

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – MAY 3, 2023

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 3, 2023. Dr. Weiss called the meeting to order at 7:37 p.m. and called the Roll.

Those present:

Board of Supervisors:	Fredric K. Weiss, Chair
	Suzanne Blundi, Vice Chair (left meeting in progress)
	John B. Lewis, Secretary
	James McCartney, Treasurer
	Daniel Grenier, Supervisor

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

#### COMMUNITY ANNOUNCEMENTS

There was no one from any youth groups or other organizations wishing to make an announcement at this time.

Dr. Weiss stated the Historical Commission is planning a Community Clean-Up Day at Slate Hill Cemetery on May 6 at 9 a.m. Slate Hill is located at 2308 Yardley-Morrisville Road. The clean-up is focused on branches and leaves and it is part of the eventual plan to clean the grave markers.

Dr. Weiss stated Yardley-Lower Makefield VFW Post 6393 and American Legion Knowles-Doyle Post 317 will be leading their annual Memorial Day Observance Ceremony and Parade on Monday, May 29, 2023. The morning Observance begins at 9:00 a.m. at the Delaware Avenue monument, and the Main Street Parade begins at 11:00 a.m. As usual the Parade will muster on Maplevale Drive and proceed down Main Street to its conclusion at the American Legion Post.

Mr. Grenier asked if they look to give an ESG score or something similar when looking at the portfolio; and Mr. Miskel stated they have not looked at ESG within this portfolio, although they could. He stated they have the capability within Asset Management to do that, but they started out from a total return perspective and not an ESG perspective. He stated if that is something that the Board wants to ratify over time, they could look at that. Mr. Grenier stated he would just want to identify any potential investments that might not be in line with what the community would be looking for such as investments in Russia. Mr. Levine noted the Investment Policy Statement that is in the back of the book which the Board was provided. He stated they worked with Mr. Kratzer and Mr. Truelove to make sure that the Township's prohibited securities are reflected in the Investment Policy Statement, and then that is effectuated in the portfolio.

Mr. Lewis asked if they have given thought as to the value of the dollar versus other currencies and the reduction of quantitative easing over time. Mr. Levine stated they take the dollar first, and the dollar is going to get volatile as we move into the debt ceiling. He stated he cannot envision a scenario where the U.S. defaults or where we are downgraded again; and he believes that the U.S. will remain the reserve currency of the world. He stated how the dollar will trade will depend on a number of factors, and it is hard to predict how the dollar will be.

Mr. Lewis stated the four largest tech companies represent about 21% of the S & P 500 which is a problem in general in the economy as those companies have too high of a market share, although we would not want to avoid them. Mr. Levine stated they would not be able to avoid them because they are too prevalent. Mr. Appleby stated the portfolio is diversified across value, core, and growth; and he noted what else would be in the portfolio other than technology companies. He stated they try to spread the risk out and they are market cap weighted. Mr. Levine stated we are always going to have an exposure to growth and exposure to larger holdings within sectors, and they will actively manage around that to make sure there is not a co-variant risk.

Mr. Larry Borda, 508 Heritage Oak Drive, asked if PNC does an independent analysis in terms of what they are expecting based on whether or not there will be significant regional bank failures, and Mr. Levine stated they do not do that specifically.

Mr. Borda stated he feels a 60/40 ratio of equities to non-equities is considered moderate growth, and they are running 67 to 33. He asked what would be the difference in the expected income in a 60/40 portfolio versus what they are calling for, and what would be the increased risk or downside under the PNC proposal versus the 60/40. Mr. Appleby stated Slide 15 has their portfolio projections, and they are based on their capital market assumptions and are outlined in the Appendix. He stated if this is something that the Board would like to see, they could run this through simulations. Mr. Borda stated he is fairly conservative in his investments, and he would assume that the Township wants to be the same; and it is his understanding that 60/40 is a pretty good balance, and he was curious as to how they go to a higher ratio and what that means.

Mr. Levine stated prior to yields moving as high as they have moved, there is a lot of empirical evidence and research that shows 60/40 at the end of 2022 was not going to “get you where you wanted to be” from an inflation-adjusted perspective because yields were so low. He stated it is a high-quality portfolio. He stated he would anticipate that the difference between 67/33 and 60/40 will be *de minimus*, but they could run the numbers and come back to the Board with that if they wish.

Mr. Borda stated one of the slides showed standard deviation, and he asked what that represents. Mr. Levine stated it is the volatility of returns around the benchmark. Mr. Borda asked if they know what that is on 60/40. Mr. Appleby stated they work with the investment office which includes researchers, strategists, actuaries, and economists who help them develop the capital market assumptions. He added they can run any analysis the Township wants them to run. Mr. Miskel stated you would not see that much of a difference in the standard deviation.

Dr. Weiss stated while we can guess what the markets are going to be, if we see significant shifts, PNC has the flexibility to re-allocate funds to mitigate our risk. Mr. Kratzer stated this goes back to the Investment Policy Statement and the primary goal which was preservation of principal and seeking reasonable yield on the principal. Mr. Levine stated that is 100% correct; and the IPS, which is the governing document around these investments, has latitudes for PNC to lean in and out of markets, cash positions, and investment-grade fixed income depending on where we are in the business cycle, expectations, and trends. He stated they will hopefully be down less than the market when it is down and participate on the upside. He stated they want to build an efficient portfolio through time. He stated they will work with the Township on different asset



allocations and ideas that they will implement and give that support through time. He stated it is dynamic and fluid, and the latitude that the IPS has given allows for active management on top of sector and security selection and asset allocation. Mr. Kratzer noted their caution around entering the market; and that the reality is that there is an IPS right now that provides that 67/33 split in terms of asset classes, but it is all sitting in cash at this point. He stated PNC has had the money for a number of weeks at this point, and they are being cautious in terms of entry into the market. He stated they have a document that would enable them to go from zero to 67/33, but they have not done that; and they have exercised caution and discretion as to the appropriateness of when to enter the market which is demonstrative of their commitment to react to the realities of the market. He added that they have been able to generate yield and return using no risk at this point.

