

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – SEPTEMBER 21, 2016

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on September 21, 2016. Chairman Benedetto called the meeting to order at 7:35 p.m. and called the Roll.

Those present:

Board of Supervisors: Jeff Benedetto, Chairman
 John B. Lewis, Vice Chairman
 Kristin Tyler, Secretary
 Judi Reiss, Treasurer
 David Fritchey, Supervisor

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

PUBLIC COMMENT

Ms. Holly Bussey, 20 Knoll Drive, representing Bucks Residents for Responsible Airport Management, BRRAM, was present. She stated their mission is to get Trenton Mercer Airport and the FAA to follow the law and conduct an Environmental Impact Statement (EIS) so that residents know the impact the Airport traffic is having on our community. She stated the outcome of that Statement will determine what, if any, limitations can be imposed. She stated BRRAM does not want to close the Airport. Ms. Bussey stated they had a date of September 23 with the Third Circuit Court of Appeals in Philadelphia scheduled for oral arguments; however, late last week they received word that the Judge is not going to hear oral arguments, and they understand that this means that the Judge feels he has enough information from the written Briefs to make a decision. She noted he could also re-schedule the Hearing. She stated their Counsel is awaiting notification and will inform them thereafter. Ms. Bussey stated as the LMT 2017 Budget planning process gets underway, BRRAM would like to participate in the Budget planning so that they can have a productive discussion on how the Township can help financially support their legal efforts. She stated they sent a package to each Supervisor with this request.

Mr. Benedetto stated they have not scheduled the Budget dates yet, and they will probably be scheduled at their next meeting or second meeting in October. He stated the Budget meetings are open so anyone can attend the meetings.

Ms. Bussey stated BRRAM presented an overview of the Airport issue to the LMT Environmental Advisory Council this past week, and it was well received.

Ms. Bussey stated at the August 17 Board of Supervisors meeting it was agreed to create an Airport Task Force to interact with current political candidates, and she asked for an update on this process and the formation of the Task Force.

Mr. Fedorchak stated they received two resumes of those interested in serving and possibly three. Mr. Benedetto stated he also know of another individual who is interested and will be sending a resume. He stated he feels they could schedule interviews before the Supervisors second meeting in October. Ms. Bussey stated that would be less than two weeks from the Election. Mr. Benedetto stated he felt the sense was that it was not just to speak to elected officials, but also to gather information and to have them meet with Ms. Bussey. She stated she was going by what was indicated at the August 17 meeting as to the scope of the Task Force; and if that scope is changing, she would like to be updated on the scope. Mr. Benedetto stated once the Task Force comes together as a group, they should have a Mission Statement and come up with a list of what they want to accomplish.

Ms. Barbara Kupersmit, 612 Wren Song Road, stated she is representing her husband, Harold Kupersmit, in the Habeas Corpus Petition. She stated Harold has been trying to obtain his legally entitled Police records from the Township without success. Ms. Kupersmit stated Mr. Truelove recently issued a fraudulent Cease and Desist Order against her husband. She stated she needs the Township to immediately release all his Police records for the last five years.

Mr. Benedetto asked if this is the first request that has been made, and Ms. Kupersmit stated this is her first request, and she cannot tell the Board what Harold has done. Chief Coluzzi stated he feels a Right To Know Request would be sufficient. Mr. Benedetto stated that form is available on the Township Website. Chief Coluzzi stated there has been no prior Right to Know Request filed or a Request for Information made directly to the Police Department.

Mr. Rich Delello, 1318 Albright Drive, stated BRRAM has continued with their fundraising efforts to assist in off setting costs. He stated on Sunday, October 2 from 11:30 a.m. to 9 p.m. Vince's Pizza in the Yardley Shopping Center will have an all day fundraiser and 20% of the pre-tax purchases will be donated to BRRAM provided you present a coupon. Coupons were provided this evening and are also available at BRRAM's Facebook page. Ms. Reiss stated Vince's Pizza has been very generous to the Township organizations.

Ms. Patty Tustin, Heller Drive, stated she is a member of the Makefield Women's Association, and they will have their fall fundraiser on October 8 from 7 p.m. to 11 p.m. at the Yardley Country Club. Ms. Tustin stated they have raised money

for local charities for the last thirty years. She stated tickets are available at their Website, Makefield Women's' Association.org, and she reviewed those charities which will benefit from this event. Ms. Reiss stated they have also been very generous over the years to the Garden of Reflection. Ms. Tustin stated they will have dancing, games of chance, gift baskets, and silent auctions. Ms. Reiss stated they will not be doing Autumn Fest this year, so this will be their primary fundraiser. Ms. Tyler asked that they contact Ms. Lynn Todd at the Township Office who will put this on the Township Website and TV Channel.

Mr. David White, Gayle Drive, stated over the weekend there was a SEPTA crew working at Heacock Road; and when he asked them if that work had anything to do with the Quiet Zones, he was advised that is "not in the pipeline." Mr. White asked for an update. Mr. Truelove stated they are finalizing the construction documents; and as soon as that done, they will be ready to proceed. Mr. Eisold stated they met with the contractor at the pre-construction meeting on Monday, and this afternoon they sent him their schedule which he will provide to Mr. Fedorchak. Mr. Eisold stated there is a two-week notification period for the road closures so signs will probably be out beginning as early as this Monday. He stated Stony Hill Road is scheduled to be closed October 10 and Edgewood Road on October 31. Mr. Eisold stated Heacock Road is not going to be closed, and one lane in each direction will always remain open. He stated he will get information out on how long each closure will be.

Mr. White asked how they stand with regard to the proposed implementation date which he felt was November 21, and Mr. Eisold stated he feels it will be prior to Thanksgiving.

Ms. Reiss asked if they will also address the condition of Edgewood Road, and Mr. Eisold stated that is part of the project. He stated SEPTA will be contributing to a fair portion of that work. Mr. Eisold stated Edgewood Road will probably be closed for some time since there is more work to be done there, and he estimates it could be three to four weeks.

APPROVAL OF MINUTES

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to approve the Minutes of September 7, 2016 as written.

APPROVAL OF SEPTEMBER 6, 2016 AND SEPTEMBER 19, 2016 WARRANT LISTS
AND AUGUST, 2016 PAYROLL

Ms. Reiss moved, Ms. Tyler seconded and it was unanimously carried to approve the September 6, 2016 and September 19, 2016 Warrant Lists, and August, 2016 Payroll as attached to the Minutes.

PRESENTATION OF 2015 AUDIT

Mr. Peter Place, was present from Lopez, Teodosio & Larkin, LLC, and stated they completed the Audit and provided a copy to the Township. He stated Pages 1 and 2 contain their Opinion. He stated the financial statements themselves are the responsibility of the Township, and the Auditor's responsibility is to test the records, do sampling, do observations and inquiries, and an evaluation of the Township's internal controls. He stated they have rendered a clean opinion in all respects.

Mr. Benedetto asked that this be made available on line, and Mr. Fedorchak stated he did put it on line yesterday.

Mr. Place noted Pages 3 through 11 are the Management Discussion and Analysis. He stated Page 3 discusses the financial highlights for the year. He noted particularly the increase in the General Fund from the year before. He stated the increase in the Pool Fund is also a highlight. Mr. Place stated Page 5 is the Statement of Net Position which shows total assets of \$123 million and \$45 million in total liabilities. He stated the Net Position is approximately \$80 million.

Mr. Benedetto asked about the Golf Course debt. Mr. Place stated there is a detail of that on Page 37. He stated Page 18 also has information on this, and the total debt was slightly over \$16 million at the end of 2015.

Mr. Place stated Page 6 compares 2014 to 2015 and shows total revenue for 2015 of \$25 million and last year it was slightly over \$24 million. Mr. Place stated the expenses for 2015 were slightly higher than 2014 so the net result is basically the same. Mr. Benedetto asked if the increase in revenue was due to the Transfer Tax, and Mr. Place stated the Transfer Tax accounted for approximately \$300,000 of the increase.

Mr. Place stated the bottom of Page 6 shows that the net position for the end of 2014 was at \$85 million, but for the beginning of 2015, the beginning balance was restated at \$80 million; and he stated that is because of the implementation of GASB 68 which is the Pension liability. He stated as of 2015 all Township and Government entities had to record their Pension liability on the Statements.

Mr. Place stated in the past this has always been disclosed, and the Township has always paid the Pension contributions as told to them by the actuary so there have never been any issues; however now with GASB 68, it is required that all Townships, School Districts, etc. disclose their Pension liability on their statement of net assets.

Mr. Benedetto asked about the funding of the Pensions, and Mr. Fedorchak stated he believes it averages 70%. Mr. Benedetto stated he understands this means it is fairly well funded.

Mr. Benedetto stated there has been recent discussion about the viability of Office Research and the re-assessment of those properties because the value is not there which impacts the income received by the Township from Office Research. He asked if there is any indication in the report that shows there has been a diminishing of value for Office Research. Mr. Place noted Page 7 compares the revenue of 2014 to that of 2015. He stated the largest item under revenue is property taxes, and these stayed basically the same. Mr. Benedetto asked specifically about O/R, and Mr. Place stated he would have to specifically look at that, but nothing jumped out at them on this.

Mr. Fedorchak stated this was an issue that was addressed in the Moody's rating analysis, and 86% of the total property tax assessed value is single-family Residential. He stated he estimates that half of the remaining 14% is the Office building development piece. He stated he does not have a comparative number over a four to five year period, but he does suspect it may have dropped somewhat because he has seen three major Appeals go through over the last five to six years.

Mr. Place stated Bucks County has 54 Municipalities, and only six to seven do not have an Earned Income Tax, one of which is Lower Makefield. He stated it is amazing that Lower Makefield has been able not to succumb to that. He stated the Township offers a Golf Course, a Pool, and a lot of good services; and the fact that they do not have an Earned Income Tax is very good. He stated he is not sure that everyone realizes this. He stated he has a number of clients who complain about their taxes, and he tells them they need to move to Lower Makefield.

Mr. Place stated there is a detail on Page 8 which compares 2014 to 2015 Expenses, and there was a slight increase in Expenses in 2015.

Mr. Benedetto asked how common the Local Services Tax is in other Municipalities, and Mr. Place stated he feels most of Bucks County has a Local Services Tax. Mr. Place stated the amount collected has gone up from when it was first enacted, and over the past few years it has been in the half million dollar range. He stated the Township charges \$52.

Mr. Place stated Page 10 shows a detail of the comparison between 2014 and 2015 of the Liabilities. He stated Page 11 shows information about the Township itself. He stated Pages 12 and 13 show the net position and the statement of activities which is on a full accrual basis. He stated the Pension liability is the new one that is on the statement. Mr. Place stated Pages 13 through 16 would be important to review when the Board is doing its Budgeting as it shows the income coming in and how it is spent. Mr. Place stated Pages 18 through 20 are the Proprietary Funds in details – those being the Sewer Fund, Pool Fund, and the Golf Course. He stated Pages 22 and 23 are the Fiduciary Funds, and the largest is the Pension Fund. Mr. Place stated Page 24 through 54 are the Note Disclosures.

