

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JANUARY 18, 2023

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on January 18, 2023. Dr. Weiss called the meeting to order at 7:35 p.m. and called the Roll.

Those present:

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

Others: David W. Kratzer, Jr., Township Manager  
James Majewski, Community Development Director  
Kenneth Coluzzi, Chief of Police  
David Truelove, Township Solicitor  
Andrew Pockl, Township Engineer

Absent: Daniel Grenier, Supervisor

#### COMMUNITY ANNOUNCEMENTS

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

Dr. Weiss stated the February 8<sup>th</sup> 6:00 p.m. meeting of the Disability Advisory Board features a guest speaker – Claire Leal, who is the Director of the Bucks County Center for Independent Living. Residents can view the meeting live on the Lower Makefield YouTube site.

Dr. Weiss stated Lower Makefield Township will be hosting a Blood Drive for the Red Cross on Friday, March 10, 2023 from 1:00 p.m. to 6:00 p.m. in the Meeting Room at the Township Building, 1100 Edgewood Road, Yardley, PA. Ms. Blundi stated while we do not have a Blood Drive immediately at the Township, there is a critical shortage right now if residents are able to donate at this time.

## APPROVAL OF MINUTES

Mr. McCartney moved, Mr. Lewis seconded and it was unanimously carried to approve the Minutes of December 21, 2022 as written.

Mr. McCartney moved, Mr. Lewis seconded and it was unanimously carried to approve the Minutes of January 3, 2023 Reorganization meeting as written.

## ENGINEER'S REPORT

### Approval of Change Order #1 for the Maplevale Drainage Improvements – Phase 1 Project as a Credit to the Township in the Amount of \$6,838.62

Mr. Pockl stated the contractor mobilized to the site and began installing the outfall structure and the inlets within Maplevale Road; and when they began constructing the pipe from Maplevale down to the open field area owned by the Township, they hit a Verizon duct bank although no wires were severed. Mr. Pockl noted that this had not been marked out by Verizon when they did the PA One call, and when we called Verizon once the duct bank was hit, Verizon still did not respond. Once an emergency action was submitted, it was determined it was Verizon's duct bank, but the ten conduits could not be re-located. Mr. Pockl stated we had to re-design to move the drainage pipe and a manhole. The revised design was submitted to PennDOT since Taylorsville Road is a PennDOT road, and we are waiting for the Highway Occupancy Permit from PennDOT before we can proceed. He stated this Change Order and the next are associated with that situation.

Mr. Pockl stated Change Order #1 is a result of the storm pipe that was originally which has now been changed; and they originally had reinforced concrete pipe, but due to availability issues, the contractor indicated that pipe was not available until the middle of 2023 so it was decided to adjust the material of the pipe which was installed, and it was less expensive than the reinforced concrete pipe so this is a credit to the Township.

Ms. Blundi asked for a further explanation as to what was hit when they started the project, and Mr. Pockl stated it was ten plastic conduits that carry Verizon wires through them and distribute them to various portions of the Township. Ms. Blundi asked if there is an opportunity for Verizon to help us with the fix since they did not advise that it was there, and Mr. Pockl stated we intend to pursue that with Verizon.

Mr. McCartney moved and Ms. Blundi seconded to approve Change Order #1 for the Maplevale Drainage Improvements Phase 1 project as a credit to the Township in the amount of \$6,838.62.

Mr. Lewis asked if the new pipe has a shorter lifespan than the previous one and if there are any anticipated ongoing expenses we should expect for maintenance that we would not have had with the other type, and Mr. Pockl stated there is not. He stated it is a standard stormwater pipe when installed in a grass area which is where it will be installed. He stated the only reason they would have to use reinforced concrete were if there was shallow cover under a roadway, and this is not the case. Mr. Lewis asked why reinforced concrete was originally selected; and Mr. Pockl stated because it is a flat area, the reinforced concrete pipe that they originally specified was an elliptical pipe and it had more width than depth which was required by the capacity of the stormwater we were intending to carry through there. Mr. Pockl stated after doing some more investigating, they were able to make the 36" round pipe carry the same capacity of flow through it as the reinforced concrete pipe and determined that it will still positively drain from the roadway.

Motion carried unanimously.

Approval of Change Order #2 for the Maplevale Drainage Improvements – Phase 1 Project to Bencardino Excavating, Inc. in the Amount of \$7,582.04

Mr. Pockl stated this is for an additional manhole that is required. He stated originally there was a 7' wide manhole; but because of the location of the duct bank, we could not fit that manhole in between an existing gas main and the Verizon duct bank so we had to order a smaller width manhole which the contractor has ordered.

Ms. Blundi moved and Mr. McCartney seconded to approve Change Order #2 for the Maplevale Drainage Improvements Phase 1 project to Bencardino Excavating, Inc. in the amount of \$7,582.04.

Dr. Weiss asked if the smaller diameter is not a standard size, which is why it cost more, and Mr. Pockl stated they had already delivered the 7' wide manhole to the site, and it cannot be returned as it was a custom manhole. He stated they therefore have to buy a new manhole, and that is the price. Dr. Weiss stated we should deal with this with Verizon, and Mr. Pockl agreed. Mr. McCartney asked what we are doing with the old manhole, and Mr. Pockl stated he had contacted five different

construction companies working in the area to see if they wanted to get a reduced-price manhole; however, because it is a custom size, no one had a need for this manhole. He stated they are grinding it up and disposing of it.

Motion carried unanimously.

