

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – MAY 16, 2012

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 16, 2012. Chairman Stainthorpe called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors:           Pete Stainthorpe, Chairman  
  Dan McLaughlin, Vice Chairman  
  Dobby Dobson, Secretary  
  Jeff Benedetto, Treasurer  
  Kristin Tyler, Supervisor

Others:                               Terry Fedorchak, Township Manager  
  Jeffrey Garton, Township Solicitor  
  Mark Eisold, Township Engineer  
  Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Mr. Arthur Cohn, 7906 Spruce Mill Drive, stated there will be a seminar about the conflict in Syria on Sunday at 3:30 p.m. at the Township Building, and the presenter is Mr. Andrew Spath, a professor at Rutgers University.

Ms. Sue Herman, President of Residents for Regional Traffic Solutions, Inc. (RRTS) stated Bucks County needs help from the Board of Supervisors. She stated the Delaware Valley Regional Planning Commission opened a thirty-day public comment period for the draft Fiscal Year 2013 Pennsylvania TIP on May 3, 2012. She stated the deadline for submission of comments is at 5 p.m. on June 1, 2012. Ms. Herman stated there are two projects on the draft TIP that RRTS opposes – the Stoopville Road improvements Phase 2 Project and the Swamp Road/Pennswood Road Bridge over branch of Neshaminy Creek Project. She stated she will provide to the Board an Exhibit which is the project descriptions as they appeared in the draft TIP. She stated the current description of the Stoopville Project is incorrect; and in her oral testimony at the DVRPC offices yesterday, she asked that this be corrected. She noted Phase I of the Stoopville Project has already been completed. She stated RRTS feels that the Stoopville Project description also misrepresents what Phase II has become. Ms. Herman stated on March 28 Newtown Township officials held a special meeting to solidify a new plan for Phase II of Stoopville Road improvements, and they re-directed stimulus money intended for safety improvements along Stoopville Road in Newtown Township to upgrade an intersection in

Wrightstown. Ms. Herman stated both of the projects they oppose are expansion projects and are key components of the north/south expressway that will run through residents' back yards and connect Interstate 78 to Interstate 95. She stated this expressway will jeopardize the safety of residents, reduce property values, and destroy the open space character of Bucks County. Ms. Herman stated RRTS expressed opposition to the project in oral testimony to the DVRPC as did the Swamp Road residents group who presented oral testimony in opposition to the Swamp Road/Pennswood Road Bridge Project. Ms. Herman asked that the Board of Supervisors write a letter to the DVRPC asking that the project description of the Stoopville Road improvements Phase II be corrected, state their opposition to the Stoopville Road improvements Phase II Project, and state their opposition to the Swamp Road/Pennswood Road Bridge Project. Ms. Herman stated RRTS would like to have a copy of the letter sent by the Board of Supervisors so they can include it in their written testimony to the DVRPC. Ms. Herman read into the Record RRTS' oral testimony to the DVRPC and asked that it be attached to the Minutes along with her letter. (copy attached to the Minutes.)

Ms. Stainthorpe stated he would not be willing to write the letter requested by Ms. Herman. He stated the intersection of Route 413 and Stoopville Road is dangerous and is in need of improvement. He stated he is not familiar with the Swamp Road project, but does not feel Lower Makefield should get involved in Newtown, Upper Makefield, and Wrightown's business. Mr. Dobson stated he agrees with Mr. Stainthorpe.

Mr. Benedetto stated he does not feel he knows enough about this matter and asked to discuss it further with Ms. Herman. He stated he would also like to hear what those in favor of the projects have to say. Ms. Tyler stated she also does not feel educated enough on the topic, and she too asked to speak to Ms. Herman further about this. Ms. Herman stated she will provide all the information she noted this evening to the Board members, and she asked that Mr. Benedetto and Ms. Tyler call her to set up a meeting to discuss this further.

Ms. Virginia Torbert, Citizens Traffic Commission, stated traffic is of necessity a regional issue. She stated if this project goes forward, it will result in trucks using the route and they will then come down Lindenhurst. Dolington, or Creamery. She asked that the Board consider this matter further.

#### APPROVAL OF MINUTES

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to approve the Minutes of May 2, 2012 as amended.

APPROVAL OF MAY 7, 2012 WARRANT LIST AND APRIL, 2012 PAYROLL

Mr. Benedetto moved, Ms. Tyler seconded and it was unanimously carried to approve the May 7, 2012 Warrant List and April, 2012 Payroll as attached to the Minutes.

DELAWARE & LEHIGH SCENIC BYWAY PROPOSAL PRESENTATION

Ms. Elissa Garofalo, from the Delaware & Lehigh National Heritage Corridor, Inc. was present. Ms. Garofalo stated they have been in existence since 1988 and were established by Congress as a National Heritage Corridor, and their area extends from Wilkes Barre to Bristol and follows the historic transportation route that coal took from mine to market. She stated in Lower Makefield it follows the Delaware Canal. She stated their mission is to enrich the communities by connecting the resources, revitalizing communities, and preserving the important resources.

Ms. Garofalo stated they have been working on the D & L Drive Proposal for a few years and made a presentation to the Township a number of years ago when they were working with the Heritage Conservancy, and Mr. Stainthorpe stated a presentation was made approximately five years ago. She provided a packet of information with the Township Manager this evening. Ms. Garofalo stated recently there has been a resurgence in interest. She stated in the section that follows along Route 32, all but three Municipalities have signed on; and last month Upper Makefield signed on which leaves Lower Makefield and Tinicum.

Mr. Stainthorpe stated this is a new Board of Supervisors, and he asked that she go through the presentation and they will open it up for public comments. He stated he will also need some answers to public comments which were raised the last time this matter was presented to the Board.

Ms. Garofalo stated there are signs along Route 32 that say, “Delaware River Scenic Drive” which was the result of a piece of legislation from the 1980s; however, it has no “teeth” and there is no funding that comes with it. She stated what they are proposing now is to have a State and National Byway which would come with benefits.

Ms. Garofalo stated the functions of a Drive are to orient visitors to the region, provide connections from the road to attractions along the way, encourage cross-over activities, and reveal the beautiful landscapes. She stated a Scenic Byway is a public road and it includes the corridor through which it passes so it is what you see on either side of the road.

Ms. Garofalo stated it must meet one of the following characteristics: it must be scenic, have natural beauty, historic significance, cultural significance, archeological significance, or recreational activities. She stated in identifying the D & L Drive, they chose to go with the historic quality. She stated in addition the Byway must safely allow two-wheel drive automobiles which means it is a drivable road by a regular car; but where possible, it should also accommodate bicycle and pedestrian traffic. She stated in the case of the D & L Drive, that bicycle/pedestrian traffic is accommodated by the towpath and some of the trails that are in the north.

Ms. Garofalo stated by having a Scenic Byway designation, it would stimulate public interest in the intrinsic qualities of the road, be a way to balance economic development with conservation, coordinate the driving experience, get people where you want them, address traffic management issues, and also is a way to gain recognition or prestige. She showed a map showing Byways in Pennsylvania. She noted sometimes this designation is put in place to limit the number of billboards and advertising along the way since this is one of the legal restrictions.

Ms. Garofalo stated the stretch of the Byway they are dealing with here is from Easton to Bristol, and in Lower Makefield it would be Route 32. She stated a Signage Ordinance is required which would allow for the removal of an existing billboard when it goes into disuse and disrepair. She stated if there is an existing billboard in good repair, they are allowed to stay.