Mr. Benedetto asked about the impact of the upcoming sewer expenditures as far as capital improvements. He stated this is something that has to be addressed, and he asked how that would impact the Audit moving forward. Mr. Place stated the Sewer Department has been making contributions to Morrisville as they have had an Agreement with Morrisville since 19911, and he knows the last year or two it has increased; and it will be increased going forward. He stated this was one of the purposes for the new Bond Issuance they will do in 2016. He stated it will impact the cash flow of the Sewer Fund, and going forward the Township will have to look at their rate structure to make sure there have adequate cash flow to start paying for the improvements. Mr. Place stated as an Auditor, he was only looking at 2015. He stated he did note that \$1.5 million was spent for the Capital improvements, and this is shown on Page 20 under the Sewer Fund. He stated Page 20 also shows that the Operating activities still show a positive cash flow of \$2.3 million which is good.

Mr. Place stated in the Note Disclosures one that changed substantially from the year before was the Pension Plan which is shown on Pages 40 through 47 which is due to the GASB requirements.

Mr. Place stated Pages 55 through 58 are Budget versus Actual. Pages 61 through 65 are Schedules related to the Pension.

Mr. Place stated at the back of the report there are more detailed reports of the other Township funds, and these are on Pages 68 and 69.

Ms. Tyler asked Mr. Place if he could describe how Lower Makefield appears from an accounting perspective and what the residents should know about the way the Township is being financially run. Mr. Place stated part of their procedures are to do inquiries and evaluate the internal controls, and he feels the internal controls are very good. He stated the integrity of the management is also very good. He stated with regard to the financial condition, he feels the Township is in very stable financial condition. He stated if they had an Earned Income Tax they would be in

even better financial shape; but the fact that the Supervisors has made it a point not to do that and still be able to run their finances within their means is very good. He stated the residents should be aware that they live in a Township that does not have an Earned Income Tax, and they should be proud of this.

Mr. Lewis noted Page 63 where there is a breakdown of the Pension liability which shows the total liability of approximately \$9 million with the unfunded liability being \$2.5 million. He asked how that compares with other Townships. Mr. Place stated this would depend on the size of the Township; but compared to the large Townships, he feels Lower Makefield is as good or better than some other large Townships. Mr. Place stated their unfunded liability is approximately \$4 million for the Police and \$2.5 million for the non-uniforms so they are at approximately 71% for both. Mr. Lewis asked Mr. Place if he looked at the weighting of the investments in the Pension Funds to make sure they were consistent with what he would expect to see with other Municipalities. Mr. Place noted Page 65 which is the Disclosure for the rate of return which is a negative. Mr. Lewis stated it was a very positive market year in 2015. Mr. Place stated for the Audits he did in 2015, he saw all negatives. Mr. Place stated he relies on the actuarial reports so this is not his expertise although he does have to disclose it. Mr. Place stated he did twelve to fifteen Audits for other Municipalities for 2015, and the net investment return has been slightly negative. Mr. Lewis stated it would be interesting to see how Lower Makefield compares to the other Municipalities, and Mr. Place stated these are all now on Township Websites.

Mr. Lewis stated he does not feel the Township was prepared properly for the sewer contingent liability, and he asked Mr. Place if there are other things he is looking for now that he sees are potential situations that the Township needs to make sure that they are ahead of. Mr. Place stated the Township is going to make an investment in the Morrisville Sewer Plant, and from an Accounting aspect the entry would be Debt if they use some of the proceeds from the Bond, but the counterpoint is that it will Debit the Asset. Mr. Lewis stated the Township does not own an equity stake in MMA; however, Mr. Place stated while they do not own the asset, when you spend money to improve it, it is capitalized and depreciates. Mr. Lewis stated he understands that; and should there be additional borrowings, they would be done by a future Authority or MMA.

Mr. Lewis noted a problem that occurred in Franconia, Pennsylvania where funds were being moved between funds inappropriately to mask true financial statements. He asked Mr. Place what tasks he performed as part of the Audit to make sure Lower Makefield does not have to worry about something like that. Mr. Place stated they do a sample of transfers, and they also read the Minutes and the Budget and look for the approval process to make sure that the transfers were approved. Mr. Lewis asked if Bank statements are also checked, and Mr. Place stated they are. He stated

this is not a guarantee since he is only doing a sample, and he is not doing 100% testing; however, out of the sample if nothing arises they feel they should look deeper, they are satisfied with it. He stated they do 100% on the transfer of funds in the inter-fund transfers. He stated they want to make sure they are equal and that there were approved. He stated for disbursements because there are so many of them they basically do a random sampling.

Mr. Fritchey stated earlier this week they received the Moody's report on the upcoming Bond issue and the Township once again received the AA1 Bond Rating. He feels Moody's assessment of the financial health of the Township was consistent with Mr. Place's assessment, and Mr. Place agreed. Mr. Place added that one of the things that Moody's looks at is this Financial Statement. Mr. Fritchey stated when Moody's did their assessment and Mr. Place did his Audit, these were independent actions; and Mr. Place agreed. Mr. Fritchey stated both of these have given the Township a good "bill of health" as to financial stability and responsibility, and Mr. Place agreed

Ms. Reiss stated she is opposed to an Earned Income Tax; and by not having one, they have more people who want to move here which increases the values of the homes. Mr. Place stated Lower Makefield is a very desirable community to live in.

Mr. Zachary Rubin, 1661 Covington Road, asked the status of having a Finance Director in place. Mr. Fedorchak stated they will have their Finance Director on board next Monday.

Mr. Fedorchak stated they are going out for the \$22 million Bond Issue with \$15 million being new money and \$7 million is a refinancing of a previous Issue. He stated one of the steps is to secure a credit rating for the community. He stated this is a lengthy process, and the Township is required to produce a great deal of financial information including the Audit that Mr. Place prepared as well as demographic information, Per Capita information, etc. that goes into the presentation. Mr. Fedorchak stated once they submit that information, there is a Ratings Call and that was last Monday afternoon. He stated it involves a series of questions Moody's asks him related to the Township finances. He stated based on the written and oral information, Moody's then comes up with a formal report which they issued on Monday; and they maintained the AA1 Rating for this Issue and all Township debt. Mr. Fedorchak stated toward the end of the discussion with Moody's the analyst raised the possibility of the AAA Rating, and referred to the Township's Fund Balances; and they had noted that over the last five years they had seen consistency in the upward direction, and they indicated that if they continued to see this, they would look upon a re-rating in a favorable light. Mr. Fedorchak stated the AAA Rating is something that may be attainable for the Township in the future as they see the Township as very stable.

Ms. Tyler asked Mr. Fedorchak to put the Moody's Report on the Township Website, and Mr. Fedorchak stated he will post it tomorrow.

Mr. Place stated there was a refinancing in 2015 of slightly over \$7 million; and what was impressive was there was a Bond premium of \$600,000 to \$700,000 which is directly related to the Rating. He stated this means that the Township was able to borrow \$7.3 million but pay down \$7.9 million in debt with the \$7.3 million since because of the Rating, investors were willing to pay a premium for the Bond. He stated this was one of the highest Bond premiums that he has ever come across. which is impressive.

DISCUSSION AND POSTPONEMENT OF DEVELOPMENT AGREEMENT WITH MAKEFIELD GLENN

Mr. Benedetto stated he understands that they are going to Table this matter until the meeting of October 5.

Mr. Lewis stated on May 18 he received a call from a member of the community who was concerned that the Chairman of the Board of Supervisors was fast tracking the approval of Makefield Glenn and doing it as his spouse was receiving a Lease Agreement for her business from the same developer. Mr. Lewis had advised that if this was the case, the Chairman should disclose it and Abstain from the vote. Mr. Lewis stated later that same evening, all of the Supervisors did vote to approve that Development. Mr. Lewis stated he had expressed concerns about traffic and available parking and issues were also raised about stormwater run off, but he was willing to approve the Development on the strength of the tenant and the potential for economic development in the Edgewood Village section of Lower Makefield.

Mr. Lewis stated this was not an easy vote for him, and six days prior to the meeting he had asked the Chairman to add an Agenda item to discuss the proposed Ordinance on blighted and historic property protection; and if it were placed on the Agenda, he would draft an Ordinance similar to one he had written for another Pennsylvania Municipality that would protect properties from going into extreme disrepair. Mr. Lewis stated he felt that they could address some of the legitimate concerns they had with the Ismael House and the Danny Quill house in Edgewood Village also owned by the same developer, and he would feel more comfortable about his vote for Makefield Glenn. Mr. Lewis stated the Chairman had indicated that he would not place his proposed Ordinance on the Agenda for the May 18 meeting but would put it on the June 1 meeting as he felt it would sidetrack the approval of the Plan. Mr. Lewis stated while not happy with that decision, he was hopeful that eventually that would be considered. Mr. Lewis stated at the May 18 meeting the Chairman was very enthusiastic about the Development project and

made no mention of a potential conflict of interest. Mr. Lewis stated since then the Chairman has also refused to include his proposed Ordinance on any Board of Supervisors meetings thereafter.

Mr. Lewis stated on June 2, he received an e-mail from Bella Body Medical Spa announcing the move to 374 Stony Hill Road, and this is owned by the Chairman's spouse; and that particular property is also a holding of the same Real Estate developer of Makefield Glenn. Mr. Lewis stated he has been a client of Bella Body and had a very positive experience.

Mr. Lewis stated he was very disappointed with the Chair and his performance but thought Makefield Glenn could commence provided the developer met the Conditions that had been set forth in the Board's Approval Motion. Mr. Lewis stated on September 7, the Chairman brought the attorney for the developer before the Board even though he was not on the Agenda. Mr. Lewis stated at that meeting the attorney for the developer asked to delegate approval for the Development Agreement to the Township Manager, solicitor, and engineer to further fast track approval of the Development. Mr. Lewis stated at that point no one had seen the draft of the Agreement, and Mr. Lewis added he has not seen it to this day; and the Chairman had asked if it were put on the Agenda for the September 21 meeting if it would be an inconvenience to the developer. Mr. Lewis stated the Board agreed to put it on the Agenda for this evening.

Mr. Lewis stated after the September 7 meeting, the Township solicitor reached out to the attorney for the developer to finalize the Development Agreement; and on September 14, the attorney for the developer stated he could not meet with the Township as the developer's current thinking was that he remained dissatisfied with the level of the Township's response and seems more likely than not to abandon the project because of the ongoing delays and collateral issues. Mr. Lewis stated he also does not want to abide by the Tree Ordinance. Mr. Lewis stated many of the Board members are confused and see this as a negotiating ploy to "weasel out" of the terms of the Approval from May 18.

Mr. Lewis stated on Friday, the Chairman met with the developer cutting the Township Manager out of the process, and he is troubled with this process and would be inclined to look aggressively at the Developer's Agreement to make sure each and every one of the requirements that were set forth at the May 18th Approval are met. Mr. Lewis stated he is also concerned about a process where the Developer's Agreement is something that is negotiated in a way that is trying to "shake down" the Township for reducing as many Fees as possible. He stated he is hopeful that his issues will be resolved before October 5.