Mr. Borda stated one of the reasons that you do that is you are dealing with an inflation market that is around 10% so that even though they are making 5% on the cash, they are still losing 5%; but it is only the option that you really have. Mr. Borda stated his concern is with the earnings prognostications they are making which in a bad-case scenario would be a 20% drop, which would have a significant impact on equities; and he understands that is why they need flexibility to move it.

Mr. Lewis provided his copy of the presentation from PNC to Mr. Borda. Mr. Lewis stated what is being proposed is much more conservative than how he personally invests. Mr. Levine stated they want to be prudent stewards of capital.

Mr. Doug Marshall, Lower Makefield Township, asked PNC's rate of return on the funds compared to the inflation rate. Mr. Levine stated inflation right now is around 6%, and their expected return is 6.8%. He stated it is really about how they are going to grow capital.

Ms. Laurie Grey, Lower Makefield Township, asked where this information is stored on the Township Website including tonight's presentation and other documents that were referenced so that she can refer back to it. Mr. Kratzer stated this will be on the Township Website. Ms. Grey stated the residents are concerned about how this money is being handled.

Mr. Levine asked what the Board would like from PNC with regard to future meetings. He stated they usually meet with their clients quarterly although they are always available.



Mr. Grenier asked what kind of access does the Township have to see how the portfolio is doing. Mr. Levine stated they are a large bank and are very secure. He stated Mr. Kratzer and his staff have access to see the portfolio on a daily basis electronically. He stated there are safeguards in place as far as trading and raising money. He stated it is state-of-the-art around cyber security and accessibility for the Township. Mr. Grenier asked if rather than have PNC come back every quarter, could we get some auto-generated memo that could be looked at on a regular basis. Mr. Kratzer stated there are typical monthly statements that he could share with the Board, and there could also be quarterly discussions if desired by the Board.

Mr. Lewis stated he assumes the system that gives the portfolio does not allow trading or re-allocation by end users, and it was noted it does not. Mr. Appleby stated it is an internal-only system so the only people with access to this account are PNC employees who are Mr. Levine, himself, and an institutional trust officer. He stated if the Board wants to interface, they can discuss that further.

Ms. Desai, Lower Makefield Township, stated she saw that there were a lot of different holdings in the portfolio which could increase the level of turnover thereby reducing our overall returns; and she asked about re-allocation and re-balancing. She also asked how they went through the due-diligence process on picking the number of products she saw. She stated there are other asset managers with potentially lower expense ratios/higher yield that give better performance. Mr. Levine stated with regard to turnover, in the "equi space they are passive." Ms. Desai stated for the S & P you have "large cap, mid cap, small cap," and as the products shift over time, you need to re-balance back to your target allocation to realize the returns that you have in the asset allocation model; and she wants to make sure that the Township is not "over-engineering" the amount of money that they are spending on re-balancing back to the target allocation. Mr. Appleby stated the only expenses associated with the funds are the expense ratios listed, and those are charged on an annual basis. He stated the "Fidelity 500 index is two basis points a year." He stated there are very minimal trading costs, and the Mutual Fund trades at NAV (Net Asset Value). He stated he would not anticipate that they would be re-balancing more than semi-annually to annually. Mr. Levine stated it would depend if the portfolio was out of balance. He stated they look at it on a plus or minus 2% to plus or minus 5% from an asset class perspective, and they use judgment and prudence. He added it will never be greater than plus or minus 5% to the strategic target.

Mr. Miskel stated this is strategic asset allocation not tactical so the turnover concept is diminished greatly. Mr. Levine stated there are time when the “winners will run;” and as long as they remain within the investment policy constraints, that is an active design that you employ PNC to take on on your behalf.

Mr. Levine stated as to how they vet the managers that are in the portfolio, there is a 34-person manager research team; and they track tens of thousands of products. He stated they can get to more asset management firms virtually than before COVID, and the efficiency that they can cover managers has improved. He stated there is a process around vetting managers, and he, Mr. Appleby, and the team utilize best judgment as to how they want to construct the portfolio. He stated they want to actively manage the interest rate risk.

#### ENGINEER’S REPORT

Mr. Pockl stated the Board was provided his Engineer’s Report.

#### Approve Pay Application #3 (Final) for the Maplevale Drainage Project to Bencardino Contractors, Inc. in the Amount of \$29,342.65

Mr. Pockl stated they have completed the project, and it has been inspected. They restored the area where they installed the storm sewer pipe, and they have addressed all punch list items. They have submitted a Maintenance Bond.

Mr. Lewis moved and Mr. Grenier seconded to approve Pay Application #3 (Final) for the Maplevale Drainage Project to Bencardino Contractors, Inc. in the amount of \$29,342.65.

Mr. Lewis stated there have been some significant rain events recently, and he noticed some pooling of water on the west side of Taylorsville Road across from the Maplevale property, but he did not see anything in Maplevale. Mr. Pockl stated he has not heard of any issues. He added with regard to the capture of the stormwater run-off into the inlets, it is probably not as efficient as it will be once the final roadway is paved. Mr. Lewis stated the east side did not have any pooling of water and normally the east side had pooling in the front yards. Mr. Kratzer stated the Township did not receive any calls from neighbors on Maplevale.

