

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – DECEMBER 15, 2021

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on December 15, 2021. Ms. Blundi called the meeting to order at 7:30 p.m. and called the Roll.

Those present:

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

Others: Kurt Ferguson, Township Manager
David Truelove, Township Solicitor
Andrew Pockl, Township Engineer
Kenneth Coluzzi, Chief of Police
James Majewski, Director Planning & Zoning

COMMUNITY ANNOUNCEMENTS

Mr. Ferguson stated during this portion of the Agenda residents and youth organizations may call in to make a special announcement or may contact the Township to request a special announcement be added to a future Agenda.

Mr. Ferguson stated the Park & Recreation Department has launched a community needs assessment to learn more about what issues may be important to the community, and they encourage residents to go on-line to take the survey which takes about five minutes and allows for comments. Please take time and provide the Township your ideas for parks, facilities, maintenance, and programming. Stay tuned for a community workshop in February as part of this project. The survey can be found on the Township Website at www.lmt.org. Mr. Ferguson stated currently we have over 600 responses.

Mr. Ferguson stated Pack 95 will recycle broken string Christmas lights which can be dropped off at the Big Oak Citgo, 812 Big Oak Road from December 11, 2021 through January 11, 2022. Contact info: joanies120@gmail.com.

Mr. Ferguson stated a Styrofoam & Recycling Event, which will include wine corks, amber/white plastic prescription pill containers and alkaline household batteries, will be held on Saturday, January 8, 2022 from 10:00 a.m. to Noon outside the Township Building.

POSTPONE APPROVAL OF MINUTES

Mr. Lewis moved and Mr. McCartney seconded to approve the Minutes of December 1, 2021 as written.

Mr. Grenier noted Page 1 of the Minutes with regard to removal of Item 10.a – Tree Ordinance Update Discussion and Consideration. He stated he felt the Board officially Moved to Table that item rather than just remove it from the Agenda. Ms. Blundi stated although she does not recall the exact words, she assumes it was transcribed correctly. She stated they are going to discuss that matter this evening. Mr. Truelove stated he believes the Motion was to defer to today's meeting, and Mr. Grenier stated his understanding was to defer it until the EAC met and could provide their formal comments back. Ms. Blundi stated her intent was to Move it to tonight so that the Board could discuss it. She stated at the time, it was hoped that the EAC would be able to have their feedback to the Board, and they have provided their feedback although it has not officially been adopted yet; and it will be up for discussion tonight. Ms. Blundi added that there are members of the EAC present this evening.

Mr. Lewis asked what they should do if there is a misunderstanding of what the Minutes' intent is. Mr. Truelove stated the Board could wait until the next meeting, the transcribed Record could be reviewed, and the Board could approve these Minutes at the January 3 Reorganization Meeting.

Mr. Lewis withdrew his Motion, and McCartney agreed to withdraw his Second.

Ms. Blundi stated the Board will postpone the consideration of the approval of the Minutes from the December 1 meeting until the next meeting.

TREASURER'S REPORT

Dr. Weiss moved, Mr. Grenier seconded and it was unanimously carried to approve the November Payroll and Interfund Transfers in the amount of \$940,917.80 as attached to the Minutes.

Dr. Weiss moved, Mr. Grenier seconded and it was unanimously carried to approve the Warrant lists from December 6, 2021 in the amount of \$826,573.38 as attached to the Minutes.

FINANCE

Approval of Resolution No. 2461 Fixing the Tax Rates and Special Levies and Adopting the 2022 Budget

Mr. Grenier moved and Dr. Weiss seconded to approve Resolution No. 2461 fixing the Tax Rates and Special Levies and Adopting the 2022 Budget.

Mr. Lewis noted Page 18 – Fund #3 – Hiring of Fire Services Director. He stated he would like to make an Amendment to the Motion to reduce the 2022 Budget amount from \$95,000 to \$75,000 to reflect the delayed hiring of a Fire Services Director to March, 2022 and to require the Township Manager to develop a 90-day onboarding plan for the new Fire Services Director.

Mr. Lewis stated the reason for this is the number one issue heard from Fire Chief Chamberlain was the lack of volunteers, but that was not listed in the essential duties and responsibilities for the new Fire Services Director. He stated he wants the job description updated to reflect this primary need, and that the new Fire Services Director present a marketing and onboarding plan to address the volunteer gap. Mr. Lewis stated he would also like to see the job description updated to include coordinating with neighboring Municipalities for enhanced fire service and mutual aid.

Mr. Grenier agreed to accept the Amendment.

Mr. Ferguson stated the hiring of the Fire Services Director in the Budget would not be anticipated to take place until April 1, and the amount budgeted for the Fire Services Director for 2022 is \$75,000; and the other \$20,000 of that would be for other part-time workers that we have hired and still have hired that do Commercial inspections. He stated the salary for the Fire Services Director is reflective of a pro-rated amount for nine months for 2022.

Mr. Lewis amended his Motion to leave the amount in, but contingent on having the Township Manager develop a 90-day onboarding Plan for the Fire Services Director and updating the job description to include coordinating with neighborhood Municipalities for enhanced fire service and mutual aid.

Mr. Lewis stated this is a non-dollar change to the Budget, but it makes it contingent on those things being completed.

Dr. Weiss stated with the consent of the Board, he will accept the Amendment. Ms. Blundi asked if there is consent of the Board to accept the Amendment.

Mr. Ferguson stated that is one of the essential duties of the job, and there are items included to monitor volunteer firefighter response, gaps in coverage, and explore greater regional volunteer coverage if necessary and possible with Lower Makefield. Mr. Lewis stated there is no request for a marketing plan to get new volunteers which was the primary need that was heard and should be a primary function in the job description. Mr. Ferguson stated it is a primary need; however, the scope of the job is such that it is not limited to that. He stated the job description is four pages long.

Mr. Lewis stated he is looking for a 90-day onboarding plan for that person, and he wants a marketing plan for volunteers as that “was the primary ask that we got.” Mr. Ferguson stated the volunteers did not ask for a marketing plan, and what the volunteers stated was that they had instituted incentives and cash and done a variety of things. He stated while the volunteer Chief is not a marketing person, he would work within the parameters of how to go about recruiting volunteers as part of his duties. Mr. Ferguson stated it is not just about being ten volunteers short, rather the issue is that there are gaps in coverage during certain times of the day. He stated even if they were to get ten additional volunteers, it does not mean that they would be able to fill the gaps in coverage. He stated one of the core responsibilities of the job would be to determine how to get regional cooperation for volunteers as well as attracting volunteers.

Ms. Blundi stated they need to find out if a majority of the Board consents to the Amendment.

A majority of the Board did not consent to the Amendment as Mr. Grenier and Mr. Lewis were in favor and Ms. Blundi, Dr. Weiss, and Mr. McCartney were opposed.

Mr. Ferguson stated he understands Mr. Lewis’ desires with regard to the job description, and one of the responsibilities of the person hired will be to come up with strategies for recruiting volunteers locally and regionally. He stated it is already written into the job description that they will be creating a recruitment strategy. He stated it is not what Mr. Lewis called

as a marketing or onboarding plan. Mr. Ferguson stated one of the primary responsibilities of the job will be to work with the volunteer company to find ways to recruit volunteers.

Mr. Grenier stated for 2022, \$75,000 has been allotted as a pro-rated salary for the Fire Services Director, and Mr. Ferguson agreed. Mr. Grenier stated in 2023 it will be closer to \$100,000; and Mr. Ferguson stated it will be around \$100,000 to \$101,000. Mr. Grenier stated including benefits, it would be more than that.

Mr. Grenier asked if there is a plan, similar to what was done in Newtown, to get away from the volunteers and move toward hiring in-house staff in the future. Mr. Ferguson stated there is not, and the plan is to use the Fire Services Director in an attempt to have a facilitator to do everything we can to boost volunteer service. He stated the service area is Lower Makefield and Yardley Borough. He stated this position would be a benefit to Yardley since the individual will be examining shortfalls for both communities. There is not a plan to hire paid firefighters. He stated we have all seen the reports from the Bucks County Planning Commission regarding the status of volunteers. He stated there are a number of towns which have hired positions like this to stay in front of the issue if there continues to be problems with volunteers. Mr. Ferguson stated he cannot comment on the state of volunteer service in Lower Makefield ten years in the future. He stated the idea of bringing this person on is to have someone reporting to the Township on the status of issues. He stated he has discussed this with the volunteer company, and they are in favor of this position. Mr. Grenier stated he supports this concept as well, and his only concern was that they did not do something that would put Yardley Borough in a precarious situation with respect to fire services by going a different route.

Dr. Weiss asked Mr. Ferguson to explain how this will effect Yardley Borough. Mr. Ferguson stated he feels Yardley Borough will be a direct beneficiary of the position. He stated they have not been asked to pay anything for this position. He stated the Yardley-Makefield Fire Company serves both communities, and an examination of shortfalls is applicable to both communities. He stated when there is an effort to try to encourage more people locally to volunteer or to try to come up with better regional participation to serve all the towns, that would include Yardley; and it would not just be specific to Lower Makefield. He added that the person in this position would also do certain things specific to Lower Makefield in terms of Commercial inspections, Plan reviews, etc.

Mr. Ferguson stated when he was with Newtown Township where they did an inspection of every Commercial property in the Township, they were asked by Newtown Borough if the Township would be willing to have the Township staff inspect their Commercial properties; and Mr. Ferguson stated that possibility would be available to Yardley Borough businesses to insure that the whole area is safe and getting annual inspections.

Mr. McCartney asked Mr. Ferguson if his salary is included under Line Item 400 Essential Government Expenditures, and Mr. Ferguson stated his salary would be in Central Government as would his Assistant and the Recording Secretary. Mr. McCartney asked what was the proposed increase in salary for 2022 for his salary. Mr. Ferguson stated he has an Employment Agreement from July, 2020 that indicated that any consideration for pay would come at this time; however what is in the Budget for his salary is what was put in for all Department Heads which was a 3% increase.

Mr. McCartney moved to Amend that to a 5% increase for the Township Manager. Ms. Blundi seconded.

Motion carried with Ms. Blundi, Mr. McCartney, and Dr. Weiss in favor, and Mr. Grenier and Mr. Lewis opposed.

Mr. Grenier stated in addition to the Budget there is also the Special Levies and Tax Rates, and he asked if anything else is considered in that group other than the millages that go with the different Funds. Mr. Ferguson stated Fees are incorporated into the Budget, and there is a Fee Resolution following the Budget consideration that would support what is in the Budget. He added that a lot of the Fees in the Budget are estimated.

Mr. Grenier moved to remove the Park & Recreation Admin Assistant from the 2022 Budget. Mr. Lewis seconded.

Mr. Grenier stated the reason for his Motion is because they are hiring a Pool Manager that will not be a twelve month, full-time job specific to the Pool, there is also experienced staff that have been Pool Managers, and they also take full advantage of interns. He stated he would prefer not to hire an additional Admin Assistant specific to Park & Rec as he feels with the additional Pool hire, they will be able to function accordingly; and this will take some burden off of the Budget.

Mr. Lewis stated he agrees with Mr. Grenier. He added when you add additional staff, it is hard to remove them “in out years.” He stated it would be better to use interns where possible or in many cases where they can drive more of the transactions away from the phone to on-line. He stated he agrees with Mr. Grenier that there is a full-time Pool Director coming on this year and they can use the interns.

Ms. Blundi stated she feels we should rely on our professionals, and with regard to Park & Rec, Ms. Tierney created the internship program. She stated Ms. Tierney does a great job making sure we have as much volunteer staff as we can. She stated because of the Community Center and all of the opportunities that people now have to participate in different activities, we need the staff to support the services our residents are asking for. She stated she is in support of the new position.

Motion did not carry as Mr. Grenier and Mr. Lewis were in favor and Ms. Blundi, Mr. McCartney, and Dr. Weiss were opposed.