Ms. Garofalo stated this would open the door for funds that are designated to the route. She stated a Byway Management Plan is created, and each Municipality involved has the opportunity to participate in this and indicate what would be most important to their community. She stated the funds could be used to preserve land, road modifications such as pull-outs and parking, visitor amenities, recreational improvements, additional planning, signing, and marketing materials. Ms. Garofalo stated even without the funding, it still enables them to reduce billboard blight, and is another layer for community planning and design as a way to keep River Road scenic.

Ms. Garofalo stated in order to get the designation they need to get support letters from State Legislators, Regional County Agencies, and a Resolution by the Municipality which she is asking for this evening. She stated they also have to have the Sign Ordinance which they have found is actually less stringent than the Sign Ordinances in most of the Municipalities in Bucks County. She stated other solicitors who have reviewed this have indicated that the Municipality's existing Signage Ordinance, if it has stricter requirements, would remain in place.

Ms. Garofalo provided to the Board a listing of all the Municipalities that have signed on, a PennDOT publication that shows the funding that has come through, and what would be required of the Township if they agree to participate.

Mr. Stainthorpe stated when this was presented previously a number of citizens came out who were very apprehensive about entering into an agreement like this because of additional restrictions possibly placed on the homeowners. He stated the term, “preserving the view shed,” had been noted. He stated Lower Makefield’s section along River Road is rather modest, but there are a number of homes along the Road; and there was previous discussion that if they entered into this, a homeowner would be restricted about putting on an addition to their home, colors, etc. Ms. Garofalo stated the local Ordinances would cover this. Mr. Stainthorpe stated this was not made clear the last time this was presented; and while the Board chose not to reject the idea, they also did not take any action on it because of this concern. Ms. Garofalo stated the only Ordinance that is required is the Sign Ordinance and it restricts billboards. Mr. Stainthorpe stated he understands this is an important issue to the County representatives; and provided he is assured that there are no additional restrictions placed on the Township homeowners, he sees no reason not to support this.

Mr. Stainthorpe asked if there are any financial obligations required of the Township, and Ms. Garofalo stated there are not at this point. She stated as they develop the Management Plan, they would want participation from the Township so that they can indicate what their priorities are. She stated they do have money to do the Plan, and she has asked for an extension for these funds since there has been a resurgence in interest. Ms. Garofalo stated possibly on River Road in Lower Makefield they may want to request a pull-out with the funds since drivers may be pulling into private driveways.

Mr. McLaughlin stated this is a State road, and he asked if it would put it on the top of the list for road improvements by the State if it were designated a “Byway.” Ms. Garafalo stated while it may not put it at the top, it would draw attention to it. She stated by having this designation, the Township would not be responsible for maintaining this State road. Mr. McLaughlin asked what would happen if the scenic nature were impacted by trees falling down from a storm etc. and asked if there is any requirement to restore it back to its original condition; and Ms. Garofalo stated she feels it would go back to the existing Ordinances the Township has in place, and there are no additional restrictions.

Mr. Benedetto stated in Mach, 2008 when this was previously discussed a resident had done research about when this was done in another State and there was discussion about the view shed and restrictions placed on the property owners whose property was visible from the road. Ms. Garafalo stated while this is a National Program, each State has their own specific Program; and while other States may have such restrictions, Pennsylvania does not. Mr. Garton stated if they were obligating homeowners to keep the viewscape, they would have to buy that right from them because it is a private right. Ms. Garafalo stated she feels with the funding available if the Township wanted to buy easements of an important site or structure along the way, they could purchase façade easements; however, this would be a decision for the Municipality and would not be forced upon them.

Mr. Benedetto stated this individual also indicated that it was a Nationally-oriented program being administered on a State-by-State basis so the rules are the same. Ms. Garafalo stated while the Township solicitor should review this, she knows that the only thing PennDOT requires them to do is to approve the Resolution and the Sign Ordinance. Mr. Stainthorpe asked Mr. Garton to review the information provided before the Board takes action.

Mr. Benedetto asked if property owners are stakeholders in this, and Ms. Garafalo stated the Board could designate anyone they want to represent the Township on the Review Committee. Mr. Benedetto asked if there is any additional cost to the Township taxpayers, and Ms. Garafalo stated there is not. Mr. Benedetto asked about uses for the Grant money, and Ms. Garafalo stated typically it would be for signage to interpret history, bike racks, a Visitors' Center, restrooms, pull-offs, and purchase of important pieces of land. Mr. Benedetto stated he would like to hear from the residents of River Road.

Ms. Helen Heinz stated most of the homeowners have riparian rights on the River and many have docks. She asked if this will impact them at all, and Ms. Garafalo stated it will not and there are no rights or property taken from the property owners. Ms. Heinz stated there are a few spots on River Road that are owned by the Township where they could add an amenity, but the rest of the properties are owned by private homeowners so she does not feel this would have much effect. Mr. Garton stated the restriction on signage and billboards would effect everyone, presumably in a positive way.

Ms. Tyler stated she does not feel Ms. Garafalo has been definitive enough in her responses with regard to the effect on their homeowners that it will not have any effect on their property rights. Ms. Garafalo stated she feels that the best thing to do would be to have the Township solicitor review the Resolution so that he can provide this certainty to the Board.

Mr. Benedetto asked Ms. Garafalo if any traffic studies have been done to see if this has resulted in additional traffic on the Byways; and Ms. Garafalo stated Upper Makefield raised this question as well, and there are no definitive traffic studies indicating that there is more traffic when it becomes a Byway. She stated she did research on this and could provide this information to the Board. Mr. Benedetto stated it is a Residential area, and they do have a lot of truck traffic; and he would not want this to be something that would encourage traffic.

Ms. Tyler asked what would happen next if they pass the Resolution; and Ms. Garafalo stated the documentation would be submitted to the State for approval, and after approval they would convene a Committee to guide the planning process. She stated most of the documentation that has to occur for the planning process has already been done for other purposes so they have most of the data. She stated once they have the priorities in line

for the Municipalities, they would start looking for funding. Ms. Tyler asked what is involved in the planning process, and Ms. Garafalo stated it is a Corridor Management Plan showing how they will determine for which projects they will apply for funds. Ms. Garafalo stated there would be one representative from each Municipality on the Committee along with a representative from PennDOT as an ex-officio participant, as well as someone from her organization. She stated they may also decide to hire someone to assemble the Plan possibly from the Heritage Conservancy.

Ms. Tyler asked if they have had resident/property owner issues on the existing Byways in the State of Pennsylvania, and Ms. Garafalo stated she has not heard of any.

Ms. Virginia Torbert, Citizens Traffic Commission suggested that the Economic Development Committee get involved in this if the Board decides to proceed since it has the potential of bringing more business to the community in terms of signage. Ms. Torbert stated this Road does flood periodically in this area; and if this area is highlighted in some fashion, it may help the communities work together and there may be some State funding available.

Mr. Stainthorpe stated he has been advised that this designation is important to help attract tourism and Grant money along the Byway. Mr. Stainthorpe stated he feels this would be a benefit particularly for Bristol and Morrisville, and this is a way that Lower Makefield could be a good neighbor and help with the economic development of the region. Mr. Stainthorpe asked Mr. Garton to review the information Ms. Garafalo has provided and stated the Board may move on this as soon as the first or second meeting in June.