Mr. Pockl stated there is still Phase 2 of the project, and we are waiting to hear about Grant funding which would help address that as well. Mr. Grenier stated he has not received any messages about any issues.

Motion carried unanimously.

Approve Pay Application #3 for the Woodside Road Bike Path to Richard E Pierson Construction, Inc. in the Amount of \$385,159.52

Mr. Pockl stated the project is approaching substantial completion, and they have paved the trail in its entirety. He stated they have also put down the ADA ramp detectable warning surfaces at the intersections that assist with ADA functionality. He stated they need to restore the grass areas, and the seed mixture was being reviewed. Mr. Pockl stated we want the swales in between the trail and the roadway to be a no-mow, water and salt-tolerant type of seed mixture, and there was some difficulty getting that from a PennDOT-approved source. That has since been submitted and is being reviewed. Mr. Pockl stated he believes the final stabilization measures will be coming shortly.

Mr. Lewis moved and Mr. Grenier seconded to approve Pay Application #3 for the Woodside Road Bike Path to Richard E Pierson Construction, Inc. in the amount of \$385,159.52.

Ms. Blundi stated she does not know of any other place in the Township which has a path that does not have a curb, and there are portions of this path that do not have a curb and has a very small shoulder between the roadway, the grass, and the path. She asked if someone could look into this so that we are sure that people walking or biking on the path will be safe. Mr. Pockl stated the bike path was designed in accordance with AASHTO Standards as far as highway safety, but he would be willing to look at this or the Board could have the traffic engineer look at it again. Ms. Blundi stated we could ask Mr. Fuller to look at it initially since she feels it looks unusual. Mr. Pockl stated the way it is currently graded is not the final grade, and there will be a swale in between the path and the roadway for a majority of the project so there will be a 1' deep ditch that vehicles veering off the road would go into prior to coming up onto the trail.

Mr. Grenier stated he feels that after any project is done like this, it is worth doing a walk through to see how it is working.



Mr. Pockl stated the trail is on the north side of the roadway, and that generally carries westbound traffic which would be going uphill for the entire length of the roadway so it is slower.

Mr. Grenier asked if it is usable at this time, and Mr. Lewis stated you can walk most of the way although the plastic has not been taken off of the ADA ramps yet, and the pylons are still there. Mr. Pockl stated there is one utility pole that needs to be relocated, and he is reaching out to Verizon twice a week about this.

Mr. Lewis asked if anyone has talked to the Joint Toll Bridge Commission about the crossing of Taylorsville Road. Mr. Kratzer stated that was being coordinated through SAFE; and Mr. Fiocco indicated today that he spoke to someone from the Bridge Commission, and it is anticipated that there will be a meeting with the Bridge Commission in the near future. Mr. Kratzer stated he advised Mr. Fiocco that Mr. Lewis had indicated that he would be willing to help facilitate a meeting with the Bridge Commission.

Motion carried with Ms. Blundi abstained.

#### General Project Updates

Mr. Pockl stated the Pool painting project has been completed, and it will be on the next Agenda to pay the contractor for that project.

Mr. Pockl stated they have sent the Contracts out for the 2023 Road Program, and he anticipates receiving that within the next couple of weeks.

Mr. Grenier stated there have been a lot of general project updates from PennDOT and others doing work in or near the Township where roads are going to be closed for several months in some cases, and they are using different materials than we typically use. He stated there is also road work being done in front of the Prickett Preserve project. He asked if there is a way to get more updates to people so they are aware.

Mr. Kratzer stated as we receive information, we will share it. He noted the Stony Hill Road project which involves the replacement of the bridge structure, and Chief Coluzzi is involved in discussions related to the detour plans; and we will continue to communicate to the residents as we receive information. Chief Coluzzi stated there will be a blast on social media tomorrow about the bridge and the detour.

Mr. Kratzer stated with regard to Mr. Grenier's comment regarding materials, there has been some discussion about Dolington Road. He stated Dolington Road is a State road under the jurisdiction of PennDOT and some signs were posted on Dolington and the surrounding area regarding oil/tar and chipping that road. He stated oil and chipping is a maintenance activity, but we have expressed some concerns to PennDOT relative to both the volume and speed of traffic and the appropriateness of that application on that roadway. He stated Mr. Fuller has had discussions with PennDOT on that issue trying to make sure that they are clear on some of the concerns we have relative to that approach/application on that roadway. He stated the contractor is also advocating to PennDOT as well as they share some of the concerns that we have expressed. He stated he understands that the District 6 staff that works in the field has also expressed some concerns about this potential approach to maintenance on Dolington. He stated they will continue to press PennDOT to reconsider their approach or do some things that could potentially mitigate some of the concerns that we are expressing relative to the material being loose, etc.

#### MANAGER'S REPORT

##### Approval of Resolution #23-10 Authorizing Membership in the Pennsylvania Local Government Investment Trust (PLGIT)

Mr. Kratzer stated this was a topic of discussion at the prior Board meeting. He stated PLGIT is not a traditional bank, but is a financial institution which is membership based. He stated we currently do not have a relationship with PLGIT, but most jurisdictions in the Commonwealth do have active accounts with them. He stated this is one of the required steps in order to fill out a New Investor Application. He stated currently the remaining Bond proceeds from the debt that was issued in 2016 is at Penn Community Bank, and the recommendation is to take those assets out of that co-mingled account and transfer those assets to PLGIT. He stated as part of PLGIT's services, they will do arbitrage rebate calculations and monitor the various spending rules that govern us from an IRS standpoint.