Mr. Benedetto noted the Meeting Minutes from two and a half years ago, and stated DeLorenzo's has been in the process that has been discussed many times well before his wife's business signed a Lease Agreement with Mr. Troilo. Mr. Benedetto stated he will not vote on this and has held himself to a higher standard than anyone on this Board and on prior Boards have ever held themselves including Bible Fellowship when he recused himself when he did not have to. He stated he will recuse himself from anything having to do with any of Cam Troilo's properties.

Mr. Benedetto stated there are many people in the Township who want to see DeLorenzo's. He stated the meeting that Mr. Lewis has made reference to involved himself, Supervisor Reiss, and the Township solicitor. He stated the implication that he is doing something behind the backs of the other Supervisors could not be further from the truth. He stated if they do not want businesses to come into the Township, they are doing a good job of showing it. He stated DeLorenzo's is something that will reenergize Edgewood Village. He stated there are no "side deals," and there is nothing going on. He stated hopefully on October 5, the Township, Cam Troilo, and Sam Amato who is a small business owner, can come to some agreement. He stated if they cannot come to an agreement he feels DeLorenzo's will go elsewhere. Mr. Benedetto stated he is not fast tracking a deal since this deal has been going on for two and a half years, and it has not gotten done which he feels is indicative of the fact that the Township is not business friendly.

Mr. Benedetto stated he will not be voting on this; and he feels the manner that this has been brought up is a "disgrace," as this is not even coming to a vote tonight. He stated he will Abstain on October 5 when it comes to a vote. Mr. Benedetto stated he feels this is a great deal for the Township, and the Township should be embracing DeLorenzo's; and he has thought this for two and a half years so there is no inconsistency with his wife now being a tenant of Mr. Troilo. Mr. Benedetto stated he is concerned that they cannot do a simple Development Agreement.

Mr. Benedetto stated the Township has a "ridiculous" Tree Ordinance which he feels is "extortion and a disgrace." He stated the Development Agreement states that the Ordinance says that the requirement for the trees for the parking lot and the streetscape is twenty-six trees. He stated on this lot the proposal is to take down twenty four trees, two of which are dead. He stated the requirement of the Tree Ordinance is that they require one hundred and nine trees on this one acre parcel which he feels is a "disgrace." He stated if they were to put one hundred and nine trees on this one acre parcel, they would not be able to put anything there. He stated this Ordinance is very unfriendly to business, and that is the problem.

Ms. Tyler stated she was not aware that Mr. Benedetto and Ms. Reiss were meeting regularly with the developer. Ms. Reiss stated she just went for the first time. Ms. Tyler stated when the Township is negotiating a Development Agreement, there is a professional staff who they pay to review these things for the Board. Ms. Tyler stated she would like to know if a Supervisor is speaking to a developer, and she would never want to undercut the authority and bargaining ability of the solicitor, our Manager, and our engineers. Ms. Tyler stated any developer should know that they deal with the Mr. Fedorchak, Mr. Eisold, and Mr. Truelove. She stated she feels this makes for a smoother process if they are all on the same page. She stated if there is a disagreement among the Board as to how to proceed, they can discuss that; but they should never undercut the procedures and processes that are already in place.

Mr. Benedetto stated other Townships are able to function by having discussions with developers and have a working relationship to say this is what they are trying to accomplish, although it would still have to go through the process; and they would have to go to Zoning, Planning, and come back before the Board of Supervisors for Preliminary and Final Approval. Mr. Benedetto stated if they do not want anything to get done in the Township, they should continue to do things the way they are. Mr. Benedetto stated Mr. Lewis referenced the house on the point, the Ishmael House, and the discussions that have taken place have taken place with Mr. Jeff Hirko and his group to try to get them to come in and do something with the Ishmael House and to fix the House, although they have not gotten to that point. He stated they are hopeful that they can save properties here, but if they just want to destroy all of it and say they should keep it status quo and have the House stay there looking just as it has for the last twenty-five years, they are doing a “wonderful job of that.” He stated lack of communication is not the way to work. He stated if two Supervisors want to meet with anyone, he has no problem with that. He stated Supervisors have met with Morrisville Little League. Mr. Benedetto stated he would be willing to stay home and let the Board do what they want at the next Supervisors meeting. He stated he puts a significant amount of time into the job of Supervisor, and he is proud of it and loves doing it. He stated it could not be further from the truth that anyone is fast tracking DeLorenzo’s. Mr. Benedetto stated they are at the point where Mr. Amato is “ready to walk,” because he does not know what is going on; and he is getting other offers from other Townships. Mr. Benedetto stated no Supervisor is prevented from talking to any developer, although they cannot have three Supervisors. He stated they also sat down with the School District and talked to them about their Agreement, and he asked why that is any different from having a discussion with any other developer or any other business trying to come into the Township.

Ms. Reiss stated she tried to take the fact that she likes DeLorenzo's out of the picture as a developer adding none of them would be "thrilled with a tattoo parlor." She stated the first time she met Mr. Troilo was last week, and she wanted to know what the issues were and who was "dragging their feet." She stated she was talking about the trees, and she advised that she felt the appropriate thing to do was to sit down with the Chair and the Township Manager and look at what the issues were. She stated she received a phone call today from Mr. Amato, and her answer to him was your developer needs to go through the Township Manager and not through her. Ms. Reiss stated the reason they have a Township Manager is because his job is to manage, and he does a good job. Ms. Reiss she did let whoever she could reach quickly that she did have this meeting since she did not feel it was right for her to have the meeting without telling other Supervisors; and if she missed telling anyone, she apologizes.

Mr. Lewis stated the issue is that at the May 18 meeting Mr. Benedetto should probably not have voted on this and should have disclosed what is a significant conflict of interest; and although he is not suggesting it is necessarily illegal, he feels it does rise to the level that should have been disclosed. Mr. Lewis stated at that time the Supervisors Conditioned Approval on compliance with the Tree Ordinances, and the attorney for the developer agreed to that orally; and if you go to Pages 13 and 14 of the Meeting Minutes he was asked specifically and he told specifically that they would comply with the Tree Ordinance. Mr. Lewis stated to come back and say that they do not really want to comply with the Tree Ordinance and negotiate a new deal and indicate they do not want to talk to the Township Manager and "cut a separate deal," that is where Ms. Tyler and he are on the same page as it relates to the process.

Mr. Benedetto stated there was "no not wanting to talk to the Township Manager." He stated the developer's attorney has talked to the Township Manager, and he received an e-mail that had a list of all of what they wanted to negotiate. Mr. Benedetto stated Mr. Truelove was at the meeting he attended with Ms. Reiss and Mr. Troilo, and then afterwards met with Mr. Fedorchak and Mr. Eisold and himself; and there is no lack of communication. Mr. Benedetto stated they are getting to a point where Mr. Lewis will have the chance to weigh in on this. He stated the Development Agreement is where there is actually an opportunity for this deal to either move forward or not. He stated he feels the Development Agreement should have been done months ago; and the fact that it was not done is a problem for Mr. Amato and the developer since things do not move quickly in this Township, and do not move in a manner that is remotely comparable to other Townships. He stated they will have a decision on October 5 hopefully, and he will not vote on that.

Mr. Lewis asked Mr. Fedorchak if there was anything that he had received between May 18 and the present that we did not follow up on for this particular developer; and Mr. Fedorchak stated there was not to his knowledge. He stated over the last few weeks communication from the developer has come primarily through his attorney; however, last Thursday he received a communication from the developer, Cam Troilo, via e-mail. Mr. Fedorchak stated there was an attachment, and the e-mail identified the position of the developer with respect to certain items such as various fees, etc. He stated this was the first time he received a true understanding of what the developer's position was. Mr. Lewis stated in that case there was nothing that the Township did not do to keep the project moving as fast as possible.

Mr. Benedetto stated they did not do anything which is his point. He stated the Township is just as capable as the developer of reaching out and getting this done. He stated nothing has been done between May 21 to September 7, and whose fault it is does not really matter. He stated the reality of where they are now is that they are on the precipice of losing DeLorenzo's to another Township

Ms. Tyler stated Mr. Benedetto has indicated that the Township is a difficult Township to develop in, and she does not feel that there was any maleficence or lack of the Township doing its job. Mr. Benedetto stated that is Ms. Tyler's opinion. Ms. Tyler stated she does not believe the Township has done anything to slow anything down. She stated they just found out what the problem was in the e-mail received from the developer last week, and they had tried to speak with the developer through proper channels before but were denied for a week or so. She stated they then got the list and they engaged their professionals. She stated she does not feel it is fair to "bash" the Township for the progress of this development.

Mr. Benedetto stated he is making a statement based on his experience for five years to say that the Township is not business friendly. He stated we have an Ordinance that is "extortion," that will charge \$25,000 just to do business here that is a Business Tax. He stated time after time they have had problems dealing with the Tree Ordinance, and it is a problem. He noted particularly St. Ignatius and the School District. He stated he feels the DeLorenzo's deal would have been done by now if they had dealt with another Township. He stated he has been a Supervisor for five years, and he is asking why they cannot close simple deals to get things done; and they have not been able to do it. He stated they are on the precipice of losing a very good business coming in that would attract a lot of other businesses.

Mr. Fritchey stated earlier this week he received an e-mail which was forwarded to him where the developer sent an intemperate e-mail probably at a bad moment where he was not authorizing his attorney to speak with the Township Manager and the other Township professionals and expressed the view that that the Board was going to have to decide this anyway, and he was just going to come before the Board

to get this resolved. Mr. Fritchey stated he feels this violates all sense of appropriate process, and he is sure his attorney did not advise him to send an e-mail like this. Mr. Fritchey stated this is not how the Township does business, and the developer is not to tell them who to have sit at their side at the table. Mr. Fritchey stated since that time it appears that the parties are talking again, and maybe they will be able to have an appropriate process. Mr. Fritchey stated Development Contracts are not negotiated during the course of televised public meetings as it is completely unwieldy, and the Parties have to check various facts to see if they can reach an agreement and have negotiations take place in a calm and discreet fashion so that an Agreement can be reached. He stated they are not reached in a public setting where people take political positions. Mr. Fritchey stated he is totally uncomfortable voting for any Development Plan that has not been properly reviewed by the Township staff and professionals and receiving a recommendation from those Township professionals. Mr. Fritchey stated he feels the process seems to now be proceeding in an orderly fashion, and maybe they will come to a resolution where they can move forward and get a recommendation from the Township professionals that says they think this is a viable solution and sensible compromise and a basis on which to move forward. He stated perhaps they will meet and they will be unable to agree, and the Township recommendation will be that they cannot resolve this. Mr. Fritchey stated while he would like to see DeLorenzo's in the Township, it has to be a deal that makes sense for the developer and the people. Mr. Fritchey stated he agrees that what was proposed makes sense in that they are Tabling it for two weeks which will give time for the representatives of the developer to meet with the Township Manager and the Township professionals, and hopefully it will be a win/win situation.