#### DEER MANAGEMENT REPORT

Mr. Andy McCann and Mr. Dave Kimble from BOWMA were present. Mr. McCann stated they removed 101 deer during the 2011/2012 program. He stated of those 30 were donated to a local food bank which equaled 2,400 meals and also donated a few to the DelVal College. He stated the Township reimbursed BOWMA \$450 for the processing of the donated deer. Mr. McCann stated they had no negative public encounters throughout the course of their operations; and in fact, they had a number of very positive interactions with the public who were in the immediate area of where they have been operating. Mr. McCann stated they have had some preliminary discussions with Mr. Fedorchak about what the structure of the 2012/2013 program would be. He stated they would not operate during a fluorescent orange season as they are trying to have as discreet an impact as they can on the public. They would move that two-week period to another portion of the season.

Mr. Stainthorpe stated he feels this program gets better every year and he commended BOWMA on the job they have done. He stated he did not hear of any negative reports. He stated they are managing the herd. He stated he would like Chief Coluzzi to report on whether they are seeing a change in deer/auto accidents. Chief Coluzzi agreed with Mr. McCann that there were no negative reports. He stated in 2011 there were 84 deer related accidents, and for the first quarter of 2012 there have been 20 so he feels there is a reduction although it is difficult to pro rate. Mr. Stainthorpe stated he also gets fewer complaints from residents about deer impact on their shrubs. He stated he looks forward to continuing the program next year.

Mr. Fedorchak stated the problems they encounter during the course of the hunting season do not involve BOWMA hunters but with “poachers” who have not been given permission to hunt on Township property but are doing so.

Mr. Dobson asked if any of the residents have approached BOWMA asking that they be part of their organization. Mr. Kimble stated they do have a few Applications from Lower Makefield residents that have come in. He stated they have a scoring system used to score their hunters and he reviewed what is included in the screening system. He stated Lower Makefield residents automatically get a five point bonus if they can qualify with the other requirements. Mr. Dobson asked if they have denied any residents, and Mr. Dobson stated there have been some residents and non-residents who were denied because they could not make the commitment, pass the shooting test, did not have a lot of years experience with archery equipment, etc.

Mr. Benedetto asked how large is their membership, and Mr. Kimble stated currently they are carrying a membership of twenty. He stated they originally started with thirty-eight, but they weeded out a lot of people who could not make the time commitment or were not performing in the field. Mr. Benedetto asked how many are Lower Makefield residents, and Mr. Kimble stated currently there are four to five. Mr. Benedetto asked about the scoring system used for accuracy, and Mr. Kimble stated they qualify the shooter down to about 22 yards. He reviewed how the test is done. He stated every year they re-qualify their archers. He stated they do have new applicants that they will be testing.

Mr. John Heilferty, Five Mile Woods Naturalist, stated they have indicated that they will not be operating during the fluorescent orange season; and he asked that he be provided with the dates. Mr. McCann stated the preliminary indications they have from the Pennsylvania Game Commission are that the fluorescent orange requirement will be in effect November 26 through December 8, 2012. Mr. Heilferty asked if they know when the deer season for archery begins and when they plan on starting the program. Mr. McCann stated they plan for the BOWMA operations to span the Pennsylvania Game Commission season which they expect to start September 15, 2012 and run through January 26, 2013. Mr. Heilferty asked Mr. Fedorchak to keep him advised of the

schedule this year as it relates to the Five Mile Woods. He stated BOWMA has demonstrated that archery can occur safely in the Woods. He stated he is managing a property that is open to the public; and while he requested that they start the deer management program because of the problems they were experiencing in the eco-system of the Woods, he also has an obligation to manage one of the Township's only public natural areas and making sure it is open to the public. He stated he has had to respond to phone calls of residents annoyed that during one of the nicest times of the year, they are closed because of archery.

Mr. Fedorchak stated he understood that Mr. McCann had proposed a tentative schedule for the Five Mile Woods, and Mr. McCann stated they are proposing two blocks – one from September 15, 2012 to October 6, 2012 and the other from October 20, 2012 to November 17, 2012. Mr. Heilferty stated they do have a few public outreach events at the Five Mile Woods and one of them is an Open House following Harvest Day which is September 22, 2012 so this would present a problem with the block of time noted by Mr. McCann. Mr. Stainthorpe stated he feels this is something that can be worked out with Mr. Fedorchak. Mr. Heilferty stated he would also like them to consider opening up some time in January for a hunt.

Mr. McLaughlin asked Mr. Heilferty if he has seen improvements in the Woods as a result of the hunt, and Mr. Heilferty stated they had a work day last Saturday and they do see improvements in the exclosures where deer are precluded from entering as well as some other areas of the Woods. He stated BOWMA took only nine deer out of the Woods; and he does not get the feeling that they are heavily reducing the deer population the Woods, but it does not seem that the problem is getting any worse. He stated he is happy to continue to work with BOWMA. Mr. Kimble stated normally they consider a Deer Management Program to be a five-year plan to see if there is regeneration. Mr. McLaughlin stated it is important to recognize that three years ago they spent almost \$60,000 to yield 94 deer, and they are now spending \$450 to get 101 deer.

Mr. McCann provided the Insurance Certificate and proposal to Mr. Fedorchak this evening.

#### **SATTERTHWAITE SALE DISCUSSION AND AUTHORIZE PUTTING PROPERTY OUT TO BID**

Mr. Garton stated the prior Board of Supervisors subdivided approximately five acres from the Patterson Farm holdings to encompass the area known as the Satterthwaite Farmstead. He stated they also placed the potential sale of those improvements and the five acres out to a bid; but there were no buyers submitting a bid. Mr. Garton stated since that time Mr. Fedorchak has had discussions with individuals who may have bid but indicated there were restrictions in the documents that precluded their considering it.

Mr. Garton stated he and Mr. Fedorchak have had discussions since then and have generated some documents related to reconsidering putting the property out for sale. These documents include an advertisement, certain bid conditions, the bid cover sheet, and the Agreement of Sale which were provided to the Board last week. Mr. Garton stated for the most part they comport with what was done previously with some modifications.

Mr. Garton stated the Agreement of Sale identifies the premises as being approximately 5.14 acres, and defines certain issues such as the effective date of the Agreement, and provides for a purchase price. He stated it provides for a deposit which will be held in escrow pending going to Settlement. He stated it also provides that if for some reason the buyer defaults, the Township keeps the deposit and the buyer has no further rights. It provides that Settlement will occur within thirty days of the satisfaction of all the contingencies, if any; and thirty days after the conclusion of any matters of litigation involving actions the Board may take, the Zoning Hearing Board, or June 1, 2013 whichever date shall last occur. It also indicates that the Township will provide good Title subject to the various restrictions of Record and provide that the buyer will provide a copy of the Title Report indicating what objections they may have to that Title Report, and the Township has a certain period of time to resolve those or they get resolved at Closing. Mr. Garton stated it also provides that the property will be conveyed to the buyer at Closing and all facilities will be unoccupied and free of debris. It also provides that prior to occupying the premises, the buyer must secure a Certificate of Occupancy from the Township and requires that those improvements to the main homestead be completed within eighteen months of when any Appeals would be resolved if there are any. Mr. Garton stated it also provides that any taxes be apportioned between the Township and the buyer at the time of closing. Mr. Garton stated it also includes any fixtures with the understanding that it is an “as-is” purchase with no representations made. Mr. Garton stated it also indicates that the Township represents that it owns the property and it is in the same condition, reasonable wear and tear excepted, that existed as of the date of the execution of the Agreement.