Mr. Grenier stated with regard to the salary of the Pool Manager, they are looking at 75% being funded by Pool Revenue; and Mr. Ferguson stated that is correct for year one. Mr. Ferguson stated if it was determined that the person needed to spend more time than 75% or less than 75%, going forward it would be based on the actual from the first year to consider an adjustment. He stated they have done that in other Park & Rec positions over the years. Mr. Grenier stated if they do not meet the Pool Revenue projection, and they cannot meet the 75% Pool Director’s salary, he assumes the balance of that would shift to the Park & Rec Budget. Mr. Ferguson stated the Park & Rec Budget in most instances is the backstop for any shortfalls in the Pool. Mr. Grenier stated there is therefore risk to the Park & Rec Budget if the Pool has a bad year and people do not sign up. Mr. Ferguson stated he and Ms. Tierney actively manage the Pool Budget; and if they were to see shortfalls to the extent that would have a financial impact, there are ways they can “maneuver” that Budget with regard to hires of guards, or things that would not sacrifice safety but would help save money. He added this is what we had to do this year when there were issues with staffing and managing money. He stated they have clear benchmarks with regard to what they would expect to see with the Discount Registration and certain benchmarks throughout the year to know whether or not they will be facing a situation like Mr. Grenier is discussing. Mr. Grenier stated he assumes the Board will get an update along the way, and Mr. Ferguson agreed.

Mr. Lewis moved to hold off on hiring the additional Planner in 2022. Mr. Grenier seconded.

Mr. Lewis stated he strongly supports the Capital investment to put the Codes Permits software on-line so people can do more of their transactions on-line, and he definitely wants to see more details on the recommended solutions next year. He stated he is in support of that since if that reduces the overall workload from the Building Code team in the Permitting process, it may mean that they do not necessarily need an additional staff member, or possibly we could get a “half-staff member or flex with outside services.” He stated he would like to proceed with the Capital investment, and then see where we are at before we hire an additional “FTE” in that space.

Ms. Blundi stated she strongly opposes this Motion. She stated in 2008 we had the down turn and staff had to be let go, and we have not rebuilt the staff. She stated we have grown and become more complex between State and Federal mandates, and the needs and expectations of our residents need to be met. She stated over the last few weeks she has been contacted about people possibly being in violation with regard to short-term rentals and using their properties as catering facilities, etc.; and they do not have the staff to do a proper investigation of all of these different issues. She stated she strongly opposes any attempt to not give our Planning Department the support that it needs to do what is mandated and what needs to be done to keep our Township from “falling into the disrepair that it had been in previous years.”

Mr. Grenier stated Mr. Ferguson had indicated that the new Fire Services Director would be doing some inspections, and he asked Mr. Ferguson to clarify the difference in the role between the Fire Services Director, the Building Code Official, and anyone else in the Department where there are inspections of properties. Mr. Ferguson stated the annual fire inspection of Commercial properties looks at a variety of things, and they would be checking push-bars on doors, that exits are not blocked, that the signs are lit up, and the fire hydrants are current. He stated it would be a basic safety-level inspection. He stated the Fire Services Director would also be looking at projects when they are being built assisting the Building Code Official regarding the location of sprinklers in buildings, etc. He stated while it is an inspection, it is a specialized inspection compared to typical Building Code Official items. He stated currently when the Building Code Official goes out, and he has a question of that sort, he would call the part-time individual we have now to go out and consult with him on those matters.

Ms. Blundi reminded Mr. Grenier that he was the individual who told her in 2018 that this was a top priority. Mr. Grenier stated while he is not disagreeing, in his experience Planners “wear a lot of hats,” and he asked if they analyzed other ways in going about this by looking at a Professional Services Contract with a consulting or planning firm. He stated going that route is sometimes more efficient since they are not hiring a staff person who would have a specific skill set as opposed to hiring a Professional Services firm, which might assign someone, but you are also getting all of the skill sets of the firm collectively. He stated he would like to see what the cost impacts of that would be as opposed to hiring a staff person that comes with salary and benefits and being limited to that individual’s skill set.

Mr. Ferguson stated that was evaluated, but the issue is that increasingly firms do not retain planners, and oftentimes they have engineers who have taken over that planning function. He stated even if those people were in place, the job is not just to review big plans when they come in; and it will also be working on a lot of smaller-scale, voluminous things that come in. He stated there are firms that have planners to do those types of big reviews; however, this would be an individual having a full-time function at the Township. Mr. Ferguson stated a planner could cost \$80 to \$95 an hour, but there is a need for someone here forty hours a week; and the cost of hiring a full-time person even with benefits would be more affordable than having an outside planner. He stated in the job description for the Planner it can be seen that person would assist with all parts of the operation from coordinating small reviews for Residential projects to participating in larger projects. He stated that person would also be a back-up with Code Enforcement and assist where needed.

Mr. Ferguson reminded the Board that at the November 17 meeting they discussed the comparison between Lower Makefield’s Department size which is four and is several less than other Municipalities which have many fewer Permits than we have. He stated this year, we will have between 2,500 and 2,600 Permits and there is really only one staff person coordinating all of that. He stated Middletown has 500 fewer Permits than Lower Makefield but double the staff. He stated the Board has done a number of good things such as the Airbnb Ordinance that they are administering, and there are also things that have been mandated such as the Sewer Lateral Ordinance. He stated there is a need to have someone capable across the spectrum to help handle all of those things.

Mr. Grenier stated he would like to put out an RFP for a Planner to see what we get; and if we get something reasonable we could proceed in that way, and if we do not, then we would “put out a requisition to hire one.”

Motion did not carry as Mr. Grenier and Mr. Lewis were in favor and Ms. Blundi, Mr. McCartney, and Dr. Weiss were opposed.

Mr. Lewis asked Mr. Ferguson how much it would cost to have five more pick-up days for the recycle yard. Mr. Ferguson stated the direct cost of that would be approximately \$12,500.

Mr. Lewis moved to add five additional pick-up days for the recycle yard in 2022. Mr. Grenier seconded.

Mr. Grenier stated he understands the desire to offer the service, but his concern is the capacity we have at the facility to manage that and still be in compliance with the rules and regulations of the Commonwealth and the Federal Government. Mr. Ferguson stated he answered Mr. Lewis' question directly which was how much the cost would be; however, there would be an increased burden. He stated if they were to add five days, he would presume those would be weekends between April and October. He stated as discussed previously one of the things we are directing on weekend work is inlet work that has not been necessarily a priority in the past, and that work is done so that it does not have to be done as part of the Road Program. He stated they would therefore have five less weekend days to do that inlet work. He stated another issue would be that with increased drop-off days, typically the following Monday is a day when they have to dedicate staff to chipping, moving, and cleaning the area and having the material removed. He stated this is therefore a cost in terms of time available to focus on other things.

Mr. Grenier stated his question was whether they could get it out of the yard so that we are not back in the situation we were when there was long-term storage creating compliance issues. Ms. Blundi stated since this is sometimes called the recycle yard, people were dropping off TVs, tires, and refrigerators; however, it is actually just to be yard waste. Ms. Blundi stated as Mr. Grenier had advised her in the past, we cannot have the materials sitting around there because of how close it is to different run-off areas and the problems that creates. She stated they therefore have to mulch it and pay someone to take it away, and Mr. Ferguson agreed. Ms. Blundi asked if we add additional days, will we be able to get it all out so that we are not in the position we had been in for years of being in non-compliance.

Mr. Ferguson stated they would have to get the material out. He stated currently they have to find companies to take the material since a lot of the companies that previously took it do not want it any more. He stated in the past, companies

would come and get it for free, but now we have to pay to have it taken away. He stated if there were additional days, there would have to be a concerted effort to get the material removed so that we are not in non-compliance.

Mr. McCartney asked Mr. Lewis what would be the advantage of having the additional days. Mr. Lewis stated he often hears from people about flexibility around the recycling days, and this is a request for service that people ask for and appreciate. He stated we limited severely that service, and a lot of people were very unhappy about it. He stated he believes that there is a reasonable justification for the limitation, but he is asking if we could re-set the balance a little bit. Mr. Lewis stated no resident has ever asked him to add non-native plants to our acceptable trees, but he has often heard that they wanted more opportunities at the recycling yard. He stated he is willing to have a tradeoff of increased taxes, and if it is \$12,000 he is sure that is not a problem with the millage.

Mr. McCartney stated he wanted to make sure that the \$12,000 was an accurate number; and he believes the cost of having the yard open during those additional days on the weekend does not necessarily include the cost of removing the yard waste. Mr. Lewis stated that is why he did not offer a number with the Motion, and it was Mr. Ferguson who suggested that was the total cost estimate. Mr. McCartney asked Mr. Ferguson what is the total true cost, and Mr. Ferguson stated the hauling costs could fluctuate; but the cost he provided would not be off by much.

Mr. Ferguson stated they track the program, and there about 800 households that take advantage of those days, and they tend to be the same households. He stated that the issue for him is the utilization of the Public Works staff since there are twelve workers, and there is a limited amount of time for them to do a variety of things. He stated they are trying to do more of the road work than has been done in the past, and the is to have the Public Works Department pave 3/10ths of a mile which is more ambitious than we have had in the past with the idea being of looking for ways to do more of the work in-house. He stated they need to prioritize the work.

Mr. Grenier stated there is a direct cost and a resource-allocation issue. He stated he believes that our expenditures for the leaf program are about \$275,000 to \$300,000; but the leaf fee will bring in over \$700,000 this year so there is a delta between. Mr. Ferguson stated the amount coming in would be \$650,000. Mr. Grenier stated there is some delta between Expenditure

versus Revenue, and there might be an opportunity to use that for a future staff person or two who would be more “dedicated” to leaf recycling and other items that might qualify for use under the Leaf Fee.

Dr. Weiss stated he agrees with Mr. Grenier. He stated there is an allocation issue that the Township Manager has not directly addressed in his increased cost although he did allude to it. Dr. Weiss stated there are only a certain number of staff in the Public Works Department, and we cannot over-utilize them because we need other things done such as road repairs, storm drains and inlets clear at all times, etc. He stated he believes part of the Leaf Assessment is already used to help to keep the inlets clear. He stated if there is a true need or want to expand the yard waste days, they might consider in 2023, when our finances are more stable, increasing the staff in the Public Works Department and consider adding more days to the yard waste program; but he does not feel it is appropriate at this time.

Mr. James Bray, 12 Terracedale Road, stated he feels the yard waste program was one of the most successful programs ever run in Lower Makefield Township. He stated he is an avid gardener and he used it at least ten to twenty times in a year. He stated several of his neighbors expressed their frustration about it being stopped. Mr. Bray stated he would propose that there be even more than five additional times. He stated for next year he would propose hiring six more “maintenance employees” which would cost approximately \$30 to \$40 a household to fund. He stated we are on a very ambitious tree and shrub-planting program in the Township, and these additional people with some training would acquire the expertise to take care of these new additions the way they should be taken care of.

Motion did not carry as Mr. Lewis was in favor, and Ms. Blundi, Mr. Grenier, Mr. McCartney, and Dr. Weiss were opposed.

Motion to approve Resolution No. 2461 carried with Ms. Blundi, Mr. McCartney, and Dr. Weiss in favor and Mr. Grenier and Mr. Lewis opposed.

Approval of Resolution No. 2462 Establishing the 2022 Park & Recreation Fee-In-Lieu

Dr. Weiss moved and Mr. McCartney seconded to approve Resolution No. 2462 establishing the 2022 Park & Recreation Fee-In-Lieu.

Mr. Grenier stated there has been discussion about Fees-In-Lieu from a State regulation perspective, and he asked Mr. Ferguson to explain how the Fees relate to the State regulations. Mr. Ferguson stated there are four Fee-In-Lieu of Fees – Park & Rec, Traffic, Sidewalks, and Trees. He stated Park & Rec and Traffic are enabled by the Municipalities Planning Code, and there is a formula where Mr. Majewski does the index to update those Fees. He stated the Sidewalk and Tree Fee-In-Lieu of are enabled by local Ordinances without the back-drop of a larger enabling MPC behind them.

Motion carried unanimously.

Approval of Resolution No. 2463 Establishing the 2022 Traffic Impact Fee

Mr. Lewis moved, Mr. Grenier seconded and it was unanimously carried to approve Resolution No. 2463 establishing the 2022 Traffic Impact Fee.

Approval of Resolution No. 2464 Adopting the 2022 Fee Schedule

Mr. Lewis moved and Dr. Weiss seconded to approve Resolution No. 2464 adopting the 2022 Fee Schedule.