Approval of Pay Application #1 for the Maplevale Drainage Improvements – Phase 1 Project to Bencardino Excavating, Inc. in the Amount of \$65,036.54

Mr. Pockl stated this reflects the amount of work that was completed on site. There is approximately \$90,000 remaining in the Contract value.

Mr. McCartney moved and Ms. Blundi seconded to approve Pay Application #1 for the Maplevale Drainage Improvements – Phase 1 Project to Bencardino Excavating, Inc. in the amount of \$65,036.54.

Dr. Weiss asked if the \$90,000 is what is left of the project, and Mr. Pockl agreed.

Motion carried unanimously.

Approval of Pay Application #2 (Final) for the 2022 Bike Path Maintenance Project to General Asphalt Paving Co. in the Amount of \$2,131.80

Mr. Pockl stated this work was completed last year. At the last meeting the full amount was paid minus 2% retainage which was being held until we received the Maintenance Bond which has now been received. Mr. Pockl stated it is a two-year Maintenance Bond from the date of completion.

Mr. McCartney moved, Mr. Lewis seconded and it was unanimously carried to approve Pay Application #2 (Final) for the 2022 Bike Path Maintenance Project to General Asphalt Paving Co. in the amount of \$2,131.80.

Approval of Escrow Release #6 for the Prickett Preserve Development to ELU DeLuca Yardley, LLC in the Amount of \$467,260.00

Mr. Pockl stated this is work for the stormwater management infrastructure that has been installed as well as roadway and paving improvements that have

been completed. The work has been inspected and there has been agreement on the quantities that were submitted. There is approximately \$3.4 million remaining in escrow on this development.

Mr. McCartney moved and Ms. Blundi seconded to approve Escrow Release #6 for the Prickett Preserve Development to ELU DeLuca Yardley, LLC in the amount of \$467,260.00. Motion carried with Mr. Lewis opposed.

Approve Authorization for Advertisement of the 2023 Road Program Project

Mr. Pockl showed a map of the Township indicating the roads included in the 2023 Road Program. He stated a significant amount of the Program is the mill and overlay of roads in the Yardley Run neighborhood. He stated also within the Base Bid are Central Drive, Heather Circle, Ramsey Road between Kings and Roelofs, and Roelofs Road between Ramsey and Derbyshire Road as well as additional line striping and reflective pavement markings along Roelofs Road. He stated an Add Alternate is to mill and overlay Colony Way and Patriot Drive which are shown in yellow on the map. Add Alternate #2 is to perform stormwater inlet repairs for all the roads that are tentatively in the 2024 Road Program.

Mr. Pockl stated the intended schedule is to put the Bid up for the electronic bidding process on PennBid within the coming weeks, a Bid opening at the end of February, a possible award at the beginning of March, and all work completed by the start of the School year by the first of September.

Mr. Lewis moved and Mr. McCartney seconded to authorize advertisement of the 2023 Road Program Project.

Mr. McCartney asked if the section of Roelofs Road where there will be reflective markings is the section behind Pennwood, and Mr. Pockl stated it is adjacent to the School along the back parking lot. Mr. Pockl noted on the map where this is proposed which is the dashed line. He added that currently there is yellow line striping from Makefield Road back to where the dashed line starts, and we will be extending it out to Ramsey Road. This is in conjunction with the Traffic Safety Officer's recommendation. Mr. McCartney stated that does not cover the entire School Zone along Roelofs. Mr. Pockl stated while he could investigate that, what is proposed was based on the width of the roadway and the parking. He stated he will look into this again before it is put out to Bid.

Mr. Lewis stated this represents the previously approved Three-Year Plan for roads, and Mr. Pockl agreed. Mr. Lewis asked if it is worth adding Bid Alternates, and Mr. Pockl stated he feels with what has been proposed, we are at the Budget number. He stated if we get paving numbers similar to what were received last year, it is possible that we would have enough in the Budget to award some of the Alternates. Mr. Pockl stated he does not feel there is an opportunity to add more Alternates.

Motion carried unanimously.

#### Approve Authorization for Advertisement of the 2023 Pool Painting Project

An Exhibit was shown related to this project. Mr. Pockl stated in reviewing the condition of the existing pools with the Park & Rec Department, the scope of work was determined to be acid wash and touch-up paint the tot pool and the intermediate pool, and to repair joints under the existing drain gutter, acid wash and touch-up paint the lap pool. He stated they will sandblast, repair the joints, and paint the Olympic pool. He stated all of the pools are going to need to be sandblasted and re-painted, and this is part of approximately a three-year cycle to sandblast and re-paint the pools so that the paint can last longer.

Mr. McCartney moved, Mr. Lewis seconded and it was unanimously carried to approve authorization for advertisement of the 2023 Pool Painting Project.

#### Approve Authorization to Apply for a Green Light Go Grant for Taylorsville Road Signal Upgrade

Mr. Pockl stated this is the signal at the intersection of Woodside and Taylorsville Roads. He stated as part of the Woodside Road bike path, the path is to terminate at Taylorsville Road. When the project was bid out, there was an Add Alternate to make improvements to the intersection, but that came in very high. As a result we are now attempting to bid for that work through a Green Light Go Grant that is available. The Application deadline is January 31. There is a 20% match so the Township portion of the match would be \$23,439.00. He stated while we do not need a Resolution as part of the Application, we do need a funding-commitment letter signed by the Township indicating that the Township is willing to fund the match.

Mr. Lewis moved and Mr. McCartney seconded to authorize the Township Manager, on our behalf, to apply for the Green Light Go Grant for the Taylorsville Road signal update.