Mr. Garton stated the Conditions of the Sale are that the Conditions will be incorporated into the Deed of Conveyance as restrictions and it will be used for agricultural, farming, breeding of livestock, boarding of livestock, veterinarian, veterinary hospital for large animal care and related uses, and also as a single-family dwelling. Mr. Garton stated the Façade Easement is referenced that was previously Recorded as it relates to the bank barn on the property and the existing house. Mr. Garton stated it also provides that the buyer will not dismantle, remodel, or neglect without complying with the Façade Easement although the Agreement does provide that the small south side porch could be removed as well the small addition as well as the other structures aside from the main house and the bank barn. Mr. Garton stated it also provides that they cannot make any additional improvements without the consent of the Township; however, they are consenting if someone so chooses, to put an addition to the rear of the house provided it meets the

existing style, and also if during the course of the development, there is competent evidence that there are structural defects, the buyer may fix those in order to preserve the integrity of the house. Mr. Garton stated as was consistent with the prior effort, they are also providing that they can build one additional residence equal to or smaller in size than the current farmstead; and they have attached an Exhibit of historic home styles that would need to be complied with in order to do so.

Mr. Garton stated the buyer agrees to provide public water and public sewer, and the property cannot be further subdivided. Mr. Garton stated the buyer has an obligation to renovate the house to a habitable condition within eighteen months after any Appeals are resolved. In addition, as part of their offer, they need to demonstrate that they have the availability of \$500,000 to make these renovations and improvements to restore the property. In addition, at Closing they are going to post in favor of the Township \$200,000 either in cash or Letter of Credit; and if they do not comply and restore the property, the Township will keep the \$200,000 so there will be an incentive for the buyer to actually do the work or they will lose the \$200,000. Mr. Garton stated they also have to demonstrate that they have the wherewithal to do what is required. Mr. Garton stated any improvements need to be the subject of approval by the Township including the Board of Supervisors.

Mr. Garton stated the Township agrees that it will make no further use of the driveway since the Township will no longer own it. He stated the Township will also agree to remove the existing leaf pile and not to provide leaves or compost within 500' of the premises. He stated the Township also agrees that if the buyers so choose, they can fence the perimeter with a wooden post and rail fence. Mr. Garton stated the Township will also agree that they will not construct the Community or Senior Center right next to this facility. Mr. Garton stated the Township will also agree to consider, if requested, whether they would permit a Lease of a portion of the property for pasturing horses or ponies.

Mr. Garton stated the buyer may conduct studies and if they find that they are not capable of doing what they intend to do by way of the improvements for the money they feel they can invest, they have thirty days to withdraw their offer after signing an Agreement to be approved at a public meeting. He stated the Township will be provided without cost a copy of any test the buyer performs. Mr. Garton stated the Township is expressly advising a potential buyer that the Township makes no representation as to the nature, quality, or integrity of the structures – whether they need repairs or not or whether they are habitable or not – and it is completely “as is.” Mr. Garton stated there is also language about condemnations as well as language as to what happens if something happens to the property by way of fire in the interim such that there are insurance proceeds that the buyer would receive and they would then proceed to restore the property. Mr. Garton stated it also provides language related to defaults. He reviewed the documents that will be attached to the Agreement as Exhibits.

Mr. McLaughlin moved and Mr. Dobson seconded to approve authorization to put the property out to Bid consistent with the documents reviewed by the Solicitor.

Mr. Benedetto asked if they are agreeing to have any and all approvals related to the Satterthwaite Farm proceed directly to the Board of Supervisors without the requirement of other agencies and Commissions of the Township reviewing and making recommendations related to same; and Mr. Garton stated he believes that this was a request that was made because of the time constraints associated with getting to a closing, but it is up to the Board to decide what they want. Mr. Benedetto stated he does not feel this is proper, and they are usurping the power of the Zoning and Planning Commissions to do this; and he would like this removed.

Mr. Benedetto asked if the Zoning is R-1, and Mr. Garton agreed. Mr. Benedetto stated this is for Residential Use; but Mr. Garton stated this is incorrect and there are other uses permitted in R-1. Mr. Benedetto stated veterinarian hospital is not one of them; and Mr. Garton agreed and stated the Board would have to agree to change the Zoning Ordinance, or the buyer would have to get a Variance from the Zoning Hearing Board. Mr. Benedetto asked if the Township would have to go to the Zoning Hearing Board, and Mr. Garton stated the buyer would have to get the Variance unless the Board amends the R-1 to permit the use. He stated the Board does not know whether the buyer wants that use or not, although this was one of the potential buyers the last time this was put out to bid that had some conversations with the Township Manager as to why they did not bid.

Mr. Stainthorpe asked if they are in fact eliminating the Planning Commission and Zoning Hearing Board; and Mr. Garton stated the way it is written, it would go right to the Board of Supervisors for approval. He stated the other Township bodies could provide advice although they do not grant approvals. Mr. Stainthorpe stated they are only discussing the sale and not the subsequent development, and Mr. Garton stated it does provide for an expedited process on the approvals after the sale. Mr. Stainthorpe stated if they needed a Variance, the buyer would still have to go through the Zoning Hearing Board, and Mr. Garton agreed. Mr. Stainthorpe stated he agrees with Mr. Benedetto; and if it is a veterinarian who is going to construct an equine hospital, he feels they should still go through the regular Land Development process, and Mr. Garton stated the Board can make any changes they wish to make.

Mr. McLaughlin stated he is concerned that they are including a time frame of eighteen months to make the improvements. Mr. Garton stated there are time periods of relevance the first being from the time they sign the Agreement of Sale, there is a thirty-day due diligence period. He stated if the buyer still proceeds, there is a period during which time they must satisfy the contingencies including the fact that if they want to have an animal hospital, they must get Land Development Approval and all that is necessary. He stated there is a further period of time when they have to complete the improvements to make

the house habitable and that is another eighteen month period so there are three different time frames related to this. Mr. Stainthorpe stated if they have to bring the house up to habitable condition, the Planning Commission does not have to be involved in this as this is structural work; however, Mr. Garton stated they do have certain rights with regard to the façade easement. Mr. Stainthorpe stated he would want the Planning Commission involved in any new structure to be built. Mr. McLaughlin stated he is concerned that if they have eighteen months to complete the improvements, if the Planning Commission delays it for whatever reason, the eighteen months could expire and the buyer would lose their \$200,000. Mr. Garton stated most of the reviews that occur from the agencies and Commissions would be occurring on the approval process and not the construction element. He stated he feels the impact of the review process is the first eighteen months and not the second eighteen months.

Ms. Tyler asked if they could add language to the eighteen month timeframe to acknowledge that there could be delays in the Approval process within the Township process and make alternative language such as “eighteen months or within twelve months of approval so they are not jeopardizing the buyer’s \$200,000 in the event that it is the Township that slows the process. Mr. Garton stated they could do this. He stated if there is a consensus they will also remove the language concerning it going directly to the Board of Supervisors and indicate they should go through the normal process. This was acceptable to the Board.

Mr. Benedetto asked if it is in the bid documents that the successful bidder is required to reside on the existing property, and Mr. Garton stated it is not.

