

**TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – DECEMBER 21, 2016**

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on December 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

PROCLAMATION HONORING DUANE "BUSTER" DOAN

Mr. Benedetto stated Buster Doan passed away recently, and he was resident a Township for many years and served on the Farmland Preservation Corporation. He stated Mr. Doan's passing is a tremendous loss to the community. Mr. Benedetto read the Proclamation into the record. Ms. Donna Doan thanked the Board for recognizing her father, and the plaque was presented to Ms. Doan.

PUBLIC COMMENT

Mr. Zachary Rubin, 1661 Covington Road, stated at the last meeting there was a question about the light synchronization at the US 1 exit at Oxford Valley Road; and he asked for an update. Chief Coluzzi stated PennDOT and the traffic signal maintenance people are supposed to be working out the timing, and he will follow up on this. Mr. Rubin also stated he was sent a letter about potholes on Covington Road, and since this is a dedicated road of the Township it is the responsibility of the Township to fix, and it was subsequently fixed by the Township Public Works. Mr. Rubin stated he had previously brought up the bike path on Heacock Road between Covington Road and the railroad tracks, and the Township engineer has advised that will be on the 2017 list of improvements; and he thanked the Township engineer for looking into this.

Mr. Harold Kupersmit, 612 B Wren Song Road, stated Mr. Benedetto, Chief Coluzzi, and Mr. Truelove were subpoenaed to appear at his Gagnon Hearing on November 21 and none of them came. He stated he would like to know who put them up to disregarding the Subpoena. He stated if they do not answer, he is going to file a Motion to have the three of them disbarred in Commonwealth Court for refusing to appear for a Subpoena that his wife paid for.

Mr. Rich Delello, 1318 Albright Drive, stated in late September the Board unanimously approved the formation of an Airport Task Force to work with the Board of Supervisors in monitoring and taking actions regarding the Trenton-Mercer Airport to protect the health, safety, and welfare of Lower Makefield residents. He stated in November it was announced that the interviews would take place in December, and he asked for an update on who will be serving and when the first meeting will take place. Mr. Benedetto stated they had interviews at the December 7 meeting as well as tonight, and they will make appointments later tonight. He stated those appointed are free to meet as they are available.

Mr. Larry Wind, 1054 Buck Creek Circle asked if there is a line item in the Budget to support BRRAM litigation. Mr. Benedetto stated there is not, but Mr. Wind could discuss that further when they discuss the Budget later in the meeting.

Mr. Brandon McFaddon, 381 Saly Road, stated some work was done on the water main lines in the area of River Road; and he feels the repair work that was done was unsatisfactory. He stated people are going into the opposite lanes because they do not want to drive over the patch that was done. He asked how this can be addressed. Mr. Lewis stated he has seen this situation as well, and the Public Works Director has reached out to Pennsylvania American Water who agreed that the patch was not done in the best manner. Mr. Lewis stated they are waiting to do the test on the water main to see that everything is working as planned, and they will then fix the road. Mr. Lewis stated they will look into this again. Mr. Fedorchak stated he has also been in contact with PennDOT since it is their road and their liability.

Mr. Robert Abrams, 652 Teich Drive, asked for an update on the situation at Regency with the mold. Mr. Fedorchak stated on November 14 at the direction of the Board of Supervisors he reached out to the DEP, and he sent a letter to Jennifer Fields who is the Acting Director; and he plans to visit her and discuss this in more detail. He stated he feels it is very important for DEP to become more aggressive than they have with regard to this issue. Mr. Fedorchak stated he also reached out to Toll Bros. and explained what happened at the Board of Supervisors meeting when the Regency residents attended and the complaints which were made as well as the concerns that the Board of Supervisors has. Mr. Fedorchak stated he talked to

Mr. Daniel Rattigan one of Vice Presidents at Toll Bros. who indicated that he would be happy to attend a future Board of Supervisors meeting to discuss this with the Board and the public, and they agreed he will be at the January 18, 2017 meeting. Mr. Fedorchak stated they will send out a notice to the residents in the area about this so that everyone will have an opportunity to discuss this. Mr. Fedorchak stated he also contacted the Bucks County Health Department; and they are taking the position that based on the information they have received, they have nothing actionable on their end at this point in time. Mr. Fedorchak stated the individual from the Water Company who had been involved, Sandy Weiss, is no longer with the company; and they are looking for someone else they can meet with as he is interested in what methodology they used with regard to the sampling.

Ms. Tyler stated Mr. Abrams had been speaking with some of the residents from Regency when he was last here, and she asked if he had the opportunity to perform any tests; however, Mr. Abrams indicated they did not contact him about this.

Mr. Fedorchak stated he has been speaking with a number of the residents, and he also received a number of e-mails which have pictures of the mold and mildew; and he has been collecting a file at the Township for some time.