Dr. Weiss stated this is for an extension to the bike path, and Mr. Pockl stated it is for intersection improvements to include ADA ramps, signal upgrades, and it would carry the bike path from the northwest corner of Taylorsville Road to the southeast corner of Taylorsville Road and tie into the existing path that was constructed by the Delaware River Joint Toll Bridge Commission. Mr. Pockl stated the project is shovel ready which he feels makes it a strong Grant Application.

Ms. Blundi stated she will continue to recuse herself from voting on this issue, and the Motion carried with Mr. Lewis, Mr. McCartney, and Dr. Weiss voting in favor.

#### Project Update – Woodside Bike Path

Mr. Pockl stated the contractor intends to begin ordering the materials for the drainage improvements portion of the work, and they want to break ground in mid-February. He stated we are still waiting on a final schedule for the entire project; and once that is received from the contractor, it will be distributed to the residents and through Township social media.

#### **SOLICITOR'S REPORT**

Mr. Truelove stated there was an Executive Session beginning at 6:45 p.m. and personnel, litigation, informational, and Real Estate items were discussed.

#### Approval of Resolution #23-1 Authorizing Condemnation of an Easement Across Certain Real Property Located at 27 Morningside Drive

Mr. Truelove stated this and the following two items are related. He stated in March, 2022 the Township sold the sanitary sewer system to Aqua Pennsylvania; and as part of the sale, the Township is required to convey all property interests, including but not limited to, Easements, Title, and other interests to any and all parts of the sewer system to Aqua. He stated many Easements were never formally obtained or Recorded so his office on behalf of the Township acquired most of the necessary Easements for the sale which was approximately eighty

to ninety Easements, with most of the work being done by Ms. Kirk of his office. Mr. Truelove stated three property owners have refused to convey the Easements to the Township and the sale is almost one year old. In order to finalize the transfer of the Easements and to get reimbursement of certain monies being held in Escrow, the Township has no other option but to formally condemn the Easements and assign the Easements to Aqua.

Mr. Truelove stated in order to proceed with the condemnation, his office obtained appraisals for the current fair market value of the Easements, copies of which were provided. He stated once the Board approves the Resolutions to Condemn, the necessary Pleas through the Court of Common Pleas will be filed, and letters of payment will be issued for the amounts which are \$9,300, \$3,400 and \$12,000 respectively according to the appraisals. Mr. Truelove stated there were numerous attempts by his office to contact these people including letters which were sent.

Ms. Blundi moved and Mr. McCartney seconded to approve Resolution #23-1 authorizing condemnation of an Easement across certain real property located at 27 Morningside Drive.

Ms. Blundi asked Mr. Truelove to describe what an Easement means in this context. Mr. Truelove stated it is the location of the pipes underneath the property to allow access in the event that maintenance, etc. is required. He stated every property in the Township that has sewer has a Sewer Easement at some point on their property so this is not something that is unique to these three properties.

Mr. McCartney asked Mr. Truelove to explain the condemnation process. Mr. Truelove stated they will file the condemnation in Court including the appraisals. He stated if the property owners want to oppose, they would file Preliminary Objections. Once the properties are condemned, and we own the Easements, we would then transfer them automatically to Aqua. He stated the filing process costs would be a few hundred dollars; and provided there are no Preliminary Objections, there is very little to do after that. Mr. McCartney stated this is required as part of the Contract that we have with Aqua, and Mr. Truelove agreed.

Ms. Blundi stated if we had not sold the Sewer system, we still would have had to do this in due course anyway since whoever is maintaining the sewers would have to have access for repairs, etc.; and Mr. Truelove agreed. Mr. Truelove added that at one point the Township owned all of the pipes,

and it had been reported that the system had not been maintained to the satisfaction of some and according to the DEP and the 537 Plan; and at some point the Township would have had to video the pipes and do whatever maintenance would have been required.

Mr. Ethan Roskin stated he is Boy Scout and is friends with people who live on Morningside Drive, and they have gone boating in the area behind the houses. He asked if they will still be able to go boating when the area is condemned. Mr. Truelove stated the condemnation process will not impact that and it just means that the ownership passes to the Township which will then pass it to Aqua as it is needed for access. He stated this does not change the condition on the ground at all.

Motion carried unanimously.

Approval of Resolution #23-2 Authorizing Condemnation of an Easement Across Certain Real Property Located at 236 Oxford Valley Road

Mr. Lewis moved, Ms. Blundi seconded and it was unanimously carried to approve Resolution #23-2 authorizing condemnation of an Easement across certain real property located at 236 Oxford Valley Road.

Approval of Resolution #23-3 Authorizing Condemnation of an Easement Across Certain Real Property located at 447 Heacock Road

Mr. Lewis moved, Ms. Blundi seconded and it was unanimously carried to approve Resolution #23-3 authorizing condemnation of an Easement across certain real property located at 447 Heacock Road.

Discussion and Postponement to 2/1 Approval of Resolution #23-4 to Update the 2021 Ad Hoc Property Committee Resolution

Mr. Truelove stated in May, 2021 the Ad Hoc Property Committee was created by Resolution; and at that time, the expectation was that the final report would be issued to the Board by March 31, 2022. While that date has passed, there has been a lot of work done including the retainage of Avison-Young to perform consulting work with the Ad Hoc Property Committee. It is necessary to update

the Resolution. Avison-Young has indicated that its work will extend to at least June of this year, and the recommendation is to extend the time for the Ad Hoc Property Committee's work to no later than September 30, 2023.

Mr. Lewis moved and Mr. McCartney seconded to approve Resolution #23-4 to update the 2021 Ad Hoc Property Committee Resolution.