Ms. Reiss stated what she told them today was that they have to go through the Township Manager and the Township professionals, and they will advise the Board. Mr. Benedetto stated the point is that they have; however, Ms. Reiss stated they did not get an Agreement. Mr. Benedetto stated they continue to have discussions with Mr. Truelove, and Mr. Fedorchak is aware of what their concerns are. Ms. Reiss stated she feels Mr. Fedorchak needs to be there. Mr. Benedetto stated hopefully Mr. Murphy can meet next week with Mr. Fedorchak, Mr. Eisold, Mr. Truelove, and their engineer and they can come to an Agreement; but there has been no Agreement.

Ms. Tyler moved, Ms. Reiss seconded to Table.

Mr. Zachary Rubin stated the Motion to Table is out of order, and the correct Motion is to postpone to a definite time. He stated a Motion to Table is when you are going to lay it on the table on a temporary basis during the meeting and there would be an intent to take it from the table at a later time. He stated the correct Motion is to postpone to a definite time.

Mr. Rubin stated Mr. Lewis originally stated that there might have been an appearance of a conflict of interest when the Chairman participated in the May 5 vote and various other discussions. Mr. Rubin stated earlier the Chairman stated he would recuse himself about talking about Makefield Glenn. Mr. Rubin stated the definition of “recuse” is to remove oneself from participating to avoid a conflict of interest; and it does not say only not voting, it says “participating.” Mr. Rubin stated he submits that the Chairman for the last half hour participated in the discussion of Makefield Glenn. He stated recusing means you do not speak on this and it is more than just not voting. He stated if he is recusing himself he should make no comments on the issue to avoid any appearance of conflict of interest.

Mr. Benedetto stated when they vote on October 5 he will totally respect Mr. Rubin’s opinion and he agrees with it. Mr. Rubin stated he does not feel Mr. Benedetto does agree with him because it is more than not voting, and Mr. Benedetto just participated in a debate over Makefield Glenn when he originally stated he was going to recuse himself. Mr. Rubin stated he agrees Mr. Benedetto should recuse himself, and he should not have been participating the last half hour. Mr. Benedetto stated he was accused of something, and he was defending himself. He stated he feels he was falsely accused, and he was giving his response to an accusation. He stated Mr. Lewis is bringing up today that he should have recused himself from something that took place five months ago, and Mr. Benedetto added he did not have the courtesy of being notified of this prior to this evening. Mr. Rubin advised Mr. Benedetto that he can rise to a point of personal privilege and respond to it; but he then went on talking about the Tree Ordinance and talking about developers, and that has nothing to do with a personal attack, and he started debating the whole Makefield Glenn. Mr. Benedetto stated he disagrees with Mr. Rubin and has stated for many years that he feels the Tree Ordinance is a bad Ordinance as it pertains to the Township not just Makefield Glenn. He stated it is bad for business, bad for developers, and he feels it is extortion.

Ms. Reiss stated she feels the Tree Ordinance should be a separate discussion, and if they want to Amend the Tree Ordinance, it should be an Agenda item; and Mr. Benedetto stated it is going to be on an upcoming Agenda. Ms. Reiss stated she has read a lot of Tree Ordinances, and the Township’s Tree Ordinance is generous compared to other even large cities.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated he supports the Tree Ordinance; but it is clearly not satisfactory to the Board of Supervisors since every time it has come up they have talked about doing it differently from what the Ordinance says. He stated if they are going to offer another break from the Tree

Ordinance, he feels they should use it as a model; and at the same meeting vote on the change, and use that deal as the model. He stated the Ordinance is three years old and every time it comes up, they say it is not fair. He stated if they do not like the Ordinance, the Board needs to change the Ordinance; and they should not keep finding reasons not to follow it.

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to postpone the Development Agreement with Makefield Glenn to October 5, 2016.

DISCUSSION AND APPROVAL OF FINAL MINOR SUBDIVISION PLAN FOR FIELDSTONE (HARRIS TRACT)

Mr. Truelove stated the Application tonight is for a Subdivision only, and it is not Land Development. He stated there have been some Land Development issues discussed and a lot of discussions that the professionals have been involved in and will continue to be involved in. Mr. Truelove stated there was a Planning Commission meeting on September 12, and they received Draft Minutes from that showing that the Planning Commission made a recommendation. He stated there is also a letter from Mr. Eisold dated September 9 with several proposed Conditions. Mr. Truelove stated the one Condition that he discussed with one of the representatives today as did Mr. Eisold that can be removed from consideration on the letter tonight, but not for Land Development purposes, is under Zoning Ordinance Comments #2 dealing with Site Capacity Calculations as that is not required at this time for Subdivision purposes. Mr. Truelove stated Ordinance No. 200-52 deals with Site Capacity Calculations in the Sketch Plan or Development Plan phase, and they are not there even though a Concept Plan has been submitted but not in the Sketch Plan or Development Plan form that they are used to.

Mr. Marc Kaplan, attorney, Mr. Larry Dugan, and Mr. Chris Jensen, engineer were present.

Mr. Kaplan stated the Harris Tract has a long history in the Township. He stated Lot #2 is an unregulated landfill that has plagued the Township for many years. He stated they are the fifth or sixth developer who has tried to develop the property. Mr. Kaplan stated he, Mr. Dugan, Mr. Nick Casey, Mr. John VanLuvanee, Mr. Jensen, and Mr. Jeff Goll have spent a lot of time analyzing how they can fix this. He stated they have been to a DEP meeting with the Act 2 people, the solid waste people, the stormwater management people and other heads of Departments on what is the best way to put this unregulated landfill to “bed” once and for all. He stated they learned that this should just be covered with 2’ of fill which is what their plan will be when they submit it to DEP. Mr. Kaplan stated there is also some other work that needs to be done in the middle of the landfill as there is a water course that goes

through there. He stated there are also some wetlands and some material which looks like Municipal waste and organic waste from chopping down trees which needs to be removed from the wetlands. Mr. Kaplan stated a new culvert also needs to be put in, and there has to be some clean up on the east side where there is a creek. He stated they spent a lot of time trying to determine if this can be done and if it can be done in an economically-feasible way.

Mr. Kaplan stated they plan to submit a Notice of Intent to Remediate (NIR) under Act 2 very shortly assuming they get approval from the Board of Supervisors tonight. He stated they only want to submit the landfill site for the Act 2 process, and the approval under Act 2 will be called a Site Specific Approval; and it will require the Recording of an Environmental Covenant that DEP has agreed with the Remediation Plan and the Covenant will say, "you have to leave it alone." Mr. Kaplan stated they want the Covenant only to be Recorded against the landfill site. He stated the rest of the property is clean. He stated at the request of the Township they are also going to submit Lot #1 to DEP scrutiny, but they are confident that will come up clean or that any remediation would be to State-wide health standards which will not require the Recording of a Covenant.

Ms. Tyler asked why they feel the need to Subdivide this and what would happen if they left it as one parcel, and Mr. Kaplan stated it will not get developed and it will not be remediated. Ms. Tyler asked what difference the Subdivision makes. Mr. Kaplan stated the Act 2 process is a voluntary process, and you submit all your information to DEP. He stated where you have a contaminated site, there are alternative processes to go through to get a clean bill of health that the property has been remediated. He stated an example is if you have a site and there is arsenic on it from an apple grove, there is a State-wide health standard that says if you are below a certain percentage you meet State-wide health standards. He stated you clean up the site in one of a number of ways until you get the contaminant down under State-wide health standards. He stated you then get a clean bill of health, and you do not have to Record a Covenant against it. He stated when there is an "odd-ball" situation like this where you might have an exceedance of State-wide health standards in some place, DEP has the ability to approve a Site Specific Plan; and they in essence do a custom-made remediation plan for the property, and that is what will happen here.

Mr. Kaplan stated the problem from a homebuilders point of view with a Site Specific Plan is that you have to Record an Environmental Covenant, and in this case it will recite the history and will say, "Thou shalt not do anything to the property." Mr. Kaplan stated they do not want nor does that Covenant have to encumber the entire property because the development part, Lot #1, has nothing wrong with it. Mr. Kaplan stated he has done this a number of times in other situations like this; and if you submitted the Notice of Intention to Remediate while the property is one

property, DEP is ultimately going to require the Covenant to be Recorded against the entire property. He stated if that is going to happen, Orleans will not proceed with the property. Ms. Tyler asked if that is because they feel people will not buy these properties, and Mr. Dugan agreed. Mr. Dugan stated the Covenant would be on the entire property. He stated the Covenant will say that they have to maintain 2' of clean fill on it and have an engineer inspect it on an annual basis so that there is a degree of protection. He stated if it was on the entire property, it would be an extreme marketing obstacle to be able to explain it. Mr. Kaplan stated they would not be able to finance the property, and people trying to get mortgages would have a great deal of difficulty.

Mr. Kaplan stated he has done this on a number of other sites including sites near former industrial sites, and it works. Mr. Kaplan stated from the Township's point of view whether they came in with the entire Development Plan now including the Lots and had the line drawn, they would end up in the same place with development on the clean site and the unregulated landfill covered. Mr. Kaplan stated just because of the DEP process, they have to do it in a different fashion. He stated they have to get it going quickly because some of the experienced people who have dealt with this site at DEP over the last six to seven years are retiring at the end of the year.

Ms. Reiss stated the Planning Commission had two major questions, and the first was about dividing it into two Lots; but added that they then that they cannot consider it later as one Lot. Ms. Reiss stated the other concern was that once the Lot is remediated there could be erosion and the Homeowners Association could come to the Township and tell them to fix it if it costs a lot of money.

Ms. Tyler asked how the people residing on Lot #1 have responsibility for Lot #2. Mr. Kaplan stated when the property is remediated, someone will have to own Lot #2 going forward. He stated the Township will not take it, and the easiest and likely choice is that there will be a Homeowners Association that will own these acres of open space which is no different than multiple developments in the Township, and everything will be disclosed, and there will be a Budget that will be disclosed. Ms. Tyler asked how they will disclose it to those purchasing the homes. Mr. Kaplan stated they intend to get the Subdivision and go to DEP; and while that is working, they are going to come in with their Land Development Subdivision Plan for the thirty-three homes they intend to build. He stated they intend to complete the remediation before they sell the first house. He stated they will Record DEP's Approval and Record the Environmental Covenant; and under the Planned Community Act, they will have a public offering statement that will govern what will happen here. He stated there will be a Homeowners Association document, Declaration of Covenants, Easements, and Restrictions; and just like there will be a responsibility to take care of the detention basin or whatever else is in the open

space, the Homeowners Association will have a requirement to do whatever they have to do on this property which will be “next to nothing.” He stated there are a couple of watercourses there, so to the extent that they have to be maintained, they will have to be maintained by the Homeowners Association. He stated every buyer will get that package.

Ms. Tyler stated if it is going to be disclosed to the eventual purchasers at that point why is it fatal in the first instance to have to disclose the same thing necessitating the Subdivision. Mr. Tyler stated they indicated originally that they had to Subdivide this or no one will buy the houses, and she asked what is the difference between what it is now versus what Mr. Kaplan just explained from a marketing perspective. Mr. Kaplan stated what makes it impossible to market it is the Environmental Covenant. He stated the Act has been in place for twenty years, and he has done this two to three times and he has had his clients walk away other times. He stated this is the perfect situation where this can work. He stated the Environmental Covenant gets Recorded against the landfill after it is remediated. He stated the facts about the landfill, the remediation, and the fact that there is an Environmental Covenant all gets disclosed to the homeowners in the public offering statement.

