizon is asking for a five-year Agreement because they want to see how many people cut the cord in five years or if they can get a more favorable ruling from the FCC in terms of what they call their broadband. He stated they tried a number of times to evade Cable Law.

Mr. Lewis asked Mr. Ferguson the number of people they have lost that had traditional Cable television. Mr. Ferguson stated while he cannot give subscriber numbers at this point, if you look at the Budget the Franchise Fee that the Township gets, that trajectory has been down. He stated this year in the Budget he is projecting that we will miss out Budgeted number by 1 ½% which was down 2 ½% the previous year. He stated that is for both Comcast and Verizon. Mr. Ferguson stated Mr. Cohen may be able to provide those numbers.

Mr. Lewis stated he feels they should plan that the number will continue to decline over the next couple of years. He asked if the sixty-day out could be made a mutual sixty-day out, and he asked what would the benefit be to the Township is we decided that Verizon had to “pack up.” Mr. Ferguson stated it is not a mutual out, and it is a Verizon-option out. He stated he feels they would have to ask Mr. Cohen if the Township could opt out; however, he does not know that they would want to mandate that people who have Verizon and like it would no longer be able to use it. Mr. Ferguson stated it was not that long ago that Comcast and Verizon were looking for much longer deals than ten years. Mr. Ferguson stated in renewals that Comcast has ongoing in Bucks County they have indicated that they have no desire to scale back their Agreements, and they are currently re-negotiating ten-year deals in other Towns. Mr. Lewis stated Verizon has halted its FIOS launch and has sold certain markets to Frontier Communications which is why they may be different than Comcast in this area. He stated he feels they should plan for it to be sold to Frontier or AT & T, and budget accordingly.

Mr. Ferguson stated if Verizon were to get out at some point and they opted out in March of a particular year, and we were to miss half a year's collection, that is significant. He stated they were trying to get a one-year opt-out from Verizon which would give the Townships time to account for that in their Budgets. He stated Mr. Cohen had indicated that we did not have much leverage to require that. Mr. Ferguson stated it is possible they could go through five years and nothing changes other than diminishing returns. He stated Verizon was adamant that they did not have a specific exit plan at this time, but they wanted to have the opportunity to opt-out if they decide to.

Mr. Lewis stated an additional item they need to plan for is should the Government channel be removed from either Verizon or if more people cut the cord, we need to come up with an alternative to that that is acceptable to as many residents as possible within the community that is not tied to any one single technology or large provider so that we can continue to broadcast and give meeting access to residents. Mr. Ferguson agreed adding that even if Verizon were to go away, they would still have Comcast; however, we would still need to look at other alternatives as far as being able to provide that. He stated as frustrating as the Zoom experience has been, he has heard that more people are watching more actively than they ever have. He stated the Committees have also met more actively since it has been set up this way. He stated he feels that we should build on that.

Mr. Grenier asked Mr. Ferguson if there is a schedule for the remainder of the professional services RFPs. Mr. Ferguson stated he does not have a schedule on that; however, as he advised previously the next one he has done is the Building Code Official. He stated it is nineteen pages long and extremely technical. He stated he is prepared to put it out at any time; however, with the Pandemic and the ongoing projects, they put that on hold. He stated they did put "feelers" out with companies that they believe would typically be interested, and they themselves are struggling at this time because of lay-offs. Mr. Ferguson stated the Bank RFP is completed as well. Mr. Ferguson stated there are thirty-one professional services, and he is the only person writing the RFPs.

Mr. Ferguson stated he was also working on the Personnel Policies and Procedures Manual with the Solicitor's office, but they also had to deal with a number of Open Records issues that took up a significant amount of time for several months. He stated they have drafted numerous policies which need to be dealt with including a short-term disability

policy, vacation policy, etc. He stated he intends to present a draft Manual to the Board shortly. He stated they need to consider what the legal obligations are for times when the Township did things inconsistently in the past. He stated before they pass a Manual that they get challenged on, he wants to make sure that the Solicitor's office provides a review before the Board approves it.

SOLICITOR'S REPORT

Mr. Truelove stated the Board met in Executive Session starting at 6:15 p.m. and items related to litigation as well as informational items were discussed.

Development Agreement for Yardley Preserve, L.P. (Erin Development – Dobry Road) to be Considered on November 4, 2020

Mr. Truelove stated based upon numerous factors, it is recommended that this matter be removed from tonight's Agenda and put on the Agenda for two weeks from now which will be November 4, 2020; and hopefully some outstanding items can be finalized to everyone's satisfaction that night.