Mr. Grenier moved, Mr. Lewis seconded and it was unanimously carried to approve Resolution #23-10 authorizing Membership in the Pennsylvania Local Government Investment Trust.

Approval of Resolution #23-11 for Disposition of Records

Mr. Kratzer stated the Board has adopted the manual promulgated by the Pennsylvania Museum Historical Commission related to the retention of Municipal records. He stated there are itemized records that are noted in the Resolution that are beyond the required retention, and it is recommended to adopt this Resolution to dispose of these records consistent with the State statute.

Mr. Lewis moved, Mr. Grenier seconded and it was unanimously carried to approve Resolution #23-11 for disposition of records.

Pollution Reduction Plan Projects

Mr. Kratzer stated these two projects have been identified within the submitted Pollution Reduction Plan that the Township prepared as part of its MS4 Permits. He stated there are two proposals from RVE related to these projects, and at this point we are looking at some State funding opportunities to potentially offset some of the costs associated with these projects. He stated if we have an interest in submitting Applications to these funding programs, we are asking for approval to have RVE work on the Phase 1 services noted in each of the proposals.

Consider Proposal from RVE for Five Mile Woods Parking Area Improvements

Mr. Pockl stated currently there is a stone parking lot that is compacted stone and is generally considered impervious, and we would be replacing that with pervious asphalt paving. This design is one of the approved Best Management Practices by DEP to get credit toward the Pollution Reduction Plan which has to be implemented by 2027. He stated there are Grant Programs that we are looking to apply for to get reimbursement of funding for both engineering and construction costs toward this project.

Mr. Grenier moved and Mr. Lewis seconded to approve the proposal from RVE for the Five Mile Woods parking area improvement associated with the Township's Pollution Reduction Plan.



Mr. Grenier stated the parking lot is full of potholes. He stated there are a few years until we have to do this under the Plan. He asked Mr. Pockl to speak to the long-term O & M and how long this approach will last to make sure that we will not have to re-do it over and over. Mr. Pockl stated generally porous paving parking lots last as long as regular asphalt paving parking lots. He stated there is additional maintenance which is required for porous paving parking lots as sediment can get into the voids. He stated the idea of porous paving is to have voids within the paving surface so that water can penetrate through the asphalt and get into the stone layer underneath and infiltrate into the ground as opposed to running off and being captured by inlets and entering the storm sewer system. He stated vacuuming the parking lot is needed routinely whether it be monthly or quarterly, and they will have to look into that and provide recommendations once they get into the design.

Mr. Lewis asked if we have the equipment to maintain the porous paving, but Mr. Kratzer was not sure. Mr. Pockl stated there are third party companies that can do that. Mr. Lewis asked Mr. Pockl if he feels we will get the Grant; however, Mr. Pockl stated while he could not state this for sure, there are a lot of Grant opportunities available for Pollution Reduction Plan projects. He stated because the Five Mile Woods is a recreation area, this opens it up for more Grant opportunities compared to other projects. Mr. Pockl stated historically RVE has had success in other Municipalities in obtaining Grants for Pollution Reduction Plans, and it seems that there is a lot of money that DCED is providing for programs of this nature because they understand the difficult position Municipalities are in in addressing the Pollution Reduction Plan.

Mr. Kratzer stated we have regulatory obligations and there are Permit requirements; and we cannot depend on the Commonwealth in order to fund these projects, and we need to develop a strategy long term in terms of how we are going to fund these increased regulatory obligations which are also quality of life issues.

Mr. Pockl stated out of all of the projects that are within the Pollution Reduction Plan, these are the two which are unique; and the remaining projects are basin retrofits, and we might be able to take advantage of an economy of scale by doing multiple basin retrofits with one project.

Ms. Laurie Grey, Lower Makefield Township, stated she understands that there are things that we have to do, and she asked if this is one of them. She stated she understands we are trying to find other ways to bring in revenue because our expenses are greater than our revenue, and she gets concerned when she is

at the meetings and things that are un-Budgeted or over Budget get approved. She asked where is the balance and who is monitoring all of this. She asked how the residents are supposed to know where we stand. She stated she is concerned because her taxes are going to go up as she keeps hearing all of these things getting approved that were never budgeted for or are over Budget. She asked where can she find where all of this is being monitored and managed.

Mr. Kratzer stated these are required projects. Ms. Grey stated if they are required, they should have been budgeted for. Mr. Kratzer stated the Application process has not been budgeted for in terms of a specific project; but as noted by Mr. Pockl, these projects are required to be implemented by 2027 as part of a regulatory Permit that is issued to the Township. Mr. Pockl stated the Township has a Permit for the Municipal storm system. Mr. Kratzer stated there is a funding opportunity, but he is advising that we cannot continue to rely on external funding opportunities in order to meet our regulatory obligations, and we have no choice in the matter as it relates to implementation for this. He stated while this is not budgeted for per se in terms of a specific line item in the adopted Budget, but there is an opportunity to offset required costs that are going to be realized by the Municipality.

Ms. Grey stated since this is something that we have to do, it is something that we should be budgeting for if we have not. She stated we should also take into consideration those things that are not regulatory or required, and not approve those which is something we do not seem to do.

Dr. Weiss stated in the next few months before the Board gets to the 2024 Budget, and Board is going to discuss exactly what Ms. Grey is talking about. He stated the difference between the money coming in and money going out and our cash position are two different things. He stated part of that is because we sold the Sewer system and part is because we have millions of dollars in Bond Funds that are sitting there waiting to be spent on projects; and if we do not get the income, we have the money to do these projects being discussed, although that means there will be less money for other projects. He stated things that are mandated have to be done, and projects that are not mandated, such as fixing Macclesfield, may have to be cut back because we do not have the money. He also noted Patterson Farm, adding if we do not have enough money, we may have to find other sources of income to do what we want. He stated the Board will be discussing those concerns over the next few months.