Mr. Grenier asked which Fees are included in this. Mr. Ferguson stated the Fees are broken down into parts – Code Fees, which would be alarms, short-term lodging, SALDO Fees; Miscellaneous Fees, which would be Certifications, the Fire Program, various Police Fees for Accident Reports, etc.; Construction Permit Fees - which would be Mechanical Fees, Electrical Fees, etc.; Subdivision and Land Development Fees, Zoning Fees, which would be anything to do with the Zoning Ordinance and Appeals Fees that would be under Zoning, and Park & Rec Fees – which would include the Pool, camps, etc. Mr. Ferguson stated there are also Sewage Fees.

Mr. Grenier moved and Mr. Lewis seconded to reduce the Sewer Fees for 2022 by 25% below their current rate.

Mr. McCartney asked Mr. Truelove if that would nullify our Agreement to sell the Sewer system. Mr. Truelove stated there is an Asset Purchase Agreement, and he believes this Motion would violate that. Mr. McCartney stated he does not believe we can legally do this. Mr. Ferguson stated it would probably result in a lawsuit.

Ms. Blundi asked Mr. Grenier if he would like to withdraw his Motion, but Mr. Grenier stated he did not want to withdraw the Motion.

Dr. Weiss stated he also believes that reducing the rates would violate our 537 Plan with the DEP/State in maintaining our system.

Mr. Grenier stated he disagrees since we have saved a significant amount of money over the course of the last year or two on our projects. He stated these rates would only take effect in the first quarter of the year when we are “only set to have control over the system for approximately a month maybe two so there is no economic hardship there for the few months that we might have a lower rate.”

Ms. Blundi asked Mr. Grenier if he is disagreeing with the advice of counsel. Mr. Grenier stated he is disagreeing with the impacts into the 537 Plan and our inability to complete projects given how the Fees accrue over time in terms of what has been accrued to date versus what has been spent and what would be accrued during the time period when the new fee would go into effect versus what would have to be spent after that.

Dr. Weiss reminded the Board, and asked Mr. Ferguson to confirm, that we are running a Sewer deficit between \$1 million and \$2 million so that any savings we have made in the 537 Plan over the last couple of years will be “swallowed up” by that deficit. Mr. Ferguson stated the most recent negative cash position of the Sewer Fund was about - \$1.3 to -\$1.4 million.

Mr. Lewis asked if the Asset Purchase Agreement stated that no changes could be made at all. Mr. Truelove stated while he does not have the specific information before him, this has been discussed in the past; and it was conveyed early on in the process by outside counsel and Aqua counsel that a reduction in the Sewer rates would seriously impair the ability to complete the transaction. Mr. Lewis stated he “would love for that transaction to go down because he thinks it is probably the worst public policy decision the Board has ever made.”

Mr. Lewis asked if there are options where Sewer customers could receive some form of rebate absent a change in the Sewer rates and not impact the Asset Purchase Agreement. Mr. Ferguson stated he does not know how that would be done. He added that the rates are set via the 537 Plan, and that 537 Plan beyond the Sale itself, was also subject to DEP approval regarding where the rate was and what the approved work was. He stated Aqua picking that up was with that rate in mind; and the Asset Purchase Agreement reflects that, because that rate as well goes to the PUC for approval as part of the sale itself.

Mr. Lewis stated aside from rate setting, there are other alternatives to address this for sewer customers, and we could offer them a special dividend. He stated the reason he brings this up is because a policy decision should not be “hamstrung by someone saying depending on the way you say it, it violates the Asset Purchase Agreement.” He stated you should be open to saying “here are ways you could accomplish the same thing.” Mr. Lewis stated Mr. Truelove could have said to Mr. Grenier “that there is some amount of money here that is surplus from the projects and the Township Manager may say he has extra over-reserved here because we have interim negative cash balances and we are not sure about MMA.” Mr. Lewis stated he feels while those are fair points, it is fair to say that the “thrust of what he was shooting for was the folks who have long-suffered under what he feels are arbitrary and very large Fee increases, there is a reasons why perhaps there are ways to help them benefit in this circumstance.”

Mr. Ferguson stated there will be some point in time that the Sewer Fund is reconciled. He stated we know that we have issues with MMA that may require additional funds, and in the outline of the Sewer transaction he had suggested a couple million dollars would need to go into the Sewer Fund for that. He stated if the Sewer Fund ends up with a surplus and the Board wanted to consider some kind of rebate, that opportunity would present itself. Mr. Lewis stated he is now saying that this is something that we could do but in a different form. Mr. Ferguson stated while he is saying that, he is also saying that as part of rates, that would be a more problematic issue. Mr. Lewis stated Mr. Grenier came at this from a “well-meaning position, and the option of the policy he is advocating is potentially doable.”

Ms. Lewis stated Mr. Grenier made a Motion and suggested something, and “the line of discussion was his Motion was out-of-bounds because a determination was made that the structure or how he wanted to do something was not doable, and it was not that what he suggested was wrong or his policy aims were wrong.” Mr. Lewis stated he is saying Mr. Grenier is owed the respect of saying they “understand where he is coming from, but the way he positioned this may not work because of x, y, and z.” Mr. Lewis stated it does not mean that his Motion should be “struck or immediately resolved, it means that you have the chance to discuss and provide other options.” Mr. Lewis stated he understands the “will of the Board today is not to consider that in any way, shape, or form.” Mr. Lewis stated Mr. Grenier asked a reasonable question, and immediately they said “no because it did not meet the legal litmus test.” He stated they should have heard out his policy concerns and given him options. He stated the “role is not for the staff to say we cannot do that, and the role is to make it possible to consider options.”

Dr. Weiss stated he respects Mr. Grenier's Motion but gave reasons why he would oppose the Motion. He stated he is saying this with years of budgeting experience and four years of experience on sewers and the fact that if we do not keep the rates where they are we could possibly end up with a large contingent liability when we close the deal on the Sewer system with Aqua.

Motion did not carry as Mr. Lewis was in favor and Ms. Blundi, Mr. Grenier, Mr. McCartney, and Dr. Weiss were opposed.

Mr. Grenier asked if he should have vacated his Motion given the fact that he voted against his own Motion. Mr. Truelove stated it frequently happens that Motions are made to get discussion started, but that does not mean the maker of the Motion has to support it.

Motion to approve Resolution No. 2466 approved with Mr. Lewis opposed.

Approval of Resolution No. 2465 Providing for Uniformed Employee Contribution to the Pension Fund for 2022

Mr. Lewis moved, Dr. Weiss seconded and it was unanimously carried to approve Resolution No. 2465 providing for Uniformed Employee Contribution to the Pension Fund for 2022.

Approval of Resolution No. 2466 Providing for Non-Uniform Employee Contribution to the Pension Fund for 2022

Mr. Grenier moved, Dr. Weiss seconded and it was unanimously carried to approve Resolution No. 2466 providing for Non-Uniform Employee Contribution to the Pension fund for 2022.

ENGINEER'S REPORT

Mr. Pockl stated the Board received his Engineer's Report in their packet.

Approval of Payment #2 (Final) for the Edgewood Road Safety Improvements Project

Mr. Pockl stated the work was completed the end of October, and a Maintenance

Bond has been received for eighteen months for that work. All obligations were completed by the contractor.

Dr. Weiss moved and Mr. McCartney seconded to approve Payment #2 (Final) for the Edgewood Road Safety Improvements Project in the amount of \$27,340.11.

Mr. Grenier asked the amount of the budget. Mr. Pockl stated the total Contract amount was \$576,067.01. Mr. Grenier asked if that includes the \$27,000, and Mr. Pockl agreed. Mr. Grenier asked if we expect any additional Change Orders, and Mr. Ferguson stated he does not believe that there will be any Change Orders. He stated some expenses will be added to the project. He stated the light on Schuyler was just added to the round-about. He stated those Expenses were not listed in Mr. Pockl's number, and were outside of the Contract. He stated those were safety features that were added. He stated the Township traffic engineer has had a recent conversation with himself and Chief Coluzzi regarding some other minor revisions with signage and anti-skid materials that he feels will help with safety, and that will be the subject of a future discussion with the Board. Mr. Ferguson stated he would estimate those items to cost around \$10,000, and he does not feel there will be any other major expenses to finalize the project.

Motion carried unanimously.

Approval of Payment #4 for the Memorial Park Project

Mr. Pockl stated the amount of the Payment is \$168,416.68. Initially the number submitted was \$163,026.68; but when the Pay Application was submitted to the contractor to be signed, they informed him that the handicap parking line striping was completed, and they deserved payment for that work. It was confirmed that work was completed, and it was part of a Change Order that was approved by the Board of Supervisors at the last meeting. That amount has been incorporated into this Pay Application. He stated after this there will be about \$35,000 left in the Contract. The project is substantially completed; and while there are some punch list items that they need to address, those items should be covered in the amount that is being retained.

Dr. Weiss moved, Mr. McCartney seconded and it was unanimously carried to approve Payment #4 for the Memorial Park Project in the amount of \$168,416.68.

PROJECT UPDATES

Mr. Ferguson stated with regard to the Multi-Use Trail, over the last two months he has spent a considerable amount of time coordinating with the DVRPC on the the paperwork which involves a substantial Grant. He stated the paperwork was completed and approved as of last week. He stated it is anticipated that the Bid will go out shortly, and an e-mail went to Ms. Tierney today to coordinate times that the areas will be used so that there is no direct conflict with things going on in the area. He stated he anticipates the Bid will go out shortly after the first of the year, and the project will probably start in the spring. He stated the project cost is between \$700,000 to \$800,000 with 90% of it covered through a re-imbursment Grant and hopefully will be done late spring.

Mr. Grenier noted the courts at Memorial Park, and he asked if that project is completed. Mr. Pockl stated there are some minor punch list items including adjustments to the fine grading on the surface. He stated there is some discoloration on one of the pickleball courts that they have been monitoring. He stated they want to see what is the cause of that and whether it can be cleaned up; and if not, it may need to be re-painted. Mr. Grenier stated there may be an opportunity to plant a significant number of trees in the area to provide more buffer for the neighbors who may hear more noise than they did in the past. Mr. Lewis stated he would be in support of that.

MANAGER'S REPORT

Discussion and Approval to Advertise Tree Ordinance Update

Mr. Ferguson stated an update has been provided to the list of native trees and shrubs. Mr. Ferguson stated a member of the EAC realized that some trees and shrubs were not included, and those were updated, and the list was provided to the Board in their packet.

Mr. Grenier moved and Mr. Lewis seconded to approve the updated Tree Ordinance with the removal of any allowance for non-native or cultivar trees.

Ms. Blundi stated the staff and other people have come to her to talk about the Tree Ordinance and what is and is not allowed. She stated she appreciates the work that the EAC has done; and while the EAC did not vote on it yet, they have suggested in an informal letter that while they agree in essence with the

change to the tree caliper size, they would like to change the language around it so that it has a wider variability to 2" to 3" instead of 2" to 2 ½" which she agrees makes sense.

Ms. Blundi stated native trees/bushes are those that have been found in this area of the Country for over two hundred years. She stated the original Ordinance had a more-tightly drafted definition of what was considered native. She stated the language in the proposed Ordinance expands that to the extent that it recognizes that Lower Makefield is unique and sits in a number of different regions so there is an extension of what would be considered native which has a lot to do with why additional trees and shrubs are now available.

Ms. Blundi stated the point of disagreement relates to the ability to plant things that are not native. She stated the EAC is working on another Ordinance that will address the opposite of native which is invasive. She stated this includes bamboo and other plants that we do not want planted in the Township. She expects that there will be more on this next year. Ms. Blundi stated there other trees that are neither native nor invasive, and she would like to Amend the Ordinance so that we have the ability to plant non-native trees in a small percentage of projects going forward. She stated Lower Makefield was a leader in this area when we came up with a zero-tolerance policy for anything other than native trees; however, that is not what she sees as a vision for the Township.

Ms. Blundi stated most people probably have non-native trees on their properties and homeowners are allowed to plant as many non-native trees as they want. She stated she wants to get to a place where we have select non-native trees so that there can be showcase public spaces. She stated this is why after hearing from the Township staff who asked that this be considered, she put forth the idea of allowing future projects to have up to 20% non-native trees. She stated she understands that we do not want invasive species. She stated we will need input from an arborist, and we have those type of specialists on staff with our engineer. She stated looking at neighboring Townships' Ordinances, Buckingham has no requirements, and Doylestown does not require natives although they state that they are preferred. She stated Falls has a requirement for 50% native tree replacement, and Middletown has no requirement. She stated Northampton suggests that natives are preferred but not required, and Upper Makefield is similar. She stated Solebury Township specifically calls out a number of non-native species that they would allow. Ms. Blundi stated she is talking about trees that are "showier" non-natives. She stated Upper Makefield just planted a row of cherry

trees down 532, and it is “breath-taking.” She stated she is looking to make an allowance for a small amount of non-natives to be considered as part of the plantings in future projects.