ZONING HEARING BOARD MATTERS

With regard to the KS Pool and Patios Variance request for Heather & Dennis Petrillo for the property located at 1212 Madison Drive in order to permit construction for an in-ground pool resulting in greater than permitted impervious surface, Mr. McCartney moved, Mr. Grenier seconded and it was unanimously carried to leave the matter to the Zoning Hearing Board.

With regard to the Natalie & Brian Holmes Variance request for the property located at 718 Chestnut Lane in order to permit construction of an in-ground pool and paver patio resulting in greater than the permitted impervious surface, Mr. Truelove noted that Chestnut is located partially in a flood zone area, and where the proposed pool is to be located is actually within the flood zone area; and it is recommended that the Township participate. Mr. Grenier moved, Mr. McCartney seconded and it was unanimously carried that the Township participate in this matter.

With regard to the Aaron Zibelman Variance request for the property located at 600 Brandywine Lane in order to permit construction of an in-ground pool resulting in greater than the permitted impervious surface, Mr. Grenier moved, Mr. Lewis seconded and it was unanimously carried to leave the matter to the Zoning Hearing Board.

Mr. Truelove stated with regard to the Kenneth Koretsky, Jr. Variance requests for the property at 560 Mill Road in order to permit demolition of existing dwelling and construction of a single-family dwelling resulting in greater than permitted impervious surface, disturbance of steep slopes and fence/gate in the front yard greater than 3' allowed, because of the potential impact on that property and possibly in the neighborhood, it is recommended that the Township participate.

Mr. Grenier moved and Ms. Blundi seconded that the Township participate in this matter.

Dr. Helen Heinz, 1355 Edgewood Road, stated the house on the property is one of the designated structures in Lower Makefield Township. She reviewed the history of the property. She stated there is part of an old house which remains on the site that is an 18th Century structure, and she would ask that whatever is an 18th Century structure should be saved.

Mr. Grenier stated looking at the State's Cultural Resources data base, it looks like at least one or more of the structures at this location are eligible for listing on the National Register so that has ramifications for development.

Motion carried unanimously.

PUBLIC COMMENT

Mr. Lee Pedowicz, 247 Truman Way, asked if Caddis has ever been cited for violating the Township Ordinance regarding the construction hours. Mr. Pockl stated they have given them multiple warnings, but have never fined them. Mr. Pedowicz stated many of the residents were not in favor of the project. He stated with regard to their construction hours, they were told that the construction could start at 7 a.m. Monday through Saturday and 8 a.m. on Sunday. He stated they filed numerous complaints because they violated that many times. He stated a few weeks ago he contacted the Police, and the Officer indicated that the Ordinance states that they can start at 7 a.m.

Monday to Friday and 8 a.m. Saturday and Sunday. Mr. Pedowicz stated many times during the course of the construction Caddis has violated the start time on Saturday. He stated this past Monday he contacted the Police Dispatcher at 6:25 a.m., and the Officer indicated that when he got to the site all he saw were diesel trucks “being warmed up.” Mr. Pedowicz stated he wanted to know why they were warming up equipment at 6:25 a.m. if they are not supposed to start work until 7 a.m. Mr. Pedowicz stated he feels that should be a violation of an environmental standard. Mr. Pedowicz stated he had heard something other than diesel trucks warming up, which is why he called the Police. Mr. Pedowicz stated today at 5:53 a.m. there were “loud bangs” and the sound of equipment moving.

Mr. Pedowicz stated he also sent an e-mail about the sidewalk along Oxford Valley Road since a lot of people were using that during the Pandemic, and at the end of July a “sidewalk closed” sign was put up. Mr. Pedowicz stated the developer was contacted about this, and he advised that they would be done by the third week in August; but even today you cannot use it. He stated he feels the developer is “manipulating” the Board of Supervisors, and the developer has no respect for the community that adjoins his property.

Mr. Pedowicz noted Ordinance #200-66 which has to do with noise levels, and the developer is not to be exceeding a certain decibel level at the property line where it borders a Residential property. Mr. Pedowicz stated he feels they are exceeding that level. Mr. Pedowicz stated he is disappointed that the Board is not taking more action against the developer as the Board has been getting a significant number of e-mails throughout this construction project.

Dr. Weiss stated the Board acts as the policy-making entity of the Township and not the enforcement agency. He stated the engineer and the Code Enforcement people are responsible; but they cannot be there every day, and we rely on the neighbors who have made some complaints. Dr. Weiss stated they will do what they can to insure the proper start time; and if it is not upheld between now and the completion of construction, the Township will have to be more firm with them.