Mr. Dugan stated the difference is that the Environmental Covenant is only on Lot #2 so that when you buy a house on Lot #1, even though it has been disclosed, it will not be in your Title so you would not have to explain why is there an Environmental Covenant. Mr. Dugan stated the Environmental Covenant should not effect your house.

Ms. Reiss asked if they are going to require everyone to pay into the Homeowners Association to make sure that this property stays clean, and Mr. Dugan stated they will. Ms. Reiss stated this might as well be a condominium and not a house. Mr. Kaplan stated it is a Planned Community.

Mr. Lewis stated he can appreciate the process so that when people buy a property there is no Covenant on that particular property; however, the owners of that property have now assumed the liability on Lot #2 through the Homeowners Association. Mr. Kaplan stated when DEP issues an Approval under Act 2, there is a statutory release of liability that goes to the benefit of the person who cleans it up, and they have no more liability and that carries forward for anybody in the future. Mr. Kaplan stated the only liability is going to be to maintain the cover just as you would maintain any large piece of open space.

Mr. Lewis stated if DEP approved this, and someone purchases a house in the development, they will have a contingent liability that the DEP is wrong; and he asked what happens if the DEP is wrong and there is a sinkhole which they recently had to deal with in another community in the Township. He stated when they

uncover the sinkhole, they may find additional waste that might not have been addressed previously; and he asked in that case who would be liable. Mr. Kaplan stated the site was inspected originally ten to twelve years ago by the Township's environmental consultant, and it has been reviewed and investigated by Jeff Goll and Princeton Hydro; and they gave all of the testing information to Mr. Eisold's environmental person. He stated there is really nothing here but waste.

Mr. Kaplan stated when DEP approves the Remediation Plan there is a statutory release of liability under Section 302 of the Act that releases anyone that owns it from any liability in the future to clean it up if something would happen. He stated that is the "magic" of Act 2. Mr. Lewis asked if they have released the Homeowners Association from the liability and there is an issue, who would be "on the hook." Mr. Lewis asked if DEP is going to indemnify them. Mr. Kaplan stated he has never seen this happen, and he has been involved in about twenty of these and there has never been a problem. He stated that is what Act 2 was designed to do. Mr. Fritchey asked who would be "on the hook" if there has to be a future clean up. Mr. Kaplan stated that is what DEP has said will not be needed as they have approved it and it is already being cleaned up.

Mr. Dugan stated DEP will give them an Act 2 Release saying that if they do what they say they will do, they will release everyone from liability for that environmental contamination. He stated as to Mr. Lewis' hypothetical question if there was a sinkhole and who would be responsible, the HOA ultimately could be responsible much like they would be if the detention failed in the community.

Mr. Benedetto stated they had a situation in Yardley Hunt. He stated he understands that they will put in approximately \$1 million to remediate Lot #2, but it does not extend into Lot #1. He stated they have multiple reports from Mr. Goll's group and the Township engineer going back many years. He stated all the speculation of what may or may not happen on Lot #1 is speculation because all of the engineering reports show all of the contamination is on Lot #2. He stated he understands that Lot #1 is a clean lot, and they are going to build on the clean lot. He stated the reason they want to put thirty-three houses on Lot #1 is because they are spending \$1 million on Lot #2; and for it to be feasible from a business perspective they have to put thirty-three houses on Lot #1. He stated Lot #2 will be capped, and it will be cleaned up. He stated they are spending \$1 million to clean up a site that no one has been able to clean up because no one has been able to make a deal to put houses on that Lot.

Ms. Reiss asked if there is not litigation on this property, and Mr. Kaplan stated there is not. He stated there is no litigation, and he has the Title. Mr. Dugan stated there is litigation. Mr. Kaplan stated in 2000/2001, Quaker owned the property and came in

with a Plan. He stated Quaker processed the Plan, and there was a dispute; and that Land Use litigation is still outstanding. He stated it has been dormant for ten years. He stated he felt Ms. Reiss meant something about the environmental. Ms. Reiss stated they need to make sure that the litigation is resolved. Mr. Truelove stated that is another piece that they are not dealing with tonight. He stated they have been discussing this as well as some of the Land Development issues although no decisions have been made as the Board of Supervisors would have this responsibility.

Mr. Kaplan stated the Plan complies, and it is a thirty plus acre parcel that they want to cut up into two pieces. Mr. Benedetto stated the bottom piece is the piece with the landfill which will be capped, and they are spending \$1 million to mitigate it.

Ms. Tyler stated she knows that they are not approving this tonight, but asked if the density calculations will be based on Lot #1 or will they be based on Lots #1 and #2; and Mr. Kaplan stated the density calculations that have been made over and over again as the property has come to the Township have been based on the entire property. He stated their Plan is for thirty-three Lots on the front property. He stated it is the plan that has gone through multiple Planning Commissions and the Environmental Committee, and it is the Plan that people “sort of” agreed upon. Ms. Tyler stated that was before this Subdivision was discussed, and Mr. Benedetto stated it was when Beezer did it. Mr. Kaplan stated he believes K. Hovnanian was also involved. Mr. Truelove stated he believes that there were three to four different proposals over time, and he believes that the lot numbers ranged from thirty-one to thirty-nine depending upon the proposal. Mr. Kaplan stated he thinks the original Quaker Plan had over fifty lots. Mr. Nick Casey was present and stated it was over fifty lots. Mr. Kaplan stated he believes that was before people realized that the site had the landfill on it. Mr. Kaplan stated they are proposing thirty-three Lots. He stated he believes the Site Capacity Calculations for the overall site would allow over fifty houses, and they want to build thirty-three. Mr. Benedetto stated they are not deciding that at this point. Mr. Kaplan stated they will go to DEP and bring the Township a Development Plan at the same time. He stated they will clean up the landfill before they go to sell the first house.

Mr. Lewis asked if there are any options where the developer could retain ownership of Lot #2 and have a recurring service maintain it and leave Lot #1 without a Homeowners Association or the potential liability; and Mr. Kaplan stated it is impossible and no one will take that obligation on in perpetuity.

Mr. Lewis stated all they are approving tonight is the Subdivision, and Mr. Truelove agreed adding there is no Land Development, Zoning, etc. He stated Mr. Eisold’s letter is very specific about which requests are appropriate for consideration and which are not. Mr. Truelove recommended that any Approval be contingent upon

meeting the Conditions set forth in Mr. Eisold's letter of September 9 except for the one regarding Site Capacity Calculations and there is also the Planning Commission recommendation.

Ms. Reiss stated she has a concern with the Waiver for sidewalks, and Mr. Kaplan stated that will be discussed at the time of the Development Plan. Mr. Kaplan stated he believes they want to put sidewalks on both sides. Ms. Reiss stated when they build homes in the area now they are getting more families with children. Mr. Kaplan stated these are relatively small lots; and when they get to it, they are going to want sidewalks on both side.

Mr. Lewis stated he understands their desire to continue the process to go forward; and if he agrees to it, he would want them to understand that he is not yet persuaded about contingent liability, and the Applicant needs to make the Board, Planning, and Zoning comfortable. He stated an Approval tonight would only be for the Subdivision that would allow them to continue their process recognizing many of them are not comfortable with where things are now. He stated if they craft a Motion to Approve that would include Mr. Eisold's comments removing the sidewalk version, he believes some Board members would be okay with this. Mr. Kaplan stated most of the items raised in Mr. Eisold's letter are Waivers that either Mr. Eisold is in favor of or he has indicated that they do not need. Ms. Reiss stated she felt that they were just going to divide the property, and all of this discussion would be done when they come back.

Mr. Eisold stated it is difficult when you see a Sketch Plan not to jump ahead and question certain items. He stated if there was no Sketch Plan, it would just be they are taking a large piece of property and making it into two properties.

Ms. Reiss asked what happens if the Plan does not proceed, and now they have two lots instead of one lot. Mr. Kaplan stated no one from a practical point of view is developing anything until this goes through the DEP process. He stated Orleans has it under Agreement, but they are not buying either one of the properties until the environmental is straightened out. He stated Mr. Casey is present and represents the owner and would probably tell them that they are not going to sell off half of it particularly if they have to keep the landfill. Ms. Reiss stated her concern is once it is divided, it is now two properties. Mr. Kaplan stated the property owner would still own the one in the back; and from a practical standpoint, this cannot happen.

Ms. Taylor moved and Mr. Benedetto seconded to approve the Final Minor Subdivision Plan for Fieldstone (Harris Tract) subject to Boucher & James Engineers letter dated 9/9/16 with the Conditions therein with the removal of the Site Capacity Calculation part of it.

Mr. Benedetto asked what would happen if they did not approve the Subdivision; and Mr. Kaplan stated they will not fight with the Township, and this has to be a cooperative effort.

Mr. Arthur Cohn, 7906 Spruce Mill Drive, asked how can we really know what is going to happen with the pollution on this site because they do not know what will happen over ten to fifteen years. He stated he does not know who would buy these houses knowing that their children should not play on that polluted site, and Mr. Kaplan stated that is the developer's risk. Mr. Benedetto stated this is a property owned by a developer, and the Township could say they are not going to approve it which is what the Township has done for many years; but now the land is sitting here not being remediated which is a much worse situation than if the developer actually came in and remediated it and spent significant money to clean it up. Mr. Benedetto stated Mr. Cohn could speak to Mr. Goll about it. Mr. Benedetto stated he feels this is probably the most tested site in the Township. Mr. Cohn stated he does not feel they want another "Love Canal" here. He stated he feels it would be better to take the one hundred and nine trees they previously discussed and plant them at this location. Mr. Cohn stated he feels what they are proposing is just to cover up the situation. Mr. Benedetto stated spending \$1 million is a lot more than just covering it up.

Mr. Kaplan stated he and Mr. Dugan went to DEP because they wanted to know if they were wasting their time, and DEP was very familiar with this site. Mr. Kaplan stated they advised DEP that their conclusion was to cover it up and leave it alone; and DEP advised them they were absolutely right, and added that it been there all this time and attenuated for all this time, and there is no off-site contamination. He stated DEP stated that the best thing to happen was to cover it and leave it alone. He stated they will cover it up and make sure there is 2' of cover, and move whatever material there is out of the two water courses, and reinforce everything.

Mr. Stephen Heinz, 1355 Edgewood Road, stated he is two properties away from the site. He asked if any of the Supervisors have walked the site, and none of the Supervisors indicated that they had. Mr. Heinz asked if they have looked at the pictures which were posted about the water that is coming out of the landfill at this point in time, and the Supervisors stated they have not. Mr. Heinz stated this is on line. Mr. Heinz stated he is not against the idea of separating the bad part and dealing with that. He stated he has been in his home for over thirty years, and has been walking that site and there is a truck there, a lot of washing machines, and construction debris that was put there by the Township during the construction of the Township Municipal Building. He stated there is also top soil from there which was put it into the I-95 construction. Mr. Heinz stated he does feel it needs to be

remediated, and what they are asking for now is a separation of the parcel into two lots so that it can be studied and a Plan can be derived in order to remediate the bad part which is Lot #2. Mr. Kaplan stated this site has already been studied and tested many times, and their Plan is 99% ready to submit to DEP. He stated they have already been to DEP, and DEP has an extremely thick file on this site.