Ms. Blundi stated the Ad Hoc Property Committee did provide a report as well as a presentation before the Board of Supervisors within the timeframe outlined summing up where they were and what the next steps might be. She stated she is the Liaison this year, and they are doing great work on behalf of the Township. She stated the Board of Supervisors has been kept up to date and made Motions to approve certain next steps. She stated she would like to make sure that the language of the extension of time does not negate the things that have been done in the past and recognizes the hard work that is continuing and what has been accomplished to date. Mr. Truelove stated he would be happy to revise it so that it can be approved at the next meeting. Ms. Blundi asked if they could Table this to make sure that the language is as precise as it needs to be.

Mr. Lewis moved to amend his Motion to postpone this item to February 1. Mr. McCartney seconded, and the Motion carried unanimously.

Approval of Resolution #23-5 Regarding Approval of Township Efforts and Actions to be Taken for PUC Approval of Exemptions, Deductions, or Credits to Residents with Secondary Water Meters

Mr. Truelove stated as part of the transfer of the assets of the sewer system to Aqua, meter readings were required. He stated one of the challenges was that there are several residences which have secondary meters, primarily for pools, that do not contribute to the sanitary sewer system. He stated unfortunately those secondary meters were read, and there were charges back to the owners for flows that do not relate to the sanitary sewer system. He stated Aqua has filed a request to have that adjusted, and that has been suspended at this point until June. He stated the point of the Resolution is to enable his office to take whatever action is necessary through the Legislative process, to the new Governor's office, and through the PUC process wherever that is available and engage any and all means to do that.

Mr. McCartney moved, Mr. Lewis seconded and it was unanimously carried to approve Resolution #23-5 regarding approval of Township efforts and actions to be taken for PUC approval of exemptions, deductions, or credits to residents with secondary water meters.

Mr. Lewis stated one of the 558 customers is the Pool at Lower Makefield.

Motion carried unanimously.

Approve Extension of the Consulting Agreement for Greg Hucklebridge

Mr. Truelove stated Mr. Hucklebridge is the former Director of Public Works who was retained on a Consultant Agreement to assist the Township in the litigation with the Morrisville Municipal Authority in terms of the reconciliation of operating and maintenance expenses which goes back several years. Mr. Truelove stated Mr. Hucklebridge has been extremely helpful with regard to the review of the information and the litigation continues. The former Consulting Agreement expired December 31, 2022, and the recommendation is to extend the Agreement up to the end of this year, if necessary, at the same rate of \$75 an hour except where he may have to testify in a deposition; and given his professional engineer status, that rate would be \$150 an hour. In all other respects, the Agreement is the same.

Ms. Blundi moved and Mr. Lewis seconded to approve the extension of the Consulting Agreement for Greg Hucklebridge.

Mr. McCartney asked if there is an estimate of how much time will be spent. Mr. Truelove stated while that is hard to estimate, he will try to find out what the scope is of the remaining Discovery that Mr. Hucklebridge would have to look at. He added that he will check with his colleagues who are litigating the case and with Mr. Hucklebridge.

Motion carried unanimously.

## COMMUNITY DEVELOPMENT

### Approval of Pay Application #6 for the Lower Makefield Community Trail Project to Richard E. Pierson Construction Co., Inc. in the Amount of \$13,759.11

Mr. Lewis moved, Ms. Blundi seconded and it was unanimously carried to approve Pay Application #6 for the Lower Makefield Community Trail Project to Richard E. Pierson Construction Co., Inc. in the amount of \$13,759.11.

### Multi-Use Trail Update

Mr. Majewski stated due to favorable weather, the contractor has been able to complete most of the work, and they will be finished by next week. He stated the traffic signal at Roelofs and Oxford Valley Roads went in yesterday, and they have been doing the ADA ramp work and putting down striping.

### Approval of Certificate of Appropriateness for 706 Stony Hill Road – Citizens Bank Signs and Painting

Mr. Majewski stated this is currently an Investors Bank at the intersection of Stony Hill and Langhorne-Yardley Roads. The color scheme is being changed to match the company's colors. The Historical Architectural Review Board unanimously voted to recommend approval of the Certificate of Appropriateness. He added the only issue they had was with the color of the awnings, and the Applicant has since revised the Plan to go with the bronze color that is similar to the roofing proposed in the Application as part of their Permit for the work.

Mr. Lewis moved, Mr. McCartney seconded and it was unanimously carried to approve the Certificate of Appropriateness for 706 Stony Hill Road – Citizens Bank signs and painting.

### Approval of Certificate of Appropriateness for 700 Stony Hill Road – ATI Physical Therapy Signs

Mr. Majewski stated ATI Physical Therapy is moving into the shopping center where the Giant supermarket is located. He stated HARB unanimously recommended approval of the signs as submitted.

Ms. Blundi moved, Mr. Lewis seconded and it was unanimously carried to approve the Certificate of Appropriateness for 700 Stony Hill Road – ATI Physical Therapy signs.

Approve Extension of Time for Aria Hospital to December 31, 2023

Mr. Lewis moved and Ms. Blundi seconded to approve extension of time for Aria Hospital to December 31, 2023.

Mr. Truelove stated many years ago Aria Hospital had a Land Development proposal which is technically still active. He stated they also had a Zoning Hearing Board matter which the Township opposed and prevailed. Aria Hospital has not acted on the pending Land Development for many years; and under the Municipalities Planning Code, once the timeframe in which to approve is close to expire, we have to get an Extension which is a benefit to the Township or there could be a deemed approval.