Mr. McLaughlin asked if there is anything in the document that precludes the buyer from renting the house, and Mr. Garton stated there is not. He stated they do have to restore it, Mr. McLaughlin asked if they build the second house can they rent that out, and Mr. Garton stated they can. He stated they could not have a boarding house, but they could have two single-family dwellings on the property. Mr. Stainthorpe stated he does not see anything wrong with them renting it out. Mr. McLaughlin stated he is concerned about this, and Mr. Benedetto stated he is as well.

Ms. Virginia Torbert stated she is concerned that the Agreement of Sale mentions veterinary hospital, large horses; and she felt that this sale was going to be to the highest bidder. Mr. Stainthorpe stated it will be to the highest bidder. Ms. Torbert asked why they are inserting language into the Agreement of Sale that is not in conformance with the Zoning. Mr. Garton stated this was in the prior Agreement. He stated there was an interested buyer, and he feels the Township was responding to this interested buyer; but it will still get sold to the highest, responsible bidder. Mr. McLaughlin stated if the highest bidder happens to be an equine hospital owner, they still have to get a Variance from the Zoning Hearing Board and the Zoning Hearing Board is under no obligation to Grant that Variance. Mr. Garton stated the Board could also choose to Amend R-1 to indicate that

you can have an equine hospital. Mr. McLaughlin stated he does not have an interest in doing this. Ms. Torbert stated she does not feel that this use should be included in the Agreement of Sale and the Agreement of Sale should stick to what the property is currently Zoned for. Mr. Garton stated it was a carry-over from the last time this was bid. Ms. Torbert stated there could be someone who wants to run a different commercial operation, and Mr. Garton stated they would not be qualified to bid. Ms. Torbert stated the only non-conforming use that could bid would be a veterinary hospital, and Mr. Garton stated the only persons besides those wishing to buy it as a single-family dwelling that could be bidders would have to be within the enumerated list he read of agricultural uses, veterinarian, etc. and this was in response to the previous Bid which was in response to someone who had evidenced to the then Board that they had an interest in the property. Ms. Torbert stated she feels this opens up the Township to spot Zoning since they are adding a Use that is not there now to the Agreement of Sale. Mr. Garton stated it would not be spot zoning because all they are saying is there are requirements to be a qualified bidder, but they still have to get the necessary Zoning relief in order to proceed. He stated spot Zoning is if you chose to re-Zone a specific property, and this is not spot Zoning.

Ms. Torbert asked the time period for bids to be received by the Township, and Mr. Garton stated they have been discussing bids being due the end of June. Ms. Torbert urged them to extend this period since she feels one of the problems with the last bidding cycle was that it was too short a period.

Ms. Torbert also asked why they chose eighteen months; and Mr. Garton stated they felt it needed to be some reasonable period of time, and he and Mr. Fedorchak felt that twelve months may be too short a period of time for approvals, and that two years was too long, so they chose eighteen months as a time frame that made sense. Ms. Torbert stated she does not feel they would need eighteen months to go through Plan Approval but feels the eighteen months to get the improvements done is not sufficient time. Mr. Garton stated if they need Zoning relief, they must go to the Zoning Hearing Board first which has requirements as to advertising, Hearing dates, etc. and they could not go to the Planning Commission until they have that relief so with meeting schedules and preparing Plans, eighteen months is not an unreasonable period of time to be able to get Approvals.

Mr. Garton asked the Board if they wish to extend the period of time as to when bids would be due, and it was agreed that Mr. Garton and Mr. Fedorchak should chose a reasonable date sometime in July. Mr. Dobson suggested eight weeks.

Ms. Helen Heinz, Historical Commission, stated she is opposed to this. She stated a veterinary office is allowed in C-1, but a veterinary hospital is the highest and most intense level which is basically C-2 and is the same Zoning as Aria so to put this in R-1

is “absurd.” She stated if they change the Zoning Ordinance it will open up the possibility of having some of the old stone houses and old barns that are in Residential areas, to Commercial uses. Ms. Heinz stated by adding another Residential unit to the property, she feels it is technically subdividing the property. Mr. Garton stated they would not be able to sell the second house, and there is a restriction of no further subdivision. Ms. Heinz stated she has heard that the Satterthwaite House would be the office so this would be admitting that this is Commercial property.

Ms. Heinz stated they will now be leasing twelve acres of the Patterson Farm and they just gave away six acres to Bright Farms and now another twelve acres plus five to the Satterthwaite House. Mr. McLaughlin asked about the twelve acre figure Ms. Heinz is referring to. Mr. Fedorchak stated Bright Farms is less than four acres; however, Ms. Heinz stated at the Planning Commission meeting Monday night they agreed that it is about six acres. Mr. Fedorchak stated Satterthwaite House is five acres. Mr. Garton stated the Agreement indicates that the Township could consider leasing twelve acres for pasture, and he feels horses would be agricultural-related. Ms. Heinz stated on Monday, the Planning Commission issued a memo to the Board of Supervisors asking that they please not lease any more land off the Patterson Farm until the Board of Supervisors authorizes a Master Plan which was asked for five years ago by the Stakeholders Committee for the Patterson Farm.

Ms. Sue Herman stated she supports Ms. Heinz request not to lease the twelve acres which would be disingenuous to the community.

Ms. Torbert stated a veterinary hospital is a large Commercial operation and requires a number of buildings and a number of different pastures because some horses are in isolation and there are pregnant horses. She stated this is not a little stable but is a big, Commercial operation. She stated she will need pasture if they are going to sell the property to a veterinarian.

Ms. Roseanne Friehs, Historical Commission, stated she agrees with Ms. Heinz. She stated the Satterthwaite House is a single-family dwelling, and they are asking in the Agreement that they be able to build an additional house as big as the Satterthwaite House on this property, and she does not feel this would be a private residence but would be two huge buildings on the property and it will take away from the Satterthwaite charm.

Mr. McLaughlin moved and Mr. Dobson seconded to amend the Motion to delete the reference to the expedited process related to Approvals and to extend the period to sometime in July for responses to bids. Motion to amend carried with Mr. Benedetto opposed.

Motion as amended carried with Mr. Benedetto opposed.

Mr. Garton announced that the Board met in Executive Session prior to the public meeting and discussed the five Zoning Hearing Board Applications.

#### BRIGHT FARMS PRELIMINARY/FINAL LAND DEVELOPMENT APPROVAL

Mr. Garton stated the Applicant is seeking Preliminary/Final Land Development Approval, and they propose to construct a greenhouse and related facilities on a portion of Tax Parcel #20-16-49 owned by the Township and generally identified as the Patterson Farm. Mr. Garton stated the Plans are dated 4/20/12. He stated the Planning Commission recommended Preliminary/Final Development Approval at its meeting on May 14, 2012 subject to certain Conditions. Mr. Garton stated the Board of Supervisors Approved the Lease at their last meeting.

Mr. Sal Grasso was present on behalf of Bright Farms. He stated Bright Farms has entered into an Agreement with McCaffrey Supermarkets to grow fresh tomatoes, lettuce, and herbs for their locations. He stated Bright Farms builds, owns, and operates greenhouses. He stated they grow hydroponically, year round using sustainable methods. He stated the original location they proposed on the Patterson Farm was further east of the current location; and after taking recommendations from the EAC, the Township, and homeowners, the current location proposed is closer to I-95. He stated with that location an easement was required for utilities and access. He stated this was designed taking into consideration all of the PennDOT requirements and recommendations from the Township as well. Mr. Grasso stated they met with the EAC and the Planning Commission and received Approval from the Planning Commission. He stated as part of their design they have agreed to help the Township construct a detention basin that will help with some of the existing stormwater issues that have been happening on the Patterson Farm.