Mr. Heinz asked if they could make that plan available so that his site engineer can look at it before this property is subdivided. Mr. Benedetto stated he feels this is an unreasonable request, and he would not be in favor of tabling this so that Mr. Heinz can review the Plans. Ms. Tyler stated the Township engineer has reviewed the Plans. Mr. Eisold stated he and the environmental scientist from his office attended several meetings and looked at it in detail with Mr. Goll who has ten years of experience with testing this site, and Mr. Eisold stated he agrees with what Mr. Goll has concluded.

Mr. Heinz stated when they get the Subdivision, they will take the Plan they have proposed and reviewed by Mr. Eisold and take it to DEP to get approval. He stated they are not saying that they will then proceed immediately to do the remediation, and he asked if that decision will rest upon getting the approval for the rest of the Development for Lot #1; and Mr. Kaplan agreed. Mr. Kaplan stated they will submit fully-engineered Plans for Lot #1.

Mr. Heinz stated he feels the Board of Supervisors should think about the fact that the Township has some part in making this happen, and there is a question as to who will own Lot #2 after the end of the discussion of the developer; and they should consider if the Township should take ownership of it and apply for funds from other agencies like the Federal Government and get it done correctly and not just encapsulated it. Mr. Heinz stated his concern about encapsulating it is that his well is 80' deep, and when they put some head pressure on the outflow of the spring, he questions where that pressure will go, and will it take some of the stuff that is in the landfill. Mr. Heinz stated if his well is contaminated, he will be looking for some remediation. He stated he feels the Township could take a contribution from the developer, and then use this as part of the open space if only part of it has to be dealt with.

Mr. Benedetto stated Mr. Heinz is saying that the Township should buy Lot #2 from the developer, and then take ownership of it and take the responsibility and liability for something that Mr. Heinz is potentially saying could cause contamination of his well. Mr. Heinz stated the Township has already taken responsibility for a sink hole in Yardley Hunt that happened. Mr. Benedetto stated the Township did not take responsibility for that, and Toll Bros. paid for that remediation. Mr. Heinz stated he feels that if there is a risk of subsidence, it would be better for the Township to handle it. Mr. Benedetto stated he would not agree with that.

Mr. Kaplan stated DEP has stated that in light of the nature of what went in there which is mostly waste which has been sitting there all this time and degraded, the biggest mistake would be to go in there and, assuming you could afford it, take it out and put it someplace else. He stated DEP stated the proper way to deal with it was to cover it.

Mr. Truelove stated he does know that the history has been the removal process was considered eight to ten years ago, and the Township engineer looked at this and they did a study considering all the different options; and that conclusion was what they came to because it was not environmentally or economically feasible to take it all out and this is why they reverted to the encapsulation process.

Mr. Heinz stated today they do have the capability of doing some surface investigation with imaging etc. that might find some of the bigger problems such as the truck that is in there that might eventually rust away and cause a sink hole so that they could get rid of things like that. He stated he feels a more extensive study might be something that could be part of the remediation.

Mr. Heinz stated he has a question about the quid pro quo of the development and the amount of houses that have to be approved in order for it to be feasible for them to proceed with cleaning up the site. He asked what would be the likely number of houses that would go on Lot #1 considering open space, drainage, etc. Mr. Kaplan stated there is a Plan, and it is his understanding that it has been reviewed a number of times by the Planning Commission and the Environmental Commission. He stated that Plan was either presented by K. Hovnanian or Beezer, and Mr. Kaplan stated their Plan is that Plan; and he feels they are at thirty-three Lots. Mr. Heinz stated his question was if it were just the eighteen acres that are on Lot #1, what would be the total amount of houses that would be on that site. Mr. Eisold stated they looked at it preliminarily not having all the computer files, and the design engineer would have to do this to substantiate it; however, the number was close to the number they are proposing.

Mr. Heinz asked if the DEP approval will be required before proceeding with a shovel in the ground on Lot #1, and Mr. Kaplan stated they would insist on that. Mr. Kaplan stated they are not going to build or sell houses until the property is cleaned up. He stated whether or not the site work has to be done at the same time as the clean up depends on the practicality of moving dirt around and where detention basins go, so it is possible that they could be done at the same time; however, they are not selling houses until they have a clean bill of health that they can Record from DEP.

Mr. Heinz asked if they are asking for any consideration from the Township that they would not have to go to the Zoning Board of Appeals, and that they are getting things granted up front. Mr. Kaplan stated at this time they are asking to take a thirty-five acre lot and cut it up into two smaller lots.

Ms. Reiss stated there was a question brought up at the Planning Commission about the historic home on the property. Mr. Kaplan stated they cannot get involved in that. He stated they have had enough trouble with the Scammell's House they are trying to preserve. Mr. Kaplan stated the house is not even close to the road and it is "old and beat up." Mr. Kaplan stated he believes the house is on a lot that is going to be developed. Mr. Benedetto stated they are not really discussing that tonight as they are only subdividing a lot.

Mr. Rubin stated he is President of a Homeowners Association. He stated since Lot #2 will be a common element, the HOA must put reserve funds on a regular basis for the maintenance of it. He stated according to most documents every five years an HOA engages an engineering firm to perform a reserve study, and that reserve study will advise how much money they need to put away to maintain the property.

Mr. Rubin stated he understands that to clean up the Lot and get the Approval, they have to put two feet of soil down; and every five years when the engineering report for the HOA comes out, it may state that there is only one and a half feet of soil there, and the HOA would have to bring in half a foot of soil.

Mr. Kaplan stated this is incorrect. Mr. Kaplan stated a reserve study is done for things that are built like sidewalks or sewer systems that depreciate and degrade over time, and you have to create a reserve fund for those in the Homeowners Association. He stated this is "once and done" under the DEP requirements. He stated this has been there and has a certain amount of cover on it, and it has sat there all this time. He stated DEP is saying they should put 2' of cover on it or make sure there is 2' of cover, vegetation will grow up, and there will be nothing to do with it. Mr. Benedetto stated it is going to be a meadow.

Ms. Tyler stated at the Planning Commission meeting on September 12, Mr. Halboth asked "if they anticipate any maintenance being required to the capping system; and if so, what would be required. Mr. Jeff Goll stated that the cap would have to be monitored and maintained which would include fixing any erosion; and if the pipe were to malfunction, they would have to fix that. He stated if the vegetation were to become sparse, they would have to make sure that there is enough vegetative cover to maintain stability. Mr. Halboth asked who would do this, and Mr. Goll stated it would be the responsibility of the Homeowners Association. Mr. Kaplan stated that there is a very small chance that the Heritage Conservancy might take it."

Mr. Kaplan stated that is the same kind of maintenance that you would have for any big piece of open space. He stated if there was erosion where there was water or a culvert, the Homeowners Association would have to take care of it; and if the vegetation on a piece of ground in open space became sparse, the Homeowners Association would have to put seed on that so that it was stable.

Mr. Benedetto stated that would be in the Agreement so those buying the homes would understand that is part of the deal, and Mr. Dugan agreed. Mr. Dugan stated typically when they do a Homeowners Association at the outset, they will have a third party prepare a budget for the Homeowners Association so whatever they are going to maintain the third party will tell them what the numbers are; and as part of that maintenance, the third party is going to have to look at the 2' of cover and make a determination as to how much that will erode over a period of time and how much it will cost to do it. He stated an engineer will tell him the number.

Mr. Fritchey stated he thought what Mr. Kaplan said was that they have to have 2' of cover and it is a "once and done" thing, and now there have been questions about erosion. He stated is it going to be "once and done," and if it gets eroded, "oh well;" or are they saying there has to be a 2' cover, and if it gets eroded, the Homeowners Association has an obligation of building that back up and maintaining it at a 2' cap. Mr. Fritchey stated if it is not the latter, he feels through erosion the remediation could go away; and there could be consequences, and there would be no further remediation. Mr. Dugan stated as he understands it, there has to be 2' of fill so to the extent that there is some erosion or some vegetation that goes away over some period of time, it will be the HOA's responsibility to maintain that 2' of fill. He stated the Environmental Covenant says that an engineer has to go out on an annual or semi-annual basis and look at it to determine if there is 2' of clean fill there; and if there is not, it has to be repaired.

Mr. Lewis stated the answer to Mr. Rubin's question was "yes." Mr. Kaplan stated it is no different than if a Homeowners Association has a large piece of virgin ground. Mr. Kaplan asked why would there be erosion here. He stated there are two water courses on the property, and there is a water course that runs across that they are going to fix, and there is a water course that runs down where the Railroad tracks are. He stated there could be erosion there, and that has nothing to do with the landfill or the contamination.

Mr. Benedetto stated that would be a decision that would be made between the developer and those buying the homes, and the homeowners would understand the terms of the Agreement; and it would be the same as with any Homeowners Association where there is a Covenant, and this is what they are agreeing to when buying a house in this development.

Mr. Dugan stated they are going to do a public offering, and there is a section in the public offering that talks about environmental issues, and they will have full disclosure of the Act 2 requirement; and they will tell them what they did, how they did it, and what the Association's responsibility is. He stated it will be an integral part of the HOA documents, and the maintenance obligation will be incorporated into the yearly budget. Mr. Dugan stated it is standard operating procedure that they have done for many communities where they have Act 2 issues; and while this may be unique to the Board, they have done this on a number of occasions. He stated they will make sure that the Association knows what they are responsible for and budget adequately.

Ms. Tyler stated since they have done this before, she asked what does the DEP give them after the remediation is done and what will the Act 2 resolution say.

Mr. Kaplan stated the way the process works is the first step is to submit a Notice of Intent to Remediate, and the second step is to give DEP all of the analytical data. He stated you then propose a Remediation Plan, and DEP approves it. He stated after the Remediation Plan is implemented, an engineer must certify to DEP that the Remediation Plan has been implemented in accordance with the Approved Plan.

Mr. Kaplan stated when DEP signs off on that, you get a letter from DEP. He stated what he has always done when he represents the developer is that he takes the packet of material that they have gone through the DEP process including the letter, and he Records the whole packet against Lot #2. Mr. Kaplan stated when they go to sell houses on Lot #1, as part of the public offering statement, they give the homeowners that entire package including the DEP sign off that has been Recorded so that everyone knows it is done. Mr. Kaplan stated under Act 2 there is a Section 302 where there is a statutory release of liability to DEP or any public agency to further remediate that property. He stated that does not release anybody if somebody off site is harmed, but they do not have that situation here as this is not an active site where there is a manufacturing facility that has been contaminated.