Mr. George Fox, Lower Makefield Township, asked if a cell tower can go up in Five Mile Woods with the proceeds to possibly fund this project. Mr. Kratzer asked Mr. Fox if he is speaking in relation to the most recent tower proposal; and Mr. Fox stated he is, and it would be a source of income on a property that is owned by the Township. Mr. Kratzer stated those working on behalf of the providers would be dictating where the location of the tower needs to be from a service/coverage standpoint. He stated with regard to the matter before the Zoning Hearing Board currently, that site would not address the coverage gap; but there would be opportunities to place those types of assets on Township-owned property.

Mr. Grenier stated Five Mile Woods might have a Conservation Easement on it, and there are certain things you would not be able to do per those Deed Restrictions.

Mr. Fox asked how many acres you need to have for a Conservation Easement; and Mr. Grenier stated it is not related to the acreage, rather it is a type of land use where you apply to a County or State Program which protects the land from development.

Motion carried unanimously.

*Consider Proposal from RVE for Charles Boehm Middle School Streambank Restoration*

Mr. Pockl stated DEP has come out and stated that the best way to get credits for the Pollution Reduction Plan is to implement streambank implementation projects, and this is a good opportunity to not only get Grant funding for a Pollution Reduction Plan, but because it is on School property, it has an educational component to it which we feel would make for a more-attractive Grant Application. He stated this is also in the Pollution Reduction Plan that has to be implemented by 2027. He stated they would proceed with design and apply for Grants that would provide for reimbursement.

Mr. Lewis moved and Mr. Grenier seconded to approve the proposal from RVE for the Charles Boehm Middle School Streambank Restoration Project.



Dr. Weiss asked about the appropriateness of the Township doing this project since it is on Pennsbury School District property. Mr. Pockl stated we had talked to the School District before it was included in the Pollution Reduction Plan, and they indicated they would be amenable to the project. Dr. Weiss asked if the School District would agree to pay part of the cost. Mr. Pockl stated they did not indicate they would. Dr. Weiss stated he would feel differently if this were Township property. He stated he understands that this affects the Township, and Mr. Pockl stated it is a requirement of the Township. Mr. Kratzer stated this is no different from negotiating with any other private property owner in order to gain access to implement something.

Mr. Grenier stated Pennsbury is going to be doing work at Charles Boehm, and the stream wraps around the building and there are some ballfields. He asked if Pennsbury is fully on board; and Mr. Pockl stated we presented the general concept to Pennsbury, but we have not presented them any design plans. He added they understand what the scope of the work is intended to be, and they were amenable to that. Mr. Grenier stated it is a great opportunity for Middle School students to learn. Mr. Pockl stated the Township is committed to coordinating with the School District.

Motion carried unanimously.

Update Re: Portnoff Law Associates Sanitary Sewer Delinquency Notices

Mr. Kratzer stated the Board engaged Portnoff Law Associates in June, 2022 for the purpose of collecting outstanding balances related to the Sewer system. He stated approximately 1,300 notices were sent to those having outstanding balances related to the Sanitary Sewer service provided by the Township billed through Bucks County Sewer & Water Authority prior to the sale of the asset to Aqua. Mr. Kratzer stated we have received a number of calls related to the notice. He stated it seems as though a large majority of the outstanding balances relate to the last bill that was issued by Bucks County Sewer & Water Authority in March, 2022.

Mr. Kratzer stated what was sent out was a Validation Notice which is the first notice in the collection process, and there is a \$25 administrative fee associated with that. He stated in circumstances where individuals have indicated that they did not receive the last bill, and the balances support the fact that it

relates to that last quarter of service, we are working with the customer and Portnoff to try to address that Validation Notice Fee and not have that be borne by the customer. Mr. Kratzer stated there are other circumstances where there are significant delinquencies and where people have not paid their bill for an extended period of time, and those circumstances are being dealt with differently.

Mr. Kratzer stated what was sent out indicates that it is a debt collection effort, and there is required language; but there is no credit agency reporting or anything of that nature that is occurring at this point. It is stated it is validating the legitimacy of the debt; and to the extent that a customer has a dispute relative to the validity of that debt, the process stops, and they work through the individual circumstances with the customer. Mr. Kratzer stated the other issue which has been raised is that people have received more than one notice at a property; and this is required from a statutory standpoint, and is not an attempt to collect double the outstanding balance. He stated it is a requirement that Portnoff is following consistent with the statute. He stated to the extent that a husband and wife or other adults are living at the same property receiving the same notice, that is not an attempt to double collect; and it is a statutory requirement to provide notice to all adult property owners living in a property.

Mr. Kratzer stated some people have been asking the Township for account history. He stated the Township does not maintain detailed account history, as Bucks County Sewer & Water Authority was the billing service provider prior to the sale transaction; but we are working with that Authority to try to obtain those in circumstances where customers are seeking those.

Mr. Grenier stated it seems that approximately 10% of the ratepayers received the notice, and Mr. Kratzer agreed. Mr. Grenier asked if it is known how many of those fall into the group that did not get the final bill. Mr. Kratzer stated it seems that it was a significant portion. He stated he was not with the Township at that time, and he is not sure what happened with that last quarter bill.

Mr. Lewis stated he believes there were about 285 people who were hard-core delinquents. He stated it seems that about 1,000 of those who received the notice would be in the group that did not receive the last quarter bill, and that should be able to be resolved more quickly. Mr. Kratzer stated most people calling are indicating that when they look back at their records they realize they did not make a payment in March/April 2022, and were not intending to be delinquent and they make arrangements to pay what is due.