Mr. Lewis stated they did come before the Board approximately five years ago with a concept for a medical village which was not acted upon. He asked if we have heard anything from them in the past few years. Mr. Majewski stated a few years ago they approached the Township informally inquiring about any interest in re-Zoning the property; and at that time, the Township advised them that if they had a more concrete proposal, they should submit it.

Mr. Majewski stated he has heard nothing further although their attorney has reached out to Aria, and both the attorney and the Township asked if they would withdraw the Application since it would most likely not go through in its present form; however, they want to keep it open. Mr. Majewski stated as with any landowner, they were advised that if they had any ideas as to what they wanted to do with the property, that they were welcome to discuss that with the Township. Mr. Majewski stated this property is part of Shady Brook Farm, although it is under separate ownership, and it is the parcel of land that is on Route 332 at the intersection of Stony Hill Road. A five-story hospital was proposed for that site. Mr. Majewski stated there are about 40 acres available for development.

Motion carried unanimously.

Approve Extension of Time for 1273 Lindenhurst Road Subdivision to February 1, 2023

Ms. Blundi moved, Mr. Lewis seconded and it was unanimously carried to approve an extension of time for 1273 Lindenhurst Road Subdivision to February 1, 2023.

PUBLIC COMMENT

Ms. Lisa Tenney, 156 Pinnacle Circle, noted a development at 1101 Big Oak Road across from Boehm Middle School. She asked what type of work can the developer begin on the property if they have asked for Variances and Waivers which have not yet been granted. Mr. Majewski stated he is not aware of what work Ms. Tenney is talking about although he knows that there was a water leak at the house and Pennsylvania American Water Company had to do some digging in order to find out where the shut-off valve was. He stated they cannot do any work on the Land Development portion of the project until they get Land Development approval for the project. He stated they could demolish the house if they so chose with or without Land Development approval.

Ms. Tenney stated they did do some land clearing. She asked what safeguards will be granted for the neighborhoods including one in a different Township and three in Lower Makefield. She stated there was a big truck on S. Esther Lane all day, and there were lots of signs and part of Big Oak Road was closed off. She asked if that was allowed; and if this is approved, will it be commonplace. She stated the neighbors will not like it. Mr. Majewski stated during the course of construction, they are required to try to keep all of the work on the property; or to the extent that they have to do any disturbance and park vehicles on the road that they notify the Township and/or the Police Department. He stated if a road has to be closed, that would have to be coordinated with the Police and Emergency Services. Ms. Tenney stated there was a very big truck on S. Esther Lane, and there was a significant “signage change” on Big Oak Road. She stated if they did not get approval, how will the Township prevent this from happening again. Mr. Majewski stated he was not aware of this; and if Ms. Tenney had called the Township, they would have gone out to check on this. He stated they were not aware of any closures on S. Esther Lane. Ms. Tenney stated it was not a closure – it was a big truck that was in the way of a lane typically not parked on. Ms. Tenney asked if she should call Mr. Majewski or the Township Manager. Mr. Majewski stated she can call his office or anyone in the Township, and they will respond as soon as possible.

Ms. Tenney stated the “environmental citizens’ agency” was there and they can attest to the fact that this did happen. She stated they were there looking at the trees as the developer had over-estimated the number of damaged trees. Mr. Majewski stated the Township staff was there with the Environmental Advisory Council, the arborist hired by the developer, and the developer’s engineer to review their report that had been submitted in support of their Application. He added that this will all be discussed by the EAC at their next meeting as well as at the Planning Commission meeting next month.

Ms. Tenney stated she attended the Zoning meeting, and there was great concern expressed especially by the downhill properties. She stated they are on “Rock Hill Creek” which includes Boehm Middle School. She stated she believes that creek and the neighbors will experience significantly more flooding as a result of the removal of the trees, the granted impervious surfaces, and the changes made during this development. She stated that creek may be fed by underground tributaries because all of her neighborhood has sump pumps. She stated the properties that line “Rock Hill Creek” also have significant flooding. She stated they will tax the creek which is very close to Boehm Middle School which is undergoing a renovation, and she asked how they will not compromise all of those new changes to the School by allowing this.

Mr. Majewski stated all of the issues that Ms. Tenney has brought up are reviewed by our Township engineer and our various consultants and Committees, and this will all be discussed at the next Planning Commission meeting. He added that a lot of these issues were brought up at a prior Planning Commission meeting. He stated the current Plans are available on the Township Website with links to all of the reports. He stated Ms. Tenney can speak at the Planning Commission when it comes up for review again.

Ms. Tenney asked if there has been any change from what is posted outside the neighborhood. Mr. Majewski stated he believes the Plans are essentially the same. He stated the most current set of Plans are available on-line and anyone can come into the Office to look at them.

Ms. Tenney stated about four years ago she had requested a “Deer Crossing” sign to go across Big Oak Road and there have been casualties. She asked the status of that. She stated she recalls that when Mr. McCartney was Chair he indicated that a sign was going to be placed on Big Oak Road. Mr. McCartney stated he does not recall stating that. Chief Coluzzi stated there was discussion about that, but it was found that it was not an appropriate area for a sign.

Ms. Tenney stated she heard that there was to be a sign although it was not going to be where she had proposed. Chief Coluzzi stated they looked at where they could be put a sign, but that has not been accomplished yet as they are not sure about it yet.