Mr. Pockl stated he was notified on three occasions throughout the construction that they violated the construction start time, and all three of those times were within the last two weeks. He stated he attributed that to the contractor wanting to get the project completed in a timely fashion and getting in a few more hours in the work day. Mr. Pockl

stated every time it was brought to his attention, he both called and e-mailed the contractor reminding them of their obligations with regard to construction hours according to the Ordinance.

Mr. Grenier stated with regard to idling, Pennsylvania has a State regulation in this regard – Act 124 of 2008 which limits large diesel-powered vehicles to idling for five minutes over the course of an hour, and it is enforceable by the DEP and State and local Law enforcement. He stated there are fines as well. Mr. Grenier stated this may apply to this situation.

Mr. Lewis asked Mr. Pockl if there is documentation that is provable that they have in fact started work before the allowed start time. Mr. Pockl stated there might be something in the Police Report; however other than notification from residents, they do not have any documentation. Mr. Lewis stated if there was a confirmed Police Report that there was activity on the site prior to the allowed start time, that should be enough to cite them. Mr. Pockl stated he believes it would, and he believes that the fine is \$600 per day. Chief Coluzzi stated he will check tomorrow to see what those Reports say; and if it is confirmable, he will send them to Zoning to have them cite them.

Mr. Ferguson stated with regard to the fine itself the \$600 a day is what a Magistrate could fine them in finding them guilty, and the Township would not be the “direct finers;” and Mr. Truelove agreed. Mr. Ferguson stated the Magistrate would decide on the fine if the Township asked Mr. Kirk and Mr. Truelove to go after them.

Mr. McCartney stated Mr. Pockl had indicated that he had warned them several times, and he asked whose job is it to follow up on that and cite them; and Chief Coluzzi stated that would be the Police or Zoning.

Mr. Ferguson stated in most large projects he has seen one sub-contractor leaves and another comes in and they start too early, and they get warned. Mr. Ferguson asked if they want the Township to spend a few thousand dollars with the hope that they will maybe get fined \$600 for the violation. He stated he understands that they want to control the behavior. He stated the Township has received two or three calls as well including the day that the trucks were idling and a time when they started a half hour too early. Mr. Ferguson stated Mr. Kirk has gone out to the site in those instances to remind them of that. Mr. Ferguson stated the Board needs to decide if they want the Township to take something to the next level.

Mr. McCartney stated he believes that the Ordinances are in place in order to be upheld. He stated they cannot give contractors the impression that the Township will not go after them. He stated if the contractors are breaking the Ordinance, they should be cited. Mr. Ferguson stated he does not disagree. He added that what Mr. Pockl had done was to put them on notice as to what they need to do. He stated if they were be cited, that would mean that the Township would be taking them to Court every time there is a violation. He stated the Township would have to File to go before a Magistrate. He stated he has worked for Towns that wanted to be that strict; and if there was a violation, they were taken each and every time to Court, and that would be across the board for anything. Mr. Ferguson stated in instances where there is not first-hand knowledge by Mr. Pockl or Mr. Kirk and it is a resident calling and advising them of a violation, the resident would be required to go to Court with the Township if the Township wanted to be that aggressive and go before the Magistrate so that the resident could provide a first-hand account.

Mr. McCartney asked if there is anything during the Application process when they are applying for Land Developments or Permits that the Township could put into an Agreement with the contractors indicating that the Township is very strict on start times; and if they do not adhere to it, there will be a penalty, and this could circumvent the whole Judicial process. Mr. Truelove stated they could put something in the Agreement where there could be a Civil penalty. Mr. Truelove stated in the age of cell phones with video capacity, if a resident was able to record a violation that would help the Police and inspection staff.

Chief Coluzzi stated the requirement is no work prior to 7 a.m. on weekdays or prior to 8 a.m. on weekends.

Mr. Truelove stated the Ordinance was drafted in 2006 because there were problems with garbage trucks coming down the street at 3:00 a.m. and 4:00 a.m.

Mr. Grenier stated in some instances violators can be written a ticket so that they would not necessarily have to go to a Magistrate. He asked if there could be a ticket for idling or would they have to be taken to Court. He stated that would be quicker and less expensive for the Township than having to go to Court. Chief Coluzzi stated the only way there would be no Court appearance before a Magistrate would be a summary citation where they would plead guilty and pay it which is unlikely if it were a large sum.