Mr. Grenier stated this is being handled by Portnoff and not the Township. Mr. Kratzer stated we are trying to help people through the process and are trying to interface with those who have indicated that they did pay the bill. Mr. Grenier asked if there has been any feedback on interactions with Portnoff. Mr. Kratzer stated it has not been overly negative and Portnoff has been very accommodating, and we are interfacing with them on a regular basis. He stated Portnoff is keeping track of the circumstances where people are saying that they did not receive the last quarter bill, and there has been on-going dialogue. Mr. Kratzer stated he has not personally received any expressions of concern regarding Portnoff's approach. He stated there is some frustration related to the access to information that Bucks County Sewer & Water Authority has in relation to the billing records, but he has been interfacing with them as well in trying to come to a resolution so that people who are seeking that detailed account history are able to obtain it.

Mr. Lewis stated as he has stated numerous times in the past, that those who are the hard-core delinquents and have not paid their Sewer bill should do so as soon as possible since the Township has a duty to the community to make sure that we collect what is owed.

Mr. Borda asked if there are liens against these properties for the outstanding debts; and Mr. Kratzer stated some of the properties that had significant delinquent balances are liened, and Hill-Wallack was involved in the liening process. He stated as it relates to the smaller balances which are generally reflective of the last quarter bill, there are no liens being placed on those properties at this point. Mr. Truelove stated the long-standing ones have liens, and that is something that has been done by whomever the Township solicitor was at the time going back thirty years.

#### Water Quality Concerns

Mr. Kratzer stated there is an on-going discussion among some members of the public related to concerns about water quality. He stated PA American Water provides the water service in the Township. He stated we continue to talk to PA American Water about communication expectations which is important to the Board, and we will continue to try to improve communication to make sure that people are appropriately informed.



## SOLICITOR'S REPORT

Mr. Truelove stated the Board met in Executive Session beginning at 6:30 p.m. and items related to personnel, collective bargaining, Real Estate, and litigation were discussed.

### Approval of Resolution #23-9 Amending Resolutions #323 and #326 Regarding the Composition of the Township's Historical Commission

Mr. Truelove stated at the last Board meeting a Resolution was presented increasing the number of members from seven to nine on the Historical Commission, but it was decided at the meeting to maintain the current membership at seven but add three Alternate Members; and this has been done in the updated Resolution. Mr. Truelove stated the only thing that has been left blank is the term length for the Alternates, and he would suggest four years, although that is a decision for the Board.

Mr. Lewis moved and Ms. Blundi seconded to approve Resolution #23-9 amending Resolutions #323 and 326 regarding the composition of the Township's Historical Commission and place the term for the Alternate Members at four years.

Mr. Lewis stated a number of people have expressed interest in the Historical Commission, and we want to channel that interest in the community. He stated as announced earlier this evening, there is going to be a clean-up at the Slate Hill Cemetery on Saturday. He stated by bringing in three Alternates, they can impact the voting and policies of the Historical Commission. He stated in the cases where some members are not available, adding Alternates will help us in getting a quorum of members able to make decisions. He stated this was also done on the Zoning Hearing Board. Mr. Lewis stated the Historical Commission is working on helping to find additional tomb stones that have been buried underneath and getting ground-penetrating radar. He thanked Chief Coluzzi for his help on this.

Motion carried unanimously.

With regard to Appeal #23-2006 Sherry Nunez for the property located at 2009 Woodland Drive, Yardley, PA 19067, Tax Parcel #20-037-001-001 Variance request from Township Zoning Ordinance #200-22 in order to allow the construction of a 16 foot by 16 foot pergola structure with a 2 foot side yard setback instead of the required 15 feet, it was agreed to leave the matter to the Zoning Hearing Board.

## COMMUNITY DEVELOPMENT

### Approve Extension of Time for 1101 Big Oak Road Subdivision to May 17, 2023

Mr. Grenier moved and Ms. Blundi seconded to approve the Extension of time for 1101 Big Oak Road Subdivision to May 17, 2023.

Mr. Doug Marshall asked what will happen on May 17. Mr. Truelove stated that is the night that the Land Development Application will come before the Board, and the engineer and other reviewing entities will have comments. He stated the public will also have the opportunity to make comments if they have any issues or concerns with the proposal. He stated there will be a determination that night whether the Board will approve the Subdivision as requested and/or modified depending on what the exchange is that night.

Mr. Marshall stated Alan Dresser from the Environmental Advisory Commission had recommended that an independent arborist view the property because the arborist that had been obtained by the developer proceeded to get two different arborists from the same company and each of the reports were contradictory. He stated Mr. Dresser wrote a letter the end of January saying there should be an independent arborist, and Mr. Marshall asked if that has happened. Mr. Pockl stated he believes an independent arborists has been retained as he has seen e-mails, but he does not believe the meeting has occurred. Mr. Marshall asked who would have retained that person, and Mr. Pockl stated it was the Township. Mr. Marshall asked if the Board of Supervisors would wait for that report before making a final determination, and Mr. Kratzer stated that was part of the reason for the delay in rendering a decision on the Application. Mr. Marshall asked if he could get a copy of that report when it comes in; and Mr. Kratzer stated he could, and he should submit a Right-To-Know Request to the Township.

Mr. Grenier asked if the EAC will receive a copy of that to review as they commented on the last one. Mr. Grenier stated he feels those “arborists’ reports were laughable,” and they were claiming every tree on the site was

dead or a potential hazard because they might someday fall on the new houses. He stated he wants to make sure that whatever we get is reasonable and legitimate.