Mr. David Rishel, 220 Meadow Drive, stated his question is about the Maplevale drainage project. He stated prior to Christmas he had submitted some written questions to the Township but has not received any responses to that. He added that since he and some of the other residents were last in, nothing has happened at the site. He stated last Friday someone from the contractor came with a truck and removed the excavator, and when Mr. Rishel spoke to that person, he indicated that he was not sure that they were going to finish that project this year. Mr. Rishel asked for an update. He also asked about concern possible legal action concerning where the new pipe was put in at the end of Maplevale along Taylorsville as there was a resident who was concerned about how that was done.

Mr. Pockl stated the contractor has relocated the piece of equipment that was parked within the right-of-way of Taylorsville Road as that had contributed to a sight-distance issue for vehicles pulling out of Maplevale Drive at that intersection. He stated with regard to the status of the project, as noted earlier we are waiting for PennDOT to approve the Highway Occupancy Permit so that the work can be completed within that area; and it is expected that PennDOT will approve that in the next few weeks. He stated with regard to the complaint, he has had discussions with the property owner on the corner where the work is being completed, and he has answered all of their concerns over the phone. He stated he would be willing to speak to them again if they have any other questions.

Mr. Pockl stated with regard to Mr. Rishel's initial inquiries, he responded to them prior to the end of the year by e-mail. He stated if Mr. Rishel did not get that, he can forward the e-mail to him again.

Mr. Rishel stated when they were at the meeting in December, it was indicated that they would move the excavator almost immediately; however, that was not done until last Friday. He also added that they did not move it – they put it on a truck and took it away which caused concern as to what was going on. He stated the big concern was that if something does not happen soon, it would be better to remove all of the building materials from the street before they freeze for the winter. Mr. Pockl stated they still have materials and some equipment in the area, and he is not concerned that they are not going to finish the project. He stated that the contractor has indicated that once the Permit is

received from PennDOT, that they have all the materials to proceed, and they anticipate completing the work within a matter of days once there is approval from PennDOT.

Ms. Blundi stated she understood that once Mr. Pockl contacted the contractor about the large piece of equipment that it was moved quickly. Mr. Pockl stated they did move it from one location and attempted to hide it behind the existing tree; but once it was brought to his attention that there was still a sight-distance issue, he checked it and contacted the contractor last Thursday, and they moved it on Friday.

#### SUPERVISORS REPORTS

Dr. Weiss stated the Park & Rec Board met and discussed the proposed Open Space Ordinance, and they have no objection. He stated the Planning Commission met and does have issues as to minimum lot sizes and some other issues which will be addressed and brought back to the Planning Commission.

Ms. Blundi stated the Ad Hoc Property Committee met twice in January, and she urged everyone to watch the meetings or read the Minutes to see the work they are doing. She stated one of the proposed bidders that was interviewed to help prepare a Master Plan had indicated that they helped salvage/re-build a barn for a local Government in New Jersey, and the cost to do that was over \$1 million. Ms. Blundi stated the Ad Hoc Property Committee is a thoughtful group of fellow residents who are working on this leveraging expertise, and it is important to have people following along thinking about what the next steps will look like. Ms. Blundi stated the Auditors met and they have the most recent Audit.

Mr. Lewis stated the Historical Commission met and there is an opening if anyone is interested in serving on this Commission. He stated there was discussion about the work of the Ad Hoc Property Committee and providing help with regard to the historical components at Patterson Farm. He stated the Disability Advisory Board met and there were no issues with any of the upcoming development plans. Mr. Lewis stated Farmland Preservation, Inc. met and discussed their new hunting policy. He noted that we have a process where we allow bow hunters to hunt Farmland Preservation property as part of our deer mitigation strategy. He stated we also work with BOWMA (Big Oak Whitetail Management Association) which is part of a larger approach to reduce the deer population which is a significant driver of accidents especially

in the northern part of the Township. Mr. Lewis stated the new hunting policy is in keeping with Game Commission rules for Red Tag hunting which allows for hunting for a more-extended period of time. He stated they will also be tracking who the hunters are so that we know if there is a problem with the blinds, etc. we can follow up with them. He stated he is happy to rejoin Farmland Preservation.

## OTHER BUSINESS

### Approve Acceptance of the Final Trust Agreement

Dr. Weiss stated the Board had an opportunity to review the Trust documents.

Ms. Blundi moved and Mr. McCartney seconded to accept the Final Trust Agreement.

Mr. McCartney asked if the document locks us in for a principal deposit. Dr. Weiss stated we will have to put in at least \$10 million, and added we also have to develop our investment strategy, which will be considered shortly. He stated since we do not have an investment strategy at this time, the money would go into the Money Market fund. Mr. Truelove stated under Article 3, Section 3.1 – Initial Contribution it states, “The Township shall transfer \$10 million in cash to the Trust on or as soon as practical after the effective date.” Mr. Truelove stated other contributions can be made subsequently, but it states that the initial contribution is to be \$10 million. Mr. Truelove added that his office did not draft this Agreement, and he is just commenting as an observer.

Mr. McCartney stated he assumes we have to sign the Trust Agreement, and he asked who would have to sign this. Mr. Kratzer stated it is set up for a single signature, and Mr. Truelove stated he presumes that would be the Chair.

Ms. Blundi stated when this was drafted, she understood that it would be created so that we could fund it with an amount certain; and then as certain issues become clearer, more money could be added to the Trust.

Mr. Lewis stated he did make some minor edits although the one around the initial deposit may be contentious. He asked if the others were accepted in the Agreement. Dr. Weiss stated he spoke with the attorney, and PNC had no objection to adding those edits if the Board agrees to them other than the amount of money to be the initial deposit. Mr. Lewis stated in addition to the typos, there were also edits around the responsibility question for PNC in the

event that we need help with an investigation related to issue with the Fund, and there were certain things that they had carved out that they were not going to be a participant of. He stated if it is something related to malfeasance or some issue, they should participate and help us with that which is why he edited that.