Mr. Truelove stated the Motion should be to authorize advertisement of an Ordinance. He stated this is an Ordinance Amendment under the Subdivision and Land Development Ordinance, and it is governed by the MPC; and it is a long process. He stated if the Board approves authorizing advertisement tonight, it will go to the Township Planning Commission and Bucks County Planning Commission; and if either or both of them have what would be determined to be substantive recommended changes, it could be Amended, and it would then have to be re-advertised.

Ms. Blundi moved to Amend the Motion so that it stays the way it is presented for advertisement with the suggestion that we include the caliper re-adjustment that the EAC has suggested.

Mr. Lewis stated he feels the maker of the Motion needs to decide if he would accept the Amendment.

Mr. McCartney stated the Motion that Mr. Grenier made was to accept all the Tree Ordinance changes except for one, and Mr. Grenier agreed adding that it would remove the ability to include the non-natives and cultivars.

Mr. McCartney stated he feels they should take a vote on Mr. Grenier’s Motion first. Ms. Blundi stated if that is the case, we should take Public Comment on that Motion before the Board votes on it.

Mr. Truelove stated the current Motion is Mr. Grenier’s Motion with the Ordinance without the non-native change included, and Mr. Grenier agreed.

Ms. Blundi withdrew her Amendment.

Mr. Grenier thanked the EAC for very quickly doing a review in draft form recognizing that they did not have a chance to finally review it and provide comments to the Board of Supervisors because their meeting is not until tomorrow. He stated he feels it is important for the EAC to have a full opportunity to review this. Mr. Grenier stated this is his “personal area of academic background and professional background for the last twenty

years.” He stated he has been responsible for the purchase and planting of millions of native trees in our region so he “has a level of expertise beyond what our staff has.”

Mr. Grenier stated he would be in support of the majority of the requested changes and has made recommendations in the past to make these changes. He stated from a tree caliper perspective when purchasing these trees 3” can be a very large tree which is not always available, and 2” to 2 ½” as the lower end of the range for what is available at a native plant nursery and allowing for a greater range between 2” and 3” is in line with the state of the practice to date. He stated there are native tree nurseries all over our region, and that is the range of trees that they offer. Mr. Grenier stated he would be in support of that change.

Mr. Grenier stated Pennsylvania has about 2,100 native trees, and 1,700 of them exist in Bucks County; and are “some of the most beautiful trees on the planet,” so there are many options that are native that are provided by local nurseries. He stated flowering trees like the cherries, plums, peaches, and other similar species flower for two to three weeks a year before they just look like deciduous trees. He stated he has no issue with the native trees that were added, and he would be in support of that since we want to have as extensive a list of native plants provided in the Township not only because it gives flexibility but also because it provides bio-diversity. He stated we are fortunate in that we have some of the “most robust botanical research anywhere in the World going on in the Delaware Valley and greater Philadelphia Region,” and he noted a number of facilities in the area. He noted articles published by the University of Delaware where they compared the bio-diversity of traditional landscaped suburban areas versus areas planted with native trees and found that the bio-diversity of the plants, pollinators, and birds of native plant areas were eight times greater than a similarly-planted non-native traditional landscape in another Township that does not have an Ordinance like ours. He stated there is a crisis with native pollinators of honeybees and bird species, and many of them are going onto the endangered species list because we have cleared too much land and re-planted with non-native species.

Mr. Grenier stated there are also studies out that show that non-native plants have cost the economy “trillions of dollars” over the last eighty to one hundred years because of the impact that native plants have on the bio-diversity and outcompeting native trees in that non-native plants have a tendency to be very successful in areas that are disturbed and they take over quickly. He noted

plants that have been placed on the Pennsylvania noxious weed list. He stated Bradford pear trees are very pretty when they flower, but they are invasive and dangerous because they break and create a nuisance.

Mr. Grenier stated he has only heard good things about our Tree Ordinance, and the only people he has ever heard complain about it are the developers. He stated “developers like to claim poverty on everything and every Ordinance we have ever had that prevents them from planting exactly what they want, when they want, and for the price they want.” He stated they also make “claims that do not exist about availability, cost, etc. about these plants.” Mr. Grenier stated all the projects he has worked on he has never had an issue getting native plants that were at as good if not a better price than other plants.

Mr. Grenier stated Ms. Blundi indicated that she had gone to staff to talk about this, but he is also aware and troubled that Bohler Engineering has provided suggested changes to our native tree planting list. He stated Bohler Engineering is the engineer for Prickett Preserve which is preparing to break ground on the Wegman’s project. Mr. Grenier stated he has a “very strong feeling that again Prickett Preserve is trying to influence our Ordinances to make fundamental changes that we do not need.” He stated he is fine supporting the Prickett Preserve Development as it stands now as we went through a very robust process, but he is not in favor of having the developer’s engineer sending us a list of “highly suggested plants that they would like to plant there that when you look at a list of fifty, there might be two that would be acceptable.” He stated he is not “in the business of changing Ordinances specific to a developer’s requests because they see it as some sort of economic hardship.” He stated there are Ordinances in place based on years of experience with our EAC, our Advisory Boards, and “our voters who put us here because they thought we were going to do a certain job and make this Township a great place to live.” He stated he cannot support allowing non-native trees that at some point in time will have a negative impact across the Township. He stated any of these non-native trees “could end up going invasive” and will “totally destroy native landscapes and hurt our bio-diversity.”

Mr. Lewis stated he feels Mr. Grenier has laid this out exactly right, and he 100% agrees. He stated he does have non-natives in his own yard, but they were planted before he moved there.

Mr. McCartney stated he appreciates Mr. Grenier’s point, but asked if we are establishing a zero tolerance for this type of planting in Lower Makefield, are we prepared to enforce that through Code Enforcement to remove all of the

existing trees. He also asked if we will “come up with some kind of anti-pollination defense system that will stop the pollination from every neighboring Township that borders us that has these trees already in existence.” Mr. Grenier stated this is the SALDO Ordinance so it only applies to new developments subject to SALDO. Mr. Grenier stated we would not issue Code Enforcement to residents who have existing non-native trees. Mr. McCartney asked what percentage of remaining land would this have jurisdiction over. Mr. Grenier stated there are new developments coming in although he agrees that there is not a lot of undeveloped land left. He stated there could be re-developments that occur which would have requirements for trees that would have to adhere to this. He stated this also provides guidance for other projects that we do in the Township such as the pollution reduction plans where we are planting plants throughout the Township. Mr. Grenier stated some of the developments that are coming in will have a significant number of trees, and he noted that Prickett Preserve will have hundreds of trees that they will plant near a highway which is a disturbed area, and those corridors are prone to non-native species coming in quickly. He stated if they are planted there to begin with they are giving them the opportunity to take off and become invasive because of where they would be planted.

Mr. Grenier stated with regard to Mr. McCartney’s question about what to do to get rid of the non-natives, we have some Ordinances like the Bamboo Ordinance where we actively go after that. He stated the State also has other Ordinances like the Noxious Weed Ordinance where they are only allowing the sale of certain non-natives. He stated there are also those working on mapping invasive species across the Country and coming up with ways to start to remove them from the landscape.

Mr. McCartney stated he agrees with the invasive piece of it, but the discussion is having non-natives that have been deemed non-invasive. He stated the Ordinance would only allow 20% of non-natives. He stated a private homeowner could plant 100% of non-natives on their property today and not be in violation of the Ordinance. Mr. Grenier stated that is correct unless they are noxious weeds.

Mr. McCartney stated invasives and non-natives are two completely different things; however, Mr. Grenier stated they are not. Mr. Grenier stated non-natives when they are planted may not “go straight invasive right away,” and there are several examples of non-natives that have taken several decades before they are considered invasive and take over. He stated this is particularly true with aquatic species which move very quickly. He also stated that a lot of the non-native plants are hosts to non-native insects including the spotted lantern fly and the emerald ash borer. He stated these non-native insect species are completing decimating entire landscapes.

Mr. McCartney asked if a native plant can become invasive, and Mr. Grenier stated that happens rarely. He stated there are native species that can take over that have invasive tendencies because they grow so quickly, but those are early successional before the other species take over. He stated you do not get native plants going invasive with nearly the frequency of non-natives. Mr. Grenier stated he does promote aesthetics, and there are beautiful native trees that are pollinators.

Ms. Linda Salvatti, 24 Sutphin Pines, stated she is on the EAC. She stated she does not have a problem with a majority of the Ordinance changes aside from the non-natives. She stated Mr. Grenier did a good job of explaining native and non-native. She stated native is “treated specifically native to an eco-region.” She stated in Lower Makefield there are two eco-regions –the Piedmont and the Coastal Plain, and the EAC has done its best to bring in as many trees as they can from both of those eco-regions, and “even other ones that potentially grow within the eco-region.” She stated she has no problem with non-natives outside of the eco-region, but non-native exotic and alien plants is where there is a problem. She stated Mr. Grenier is correct in that there is a direct correlation with non-native exotics and invasive species. She stated the DCNR, the State agency Department of Conservation and Natural Resources, is in charge of protecting our natural resources in the State, and they put together the invasive species list. She stated 100% of the species on that list are exotic, some of which were brought here accidentally and some brought on purpose. She stated she does not have a problem looking at a list the Township wants to propose that has non-natives on it depending on what the definition of non-native is.

Ms. Salvatti stated she was provided the Bohler list, and one of those species is on the DCNR invasive species list, and another one of those species is considered highly poisonous. She stated thirteen of the species on the list are exotic. She stated many of the others are native, beautiful, and flowering. She stated she is not sure why the Township would want to promote exotic species. She stated there are many beautiful native flowering plants, many of which are on the list which they could plant. She stated she does not understand why we would want to bring in non-native exotics that will eventually turn up on an invasive species list, and as stewards of the Township we should protect the environmental eco-system of the Township.

Ms. Salvatti stated she has over thirty years of experience in the environment and does this for a living planting hundreds of thousands of trees a year all over Pennsylvania and New Jersey, and she is not allowed to plant a non-native plant. She stated her company spends thousands of dollars trying to

eradicate invasive species which are non-native to this Country, and it is “virtually impossible.” She stated if this is what the Township wants to do as their future, she is highly against it and is sorry that it is something that they are proposing.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated he is glad to see that the Board is continuing to look at the Ordinance, and he hopes that developers are noting that they are not discussing getting rid of the Ordinance so that maybe they will stop coming in to ask for relief from the Ordinance when the Ordinance is designed to define how they can get relief if they cannot plant the trees. Mr. Costello stated a homeowner can plant whatever they want on their property, but if a developer wants to plant a non-native species, he would want them to rationalize why. He stated he understands that native plants do not overly-propagate, they provide good habitat to the local wildlife, and are good for local pollinators. He stated the non-natives are typically invasive and they grow disproportionately. He stated he feels they should lay out what the critical elements are rather than just saying native versus non-native. He stated he does not see a reason why a developer should need to plant anything that is not native.

Mr. Jim Bray, 12 Terracedale Road, stated the Native Plant Ordinance applies to Developmental buffers and for property owned by Lower Makefield Township. He stated it does not tell an individual homeowner what to plant in his or her yard. He stated the aim of the Ordinance was to replace the thousands of trees that had been lost through development when developers years ago planted many non-natives. He stated the planting of non-natives is detrimental to the values in Lower Makefield Township. He stated when the Ordinance first went in fifteen years ago, invasives were an issue, and they are still going to be an issue; but this Ordinance “also addresses that.” He stated when the Ordinance first came into Lower Makefield Township, it became a hallmark for the Township. He stated in the last fifteen years, Lower Makefield Township, through the EAC, has put into effect ten significant environmental Ordinances in whole or in part; and as a result Lower Makefield Township has become an “environmental power not only in Eastern Pennsylvania but throughout the Eastern United States.”