Mr. Jim Majewski, engineer, was present and stated there are a number of environmentally-friendly features that are incorporated into the Plan; and one of the key features is that they will have cisterns that will capture the roof run off, and those cisterns will be used to help irrigate the plants inside. He stated a good deal of the run off that is generated from the actual greenhouse structure will therefore be re-used in the irrigation of the crops and will not be going off site. He stated as noted by Mr. Grasso, the second detention basin to the east of the greenhouse was designed to handle some problems that are evident downstream that have been discussed over the years; and now they have someone who is going to step up and help the Township in controlling some of the run off that goes from the Farm off site.

Mr. McLaughlin moved and Mr. Dobson seconded to approve the Preliminary/Final Plans subject to the following:

- 1) Compliance with the Boucher & James review letter dated 5/10/12 with the understanding that the Applicant has requested certain Waivers from the Subdivision and Land Development Ordinance as follows:
  - a) Section 178-12 because it is being considered as a Preliminary/Final Plan
  - b) Section 178-20C9 not obligating them to show existing features within 200' of the site
  - c) Section 178-20C10b to not require natural features be shown on the Plan including the large tree standing alone and the soil boundaries
  - d) Section 178-20b1 to have the Plan drawn to a scale of 1" equals 200' as opposed to 1" equals 100'.
  - e) Section 178-20C6 to not require that the Plans show contours at 2' intervals
  - f) Section 178-93D12g which requires the upstream edge of the emergency spillway be a minimum of 3' below the spillway crest elevation
  - g) Section 178-93D12j1 so as to be relieved of the obligation to meet the top of the embankment elevation with the detention basin
  - h) Section 178-93F3c which requires a minimum pipe diameter of 18" for stormwater pipes; this is proposed to be 15"
  - i) Section 178-95C10 related to the 15' slope protection around the proposed building
  - j) Section 178-93B related to sub-surface soil investigation related to the recharge characteristics

- k) Section 173-14 related to pre-development/post development run off
- 2) Compliance with the EAC letter dated 5/11/12 as modified by the Grant of Waivers with the understanding that the width of the wildflower mix strip will be increased to 25’;
- 3) Receipt of all Permits and Approvals from any agencies having jurisdiction over such matters including but not limited to PennDOT, Conservation District etal;
- 4) Applicant shall pay all review and professional fees in connection with the Application as required by the Subdivision Land Development Ordinance at the applicable rate;
- 5) Any signage placed shall comply in all respects with the Township’s Sign Ordinance and shall be placed after securing any and all Permits from the Township;
- 6) All lighting shall comply with all Township Ordinances and no glare shall extend onto adjoining properties and a Note to that effect should be added to the Plans;
- 7) The width of the driveway access shall be reduced from 12’ to 11’ for the entire length of the driveway portion;
- 8) Receipt of the ingress/egress utility and Utility Easement grant of the Township by the adjoining property owner;
- 9) Trees to be replaced shall be replaced at locations agreed to by the Applicant and the Township;
- 10) Compliance with the Lease Agreement dated 5/10/12

Mr. Grasso agreed to the Conditions.

Ms. Tyler stated she assumes that they are granting Approval of the Preliminary/ Final subject to paying the fees for both the Preliminary Application and the Final Application, and Mr. Fedorchak stated they have already been paid.

Mr. Benedetto asked if there is a storage tank that will be buried in the ground to catch the rainwater, and Mr. Grasso stated they will have above-ground storage tanks placed close to the greenhouse itself. Mr. Benedetto noted their St. Paul, Minnesota Lease Agreement; and he asked how big the greenhouse is at that location, and Mr. Grasso stated it is 38,500 square feet.

Mr. Benedetto stated previously they discussed the location to where it was moved to which is a drier piece of land. He asked how large the retention basin will be; and Mr. Majewski stated it is approximately a half acre in size and is probably twice as big as it would need to be to handle the run off from the greenhouse, and the reduction in flow from the farmed area and from the greenhouse is approximately 60% reduction in the flows headed in the direction of Mr. Miller's property. Mr. Benedetto asked if he mentioned that there was an existing problem in the area, and Mr. Majewski stated Mr. Miller has advised the Township of this problem in the past. Mr. Majewski stated he has also been aware of it, and the water goes down in a heavy rain and sometimes floods out onto Yardley-Langhorne Road; and he feels this will help mitigate part of that problem they have now. Mr. Benedetto stated when Mr. Miller spoke previously he stated it was where the original location for the greenhouse was, and Mr. Benedetto stated he was not sure that there were as many concerns on the Stony Hill side as there were behind Mr. Miller's property. Mr. Majewski stated the stormwater run off from this area does go in Mr. Miller's direction and does not go out to Stony Hill Road and the flows go across the Farm, through the woods, and through Mr. Miller's property. Mr. Benedetto stated this basin is therefore somewhat in answer to Mr. Miller's comments and concerns he raised about having a bad situation being made worse, and Mr. Majewski agreed.

Mr. Dobson stated the Planning Commission indicated that the number of trees to be replaced was thirty-nine. Mr. Grasso stated the easement for the driveway is a certain number of feet wide, and the driveway can be placed on either side of the easement so during construction a certain amount of trees will have to be taken out although they do not know at this point how many trees will be removed. Mr. Garton stated they will comply with the Ordinance requirement, and Mr. Grasso agreed.

Mr. Dave Miller, 1648 Yardley-Langhorne Road, stated his property is at one end of the woods that runs along Yardley-Langhorne Road; and the site as now proposed is at the other end of that woods. Mr. Miller stated when Mr. Garton reviewed the Waivers, he did not feel there was anything that he would object to. Mr. Eisold agreed that he did not feel any of the Waiver requests would be problematic and were typical of Waivers requested for other projects.

Mr. Miller asked what Conditions the Planning Commission attached to their Approval, and Mr. Garton stated these were included in the Conditions listed in the Motion just made as well as the EAC Condition which related to the width of the wildflower mix and the width of the driveway which was also supported by the Planning Commission. He stated they were also supportive of the Waivers being requested.

Mr. Miller stated there are numerous State, County, and Township stormwater management Ordinances; and he has reviewed them before and after the Planning Commission meeting held Monday. Mr. Garton stated the Applicant is required to get an NPDES Permit from Bucks County Conservation District as one of the Conditions of Approval and that has to do with issues about stormwater. Mr. Miller asked what type of Stormwater Management Plan did Bright Farms present with their Application.

Mr. Majewski stated the Plan submitted to the Township shows what the run off would be from the site prior to development; and the conditions that are required for the development are that you consider as if the farmland was not farmland but as if it was a meadow that absorbs a lot of water which makes the conditions of the Plan more conservative in that you have to control the run off as if it is not running off as much as it actually does since farmland tends to have more water run off than a meadow. He stated they then analyze the post-development condition after the road, parking, and greenhouse are built and detention basins and other features are installed. He stated they need to show that the run off from the site is controlled so that the peak flow of run off during the heaviest rain is controlled and also that the volume of run off for the two-year storm which is 4" over twenty-four hours is controlled so that there is no increase in the volume of run off. Mr. Majewski stated those Ordinance requirements are for Lower Makefield and also similar to the NPDES requirements that the DEP has for all projects. He stated as part of the NPDES Application, there is also a calculation they need to demonstrate that you are using a number of best management practices for stormwater that show that you are doing more than your fair share to control not only the peak rate of run off but also the volume of run off from a construction site so that it does not impact downstream neighbors.