Ms. Tyler asked what the DEP letter says, and Mr. Kaplan stated it says that the Remediation Plan has been implemented in accordance with the approved Remediation Plan from DEP. Ms. Tyler asked if that Remediation Plan contains information requiring on-going maintenance, and she asked where does the on-going maintenance obligation stem from, how is the 2' cap verified, how often it is verified, and who does that. Mr. Kaplan stated the Remediation Plan would include that if there is a continuing requirement. He stated he is not 100% sure that in this situation there is that continuing obligation that has been talked about, and he really feels that once this is done and Approved as far as DEP is concerned, they are done with it. He stated he believes that what continuing obligation there may be is because there is a water course in the center, and they are putting in a new culvert. He stated if something would go wrong with that, the owner would have to fix it.

He stated there is also a water course along where the train track is; and if that erodes which is possible, the owner of the property has to fix it. He stated whatever the obligation is, it will be set forth by DEP; and it will be carried over to the new owners if there is any such obligation. He stated if there is, it will be disclosed to the Homeowners Association. Mr. Kaplan stated after they get done and they put 2' of fill on it and DEP approves it and there is vegetation that grows up, he does not believe that there will be anything to do to it; and if he is wrong and there is, it will be disclosed. Mr. Benedetto stated the Homeowners Association Covenant will cover that, and they will be responsible for it. Mr. Kaplan stated it is fifteen acres of vacant ground with 2' of fill on it, and vegetation will grow on it, and it will be very stable except possibly where there is water running through it. Mr. Kaplan stated they had Mr. Goll and their "site guy" look around the edges of the landfill, and determined how to fix it so that it will be stable. He stated they are going to run additional pipes so that the water will not run overland and get onto anyone else's property. Mr. Kaplan stated his experience with Act 2 is that DEP will be very open to the Township being involved, and the developer is very open to the Township being involved so that in the future everything will be disclosed.

Mr. Rubin asked how they will know that there will be 2' of cover all the time, and he asked if there will be a Stipulation that the Homeowners Association will have to hire an engineer every six months or twelve months to make sure there is no erosion. Mr. Rubin stated when there is rainfall in the Township, there is erosion. Mr. Kaplan stated he already stated that he does not believe that there will be a continuing obligation, but if there is it will be imposed by DEP; and whatever that continuing obligation is, it will be carried over and imposed on the Homeowners Association once it is created.

Mr. Fritchey asked if that obligation could not be imposed by the developer in their documents to the homeowners, and Mr. Kaplan stated it will be. Mr. Fritchey asked if there will be an obligation on the homeowners to maintain the 2' whether or not there are provisions required by DEP. Mr. Fritchey asked if the developer who is selling houses subject to Covenants going to make sure that there will be 2' of cover whether or not DEP is requiring subsequent monitoring. Mr. Kaplan stated they are not going to impose an obligation on the Homeowners Association in excess of what DEP imposes. Mr. Fritchey stated Mr. Kaplan's position is that if DEP says they have to have 2' in the first instance to get approval to proceed, the developer is not going to make sure that continues in perpetuity by virtue of the documents that they have with the purchasers. Mr. Fritchey stated if DEP does not worry about it, then the developer is not going to worry about it; and Mr. Kaplan agreed.

Mr. Costello stated they want to develop the property which is unmarketable, and they are trying to separate the two pieces of property one of which would not be developable and one they could develop. Mr. Costello stated the only people not present discussing this are the future homeowners who are going to own that

property because no one else wants to own it. Mr. Benedetto stated he does not feel that is a good characterization because this has been a property that has had multiple developers come in and try to develop it, and the only reason that has not happened is because nobody on the Township Board of Supervisors would give them the “green light.” He stated it has sat fallow, and the Township has not had the courtesy to go out and buy the property and do anything about it. He stated now there is another developer coming in and saying they will spend a significant amount of money capping it and put thirty-three houses there. He stated the Homeowners Association would then be responsible to maintain the property. He stated he does not feel that is fair to characterize this as a property that nobody wants since there have been multiple efforts to try to develop it. He stated they keep getting here, and then the Board keeps pushing them away and not approving it.

Mr. Costello stated he feels this is a creative way to go about doing this. He stated a previous developer for this tract came in and asked for more houses than what the Ordinances would allow. Mr. Benedetto stated that is because there is a cost of doing business on that particular parcel. Mr. Costello stated it may therefore be an undevelopable piece of property. Mr. Benedetto stated someone has invested money into it and is “betting on the fact” that it is developable, and they are willing to make an argument for it; and that is their risk and they are indicating that they will spend a significant amount of money. Mr. Benedetto stated the current situation is that there is a piece of property that has contaminants contained in it that would be there regardless of what happens, and they are actually going to do something about it. Mr. Benedetto stated while it may not be adequate, the argument that others are making is for the status quo. He stated the Township could buy the property and take it off the table.

Mr. Costello stated he recognizes that the developer is proposing a way to allow them to market the property that does not saddle this other piece of property with it, and they want to separate it. Mr. Costello stated he feels if the decision is made to separate the property, it will be two separate properties, and the density should only be on the developable piece. Ms. Tyler stated that is not being voted on this evening. She stated the developer should understand the risk they are taking.

Mr. Benedetto stated this developer will be spending significant amounts of money to fix a problem that they did not create, and he feels they should work with them to improve the situation. Mr. Costello stated he is only saying that if the Board decides to approve subdividing this into two lots, he feels they should treat the part that is going to come in next to develop the seventeen acres as a separate parcel. Mr. Benedetto stated while they are not there yet, he disagrees with Mr. Costello as Mr. Costello is not dealing with the reality of that parcel. He stated they have to spend money on both parcels, and he does not feel it is right to ignore the fact that they are going to spend \$1 million to fix the problem, and then treat Lot #1 as if it Lot #1 as if it is totally separate.

Ms. Reiss stated while they are not at that point yet, she can promise that nothing will get remediated until they have a Plan to build that is to the developer's satisfaction and hopefully the Board's, and Mr. Kaplan agreed. M. Reiss stated it is not the Township's responsibility to make sure the developer is profitable.

Mr. Kaplan stated they are arguing about something that does not make any practical sense. He stated if they came in with the whole site, the density calculations would result in fifty houses or more; and they can do that. He stated if they came in with a Development Plan right now as one lot and they put thirty-four houses on it, it should not make a difference because they are drawing this imaginary line. Mr. Kaplan stated he wants to understand whether or not they are going to be able to work with the Board. He stated they are entitled to this Subdivision since it is a complying Subdivision, and they are not asking for any dispensation or quid pro quo. He stated they will come back and ask to develop a lesser number of homes than could have been put on the entire property. He asked if they are going to have a fight because it is two lots instead of one.

Mr. Truelove stated the Board cannot commit to anything tonight on this issue. He stated this is an important issue to discuss when they get to that point. He stated the Subdivision is the only issue tonight. He stated there will be no decision tonight on the number of houses which will be approved, and there are no Plans submitted to the Board regarding this.

Mr. Tristram Heinz, 532 Stony Hill Road, asked with regard to the DEP process if there is notification to the Township and the public if they want to have input into the process; and Mr. Kaplan stated he believes it is through Notice by Publication although he is not sure. Mr. Heinz asked if there are letters sent to the Township and/or abutting landowners, and Mr. Truelove stated it is not like the Zoning Ordinance where there are parameters. Mr. Kaplan stated he believes the Township is notified. Mr. Heinz asked if the Township will notify the abutting property owners, and Mr. Truelove stated they could.

Mr. Heinz asked what happens if the HOA goes defunct as that has happened in the past, and he asked if Orleans will sign on as the Successor in Interest to the HOA or will it be the Township, Commonwealth, or someone else. Ms. Tyler stated she feels it would probably be the bank. Mr. Kaplan stated if there are thirty-three homes here, they will be responsible for their proportionate share of whatever happens with regard to the Homeowners Association. He stated if people do not pay, the Homeowners Association has the right to collect from them; and for at least six months of those payments, the mortgagee is subordinate to that. He stated this Homeowners Association is not going to go defunct.

Mr. Heinz asked if the Subdivision will be final tonight as he knows that Orleans does not currently own the property. He asked if it is approved tonight will it be final tonight and will they be filing a Deed with the County. Mr. Kaplan stated they will file a Plan with the County. Mr. Benedetto stated it the Final Subdivision Plan. Mr. Heinz stated they will be creating two separate lots, and Mr. Kaplan agreed.

Mr. Benedetto asked if the Board votes against this, will they proceed with any development; and Mr. Kaplan stated while he does not know, Quaker has owned the property for a long time, and he cannot imagine Quaker sitting there if this Subdivision which has no defects in it is not approved.

Mr. Heinz stated he wants the Supervisors to be aware that if the Subdivision is final tonight there is nothing to prevent the owner from selling off the front half and retaining the second half and doing nothing with it, and he asked that the Board take that into consideration.

Motion carried unanimously.

APPROVAL OF REVISION TO CHANTICLEER DEVELOPMENT AGREEMENT TO REMOVE SIGNAGE REQUIREMENT

Mr. Truelove stated the Chanticleer Development Agreement was approved in November 2006, and Paragraph 22 of the Development Agreement indicates that the Township agrees to accept dedication of streets, curbs, sidewalks, and other public improvements, etc. and there is a whole list of those. Mr. Truelove stated one of the public improvements listed in the set of Plans are monument signs that were to be part of the Development prior to Dedication; and the actual location of the monument signs are on properties that are not part of this Development, and the owners of those properties will not approve the erection of those signs on their properties. Mr. Truelove stated notice has been sent to the Chanticleer residents, and there has been no objection to not having the signs up.

Mr. Edward Murphy, attorney, was present and stated in 2005 there was a notation on the Approved set of Plans that contemplated the installation of monument signs on either side of the entrance on Mt. Eyre Road. Mr. Murphy stated those two properties are owned by the Bray brothers. Mr. Murphy stated as part of the Dedication process, Mr. Eisold's office highlighted that there was the notation on the Plans that called for these signs; and he asked if they were going to install the signs. Mr. Murphy stated they followed up with the Brays, and he provided to the Township from each of the Bray brothers in March, 2015 that said they would not authorize or grant permission to permit these signs to be installed on their properties. Mr. Murphy stated the recommendation from the staff was to send a

notice to each of the homeowners in Chanticleer which is a self-managed Association to gauge their reaction. He stated he prepared and forwarded a letter, after providing a draft to Mr. Fedorchak and Mr. Truelove, to each homeowner indicating that there would be a meeting about this tonight if anyone had any questions or comments about their desire to modify the notation on the Plan that requires installation of these signs and to remove that obligation so that they can conclude the Dedication as this is the only remaining issue to resolve before Dedication. Mr. Truelove stated they are seeking the Board's approval this evening to modify the Condition.

Ms. Tyler asked if there was any feedback from the homeowners; and Mr. Truelove stated he has not had any, and he checked with the Township staff, and they have not received any calls from any homeowners. Mr. Truelove stated Mr. Fedorchak had not reported that he had heard anything from anyone.

Ms. Reiss moved, Mr. Fritchey seconded and it was unanimously carried to approve the revision to the Chanticleer Development Agreement in order to remove monument signage requirements as part of Paragraph 22 of the Development Agreement and on the Approved Plans.

**APPROVAL OF CERTIFICATE OF APPROPRIATENESS – EDGEWOOD CAFÉ
1730 YARDLEY-LANGHORNE ROAD**

A picture of the proposed sign was shown. It was noted that this was recommended for approval by HARB.