Mr. Marshall stated he lives adjacent to the property; and based on what he knows about the property, the vast majority of the trees are along Elbow Lane. He stated when he sees the proposal, he cannot believe that it does not exceed the 25% ceiling. Mr. Marshall stated in order for the Board to make a reasonable determination as to whether or not that is the case, they would need to determine the number of healthy trees that are on the property, and the number of trees that are going to be knocked down. He stated a majority of the land is an open field, and the vast majority of the trees are along Elbow Lane, and he does not believe that it does not exceed the 25%.

Ms. Blundi left the meeting at this time.

Dr. Weiss stated the Planning Commission was also very concerned about this issue. He stated he is the Liaison to the Planning Commission, and the developer was willing to abide by the Township's wishes with regard to the planting of trees.

Mr. Kratzer stated he believes that the site visit by the arborist has occurred and the report has been submitted and is being reviewed.

Moton carried unanimously.

Approve Extension of Time for 1566 Yardley-Newtown Road Subdivision to June 30, 2023

Mr. Grenier moved, Mr. Lewis seconded and it was unanimously carried to approve an Extension of time for 1566 Yardley-Newtown Road Subdivision to June 30, 2023.

SUPERVISORS REPORTS

Mr. Lewis stated he attended the PSAT's conference and spoke to a number of State agencies. He stated he is the Liaison to the Disability Advisory Board. He stated Pennsylvania has a program called PA Able which gives a tax-deferred savings vehicle to those who have a disability or are caring for someone with a



disability. He stated it can be an effective savings tool and allow you to reduce your tax burden. He stated there are unique eligibility requirements that make it very accessible to people, and he feels this is a program that many in the community could take advantage of. He stated more information can be found at PA Able.gov.

Mr. McCartney stated the Zoning Hearing Board met last evening, and they granted a Continuance for the cell tower to August 1.

Mr. Grenier stated the Citizens Traffic Commission has been working with Mr. Kratzer and Mr. Fiocco on the timing of the light at Stony Hill and Big Oak Roads. He stated the EAC held a successful Styrofoam Recycling event on April 22.

Mr. Grenier stated the Trenton-Mercer Citizens Airport Review Board passed a Motion to request that the Board of Supervisors write a letter to Secretary Buttigieg who recently visited the Trenton-Mercer Airport. Mr. Grenier stated we are a Petitioner related to a lawsuit regarding the Airport. He stated Congressman Fitzpatrick and potentially Senator Santarsiero and Representative Perry Warren will be writing letters to the Secretary advising him of the current situation relative to the EA and all other reviews we have discussed. Mr. Grenier stated the Review Board has asked that we consider writing a similar letter to the Secretary as he is in charge of making recommendations for funding. Another option is potentially teaming with one of the representatives and sign off on their letter.

Mr. Grenier stated he does not know how this would affect our status as a Petitioner, and Mr. Truelove stated that would not affect our ability as a litigant.

Mr. Grenier stated the Review Board did provide some language for the Board of Supervisors to consider or there might be similar language we have used for letters we have written in the past. He stated something could be drafted if the Board is in favor of this. Mr. Lewis stated he feels it would be worth advising Secretary Buttigieg of our concerns and the issues that we face.

Mr. McCartney stated he would not have an issue with sending a letter. It was the consensus of the Board to work on such a letter. Mr. Lewis stated he wrote a detailed letter to the NJ DEP Commissioner, Shawn LaTourette, but he has not responded in over six months.

#### APPOINTMENTS/REAPPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Lewis moved, Mr. Grenier seconded and it was unanimously carried to re-appoint James Richardson to the Golf Committee.

Mr. Lewis moved, Mr. Grenier seconded and it was unanimously carried to appoint Mr. Jeffrey Bedser, Ms. Cathy Hanville, and Mr. Jim Sacks as Alternates to the Historical Commission.

#### PUBLIC COMMENT

Mr. Mike Rossi, Lower Makefield Township, stated he wants to request support from the Board to oppose the cell phone tower Appeal #23-1999 on the basis of the “extreme and egregious” location to homes in the R-3M high-density, single-family Zone. He stated the monopole will be within 200’ to 250’ of homes and structures and not just to a property line. He asked that the Board take this up as an Agenda item. He stated he knows that Conflict Counsel is being appointed. He stated his request is similar to the April 6, 2022 meeting in which the same Board of Supervisors on recommendation by Solicitor Truelove recommended the Variance not be approved for Brookside because of the R-3M Residential Zone and the ability to locate that cell tower in either Commercial or a Tele-Communication Overlay Zone that is part of the Planning Commission and Zoning Board allowances for those tele-communication towers.

Mr. Rossi stated if you are in the parking lot of 375 Stony Hill Road, you will get two to three bars of service on a Verizon cell phone; and you will also get two to three bars of service on an AT & T cell phone. He stated when they talk about a dead zone or the need to place it there, he would ask Mr. Kratzer what document he was citing “from the Record earlier today” that a cell phone tower in the Five Mile Woods would not alleviate that dead zone, understanding that it may not be eligible to go in the Five Mile Woods. He stated it is 4/10ths of a mile from 375 Stony Hill to the Five Mile Woods. He asked what information Mr. Kratzer has to state that would not cover what they are looking to do.

Mr. Kratzer stated he is not an expert on this, but his statement was based on meeting with the Applicant and others to discuss the potential relocation of the proposed tower in relation to homes. He stated part of the reason for the delay is not only because of the Conflict Counsel issue which was raised, but also Verizon looking at an alternative location on the site that enhances the separation between the proposed tower and the adjacent residences. He stated the

coverage gap information was what was conveyed to him from the Applicant. He stated this is part of the Applicant's burden, and they will have to present that there is an issue that they are claiming. Mr. Kratzer stated alternative locations were discussed, and there was a general conversation about Township-owned property and the potential of locating this on possibly different sites. He stated this is something that the Applicant will have to present to the Zoning Hearing Board.