Mr. Grenier asked Mr. Truelove if there is anything in the Agreements that if they are repeat offenders for something like this that we could issue a Stop Work Order for some period. Mr. Truelove stated he is now sure. He noted that he is looking at the Act Mr. Grenier noted, and the DEP is the entity that would enforce this if there was a violation of regulations that they oversee. He stated they could incorporate that into the Agreement. He stated if they had proof that there was a violation a certain number of times, they may be able to issue a Stop Work Order for some period of time. Mr. Grenier stated Stop Work Orders are much more costly to the contractors than a \$300 fine.

Mr. Lewis stated it is very important that we insure that the Rule of Law exists within Lower Makefield, and that it is applied to everybody. He stated if it is know that the Township will not go to the Magistrate, the Township will be taken advantage of, and we cannot allow that.

Dr. Weiss asked that the staff come up with a procedure so that the Board can make this more enforceable. Mr. Ferguson stated if it is the Board's desire, they would not have to come up with anything as it would be a "no-tolerance" policy; and if it is violated, and they start before the start time and a resident is willing to go to Court if the Township does not have first-hand knowledge, they could cite them. Mr. Ferguson stated he will notify the Inspector of this. Dr. Weiss stated the community will therefore have to help the Township with regard to citing the contractors for violations of start times. Mr. Ferguson stated this is not any different than the issues the Township had with Airbnbs, etc. where residents were willing to come in and participate to make the argument with a first-hand account.

Ms. Carol McCune, 249 Truman Way, stated she backs up to Caddis. She stated she has a video dated January 15 at 10:33 p.m. when they were working behind her home when there were huge lights and lots of noise. She stated she would be willing to forward that to the Township. She stated it is "despicable" what they have been doing all along.

Ms. McCune was asked to forward that to Mike Kirk at the Township. Ms. McCune stated their air conditioning and heating units are on the roof of the structure, and she asked if that is supposed to be enclosed in any way. Mr. Pockl stated they are supposed to be open so that anyone working on the units can have access to them. Mr. Pockl stated there is a Noise Ordinance, and they are required to provide a report of a noise test measuring the sound levels at the property line to insure that they are within the Ordinance; and he is waiting for that report. Ms. McCune stated it is audible from her house.

Ms. Bonnie Pedowicz, 247 Truman Way, stated she called Mr. Pockl because she was very upset since they started working at 5:50 a.m. one morning which is unacceptable in a neighborhood environment. She stated she feels they should be fined. She stated they felt that eventually this would come to an end, but it is getting worse instead of better.

DISCUSSION ITEMS

Discussion of Street Light at Stony Hill and Judith

Mr. Ferguson stated he provided a report to the Board on this matter. He stated the Township received a request from Mr. Collins about putting in a street light at the entry to his development at Stony Hill and Judith. Mr. Ferguson stated they had the Police look at it, and they priced it out. Mr. Ferguson stated this area is dark, but there have not been accidents or criminal activity even through it was a dark intersection. Mr. Ferguson stated the cost would be \$1,600 to \$1,700 to install a light; and if it is an electric light, the Township would then get electric bills. He stated at that location it is possible that the light could be solar at a cost of \$1,000 to \$1,200, and then there would not be electric charges that the Township would have to pay although there would still be ongoing maintenance.

Mr. Ferguson stated the issue is that there is not a mechanism in place for this type of request. He stated normally a project would get built, and the developer would install the light. The Township would then take over responsibility for the light, and property owners approximate to the light would have to pay a Street Light Assessment based upon the frontage of their property in relation to the light. Mr. Ferguson stated if lights are put in by the Township outside of that process, they need to consider how that would be done. He stated according to the Police Department, there are probably three dozen to four dozen areas similar to this intersection which are dark, but have not had safety concerns or accidents. Mr. Ferguson stated the Street Light Assessment is charged to property owners who are approximate to the light so that it is not a charge to the taxpayers in general. He stated if they start putting lights around the Township, the taxpayers would have to pay for those. Mr. Ferguson stated he feels it would be inappropriate for he or Chief Coluzzi to decide to put a light in at this location, since it falls outside of the parameter of the approach that has been followed in the past.

Mr. Ferguson stated that they have had residents from other areas contact the Township indicating they would not want a light installed at a particular intersection if they live approximate to that intersection. He stated he does not know exactly how many residents would be for or against this particular request. He stated the Board should consider if they want to contemplate these requests; and if they do, what would be the standard to be applied and what would be the mechanism for a street assessment in these instances where the Township would be fronting the cost of the installation and if the taxpayers should be paying for this in general.