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to approve the Certificate of Appropriateness for the Edgewood Café located at 1730 Yardley-Langhorne Road as recommended by the HARB Board.

**APPROVAL OF CERTIFICATE OF APPROPRIATENESS – BELLA BODY MEDICAL SPA
374 STONY HILL ROAD**

Mr. Benedetto stated he will be abstaining from the vote as it is his wife's business. Mr. Fedorchak showed a photo of the proposed sign.

Mr. Fritchey moved, and Ms. Tyler seconded to approve the Certificate of Appropriateness for the Bella Body Medical Spa at 374 Stony Hill Road. Motion carried with Mr. Fritchey, Ms. Reiss, and Ms. Tyler in favor and Mr. Benedetto and Mr. Lewis Abstained.

APPROVAL OF EXTENSIONS – DOGWOOD DRIVE, CAPSTONE TERRACE, AND JENNINGS TRACT

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to approve the Dogwood Drive Extension until December 31, 2016.

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to approve the Capstone Terrace Extension until December 31, 2016.

Ms. Tyler moved and Mr. Lewis seconded to approve the Jennings Tract Extension to March 30, 2017. Ms. Reiss asked the need for the Extension. Mr. Fedorchak stated that they are looking at the first week of October to settle on the Jennings Tract, and the issues with respect to Mr. Jennings' mortgages have been resolved. Motion carried unanimously.

POSTPONE CONSIDERATION OF PATTERSON FARM AGRICULTURAL CONSERVATION EASEMENT WITH BUCKS COUNTY

Mr. Lewis moved to postpone this until the October 5 meeting.

Mr. Truelove stated Ms. Bush from the Bucks County Planning Commission had e-mailed Mr. Fedorchak that she needed more time.

Ms. Tyler seconded and the Motion carried unanimously.

TABLE APPROVAL OF RESOLUTION NO. 2315 APPROVING OPTIONAL 457 DEFERRED COMPENSATION PLAN FOR ELIGIBLE EMPLOYEES

Mr. Truelove stated this Plan was tendered to Mr. Fedorchak by the Police PBA, and they are familiar with this group in other Municipalities. He stated the purpose is to give all employees of the Township more choices in terms of their Deferred Compensation Plan and it is not to replace ICMA; and this not an unusual situation and is one that is presented in many Municipalities and the purpose is just to expand the menu of choices for the employees.

Ms. Tyler moved and Mr. Fritchey seconded to approve Resolution No. 2315 Approving Optional 457 Deferred Compensation Plan for Eligible Employees.

Mr. Lewis stated this would give employees additional investment choices, and Mr. Truelove agreed. Mr. Lewis stated the one proviso he would like to make sure is included is that the employees get full disclosure on all fees associated with each individual investment choice. Mr. Lewis stated one of the things he is concerned about with 401K plans is that employees often do not know exactly what they are paying in fees. He stated if they can make sure that all fees by the employees and the Township are disclosed, he would be fine with this.

Mr. Truelove stated he agrees, and they could Table this to the next meeting so that he can have language included to make sure that it is acceptable.

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to Table to October 5.

APPROVAL OF ARBORETUM SIGNAGE PHASE 2

Mr. Eisold stated he provided a copy of the signage for Phase 2 of the Arboretum. He stated the signs for Phase 1 are being installed shortly.

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to approve Boucher & James to procure the Arboretum signage for Phase 2.

Mr. Eisold noted that there are Plans to be signed this evening for Moon Nurseries and the Bullard Minor Subdivision.

ZONING HEARING BOARD MATTERS

Mr. Truelove stated that the Artis Senior Living project was before the Board before but it was determined that the calculations for impervious surface and some other items had to be re-done, and there is an Amended Appeal. It was agreed that the Solicitor should participate in the Artis Senior Living LLC Special Exception and Variance requests for the property located at Stony Hill Road, immediately south of I-95 overpass to permit re-development of the premises for a memory care facility.

Mr. Truelove stated the Board met in Executive Session beginning at 6:30 p.m. and items involving personnel involving Administrative positions were discussed as well as informational items, Real Estate issues including Zoning, street designation issues, recreations issues, and some potential litigation involving Code Enforcement.

SUPERVISORS REPORTS

Mr. Benedetto stated Makefield Highlands will be holding the inaugural Fall Classic on Friday, October 14, and golf registration is limited to 128 golfers at \$125 per person. He stated there will be a 6 p.m. dinner dance for \$50 per person, and all are invited. He stated there will be a silent and live auction, raffles, and gift baskets. Mr. Benedetto stated there was a Course inspection of some of the areas of the Course where the heat in August had an impact; however, even with the dry conditions, there were 6,275 rounds played although that was less than the record last year of 7,000 rounds. Mr. Benedetto stated due to the high temperatures, they did have to purchase some water to keep the Course irrigated, and they used approximately 395,000 gallons over a three day period. He stated they continue to conserve water usage where possible. Mr. Benedetto stated they obtained quotes on power washing the silo, and a Contract was awarded in the amount of \$1,000 with a date and time for the work to take place when it will have limited disruption to the facility. Mr. Benedetto stated they have a quote for replacing the structural beams for the deck from the Township engineer, and they anticipate repairs to take place in October. He stated they continue to plan weddings, and they have a new wedding booklet in the process of being created with updated photography. He stated the tent has been rebranded as the Manor at Makefield Highlands. He stated they have two bookings for 2017 already, and they are taking requests for 2018.

Mr. Benedetto stated an emergency meeting took place last night for the Bucks County Performing Arts Center. He stated they are considering some options, one of which is to wind down the Bucks County Performing Arts Center as an entity. He stated they have been trying to raise money, and Ms. Mary Borkovitz has done an amazing job for thirty-eight years; and he feels it would be a shame for them to close operations when the Township has the Community Center opening in the near future, adding they had the groundbreaking for that this afternoon. Mr. Benedetto stated Bucks County Performing Arts Center needs Board members and volunteers as well as a new Executive Director. Mr. Benedetto stated they decided to scale back the 2016/2017 season. He stated they are also looking for contributions. He stated information is at www.bcpac.org. He stated they previously made a request of the Township to increase the \$10,500 allotment to \$15,000 for 2016 and moving forward.

Ms. Tyler stated if the Performing Arts are important to residents, this organization needs help in order to put these programs on. She stated the Board did not approve their request for additional money at their last meeting; and she had requested that the Board be able to look at their finances, and they still want to see this.

Ms. Tyler moved Mr. Fritchey seconded and it was unanimously carried that if Bucks County Performing Arts is able to raise funds, she would propose that the Township match dollar for dollar up to the \$4,500 that they had requested.

Mr. Lewis stated the Citizens Budget Committee met on Monday and reviewed the Five Year Capital Plan among other items.

Ms. Reiss stated a number of the Seniors were present this evening at the Groundbreaking for the Community Center. Ms. Reiss stated she has received a letter from the Veterans Committee about the Veterans Parade and Program which will be held Sunday, November 6 at 1 p.m. She stated those interested in participating in the Parade should contact the Township by Monday, October 25. She stated if anyone knows of a disabled or elderly Veteran who would like to participate, they will do what they can to get them there. She stated this will be Tenth Annual Parade.

Ms. Tyler stated at 5:45 p.m. this evening the Board assembled at the future site of the Community Center, and there was a large contingent of Seniors, people from the user groups, and members of the Park & Recreation Board who have been steering this project for a long time. Ms. Tyler stated the Environmental Advisory Council is holding an electronic recycling event on October 8 between 9 a.m. and 12 p.m. at the Lower Makefield Corporate Center. Ms. Tyler stated the Historic Commission will have a Slate Hill Cemetery Twilight Tour on Saturday, October 29 from 3 p.m. to 8 p.m. and they are looking for volunteers.

Mr. Fritchey stated the Park & Recreation Board met last week and discussed a number of items including a time capsule, and a Sub-Committee is being put together to suggest what should go into a time capsule and where it would be placed. Mr. Fritchey stated the Revere tennis courts should be ready for a re-opening possibly early next week.

Mr. Lewis stated there was a resident on Revere Road in Yardley Hunt who had significant concerns with her power. He stated he had her reach out to PECO to get a Service Reliability Report, and he will forward this to Mr. Benedetto as he is the Liaison to the Electric Reliability Committee so he can make sure that it gets reviewed at the next meeting. Ms. Tyler stated she also has one which she will forward to Mr. Benedetto. Ms. Tyler stated the PECO Committee should identify this as a recurrent outage neighborhood and ask for remediation from PECO. Mr. Lewis stated there is a pending replacement of an underground cable; and it appears that this is a portion of a full circuit. He stated the individual he is aware of did not have power for .3% of the time over the last three years.

OTHER BUSINESS

Ms. Reiss asked if anything has happened with regard to Ms. Sandy Guzikowski's property. Mr. Benedetto stated Mr. Eisold will meet with her on Friday to discuss language around carving out a piece of her property of about five acres so that she will not be restricted as much on the future use of it. He stated they will need another appraisal, and it would be an Agreement between the Township and Ms. Guzikowski.

Mr. Benedetto stated they had discussed earlier in the year about a replacement for Mr. Fedorchak who had announced he would be leaving the end of this year. Mr. Benedetto stated Mr. Fedorchak has been here for twenty-three years, and he has done a tremendous job; and they are extremely lucky to have him. He stated the Township has taken a lot of leaps forward because of Mr. Fedorchak, and they would be honored to have him stay on and continue the process of looking for a successor, and bring on someone who can learn while Mr. Fedorchak is still here. He stated other Townships have been looking for Township Managers, and it takes from six to nine months.

Mr. Fritchey stated he feels Mr. Fedorchak has done a terrific job, and it is kind of him to defer his retirement for another nine months to a year so that there can be a smooth transition. Mr. Fritchey stated they are happy that he is willing to do that.

Mr. Benedetto stated they asked Mr. Fedorchak to stay on, and he has obliged them so they are very fortunate.

Ms. Reiss stated she is very happy because Mr. Fedorchak's door is always open for anyone who comes into the Township which is important to the people who live here. Ms. Reiss stated he has been very supportive of many of the initiatives and of getting the Board the information they need to make good decisions.

Mr. Lewis agreed, and stated they look forward to having Mr. Fedorchak for a little while longer.

Ms. Tyler stated this evening they went through the Financial Audit Report and discussed the Moody's Rating; and she stated Mr. Fedorchak has been running the Township and his financial acumen has steered them and benefitted them all greatly. She stated she would be happy to keep Mr. Fedorchak on as the Township Manager as long as he will agree to do so.

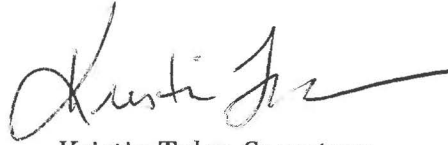
Mr. Fedorchak stated he will be happy to continue

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There being no further business, Mr. Lewis moved, Ms. Reiss seconded and it was unanimously carried to adjourn the meeting at 11:20 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kristin Tyler", with a long horizontal flourish extending to the right.

Kristin Tyler, Secretary