Mr. Bray stated the hallmark Ordinance is the Native Plant Ordinance. He stated when it first went in, he was asked by the Township to put it on the Township Website because of the number of calls they were getting; and as a result of that many Municipalities throughout the United States have adopted similar Ordinances. Mr. Bray stated the EAC developed a very positive outreach program, and they lectured throughout the area on our Native Plant Ordinance and some of the other LMT initiatives which were “first rate and cutting edge.” He noted areas they have reached out to with respect to our Ordinance. He stated it has also received

National and local recognition, adding Lower Makefield Township received the Governor's Environmental Award for Pennsylvania as well as the first ever United States Environmental Protection Agency Award for Environmental Excellence.

He stated we were the only community in the mid-Atlantic region to receive that award, and that was primarily because of our innovative Ordinances, with the main one being the Native Plant Ordinance.

Mr. Bray stated the Ordinance has also withstood the test of time. He stated it will have been in effect fifteen years next April, and during that time there is no record of any developer taking exception with the provisions of the Ordinance because natives are in the mainstream, they are easy to purchase, they are lower maintenance, and the developers and the Township save money.

Mr. Bray stated they have no problem with five out of the six requests by the Township; however, they do have a serious problem with the inclusion of non-natives. He stated there are huge environmental benefits associated to planting natives in the Township. He stated since the Ordinance has gone into effect Lower Makefield Township has planted thousands of natives with the attendant benefits. He stated the EAC is a land-use review Board, and they have probably reviewed sixty to seventy Plans during that time; and at no time has a developer requested relief from the Native Plant Ordinance. He stated it is working effectively, and he does not feel it should be changed when it is working "to perfection."

Mr. Bray stated Ms. Blundi had asked the EAC if they could add some other flowering trees and shrubs to the Ordinance, and they have been working on this in collaboration with Mr. Majewski for the last several months. Ms. Blundi stated it had been suggested previously that this was "being rushed" and they had not had time to look at it, but this is something that they have been working on since March; and Mr. Bray agreed. Mr. Bray stated he would also like to clarify that the EAC is a Board that likes to complete things on a timely basis. He stated the last meeting the EAC had was on November 24; and during that meeting, Mr. Majewski gave him the information that he had been provided two to three weeks before that time, which they needed in order to complete their report. He stated the EAC will complete the report; however, since the Board of Supervisors meeting was tonight and the EAC meeting is tomorrow night, they did not have the opportunity to officially verify their report. He stated that is why they sent out a draft copy.

Mr. Bray stated there are huge economic benefits to natives including lower maintenance costs. He stated the “non-natives of today can become the nightmare of tomorrow.” He noted the Bradford pears that were planted forty to fifty years ago. He stated they were introduced into the United States in 1908, and their invasive qualities were not immediately evident but now they have become an environmental nightmare. He noted the woodlands in the area are filled with Bradford pears that are supplanting and replacing native trees.

Mr. Bray stated at the request of the Township they did add twenty-nine more flowering trees and thirty-four shrubs; and when you take cultivars into account, there are probably 200 to 300 flowering trees that they can avail themselves of and between 500 and 1,000 shrubs. He stated this is a 56% increase and an 83% increase, and he would “defy anybody not to find something beautiful to plant within that number of trees that are available.” Mr. Bray stated he does not feel there is any sound, logical reason why we would want to do this as we have all the beautiful trees and shrubs we could think of planting, and they should meet anybody’s taste. He stated he does not understand why the Board would want to replace or change an Ordinance that has worked so effectively over fifteen years with basically no problems at all.

Mr. Jonah Rank stated he is a member of the Lower Makefield Township Environmental Advisory Council, and he shares the concern that has been expressed with regard to the planting of non-native species in the area. He stated he feels that despite knowing there are “many examples elsewhere within Bucks County especially surrounding us quite immediately, there are many provisions that have been made for allowing some percentage of non-native species.” He stated he feels that this is still something where we can remain a leader among Municipalities acting preventively and progressively and continuing to be so as we have been positively acknowledged as such with various awards. He stated he recognizes that as was noted earlier there are many homes within LMT where there are non-native trees that have been planted, and we do not have a perfect eco-system as it is. He stated he would be concerned with the percentage of trees that are non-native that are on private citizen’s homes versus what we, under the auspices of the Township, would now be giving permission to plant. He stated there is clearly invasion that has already happened, but we can still “keep up our guard and be preventative.”

Mr. Rank stated he sent a letter to the Township Supervisors and in that letter he had noted Section 607 – Duties of Supervisors - Article 6 – Township Supervisors of Pennsylvania General Assembly Act No. 69 of 1933 Second

Class Township Code which establishes that a Township's Board of Supervisors shall secure the health, safety, and welfare of the citizens of the Township. He stated this is where they have to think about the exact legal and moral duty that comes with that when they think about the effects of non-native species in our area. Mr. Rank stated that they know that the effects may not be immediate, but they know that down the road we might find detriment that comes from those non-native species.

Mr. Rank stated we live in a time of an extremely delicate eco-system, and Bucks County is not exempt from the difficulties of the ecological crisis we are experiencing. He noted measurements from 1980 to 2019 indicating that overall Bucks County has generally experienced each decade a rise of .37 degrees Fahrenheit every which is an alarming number over the course of decades and eventually centuries. He stated we want to make sure that we are planning ahead for our future and not disrupting the eco-system especially the eco-system that is so well poised in our area for enabling trees to be healthy that are native trees given how important trees are in reducing the effects of greenhouse gases in the environmental crisis that we are dealing with. Mr. Rank stated in 2019 about 30% of carbon dioxide in the atmosphere was able to be absorbed by trees and soil, and carbon dioxide was approximately 80% of greenhouse gases recorded in the United States in 2019.

Mr. Rank stated we are a small Township, and it may seem like it is a "very small thing that we are planting every time we plant something small in the ground whether it is native or non-native, but every non-native has a ripple effect that will either help or hurt our eco-system." He stated we have a wonderful Ordinance that has been established for fifteen years," that he would like to see continue to flourish. He stated with no Federal law and no State law that is "contravening our intentions to protect our natural habitat, he is in concert with all the others here" asking the LMT Board of Supervisors to refrain from enacting a measure that would disrupt our eco-system pertaining especially to native versus non-native plants. He stated the ripple effects can be quite drastic; and while they may not be today, they will be tomorrow perhaps, "and we are here to plan for the best tomorrow we can have."

Ms. Lisa Tenney, 156 Pinnacle Circle, urged the Board of Supervisors to take the advice of the Environmental Committee as well as Mr. Grenier. She stated she does not care what happens in other Townships, and as the Environmental Committee has already stated, we are cutting edge and a leader going forward environmentally. She stated it is our privilege to enable and foster the growth

of native trees that are selected by nature and home to native bees and birds. She stated as homeowners we get to plant whatever we like. She stated she feels we can all agree that there are only a few undeveloped acres left in the Township, and she feels we should keep the Ordinance as stated to promote native trees which is very important. She states she hopes the Board will not change the Ordinance since as Mr. Bray stated it is perfect.

Ms. Tenney stated as an aside she applied a month ago to be a member of the Environmental Committee, but she does not know the status of her Application. Ms. Blundi stated there have been a lot of interest by volunteers lately and some interviews have been held, and she should look for something next year.

Mr. Alan Dresser, 1907 Lynbrooke Drive, stated he is a member of the EAC. He stated he is in favor of the proposed changes to the Native Plant Ordinance except for the clause that allows for the 20% of trees and shrubs to be non-native. He stated that clause should be removed from the proposal for all the environmental and ecological reasons that previous commenters have brought up. He stated as a member of the EAC he has been reviewing and commenting on Land Use Development Plans since 2007, and in that time he has reviewed at least forty different proposed Developments of varying sizes in the Township, and not once does he remember compliance with the Township's native Plant Ordinance being a problem. He stated they were always able to find appropriate native plants to meet their landscaping needs, and Prickett Preserve can too.

Dr. Weiss stated he appreciates the work of the EAC over the years and the contributions they have made. He stated his issue is with the reality of our neighborhoods and our surrounding communities. He stated while he did not pursue the profession, he is a graduate botanist from an esteemed State University, and he has significant knowledge. He stated as Ms. Salvatti stated there is a big difference between non-natives and exotics, and he feels there is room for successful non-native trees. He stated he knows of at least nine species that have two hundred years of success in this region, some of which have beautiful flowers and may be appropriate for a developer's use under certain conditions. He stated he does not see an issue in these very small circumstances. He stated he does agree that 20% is too much; and if they are going to introduce a non-native, an arborist needs to sign off that it has a proven history and is in fact a non-invasive. He stated he recognizes that every surrounding community has a non-native allowance much greater than what is even being proposed now in the Ordinance. He stated he appreciates the benchmark that the current Ordinance has and appreciates the greatly-expanded list that the EAC came up with, with the help of our staff. He stated he takes

issue with a certain developer's engineer adding to that list, and he believes that the Board is well versed enough that they can discount an interested party. He stated he is willing to entertain a non-native, successful species in a very small limited circumstance.

Mr. Grenier stated he would like to Amend his Motion to allow for in areas of the Ordinance where it has been changed to go from 3" down to 2" to 2 ½" caliper trees, and he would like to Amend the Motion to allow for 2" to 3" caliper trees throughout the Ordinance. He stated in areas of the Ordinance that have been changed from 3" down to 2" to 2 ½" caliper minimum size trees, he would like to Amend the Ordinance to allow for a range of caliper sizes between 2" and 3".

Mr. Truelove stated he is looking to change the 2 ½" to 3", and Mr. Grenier stated he wants to put the high end from 2 ½" to 3". Mr. Truelove stated he still wants to include as part of the Motion not to include non-native species, and Mr. Grenier agreed.

Mr. Truelove asked if there is a Second to the Amendment.

Mr. Lewis stated he would be in favor of that since that provides additional flexibility for developers so he would accept the Amendment.

Ms. Blundi stated this Amendment would adopt the recommendations that the EAC made, and Mr. Lewis agreed.

Mr. Jim Bray stated with respect to caliper size, the EAC has no problem with accepting the lower size, but there is no reason to remove the upper limit; and if a developer wants to put in a larger tree, that is not an issue. He stated there are also some shrub heights that were 36" before that have been dropped down to 24", and they feel the range should be 24" to 36". He stated there are several examples like that, and they have modified the original SALDO Ordinance to reflect that, and he believes that the Township has a copy of that that the EAC sent them.

Mr. Grenier stated the Board is voting to advertise this, and Mr. Truelove agreed that this is the first step. Mr. Truelove stated if there were modifications that were deemed to be substitutive, it would have to be re-advertised. Mr. Grenier asked if the modifications Mr. Bray just discussed about allowing a slightly different span for shrubs would be considered substitutive. Mr. Truelove stated he believes it would be in the context of this Ordinance.

Motion did not carry as Mr. Grenier and Mr. Lewis were in favor and Ms. Blundi, Mr. McCartney, and Dr. Weiss were opposed.

Mr. McCartney asked Mr. Grenier who sets the standards for the noxious weed list. Mr. Grenier stated there are several State and Federal agencies. He noted the Pennsylvania Department of Conservation Natural Resources with input from the Pennsylvania Natural Heritage Program and at the Federal level there is the U. S. Fish and Wildlife Service, the U.S.D.A and RCS, and the EPA that all get involved in reviewing non-native, noxious, invasive, and various types of species at various levels. He stated he also believes that the Commerce Department gets involved when it comes to inspecting ships, etc.

Mr. McCartney asked for the purpose of looking for a credible source, if the DCNR and NHP would be sufficient, and Mr. Grenier agreed they would at the State level.

Mr. McCartney moved to approve the Ordinance with the following change: verbiage around the percentage of non-natives to be changed from 20% to 10% and that list is not to include invasives, exotics, aliens, and anything that is on the DCNR or NHP list and also any tree that does not fit within the native to be approved by an arborist.

Ms. Blundi asked if that would also have the ranges that the EAC has suggested in terms of calipers so that we have the largest range of tree and shrub calipers recommended by the EAC, and Mr. McCartney.

Ms. Blundi seconded the Motion.