Mr. Miller asked if they are trying to fulfill the requirements of a specific Act, and Mr. Majewski stated most of the ones Mr. Miller mentioned deal with water run off from a construction site and pollution from the site that is carried in the run off. He stated the State tries to regulate that during and after construction so that when it rains, you do not carry sediment downstream. He stated this is also part of the requirements that are addressed. Mr. Majewski stated they have addressed all of the requirements noted by Mr. Miller.

Mr. Miller noted ERSAM (Existing Resource and Site Analysis Map) where there are twenty to thirty pages of requirements. He stated the Lower Makefield Township Ordinance specifically states that the ERSAM has to be applied when earth is moved for any kind of development, and he asked if they have submitted the requirements for ERSAM and fulfilled all the requirements. Mr. Majewski stated they have requested Waivers for some of the requirements for submission of Plans for the development; however, the Plans have an Existing Conditions Plan that show what the site is, and they also have Site Capacity Calculations that show how much wetlands, woodlands, ponds,

and buffers are on the site and how much they are disturbing which is 0.2 acres of woodlands for the roadway into the site. Mr. Miller asked if they have met all of the requirements for ERSAM, and Mr. Majewski stated they have.

Mr. Miller stated ERSAM states, “all regulated activities and all activities that may effect stormwater run off including Land Development and earth disturbance activities are subject to the regulations of the Chapter,” and Mr. Miller stated it is very expensive. He asked if the Board of Supervisors is aware of this regulation and is this something they have reviewed or had the professionals review to make sure that the Application meets those twenty-five to thirty pages of regulations. Mr. Eisold stated if they were developing the whole site and there were a lot of natural resources, they would have to calculate each one of them throughout the area; however, what is actually being disturbed in this case is the farmland area and a little bit of woods, and there are no streams or wetlands being effected.

Mr. Miller stated there are two basins on the Plan. He stated he heard that the larger basin is approximately one half acre, and he asked the size of the smaller basin; and Mr. Majewski stated it is approximately one quarter of an acre. Mr. Miller stated he feels when Ms. Heinz was referring to five to six acres, it was because if you take the site, the basins, and the run off going to the basin, they are really talking about removing about six acres of land that could be farmed. Mr. Dobson noted on the Plan an area which can still be farmed and added that they did discuss this Monday night at the Planning Commission meeting. Mr. Miller questioned whether the farmer will want to go into that area, and Mr. Dobson stated that would be a decision for Sam Stewart, who farms the property, to make.

Mr. Miller stated there were no basins shown on the earlier Plans submitted by Bright Farms, and Mr. Stainthorpe stated those first Plans were Sketch Plans and they were not fully engineered and are only to give an idea of what they are proposing. He stated when they submit to the Planning Commission, they have to be fully engineered with calculations done, and this is why there can be some differences. Mr. Miller stated the Planning Commission met this past Monday and the Supervisors had already signed a Lease with Bright Farms without hearing anything about the basins. He asked how the Board could justify signing the Lease when they never saw the basins on the Plan. Mr. Stainthorpe stated this evening they are reviewing the Plans, and the Lease is totally separate. He stated there would be no reason for Bright Farms to submit the Plans unless they knew that they had a Lease with the Township. Mr. Garton stated the Lease also has a reference to the detention basin and the cooperative effort to have it constructed. He stated the approximate location was mentioned but not the specific location because the Final Plan for Land Development had not been engineered yet. He stated the concept of the detention basin was included in the Lease, and the Board was aware of this; and it

was done in response to comments made by Mr. Miller at a public meeting. He stated Mr. Fedorchak in discussions with the Applicant was rather insistent of the need to solve some drainage issues in that area.

Mr. Miller asked if the terms of the Lease were made public before it was signed, and Mr. Garton stated it was discussed at a public meeting. Ms. Tyler stated they also made some modifications to the Lease at that public meeting. Mr. Miller stated this was probably the meeting he did not attend, and he added that he did not attend that meeting because he did not know that it was going to be held. He stated he appreciates whoever sent out the notice about tonight's meeting, but he takes exception that it was not made public about the last meeting when the Board discussed the lease. Mr. Miller stated he heard the reason for that was because the Board is not required by law to make that a public announcement. Mr. Stainthorpe stated they do advertise every meeting to the extent that they can and they publish an Agenda ahead of time which is what they are required to do. Mr. Miller stated at a prior meeting of the Supervisors when he and others spoke about this subject, he feels it should have been obvious that the Township should have let people know that Bright Farms was going to be on the Agenda. He stated he was surprised that it came back so soon. Mr. Miller stated he understands that they publish it in the newspaper, but there is a problem with newspapers today with readership. He questioned why he got a letter about this evening's meeting, but did not get a letter about the meeting when they approved the Lease. Mr. Garton stated the requirements related to Land Development, which is the matter being considered this evening, require notice to the adjoining property owners, but the consideration of the Lease is not pursuant to the Municipalities Planning Code and that was on the Agenda that was published in the paper and on the Website. Mr. Miller stated he feels the difference is they are speaking of the law, and he feels it should be a courtesy.

Mr. Miller stated he heard that the reason the basins are on this Plan was because of stormwater run off concerns raised at a previous meeting, and he asked if this is true. Mr. Stainthorpe stated he understands that it was based on a lot of comments made by Mr. Miller about run off issues with his property, and they took this opportunity to get someone else to help pay for it other than the taxpayers to help remedy some of those issues. Mr. McLaughlin stated it was an issue of addressing Mr. Miller's concerns and complying with the requirements of stormwater management. Mr. Stainthorpe stated he understands that the basins are actually over-engineered for what would have been strictly required by the building of just the greenhouse, and he feels it was an effort on Bright Farm's part to reach out to their neighbors and be good neighbors.

Mr. Benedetto stated the Township is paying half the cost, and Mr. Garton stated the Township is doing the rough grading and Bright Farms is doing the finish grading.

Mr. Miller stated he also heard that the basins were added was so the greenhouse could utilize the water in their farming activities, and it was noted that this is incorrect. Mr. Stainthorpe stated they have cisterns to collect water. Mr. Miller stated he also heard that they were added to help protect the downstream property owners, and Mr. Miller asked that those property owners be identified. Mr. Stainthorpe stated he understood it to be Mr. Miller's property. Mr. Miller stated he does not feel that water shows up on his property, and he does not feel that he is a downstream property from that part of the Farm, although he is downstream from the first area where the greenhouse was proposed. Mr. Eisold stated he feels all the properties below the basin will benefit including Mr. Miller's. Mr. Miller stated the woods is two to three feet lower than the Farm, and when the Nursery School was built a berm was installed by Mr. Patterson and some of his employees to protect the Nursery School property somehow from water running off of the Farm. Mr. Miller stated he feels the downstream property is the Nursery School, but Mr. Eisold disagreed and stated elevation wise it is above the area being discussed.

Mr. Majewski stated water runs from west to east and does not flow from the Farm to the Day Care Center as there is a broad swale that separates the water from the Farm from the water from the Day Care Center. He stated that water goes along the edge of the Woods all the way to Mr. Miller's property. He stated the berm that was constructed for the Day Care Center was constructed to control water from the Day Care Center from going onto the Farm since it goes from the Day Care Center back onto the wooded portion of the Farm. He stated all of this water flows from west to east and does not go from the Farm to the Day Care Center.