Mr. Lewis stated he had an edit about the larger, initial deposit. He stated we are addressing some contingent liabilities related to this transaction that have not been fully analyzed. He stated with that concern, he would be willing to remove his edit on that for now; but he would suggest that we get better certainty as to what the amount truly could be. He stated he does want to vote in favor of this, but he would like to have more certainty around it. He stated he hopes that we will have a better understanding of what the residual amounts are and what are our potential contingent liabilities, and he does not feel that we really know that yet.

Dr. Weiss stated he agrees that there are a lot of issues that still need to be discussed including Patterson Farm, Play For All, and Macclesfield. He stated there is also money other than the sewer funds that could take care of many of the issues. He stated there are contingent liabilities of the sewer system that are still outstanding. He stated he would prefer to leave as much money liquid as possible so that if this or a future Board has to make a decision, they have options. He stated that is the only reason that he wants to start with \$10 million.

Mr. Lewis stated part of his earlier strategy was to have greater flexibility around borrowing so that there could be a larger amount, but the consensus of the Board was that borrowing would only be a last resort situation. Mr. Lewis stated we may learn a month from now that it could be \$9 million or \$12 million, and waiting would give more time to be comfortable with this. He stated assuming the Board accepts the minor changes he has suggested and assuming that we have a good sense that \$10 million is legitimately savable, he would not have a problem voting for this as he is in favor of the concept, although he would prefer that we have a better understanding of what our contingent liabilities are.

Mr. Kratzer stated he is just starting to get an understanding as to what may have been obligated and what may have been discussed relative to the sale proceeds. He stated Ms. Vogel has prepared an un-audited cash accounting of the sale proceeds; and by the conclusion of 2023 factoring in the Inter-Fund Transfers that were contemplated to the Park & Rec Capital Reserve Fund,

she was showing approximately a little less than \$23 million. He stated they are finding some other miscellaneous items, and he noted that the Board has allocated upwards of \$300,000 for Patterson Farm including some of the remediation efforts, and that is not noted on Ms. Vogel's accounting. He also noted some contingent liabilities and close-out items relative to the sanitary sewer system. He stated there is still a fair amount of money that is available after the initial payments that were made in terms of paying off the debts that was decided in terms of utilization of these proceeds. He stated he does not feel that we have contingent liabilities in excess of \$13 million; and he feels that with an initial contribution of \$10 million, we still have a fair amount of financial flexibility as it relates to the contingent liabilities. He stated we can start generating a much more meaningful return than what we are getting at the current time sitting in a checking account. Mr. Kratzer stated as Dr. Weiss noted there are some Escrow Funds/Set-Aside Funds although some of that has been co-mingled from a cash-sweep standpoint in a single bank account, but there are monies that have already been allocated within the balance that would not necessarily have to come out of the sale proceeds.

Dr. Weiss stated we still have well over \$3 million in the Bond Fund that was for the Yardley pump station for which we are no longer obligated, and there is well over \$1 million from Bucks County Water and Sewer that we do not have to pay. Therefore there is sewer fund money that can help with any of the contingent liabilities in case they are extensive. Dr. Weiss stated he would still not want to obligate the extra money until we know what is going on. He stated the Board had agreed starting with \$10 million knowing that in the near future, that could go up as all Board members want to see a healthy balance to help the General Fund from year to year.

Mr. McCartney stated he had a discussion with the former Township Manager, Mr. Ferguson, about the \$10 million and one of the ideas that Mr. Ferguson had floated was that the pay-off for the Golf Debt was approximately \$14 million, and that amount could have been the initial deposit to memorialize the Debt that we were taking from the Golf Course and putting it into an interest-bearing account which would have been a symbolic gesture. He stated that is why he had changed a little from the original \$10 million, but he is still good with the \$10 million which is a great start. Dr. Weiss stated it would be whatever the Board decides. He added that the Golf Course is going to pay the Township back over time – first the General Fund and then the Debt. He stated that will take place every year until it is paid. He stated while we could add \$4 million to the initial deposit, he does not feel it would change anything other than it may limit the Board's short-term options. He stated once we have more clarification about

the Master Plan for Patterson Farm and clarification as to the liabilities with the sewer system and the permitting process, we could change the amount in the Fund in a few months.

Mr. Kratzer stated in the short term given the current interest rate environment, transferring some of these additional proceeds to the Money Market account would maintain the liquidity of the money as has been discussed and would generate some additional return. He stated depending on what the risk tolerance is, as we are looking at the investment policy statement we may generate close to sufficient returns using the Money Market account as opposed to putting it into the Trust and exposing it to other market risks. Dr. Weiss stated there is nothing stopping us from directing the Manager to take the rest of the sewer proceeds money and placing it into a high yield Money Market.

Ms. Blundi stated she feels the Board has done good work on this and has made a commitment to try to insure that these proceeds will benefit the Township for the foreseeable future if not forever. She stated the Board members have made this process stronger and better for the Township. She stated she hopes that we will soon be able to make additional deposits to the Trust, but we need to consider what we want to do at Patterson Farm and come up with a long-term strategy which will be expensive. She stated she would not want to lock up the money, and then not be able to fund the work that we decide we want done at Patterson Farm. She stated she hopes that there will be opportunities for Grants and State support to help with Patterson Farm; but until that happens, she wants to make sure that we can deal with Patterson Farm and some of the other Township projects as well. She stated that is what makes her hesitant to put in more than \$10 million right now, but she is confident that by the end of the year, we will be able to put additional money into the corpus.