Mr. Lewis stated he finds it hard to believe that we are getting this Amendment now and not one person has given a credible reason why we need to invite non-native, potentially invasive species into the Township. He stated he understands that some are already here, but he questions why we would have even 10% since no one has made a credible case. He asked “where is the developer who instigated all of this as they are not here to make the case for this.” Mr. Lewis stated it is “fascinating that this is rocketed through and they could not get a decent version of this that has been worked through the EAC and it had to be put on immediately.” He asked why it could not wait until next month. Mr. Lewis stated we have an Ordinance that is respected in the United States. He asked why we would “throw that out because some developer would like to add some noxious plants.”

Dr. Weiss asked for a point of order. He stated as he understands the Amendment directly prohibits invasive species, and Ms. Blundi agreed. Dr. Weiss stated this is the introduction of adding non-invasive, non-native trees up to 10%. He stated he does not understand the “feigned indifference of Mr. Lewis’ comments” to Mr. McCartney’s Amendment to the Ordinance. Dr. Weiss stated he feels the Board understands the objections to the change by certain members of the community and the EAC. He stated at this point the Motion is to advertise the Ordinance.

Ms. Blundi stated Mr. McCartney has made a Motion and made an Amendment. Ms. Blundi stated there are natives and there are invasives, and Mr. McCartney has specially called out exotics and aliens, language that was put forth by Ms. Salvatti. She stated the lists of invasives would be recognized so that those would not be planted, and an arborist would also have to be involved. She stated he has also lowered the percentage from 20%. Ms. Blundi stated it frustrates people when Mr. Lewis “purposely or accidentally inflates terms so that people cannot follow what is going on.”

Mr. Lewis asked that the exact language be read back as it relates to non-native species and how it is in the Ordinance as it has been Amended.

Mr. Truelove stated the Motion is for non-native but not exotic, not alien, and not invasive and also to be on the approved DCNR list and also to include the review of an arborist as well as the changes to the caliper size as recommended by the EAC. Mr. McCartney stated the other item is based on Mr. Grenier’s recommendation with DCNR and NHP. Mr. Grenier stated that is not his recommendation; however, Mr. McCartney stated he was referring to the two State agencies that he indicated in Pennsylvania he would rely on. Mr. Grenier stated that is correct, but he feels as a “professional biologist this is one of the worst changes to an Ordinance he has ever seen, and he is very disappointed in this Board.”

Mr. Truelove stated depending on how the Motion proceeds, he will clarify it in writing and circulate it to everyone tomorrow.

Mr. Lewis stated it might be better if the Township solicitor was given a chance to write up Mr. McCartney’s Amendment because it includes a lot of details that he is not sure that “many are aware of or would be comfortable with;” and he would not want a circumstance where we publish a proposed Ordinance and “we cause people to be concerned, and they come, and we are in a situation where we have not fully defined what was in there.” Mr. Lewis stated he would like to know the implications of this before he would vote to publish it.

Mr. McCartney stated the Motion is to publish the Ordinance with the following changes: move from 20% to 10%, the 10% cannot include invasives, exotics, or alien species, or any species that are on the DCNR or NHP list and also approval by an arborist. Finally the branch calipers which would be the adoption of the caliper language that the EAC provided. Mr. Lewis asked if that also includes the shrub height as well, and Ms. Blundi agreed since he said it included the adoption of what the EAC said.

Mr. Lewis asked for a definition of non-invasive, who determines that, and what would be the criteria which an arborist would use. Mr. McCartney stated it would be determined by a professional arborist and would not know the criteria they would use as he is not a professional arborist.

Mr. Lewis asked if the arborist would guarantee to the Township that any of their recommendations will be considered non-invasive for a period for twenty-five or fifty years, and Mr. McCartney stated he does not believe anybody could guarantee that. Mr. Lewis stated if they cannot guarantee that, “why would they bother with the arborist.” Mr. McCartney stated you cannot guarantee that a native species will not become invasive in the next fifty years as our climate is changing every year. Mr. Lewis stated he still wants to reduce risk. Mr. McCartney stated if they want to reduce risk, they should take out all of the invasive species “and go house to house and cut everyone’s trees down that are non-native.” Mr. Lewis stated cutting down non-natives in peoples’ yards would be up to the homeowner under our current law.

Mr. Lewis stated “normally the Chair would admonish you for not being on target because it is not germane to the Amendment, but she does not admonish you.” Ms. Blundi stated it his Amendment. Mr. Lewis stated the argument is not germane to the Amendment. Ms. Blundi stated Mr. Lewis asked him to explain, and they are having that discussion.

Mr. McCartney stated from a pragmatic standpoint, we are talking about 10,000 households that have multiple trees that are non-native planted on their property, but they are “splitting hairs” over 10% of possibly hundreds of trees that are being planted on less than 5% of developable land in the Township. Mr. Lewis stated under the SALDO land process this is the only opportunity that we have. He added that telling “Lowe’s and Home Depot and other retailers that they cannot sell non-native species is a State decision, and he might consider advising his State Rep, State Senator, or the Governor to consider that.” He stated there are already actions to stop the sale of

certain trees that are invasive. Mr. McCartney stated he feels that would be a better battle to take on than this one.” He stated we are looking at a small percent of what the possibilities are within the region.

Mr. Grenier stated that is incorrect, although he knows that he cannot explain it any further. Mr. McCartney stated if there is 95% developed land that is privately owned by homeowners who can plant whatever they want, and there is 5% undeveloped land, Mr. Grenier is saying that the 5% undeveloped land can have a disastrous impact on the entire eco-system; and Mr. Grenier stated he is saying that, and it has happened many times.

Mr. Lewis reminded Mr. McCartney about the Bamboo Ordinance where we actually did take action against an invasive species. Mr. McCartney stated his Motion included not allowing invasive, exotic, and alien species. Mr. Lewis stated he is saying “definitionally you cannot guarantee that.” Mr. McCartney asked Mr. Lewis who he would suggest we use to determine that. Mr. Lewis stated he does not see a need for non-native species as no one has made the case for non-native species.

Ms. Blundi called the Question.

Mr. Grenier stated he has not made comments yet.

Dr. Weiss stated if someone calls the Question, he believes that you have to vote on that. Mr. Truelove stated that is correct. Dr. Weiss stated calling the Question stops the discussion. He stated there has to be a Second on Calling the Question, and then you have to vote on Calling the Question; and if that passes, you then vote on the Motion.

Ms. Blundi stated she will Withdraw Calling the Question so that Mr. Grenier can make comment.

Mr. Grenier stated there have been multiple members of the EAC speaking this evening, many of whom have professional expertise, academic expertise, and years of experience dealing with this issue. He stated he also “fits that bill as well.” He stated everyone who has any “history, scientific, professional background” with this issue has stated that changing this Ordinance to allow non-native species/non-native trees is a bad idea. Mr. Grenier stated by going forward with this, the Board is ignoring scientists and experts in the field to vote on this Ordinance as currently proposed.

Mr. Grenier stated this did not come about because there were any issues with the Ordinance with respect to causing harm in the Township, and it came from a developer who made these recommendations/suggestions to promote their own development so that they could “re-write another Ordinance in our town that in his opinion did not need to be re-written.” Mr. Grenier stated he would like “to see the record of communication between that developer and whoever he made this recommendation to, to fully understand where this comes from because it makes no sense.”

Mr. Grenier stated this developer is very active in our Township, “spends a lot of money in our Township, contributes a lot of money to campaigns, etc.” Mr. Grenier stated we have done “everything possible to bend over backwards to make this developer happy, and in his view it has not been fully transparent.” He stated he was not aware of all of these changes, and he was not aware until yesterday that Bohler and Prickett were the ones sending our Township staff these recommendations “that have been pushed so fiercely through our process with the EAC.”

Mr. Grenier stated the EAC originally wrote this Ordinance which was lauded in the Philadelphia Inquirer in 2013 as a groundbreaking new Ordinance for everyone to follow throughout our region which many have. He stated the Ordinance has worked and made the Township much better. He stated “now we are tearing it apart” because a single developer is putting in a new development, that he actually supported; but he cannot and will not support this change. He stated he “wants to shine a very bright light on what is going on because we are seeing it again and again with developers coming in, re-writing our Ordinances, asking for Variances, etc. and being pushed through incredibly fast.” He stated he hopes that come the New Year, we will have new transparency, and that when the developers come to the Township, that the Board knows about it right away and are not surprised at Township meetings by staff proposals for Variances. Mr. Grenier stated there are various designs that have been put out that have apparently been discussed between developers, their attorneys, and staff that come in front of the Board that request Variances that generally speaking the Township residents do not want, but “for some reason, they are getting pushed through; and in his view, this falls into that.” He stated everyone he has ever spoken to in the Township does not have an issue with this Ordinance, so this “falls into another one where a developer is pushing it through and we are clicking our heels and saying okay.”

Mr. Grenier stated “we will all be worse off because of it, but the developer will still make their money.” He stated he hopes “when certain folks that come into that development and are doing their ESG numbers, they know that they are actively promoting non-native species, and that will be a detriment to their ESG rating.” Mr. Grenier stated this does not meet the science.

Mr. Ferguson stated Mr. DeLuca is not responsible for any of this or anyone associated with that development. He stated he had several conversations with Mr. DeLuca that the Township was expanding the native list, and that the list had gone through an iteration; and while they were putting together their Landscaping Plan he provided the list of the native plants that was put in draft form and was updated by the EAC. Mr. Ferguson stated in that same discussion with Mr. DeLuca, he had indicated that there is a provision being considered for 20% non-natives; and he asked if he had any thoughts about that as far as his Landscaping Plan and anything he would want to add. Mr. Ferguson stated that discussion with Mr. DeLuca took place over the last forty-eight hours when Mr. Bray updated the native list. He stated nothing was initiated by the developer, and it was an attempt to look at what the Board and the EAC were contemplating while the developer was putting together their Landscaping Plan.

Mr. Lewis asked if it was Mr. Ferguson’s suggestion to include the non-native species, and Mr. Ferguson stated that discussion came out when the Ordinance was originally drafted months ago.

Ms. Blundi stated at the time that the Ordinance was originally adopted years ago, she believes that there was talk about inclusion, by staff and professionals, of an allotment of non-native trees. She stated that is not where the EAC or the Board ultimately went; however, this is something that has been discussed for some time.

Mr. Ferguson stated this started with a discussion of native trees, and he had discussions about this with individual Supervisors including Mr. Grenier. He stated the original discussion was to quantify what the trees were to be and that the Board could help pick and choose and look at those items when a developer came forward, and the list would be either an Addendum to the Ordinance, an attachment to the Ordinance, or part of the Ordinance.

Mr. Lewis asked if there was a Supervisor advocating for this, and Mr. Ferguson stated it was not any of the Supervisors - it was staff-driven. Mr. Lewis asked Mr. Ferguson if he ever spoke to any of the Supervisors about his thoughts on this, and Mr. Ferguson stated he has had discussions with individual Supervisors

including Mr. Grenier who stated he was opposed to it. He stated he also had discussions with Supervisors who felt that they would welcome some inclusion so they left it in there for discussion.

Mr. Ferguson stated he cannot allow the thought that Mr. DeLuca has “pressed anything.” He added that Mr. DeLuca’s presentation to him was he “would plant whatever the Ordinance accommodates him to plant,” and if there is a list he could look at in advance of putting together the Landscaping Plan if the Ordinance is going to change, that would be helpful. Mr. Ferguson stated they did give him the native list and also advised him that if there was something that is non-native that is included, they would welcome his thoughts whether that was a good or bad idea. Mr. Ferguson stated that discussion has occurred in the last day and a half.

Mr. Lewis stated yesterday the Board received an e-mail from the developer’s engineer, and he asked if that was sent to the EAC. Mr. Ferguson stated it was sent to Mr. Majewski and himself because he had asked Mr. Majewski to send the native list to the developer. Mr. Ferguson stated he did not realize that it was sent back to everyone. He added that was meant to be insightful and not that the developer was directing anything. He stated he does not really think the developer cares what the list is, but he asked for his input.

Mr. Lewis stated for the Record, he never talked to Mr. Ferguson about this particular issue. Mr. Ferguson stated they may have talked about it in passing at one of their meetings a month or so ago, but there was nothing discussed in detail.