Mr. Benedetto stated it seems that Mr. Miller is indicating that the detention basins proposed which were partially initiated due to concerns he expressed at a prior meeting, will not help his water situation; and Mr. Miller stated he does not think they will. Mr. Miller stated he feels water would get to the Nursery School and to Edgewood Crossing. Mr. Miller reviewed how he feels the water runs. Mr. Eisold stated he feels the Plan will minimize the amount of run off that gets to the wooded area.

Mr. Miller asked the estimated cost the Township will put into the detention basin construction; and Mr. Fedorchak stated he does not have a firm number on this, but he does not feel it will be more than \$3,000 to \$4,000. Mr. Fedorchak stated they are sharing the cost of the detention basin with Bright Farms. He stated he feels it could be argued that that responsibility is more the Township's than it is Bright Farms, but he thanks Bright Farms for stepping up since they will be constructing their facilities in that

area and agreed to use their manpower and equipment to help the Township with the construction of the detention basin, and this will save the Township several thousand dollars.

Mr. Miller stated he feels it is odd that this basin is being built to protect the downstream properties which he feels is the Nursery School and Edgewood Crossing and Jim McCaffrey advised at a meeting that he is a partner in the Nursery School and Mr. Miller stated he is also a partner in Bright Farms. Mr. Miller stated therefore Bright Farms' water run off will be going onto Mr. McCaffrey's other property. Ms. Tyler stated two engineers have advised that the water run off goes toward Mr. Miller's property and not toward the Day Care Center. Mr. Miller stated he disagrees with what the engineers are saying. Mr. Miller stated he feels Mr. McCaffrey is causing a problem and the Township is paying money for design. Mr. Stainthorpe stated this is incorrect, and they were very sincere about trying to help Mr. Miller with his problem. Mr. Stainthorpe stated they could probably take that basin out and still meet the stormwater management requirements; and if this is what Mr. Miller is asking them to do, maybe they should consider taking it out.

Mr. Miller stated in the Agreement, the Township has agreed to maintain the basin; and he asked what this involves. Mr. Stainthorpe stated if they chose to go natural, they would plant natural plantings, keep the pipes clear, and mow it probably twice a year.

Mr. Miller stated when Mr. Patterson owned the Farm there was a grassy area around the whole perimeter of the Farm, and it would have been a good greenway for taxpayers to walk around. He stated because of financial reasons, it is no longer being cut, but now they are obligating themselves to cut the basin and he feels this is a contradiction. Mr. Stainthorpe stated it was not the Township's responsibility to cut the greenway, and they Lease the land to the farmer and it is up to them to handle this.

Mr. Miller stated Bright Farms is getting their drinking water from a well, and he asked about the Permits needed to drill the well. Mr. Garton stated depending upon the volume, they would need DVRPC Approval. He stated if it is an amount less than that required for approval, they would not need this. He stated the volume of water dictates the required Permit. He stated he understands that they are using the cisterns as their primary water source for the greenhouse.

Mr. Miller asked why they are rushing this process. He stated last week he received a notice about the Planning Commission meeting Monday night and a few days later he got a notice about this evening's meeting; and before the Planning Commission had even discussed it, the Board of Supervisors scheduled Final Approval for tonight. He stated they are giving them three years to complete the project, but they have accomplished approval at "lightning speed;" and he does not feel they have given this enough consideration and he does not feel it is appropriate for the Board to vote yet.

Mr. Miller stated for several years he has been asking for relief for the water running onto his property, and he showed a drawing at the last meeting he attended showing how the water is running across his property and flooding Yardley-Langhorne and Mirror Lake Roads. Mr. Miller stated he is “put out” because this Application is getting a detention basin which will be helping people on the other side, but there is nothing on his end which impacts everyone in the Township who goes through the intersection. He asked what he could do as quickly as Bright Farms did to get a basin installed behind his property at the Township’s expense since the Township is responsible for the run off coming off of the Farm.

Mr. Stainthorpe stated the first thing they will do is see if the basin proposed does help Mr. Miller’s problem since both engineers feel that it will. Mr. Stainthorpe stated they felt that they were being sensitive to Mr. Miller’s needs, but it seems that they are not. He stated they are trying to be good neighbors and work with Mr. Miller. Mr. Stainthorpe stated this is not a new situation since both Mr. Miller’s home and the Farm have been there since the 1700s, and there have been run off issues between these two properties going back 200 years; and the Township is not required to fix all of that although they are making an effort to try to be a good neighbor.

Mr. Miller stated he heard this same comment when Flowers Field got approval to take their overflow and put it into the existing basins that are on the Giant and Township properties and eventually to the stream on his property, and he is now hearing this again. He stated this issue has not been going on for 200 to 300 years, and it has gradually gotten worse. He stated when he moved to his home forty years ago, it was not a problem; and he feels it is a twenty-year old issue, and he has been complaining about it for at least twenty years.

Motion carried with Mr. Benedetto opposed.

#### GRANT EXTENSION TO TOWNSHIP RAILROAD PROPERTY MINOR SUBDIVISION

Mr. McLaughlin moved and Mr. Dobson seconded to grant an Extension of time to Township Railroad Property Minor Subdivision to September 6, 2012. Motion carried with Mr. Benedetto abstained.

#### SCAMMEL'S CORNER INDEMNIFICATION AGREEMENT APPROVAL

Mr. Garton stated the Board has pending a Subdivision Application related to Scammel's Corner, and one of the aspects of the Settlement Agreement that was reached in the past by a prior Board was that there was to be a rehabilitation of the existing farmhouse which was open ended. Mr. Garton stated the Planning Commission and the Historic Commission would like to have access to the property to make a recommendation on that element of the Plan. He stated the developer has indicated that the property is in disarray and there has been a fire on the property, and he was concerned about liability.

Mr. Garton stated he contacted the Township's provider of liability insurance and explained the situation; and he indicated that if they were to secure an Indemnification Agreement between the Township and the developer that identifies that the Township has an obligation to make the developer harmless of any injuries that occur by people that are authorized to be there by the Township, they will insure that activity at no additional cost.

Mr. Dobson asked what would happen if someone were hurt; and Mr. Garton stated that is why they have the insurance coverage, and this will be at no additional cost to the Township.

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to approve the Indemnification Agreement.

#### ZONING HEARING BOARD MATTERS

With regard to the Manor Care of Yardley, 1480 Oxford Valley Road, Special Exception and Variance requests to construct three additions to the existing buildings,

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried that the Township should participate and the Township solicitor should attend.

With regard to the Wendy and David Farisou, 1132 Glen Oak Drive, Variance request to replace a portion of an existing fence within a drainage easement, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the William and Dorothy Gerhauser, 915 Olsen Avenue, Variance request to construct an in-ground pool resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Gregory and Mary Kaye Sargent, 1350 James Court, Variance request to allow existing pool decking, bluestone steppers, and walkway to remain resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

May 16, 2012

Board of Supervisors – page 27 of 27

With regard to the Robert Huey and Patricia Armstrong, 1012 Evergreen Road, Variance request to construct a shed and walkway resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

There being no further business, Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to adjourn the meeting at 10:25 p.m.

Respectfully Submitted,

Dobby Dobson, Secretary