Mr. Ferguson stated the Street Light Assessment is its own line item in the Budget, and brings in approximately \$60,000 a year. He stated that amount is used to pay the electric bills and gives a cushion when work/replacement needs to be done so that the taxpayers at large do not have to pay for it. Mr. Ferguson stated if you live in a house that is within 250' of one of these lights, you get a bill; and the current charge is \$.50 for each lineal foot of the frontage of your property. He stated if the frontage of your property was 60' you would be charged \$30 a year and that would appear on your Property Tax bill. He stated that amount goes into the Street Light Fund and is relegated to those specific street lights which would have been put in as part of the development, paid for by the developer, and then taken over by the Township. He stated the Township then starts collecting the money from the residents so that in theory there would be a surplus so that whenever money was needed for repair or replacement, that money would be there to do that; and the taxpayers at large would not have to pay for that rather it would be paid for by the residents who are benefitting from the presence of the light. Mr. Ferguson stated if he was living in a development where there was a light at the intersection which he was benefitting by having a lit intersection but lived far up the road, he would not have to pay for it; however, those who lived adjacent to the light would have to pay for it. He stated as they looked into this, they realized the areas of inconsistency with how it would be applied.

Dr. Weiss asked if anyone other than Mr. Collins is asking for a light in that neighborhood, and Mr. Ferguson stated to his knowledge, Mr. Collins was the only one who asked for it. Dr. Weiss asked if he would have to pay a Street Light Assessment for that light, and Mr. Ferguson stated he would not.

Mr. Ferguson stated if they want to consider light requests, they should consider if they want there to be some criteria by which an area qualifies for a light such as accidents, criminal activity, or Police insight that it has proved to be dangerous. Mr. Ferguson stated if they say that they do

want some criteria to be applied, he does not feel that this specific area would qualify. Mr. Ferguson stated if they objectively look at where some of these lights do exist, he does not know that every light we have in the Township would fit that criteria either. He stated there are dozens of areas throughout the Township that are dark like this intersection being discussed.

Dr. Weiss stated some resident might like it to be dark. Mr. Ferguson stated he had a call last year from a resident who was interested in a light following by a call by their neighbor indicating he should not listen to that resident because he did not want there to be a light. Mr. Grenier stated a similar concept would be the traffic-calming process where some residents want there to be traffic-calming, and other residents in the area do not want there to be traffic-calming. Mr. Grenier stated with regard to the traffic-calming there was a process where a certain percentage of the neighbors had to sign onto it. He stated they may want to consider that process with regard to the lights.

Mr. Ferguson stated even if there was a means by which to determine that there was local neighborhood approval of some sort to have a light installed, there is no developer that would be paying for that installation; and the Township taxpayers would be paying for. He stated while one light may not be a lot, if there were forty requests for a \$2,000 light as well as the lighting bill that would be coming to the Township monthly, that becomes a larger issue. He stated the Board needs to decide if they want an Assessment to pay for this or should it go directly out to the taxpayers. He stated if that was done, it would be fair that there are individual residents paying the current Light Assessment in their own neighborhood but then would also be paying taxes for lights elsewhere in the community as well. He stated he feels they would need to have a consistent system.

Ms. Blundi stated she has heard from a number of people in the Township who feel we suffer from light pollution. She stated they also need to consider how they can make this equitable.

Dr. Weiss asked if they could ask the EAC and the Citizens Traffic Commission to consider this and provide ideas for the Board of Supervisors to discuss. This was acceptable to the rest of the Board members.

SUPERVISORS REPORTS

Dr. Weiss stated the Environmental Advisory Council has selected a winner for this year's Stewardship Award, and they will be announcing that shortly.

Mr. Grenier stated typically the Sewer Authority would meet tomorrow; however, because the Bids are coming in for Stackhouse, they are shifting that meeting to October 29; and he believes that issue will come before the Board of Supervisors on November 4.

Mr. Lewis stated the Zoning Hearing Board met last evening and heard four cases. He stated Farmland Preservation will meet tomorrow.

OTHER BUSINESS

Mr. Ferguson stated the initial Manager's Budget Presentation is scheduled for next Wednesday at 6:30 p.m., and the Budget will be on the Website to be able to be viewed by the public by next Monday. He stated staff will be available at the meeting on Wednesday. He stated they could be looking at the second November meeting for the Preliminary Budget to be passed, and the second December meeting on December 16 for the Final Budget to be passed. He stated the Board could have another advertised meeting if they desire.

Mr. Grenier stated he wants to verify that it will be a public Budget meeting, and Mr. Ferguson stated it will; and the public will be able to see the Budget in its entirety on the Website in advance of the meeting.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Ms. Blundi moved, Mr. Lewis seconded and it was unanimously carried to appoint Tejinder Gill to the Planning Commission.

There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully Submitted,

James McCartney, Secretary