Mr. Grenier stated Mr. Bray provided him with a list of trees and other plants provided by Bohler with the title block: “Suggested plant list additions Lower Makefield Township, Bucks County, Pennsylvania,” which he received from Mr. Majewski on September 15 of this year. Mr. Ferguson stated he is not familiar with that, and that is not what he is referencing. Mr. Grenier stated it is a clear connection to that developer because it is Bohler Engineering.

Mr. Majewski stated when this came up, they were looking at the possible addition of some non-native flowering trees; and he reached out to DeLuca and asked if they wanted to plant some trees “that they felt would look nice that were non-native, what would they select so that we could consider those.” Mr. Majewski stated they sent him a color rendering of what that would look like, and he shared that with the EAC. Mr. Grenier stated on that list are non-natives and poisonous trees. Mr. Majewski stated it had been shared with the EAC for three months so it was not a secret.

Mr. Ferguson stated he then had a more recent discussion, being unaware that had occurred, sharing the current native list with the developer, with the purpose being nothing other than understanding their Landscaping Plan and their project was moving forward so that they could look at this list. He stated he would have done this with anyone who was contemplating spending money to put something together given something was on the docket to be considered.

Ms. Linda Salvatti asked Mr. McCartney if he is Amending the Ordinance to not include any exotics, aliens, or invasives, and she would suggest noxious; and that any non-natives that would be in the 10% would be not native to the eco-region; and Mr. McCartney agreed. He added that a lot of that was based on what Ms. Salvatti stated earlier when she made her public comments. Ms. Salvatti agreed that was her suggestion. Mr. McCartney stated she is an expert in this field, and Ms. Salvatti agreed. Mr. McCartney stated therefore not all of the scientists are saying this is a bad idea. Ms. Salvatti stated she is still not 100% for this, and she is saying that the word “noxious” specifically needs to be added and that the EAC should also be added into any review of non-natives of the 10%. Mr. McCartney stated he felt that he was covering that by including the DCNR and the NHP. Ms. Salvatti stated while an arborist would review it, she also feels the EAC members should review it as long as there is someone who has the experience to review it. Ms. Blundi stated that would be the problem since someday Ms. Salvatti may leave the EAC. Ms. Salvatti stated that does not mean that someone else may not come on that has more experience than she does; however, Mr. Blundi stated someone also might not. Ms. Salvatti suggested that it be “and/or.”

Mr. Truelove again noted that this is just to advertise the Ordinance, and it needs to go through additional reviews.

Dr. Weiss asked Mr. McCartney if the Motion was “approval or review by an arborist,” and Mr. McCartney stated he said “review.” Mr. McCartney stated they could discuss that. Ms. Blundi stated the Motion was read as “approval.” Mr. Truelove agreed that he has it recorded as “approval by an arborist.” Dr. Weiss stated he would be in favor of that, and Mr. McCartney agreed it was “approval.”

Mr. Luke Butler, 2320 Weinman Way, stated native trees do have a big effect on improving local bio-diversity. He noted a research paper published in March with regard to the importance of species diversity for human well-being in Europe and it was found that “there was a relatively strong relationship indicating that

the effective bird species richness on life satisfaction may be of a similar magnitude to that of income.” Mr. Butler asked the Supervisors to not allow any non-native tree species because by promoting non-native trees, they will be undermining the “happiness and life satisfaction of our current residents and that of our new neighbors who will be inhabiting these new housing developments.”

Mr. Grenier stated the Record should show that Dr. Butler is a PhD ecologist.

Mr. John Rank asked if consulting an arborist solely would be sufficient on allaying any concerns regarding the affects on the eco-system. He asked if they should not consult two experts rather than one arborist. He stated he believes “the question largely hinges on what risks are we willing to take.” He stated what is difficult is not knowing what the risks might be. Mr. Rank asked if it may be worth consulting both an arborist and an ecologist or some other expert suitable to look at eco-systems to determine what could be the long-term effects of something that is not currently invasive, but has the potential to become invasive. He stated there may be a “litmus test that could serve as some sort of guidance.”

Mr. Bray stated the current Ordinance relies on review by an RLA, Registered Landscape Architect, or a CPH, which is a Certified Plant Horticulturist, and that is proper as they know and understand plants; however, they do not have deep-seated knowledge of the native vegetation and the environmental benefits. He stated that is why it is also important to have a review or approval by an EAC person.

Mr. Grenier stated an arborist is not someone who is an expert in tree ecology or botany, and to be a certified arborist it is more about knowing how to prune a tree, plant trees, and how to protect trees. He stated they would not know if something was non-native from the U.S. versus non-native from overseas or any other list, and they have no background in doing that.

Dr. Weiss asked Mr. McCartney if he would entertain an Amendment to add approval by a botanist or a plant ecologist. Mr. McCartney stated based on what Mr. Grenier has indicated, he would be in favor of that. Ms. Blundi seconded to approve that Amendment.

Mr. McCartney asked if there is an estimate as to how many trees would be planted at Prickett. He added he feels they are actually “looking at a small, little microcosm of the Township,” and people personally planting trees that

are non-native that they buy locally may have a bigger impact than changing this by 10%. Mr. Grenier stated he read an article from the Courier which indicates that Prickett will plant about 1,600 trees at the site. Mr. McCartney stated therefore 160 would be the maximum number of trees being non-native based on the 10%, and Mr. Grenier agreed. Mr. McCartney asked the number of households in the Township, and Mr. Ferguson stated there are about 12,000. Mr. McCartney stated 12,000 residents tomorrow could go out and buy non-native trees and plant them on their property versus 160 trees that might be planted at the development. He stated it does not make sense that the impact of those 160 trees would be greater than the 12,000 trees that people could plant at their own homes.

Mr. Lewis stated it seems that Mr. McCartney is only concerned about the developer's interest, but Mr. McCartney disagreed. He stated if they "are going down this road, we should be putting the hammer down on all non-natives throughout Lower Makefield Township." Mr. Grenier stated that would be a different Ordinance, and this is specific to the developers. Mr. McCartney stated given the "passion about the eco-system and the trees, that is really where our efforts should be concentrated and not on 160 trees that might be planted at Prickett."

Ms. Blundi Called the Question.

Motion carried with Ms. Blundi, Mr. McCartney, and Dr. Weiss in favor, and Mr. Grenier and Mr. Lewis opposed.

Approval to Discontinue Yardley Borough Pool Membership Agreement

Mr. Ferguson stated at the last meeting he had brought up this Agreement that had been uncovered weeks before that dates back about twenty years. He stated at that time no non-residents were permitted to join the Pool, and there was discussion about allowing Yardley Borough residents to join the Pool at the Residential rate. He stated at that time there was an Agreement for the Township to use a small rec room in Yardley Borough that is antiquated in terms of our need for that room. Mr. Ferguson stated there is a January 1 deadline every year whether the Agreement continues forward or not. He stated Ms. Tierney had taken that Agreement before the Park & Rec Board, but they did not make a recommendation other than that it should go to the Board of Supervisors. Mr. Ferguson stated this was brought to the Board of Supervisors for discussion at the last meeting, and the Board had asked at that

time if we had given Yardley Borough the opportunity to weigh in on this. Mr. Ferguson stated since that meeting, he did forward the Agreement to Ms. Johnson, the Yardley Borough Manager, along with some comments as to the dates and timing, etc.

Ms. Blundi moved and Dr. Weiss seconded to discontinue the Agreement with Yardley Borough.

Mr. Grenier asked if there is a new Agreement proposed and would we be updating the current one or is it just “throwing out the old Agreement and treating Yardley like everybody else.” Mr. Ferguson stated there is not a new Agreement proposed. He stated there is a January 1 requirement for the Agreement to continue. He added that doing something with this Agreement does not preclude the Board from considering something else if they are inclined to do so. He stated with the Pool opening on Memorial Day, there would be time to draft something new with Yardley Borough or any other neighboring Townships that the Board felt appropriate.

Ms. Tierney stated a decision would have to be made before Registration opens which is in January. Mr. Ferguson stated if the Board was making a decision when Registration opened if something was pending, it could be made clear if the Board was so inclined for anyone who could be impacted in that regard.

Mr. Grenier stated it seems like this Agreement is out of date regardless of what the Board chooses to do so, it makes sense to dissolve what we currently have. He stated his preference would be to extend a similar Agreement in nature to what was previously done in that Yardley be treated similarly to Lower Makefield residents for their Pool membership for a variety of reasons. He stated he feels that even though Yardley and Lower Makefield may be different Municipalities, we are “most definitely a single community that is very unique as compared to other surrounding communities that we are neighbors with.” He stated he “thinks that Yardley and Lower Makefield share many, many services and complement each other very well in most things.” He stated our Library is shared between the group, our Fire Services are shared between the Municipalities, and our political clubs are shared between the group. He stated in the “spirit of being neighborly,” he would be okay extending Lower Makefield rates to Yardley Borough residents.

Mr. Grenier stated from an economic perspective, there are two ways to look at this, although he is open to discussion on this. He stated years ago the Pool had a hard time making Revenue when non-residents did not use the Pool

“so non-residents were extended an invitation to use the Pool so that we could make Revenue and keep the Pool going as an asset.” He stated part of that was “to hopefully get the Yardley folks to come in and to extend them these types of rates.” Mr. Grenier stated one of his concerns is that if we do raise rates on that group, we may start to “threaten our ability to make our numbers, and we do have ambitious numbers this year.” Mr. Grenier stated the “ambitious numbers do call for quite a high percent Revenue increase that will make the Pool pay for itself as well as paying for staff.” He stated he feels there are some “pretty aggressive Revenue goals.” He stated we could try to get as much Revenue as we can from the Yardley residents by raising the rates or we could “have a little bit better guarantee” that they continue to be members by extending the Township rates to them as our “closest neighbors in multiple ways.” Mr. Grenier stated his initial thought is to update the Agreement to reflect Yardley residents being granted Lower Makefield rates although he is open to discussion on this. He stated there “is that special relationship that he is very sensitive to on multiple levels.”

Mr. Lewis stated he would be in support of extending the Resident rate to Yardley Borough residents. He asked Ms. Blundi if she would consider that as an Amendment. Ms. Blundi stated she would not at this time. Mr. Lewis asked if as a compromise, would Ms. Blundi consider “only the Resident discount for early purchase,” and Ms. Blundi stated she would not at this time. Ms. Blundi added that Mr. Grenier made some interesting points, and she feels it is something that the Board should discuss in the immediate future, but not at this time. Ms. Blundi stated her “bent will always be toward the Lower Makefield Township residents and making sure we are putting them first and foremost.”

Dr. Weiss stated the Agreement is obsolete and needs to be dissolved, and that is the Motion. He stated the Township could make another Agreement with Yardley Borough, but he has an issue with giving consideration just to Yardley Borough. He stated Middletown no longer has a Pool and Morrisville has no Pool. Dr. Weiss stated we also have shared services with other Municipalities and neighbors. He stated we could offer discounts to our neighbors, but he feels that there has to be something in return to the Township. He stated as a steward of the Township, he only wants what is best for the Township. He stated if there is going to be an Agreement with Yardley Borough, we need to make arrangements with our other neighboring Township or even to all of Lower Bucks County. He stated if a Township perhaps wishes to give us a Fee to help O & M at the Pool, we could offer their residents the preferred rates. He stated he feels that to give Yardley special consideration as far as money without giving us something in return, it is not fair to our residents. He stated while he appreciates that some of our residents feel that Yardley and Lower Makefield are one community, in fact

we are two different Municipalities. He stated we have different services except for a shared Fire/Emergency Service organization. He added Clubs are not Municipal organizations, they are private organizations, that for whatever reason have decided to combine. He stated although he appreciates our relationship with Yardley Borough, if we are going to do an Agreement it should be a new Agreement, and there should be consideration for other Townships. At this time he would not entertain a new Agreement, especially unilaterally with the Borough until we can discuss this more.

Motion carried with Ms. Blundi, Mr. McCartney, and Dr. Weiss in favor and Mr. Grenier and Mr. Lewis opposed.

SOLICITOR'S REPORT

Mr. Truelove stated the Executive Session began at 6:30 p.m. and items related to litigation, collective bargaining, an informational items were discussed.

Approval of Resolution No. 2467 Authorizing the Approval and Acceptance of an Assignment of Easement for Sanitary Sewer for Yardley Woods

Mr. Truelove stated this is the development that was originally under a prior developer, and there is a Successor in Interest, and the Record needs to be cleaned up. He stated this is a Blanket Easement for all the Sanitary Sewer area.