Mr. Rossi asked that we clarify the earlier statement that it was information coming from the Applicant who has a vested interest in putting a commercial cell phone tower to be revenue-generating for CELLCO and for the landowner. Mr. Rossi stated as far as re-locating it within that property, he would strongly oppose that as well; and he would ask the Board of Supervisors to support the neighbors and not create a situation where we are getting closer to other homes. He stated this is the highest density, single-family residential area that we have.

Mr. Rossi stated in response to an e-mail he had sent, Mr. Lewis had sent him a return e-mail including a picture off of his front porch of a cell tower. Mr. Rossi asked Mr. Lewis if that cell tower is in a Tele-Communication Zone. Mr. Lewis stated it has been there as long as he has been there, and he believes that it may be on Farmland Preservation property. Mr. Truelove stated that was built before the Overlay Zone was created. Mr. Lewis stated there are a number of laws at the State level that limit our capacity to do certain things as it relates to cell phone towers. He stated the person who authored many of them is State Senator Frank Farry from a neighboring District. He stated there are limits to what the Township can and cannot do in this case. He stated we need to make sure that we do not engender unnecessary litigation and at the same time respect both the community and property owner rights and that it is a difficult balance.

Mr. Lewis stated the Zoning Hearing Board is an independent, quasi-judicial body, and they will make the decision whether to grant a Variance or not. He stated the Board does retain rights thereafter, but there are limits as to what the Board of Supervisors can and cannot do.

Dr. Weiss stated it is important that the Board discuss this with Conflict Counsel. He added that the Board hears both sides, and they need to consider the total needs of the community, the homeowners, the property owner where the cell tower may go, and the Tele-Communications Act.



Mr. Rossi stated all he is asking is for the same support from the Board that was given when the Board of Supervisors opposed this for Brookside. He stated the laws were the same and the Tele-Communications Act is twenty-seven years old so nothing has changed in the twelve months since Solicitor Truelove made his recommendation to “push it to the Zones in our Zoning Plan where it belongs.” Mr. Rossi stated the second component to that will be an ask at some point of who would be Party to litigation for diminished value based on the acceptance of a Commercial operation placed in the R-3 Zone.

Dr. Tony Materino, Stony Hill Road, stated he has the longest property line with the Synagogue. He stated he is a physician, and his objections are safety and health; but he knows he cannot bring those up according to Section 704 Paragraph 4 of the 1996 document which does not state “health,” but states “environmental.” He stated they never intended to mean health, but it has been interpreted as such. Dr. Materino stated he wants to make everyone aware that the FCC is now in contempt of the Circuit Court Order to go back and review their safety findings from 1996 by the DC Circuit Court of Appeals. He stated on August 13, 2021, the DC Circuit found the FCC to be arbitrary and capricious and ordered them to go back and review their safety protocols; but they have not done wp. He added that they are actually supposed to do it every two years according to the Law, but they do not. He stated the last time they checked any of their ratings as far as he knows was 1999.

Dr. Materino noted the US FCC rule for cell phone wave length and the density profile allowed compared to other Countries, adding we are “magnitudes out of control in this Country because the FCC refuses to revise their safety profile.” He stated we should make sure that we do not agree to establish a cell phone tower that is already in violation of a Court Order from a Federal Circuit Court. He stated he would like to discuss the detrimental effects of things like this.

Mr. Tom Meir, Twig Lane, stated building an 18-story tower in a Residential area is a very bad idea.

Ms. Desai, Twig Lane, stated they have a change.org petition which is on-line, and currently there are 287 signatories to that petition. She stated when the Board thinks about the community, they should think about the number of people who are generally opposed to putting it in a Residential neighborhood. She stated they all understand that there are potential cell phone gaps; but in the parking lot of Beth El, she has T-Mobile and she has no problem. She stated the Board has now heard that three different carriers have no

problems in this area. She stated there are 287 people that agree that they do not want a cell phone tower built in their back yards. She stated if there is a way to put it somewhere else, they would appreciate the Board's help.

Mr. George Fox, Stony Hill Road, stated he opposes this as well. He stated Lower Makefield is a great place to live, and we should keep it that way.

Ms. Corinne Rossi, Twig Lane, stated she has been driving around looking at other cell phone towers, and there are four which are very close in Zones where they are supposed to be. She stated she has AT & T and they will go to "different ones and they will have all bars or less bars so obviously they are not being utilized as they could be." She stated they moved here ten years ago and it was a "pretty area" and was convenient to cities and the highways. She stated she saw the helium balloon that was put up and the cell tower will be more than double the height of anything else in the area, and she feels it will be detrimental not only to the very close properties that border it, but to the area in general. She stated she is concerned for little children and the possible developmental effects this could have on them; and although she knows that this is not something that they can bring up to the Zoning Board, it should be considered.

Mr. Paul Oilar, Lower Makefield Township, stated he has been a resident since 1974, and he used to work at the Township. He stated he understands the evolution of the Township, and some of it has been good and some of it is debatable. He stated his concern is how it is allowable for a corporation to drop a 150' tower in an R-3 Zone. He stated there is a significant concentration of houses there. He stated he would appreciate consistency of the support of the Board of Supervisors, and he does not understand what has changed since April of last year to this year. He asked the Board for their support.

There being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "John B. Lewis", is written over the printed name.

John B. Lewis, Secretary