Mr. Lewis stated with regard to his edits, he is looking at the 12/30 version that he edited on January 6. He stated if this is passed tonight, the effective date would be January, 2023 which would be on the Title Page 1. He stated that is also on Page 2. He noted minor edits to Section 2.6 removing a comma between “above” and “and.” He noted Section 2.8 - Board Members, and he suggested replacing the final line that currently reads: “For purposes of determining the identities of Board members from time to time the Trustee may conclusively rely on written incumbency certificate signed by the Secretary of the Board.” He stated this is really properly the Certificate of Election from the Bucks County Board of Elections, which all Supervisors have. Mr. Lewis noted in Section 3.1 he had an initial edit to make it \$17.5 million, but he is willing to remove that given the discussion this evening. He noted Section 3.3 “acceptance by Trustee” where

an extra comma should be removed. He stated he also had in 4.1 increasing the distribution threshold to \$15 million, and his goal was to try to make it more aggressive; however, that edit will be removed. He noted Section 5.1 - Loans to the Township, but he stated this edit will not be included. He noted 6.1 adding this is a four-year Agreement with the Trustee and typically these are three years before auto-renewal so he changed that from four to three. He noted 6.3 – Section VII (page 8) where he had added the following line: “The Trustee shall be required to assist in any investigation into the facts involving a violation of law, but shall not be bound to make any investigation in the facts from matters stated in any resolutions, certificates, statements, instrument, opinion report, notice requests, consent, entitlement order approval or other paper document.” He stated he is just asking them to be helpful in the event of a violation of law. Mr. Lewis stated under Section 10.3 he included that notification should go to both the Township Manager and the Chair.

Mr. Kratzer stated with regard to Section 2.8 the Board members are the Board of Supervisors and the Township Manager, and the Certificate that Mr. Lewis was referencing in terms of the Board of Elections, could not be produced by the Township Manager. He stated he therefore feels that the Incumbency Certificate signed by the Secretary of that Board may be the proper instrument. Ms. Blundi agreed. She added that when she first came on the Board she was appointed by the other Supervisors, and she would not have been able to produce the document Mr. Lewis was referencing. Mr. Lewis agreed to remove that edit.

Mr. Truelove stated Section 2.8 will be the same and the other proposed edits will be as explained by Mr. Lewis.

Ms. Blundi moved and Mr. McCarney seconded to accept the edits as explained by Mr. Lewis other than Section 2.8 which will remain the same.

Mr. Bill Gaboda, 1230 Ash Lane, asked where he can see the text of this final Trust Agreement. Mr. Truelove stated after it is finalized, he assumes it will be posted on the Township Website as the Board and the Township have always been very transparent about things like this.

Mr. Gaboda stated he has heard discussion about further deposits into the Trust, and he feels we should put as much as we can into it for infrastructure improvements, etc.

Mr. LaChance stated he lives next to Mr. McCartney. He asked what are the contingent liabilities as he did not recall any liabilities being pushed to the Township by Aqua after dealing with the sewer sale. Mr. Kratzer stated he understands that most of the contingent liabilities are relatively small. He stated a condition of the sale was to transfer Permits from Lower Makefield Township to Aqua Pennsylvania; and as part of that process, the Township had to engage in a special study under Act 537. He stated the Department of Environmental Protection is reviewing the special study, and they have raised some questions concerning some potential sanitary sewer extensions in the future and other issues. He stated they may or may not materialize, and the Board is trying to make sure that there are sufficient funds on hand in order to meet the contingent liabilities in the event that they do materialize.

Mr. LaChance stated he felt we were under a Consent Decree. Mr. Kratzer stated some of this has to do with the Corrective Action Plan that was initially submitted in terms of who is advancing some of those obligations that were committed to in the Correction Action Plan. He stated this may or may not be an issue, and the Township is trying to be conservative in terms of making sure that there can be definitive determinations on these issues; and at that point ideally there will be additional contributions into the Trust. Mr. LaChance stated he is concerns about the idea that all liabilities would not be taken by the buyer, particularly a Consent Decree that they knew about. He stated he is concerned that we sold the sewer system and we still have not finalized it.

Mr. Truelove stated a lot of this is information that was obtained more recently, but it does not rise to the magnitude where the balance would be threatened as far as we can tell. He stated we will continue to look into this

Motion as amended carried unanimously.

Appoint Delegate and Alternate Delegate to the Annual Convention of the Pennsylvania State Association of Township Supervisors to be held April 23 – April 26, 2023 at the Hershey Lodge

Mr. Lewis moved and Ms. Blundi seconded to appoint James McCartney as the Delegate. Mr. McCartney stated he is not available to attend.

Ms. Blundi moved and Mr. McCartney seconded to appoint Ms. Lewis as the Delegate. Motion carried with Mr. Lewis opposed.

Mr. McCartney moved and Ms. Blundi seconded to appoint Mr. Grenier as the Alternate. Motion carried with Mr. Lewis opposed.

Approve Designating David W. Kratzer, Jr. as the Township Right To Know Officer

Mr. Lewis moved, Mr. McCartney seconded and it was unanimously carried to designate David W. Kratzer, Jr. as the Township Right To Know Officer.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Lewis moved, Mr. McCartney seconded and it was unanimously carried to appoint Kevin Treiber to the Citizens Traffic Commission.

There being no further business, the meeting was adjourned at 9:25 p.m.

Respectfully Submitted,

John B. Lewis, Secretary