Mr. Grenier moved, Mr. McCartney seconded and it was unanimously carried to approve Resolution No. 2467 authorizing the Approval and Acceptance of an Assignment of Easement for Sanitary Sewer for Yardley Woods.

ZONING HEARING BOARD MATTERS

With regard to Appeal #21-1942 John Steinmann for the property located at 27 Houston Road, Yardley, PA 19067, Tax Parcel #20-019-003 Variance request from Township Zoning Ordinance #200-23B to increase the impervious surface from the existing 16.3% to 25.6% where 24% is the allowable amount in order to install a 1,368 square foot addition, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to Appeal #21-1943 Paul & Elise Willard for the property located at 963 Princess Drive, Yardley, PA 19067, Tax Parcel #20-057-020 Variance request from Township Zoning Ordinance #200-23B to increase the impervious surface from the existing 17.21% to 22.67% where 18% is the allowable amount in order to install an inground pool with concrete decking and patio along with a shed, it was agreed to leave the matter to the Zoning Hearing Board.

Appeal #21-1944 Simon & Donet Taylor for the property located at 1513 David Terrace, Yardley, PA 19067, Tax Parcel #20-055-061. Applicant is requesting a Variance from Township Zoning Ordinance #200-55.B(1)(a) limiting encroachments within a floodway area in order to construct a retaining wall to mitigate erosion caused by an existing stream.

Mr. Truelove stated it is recommended that the Township participate as it is in a floodway area, and there is a stream which apparently has been diverted. He stated placing a retaining wall may divert water in a way that may be a burden on other properties.

Mr. Grenier moved and Mr. McCartney seconded to oppose the Variance request.

Mr. Grenier stated he understands that they are trying to deal with erosion. He stated the floodway is the area of the floodplain where during a flood there are actual flows, and that is the most dangerous part of a floodplain. He stated floodways are highly regulated. He stated by putting in a retaining wall, they are likely to get washout around the retaining wall to the point where it could become a hazard itself. Mr. Grenier stated if he had streambank erosion in this situation, he would look for something “less constructed” where you deal with the root cause. He stated to do that you could use rip-rap or stone versus constructing a retaining wall or there is a more organic approach using a root plod, which is the bottom of a big tree, and you drive it into the ground and build around it which creates a natural embankment that is not a flood hazard.

Mr. Grenier stated he is concerned that they want to build a retaining wall in a floodway, and he is not sure it would be approved by the U. S. Army Corps of Engineers or the Pennsylvania DEP. He stated he is concerned that they could get the Variance approved and then not get some of the other Permits that would be required.

Motion to oppose carried with Ms. Blundi opposed.

Mr. Truelove stated they will consult with the engineers as well to follow up on this.

With regard to Appeal #21-1945 Crystal & John Howe for the property located at 1373 Colony Way, Yardley, PA 19067, Tax Parcel #20-059-272 Variance request from Township Zoning Ordinance #200-23B to increase the impervious surface from the existing 19.8% to 27.4% where 18% is the allowable amount in order to install concrete pool decking, it was agreed to leave the matter to the Zoning Hearing Board.

ZONING, INSPECTIONS & PLANNING

Approve Granting a 25' Wide Access & Utility Easement Across Tax Parcel #20-63-271 in Favor of Tax Parcel #20-32-23 (Acorn Drive)

Mr. Majewski stated this is for a piece of property that is at the intersection of Acorn Drive and Big Oak Road. He stated the Applicant is proposing to build a single-family dwelling on approximately 2.3 acres of property. He stated there is a narrow strip of Township land in between Acorn Drive and their property. Mr. Majewski stated it is a left-over remnant parcel that was created by the Recording of a Subdivision Plan for the Development. They require an Easement to cross over to have their driveway come out to Acorn Drive along with some of their utilities. Mr. Majewski stated if they did not have this Easement, they would have to clear out woods out to Big Oak Road and get a Highway Occupancy Permit from the State; and it would actually cause more tree clearing and disturbance than cutting out to our road. He stated our Township Ordinances prefer that people take access for any driveway from the lower order street so that it is safer for the residents.

Dr. Weiss moved and Mr. McCartney seconded to grant a 25' wide Access and Utility Easement across Tax Parcel #20-63-271 in favor of Tax Parcel #20-32-23.

Mr. Grenier asked if the Township is being compensated at all since this is a permanent Easement. Mr. Majewski stated he does not believe that is part of this. Mr. Grenier stated looking at the aerial, the Township parcel and the parcel of interest for development are completely wooded, and Mr. Majewski agreed. Mr. Majewski added that there are also some wetlands on the property, and their Site Plan will avoid the wetlands and the 50' buffer around it. He stated that is another reason for taking access from Acorn Drive. Mr. Grenier asked if this qualifies as a woodlands, and Mr. Majewski agreed. Mr. Grenier stated they will clear some of the Township woodlands to save some of theirs as well as wetland buffers and other important natural resources, and Mr. Majewski agreed.

Motion carried unanimously.

Approve Granting a 20' Wide Water Main Easement & a 10' Wide Temporary Construction Easement Across Tax Parcel #20-006-067 for the Prickett Preserve Development (Surrey Lane)

Mr. Majewski stated this is at the end of Surrey Lane which is in the Bridle Estates Development. He stated the developer of the Prickett Preserve property has had discussions with the Water Company and the Fire Company. Mr. Majewski stated the pressures that we currently have in the Office Park area where the Hampton Inn and proposed Prickett Preserve are located, are a little bit low. The solution is to do an inter-connection of the water line between the existing water lines in Stony Hill Road through an Easement that they are obtaining from the farmer across the street on Route 332, across a narrow strip of land that the Township owns, and then connecting into the existing main in Surrey Lane. He stated this will equalize the pressures throughout the area and improve fire protection services for the Development and the Office Park. Mr. Majewski stated the alternative is to install big water tanks on the development property to provide themselves with enough pressure to fight fires; however, that would not help out the adjoining Office Park which would still have slightly low pressures.

Dr. Weiss moved and Mr. McCartney seconded to grant the 20' wide Water Main Easement and a 10' wide Temporary Construction Easement across Tax Parcel #20-006-067 for the Prickett Preserve Development (Surrey Lane).

Mr. Grenier asked if this requires going through the large agricultural field that is to the south of Surrey Lane, and Mr. Majewski agreed. Mr. Grenier stated looking at the aerial it looks like in the area that he assumes they have to run, it has been channelized and there may be a historic stream or wetlands that they would have to run through. Mr. Grenier asked if that has been verified by the developer. Mr. Majewski stated he does not believe that there is a stream running through there although there might be a little band of erosion. He stated there is no stream historic or otherwise. He stated occasionally farm fields do get some erosive features that develop and move somewhat year to year as they plow the fields.

Mr. Majewski noted on the aerial the feature he believes Mr. Grenier is referencing. Mr. Grenier stated it is more pronounced off the image in both directions, but that is what he is referring to.

Mr. Grenier asked if we are being compensated for these Easements, and Mr. Majewski stated we are not. Mr. Grenier asked why the Township was not being compensated for permanent Easements. Mr. Majewski stated we

get a benefit from it as the Township gets an improvement in the fire protection services for the existing Corporate Park that is on Stony Hill Road where the Hampton is located. He stated at the developer's expense, they are providing a connection for us to help improve our ability to fight fires in that area.

Mr. Grenier asked if these are Farmland Preservation lands, and Mr. Majewski stated they are not, and the farm in question is privately owned. He stated to the east of where the line is, is the Wright Farm. He stated below the water line is the other Wright Farm where the Township obtained an Easement about fifteen years ago conserving that farmland.

Mr. Grenier asked if the 10' wide Construction Easement is for the construction of the water main, and Mr. Majewski agreed. Mr. Majewski stated while the permanent Easement of 20' is more than sufficient, during construction it is good to have an extra 10' for a truck to go back and forth if needed. Mr. Grenier asked if they will be required to restore it back to its original state once completed so that it can go back to being farmed, and Mr. Majewski agreed.

Motion carried unanimously.

PUBLIC COMMENT

There was no one from the public wishing to speak at this time

SUPERVISORS REPORTS

Mr. Lewis stated on Thursday members of the Trenton Mercer Review Board will be meeting with our State Senator and others to talk about options dealing with the Trenton Mercer Airport expansion. He stated while it is not a formal meeting, it is a collection of local elected officials working on that issue.

Mr. Grenier stated the Electric Reliability Committee reached out to see if there was an opportunity to have PECO come before the Board of Supervisors early next year.

Mr. Grenier stated the Historical Commission met Monday; and while they did not have a quorum, he was told that they are coming up with recommendations related to the Board's request to review the Edgewood Village Point project. Mr. Grenier stated HARB met last night, but they also did not have a quorum.

He stated the neighbors to the property, Dr. and Mrs. Cimino, did attend the meeting. HARB will have another meeting next month prior to the Zoning Hearing Board. Mr. Grenier stated the Ciminis are opposed to all of the Variance requests that the Board heard at the last Supervisors meeting. He stated generally HARB had similar comments to those made by the Supervisors at their meeting.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. McCartney moved, Mr. Lewis seconded and it was unanimously carried to appoint Lori Hoppman to the Golf Committee.

There being no further business, the meeting was adjourned at 11:40 p.m.

Respectfully Submitted,

John B. Lewis, Secretary

**LOWER MAKEFIELD TOWNSHIP
BOS MEETING - 12/15/2021**

| A/P WARRANT LISTS | 12/6/2021 | | PRINTED CHECKS | MANUAL CKS/WIRES | TOTAL |
|--------------------------------|-------------------|------------------|----------------|------------------|-------------------|
| | PRINTED CHECKS | MANUAL CKS/WIRES | | | |
| Fund | | | | | |
| 01- GENERAL FUND | 302,319.64 | 3,064.36 | | | 305,384.00 |
| 02- STREET LIGHTS | 2,137.71 | | | | 2,137.71 |
| 03- FIRE SAFETY | | | | | - |
| 04- HYDRANTS | 12,287.51 | | | | 12,287.51 |
| 05- PARK AND RECREATION | 34,426.54 | 759.53 | | | 35,186.07 |
| 06- P & R FEE IN LIEU | | | | | - |
| 07- RECREATION CAPITAL RESERVE | | | | | - |
| 08- SEWER | 154,169.71 | | | | 154,169.71 |
| 09- POOL | 9,896.12 | | | | 9,896.12 |
| 11- TRAFFIC IMPACT | | | | | - |
| 15- GOLF COURSE | | | | | - |
| 18- SEWER CAPITAL PROJECTS | 229,253.02 | | | | 229,253.02 |
| 19- SPECIAL PROJECTS | 3,680.42 | | | | 3,680.42 |
| 20- DEBT SERVICE | | | | | - |
| 21- REGENCY BRIDGE | | | | | - |
| 30- CAPITAL RESERVE | 40,988.00 | | | | 40,988.00 |
| 31- POOL CAPITAL RESERVE FUND | | | | | - |
| 32- TREE FUND | | | | | - |
| 35- LIQUID FUELS | 7,757.50 | | | | 7,757.50 |
| 36- ROAD MACHINERY FUND | | | | | - |
| 40- 9/11 MEMORIAL | 901.33 | | | | 901.33 |
| 45- PATTERSON FARM | 2,199.95 | | | | 2,199.95 |
| 50- AMBULANCE/RESCUE SQUAD | | | | | - |
| 84- DEVELOPER ESCROW | 22,732.04 | | | | 22,732.04 |
| 91- UNEMPLOYMENT | | | | | - |
| | 822,749.49 | 3,823.89 | - | - | 826,573.38 |
| | | | | | |

| NOVEMBER 2021 PAYROLL AND INTERFUND TRANSFERS | |
|--|-------------------|
| Fund | |
| 01- GENERAL FUND OPERATING TO PAYROLL ACCOUNT | 928,599.67 |
| GENERAL FUND OPERATING TO 401A DEFINED CONTRIBUTION PENSION PLAN ACCOUNT | 7,435.39 |
| 60- POLICE PENSION FUND TO D.R.O.P. ACCOUNT | 4,882.74 |
| | 940,917.80 |
| | |

John B. Lewis

James McCartney

Fredric K. Weiss

Suzanne S. Blundi

Daniel R. Grenier