Mr. Abrams stated Lower Makefield has always been about community values, but the problem is the School Administration which has received a 28.1% salary increase in the last six to seven years. He stated people are questioning whether they want to move here because of the School taxes. He stated the Pennsbury School District is now only an average School District at best. Mr. Abrams stated he would like the Township to get a portion of the host community fees for the landfill since the trucks go through the Township, and Lower Makefield should be compensated for that. He stated he feels the School District is being directed and run by the Falls Township Board of Supervisors; and he feels there is a conflict of interest since the solicitor for Falls Township is installed at the School Board.

Ms. Reiss stated when she moved to the Township in 1975/76, US Steel was running around the clock shifts, and they paid everyone's School taxes. She stated they do not now have the companies in the District that pump out that type of income to subsidize the School District.

Mr. Abrams stated in their 2017 Budget Falls Township has \$17 million in host community fees. He stated if this is not controlled and the other communities are not compensated, the value of Lower Makefield will continue to decrease. He stated this is a place where the Township could get some revenue, and a portion should be applied to the roads that the Township is responsible to take care of and a portion given back to the community to help with their School taxes which are already 80% of the taxes in Lower Makefield.

Mr. Bill Baldwin, 1212 Linden Avenue, stated he is on the Executive Board of the Pennsbury Athletic Association. He stated many of the Township residents support the development of the Snipes Tract. He stated many people come out when they are against an idea, but few take the time to speak and give the Board support. At Mr. Baldwin's request a number of people stood in the audience who are in support of the development of the Snipes Tract.

Mr. Baldwin stated Mr. Lombardo, a resident who had spoken out against the project, has been putting out flyers which contain misinformation. Mr. Baldwin stated Mr. Lombardo has indicated that this Plan has been pushed through with no due diligence, and this is not true as it has been on the Master Plan for many years, and many Committees have looked at it and are doing their job. Mr. Baldwin stated the estimated cost is \$2 million not \$3 million as indicated in the flyer. Mr. Baldwin stated there is a need for these fields. He stated there will be an increase in traffic, but it will be remediated by some of the work that Boucher & James has laid out. Mr. Baldwin stated he agrees lights and noise are a concern, but the Township engineer has done a great job making sure the fields are in the center of the thirty-six acres, and to retain the wooded boundary which will cut down on the noise. Mr. Baldwin stated Mr. Lombardo's property is 500' away from the parking lot, and there is a buffer zone between. Mr. Baldwin stated Mr. Lombardo has also indicated the park will decrease property values in the immediate area, but there are numerous studies to indicate that will not occur. Mr. Baldwin stated some of the studies also indicate that there can be an up to a 20% increase in property value if you are as close to a park as Mr. Lombardo and some of the other homes are. Mr. Baldwin stated the Park & Rec Department keeps the parks excellently maintained as is noted by the organizations that come to play teams in Lower Makefield.

Mr. Baldwin stated Mr. Lombardo has also indicated that the project is being pushed through by organizations that have no regard for the character or the quality of life of Lower Makefield Township. Mr. Baldwin stated Lower Makefield has provided programs for thousands of children who live in the community. He stated volunteers also provide thousands of hours of support and the User Fees keep the parks at a net positive for annual maintenance costs. Mr. Baldwin stated these programs teach character to the youth of the community.

Mr. Dean Curtis, 183 Aspen, stated he is President of Lower Bucks Lacrosse. He stated when he started the program at Pennsbury High School fifteen years ago not many people knew about lacrosse. He stated historically they have around 400 playing in the boys and girls programs. He stated they go from PreK to 8th grade, and close to sixty children are introduced to the sport every year. He stated they have invested heavily in the early grades as lacrosse is a very expensive sport to get into. He stated the Pennsbury program benefits the most, and Pennsbury has gone to the State Tournament because of what they have been doing at Lower Bucks

Lacrosse. Mr. Curtis stated their goal is to bring lacrosse in Lower Bucks County, and they partner with all the surrounding Counties to give their players the opportunity to play at a higher level. He stated they also support the development of the multi-sport athlete, and they encourage their boys and girls to play multiple sports. He stated they are a good compliment to football for the use of the fields at Snipes as lacrosse is a spring sport. He stated they offer camps and clinics in the summer and fall and over the winter, and would like to use the fields during those times if they are available.

Mr. Fritchey asked when their season runs, and Mr. Curtin stated it is March, April, and May. He stated they have eighteen teams, and overall they have sixty hours of practice for these eighteen teams. He stated one of the challenges they have with lacrosse is getting good, quality coaches; and a lot of their coaches can only make it after their work is done for the day which could be 6:00 p.m. or 7:00 p.m. He stated the fact that these fields will have lights is a huge benefit. Mr. Curtis stated the reason why they run 65% of their practices at the Middletown Township Park is because they have lights, and they have the opportunity to get better coaches later in the evening.

Mr. Curtis stated 80% of their membership are Lower Makefield Township residents; however, 65% of their play is not in Lower Makefield. He stated in the past they did use Macclesfield in the evening, but they left because of space constraints and poor field conditions. He stated they would like to come back to Lower Makefield Township. He stated they want to build a lacrosse community in Lower Makefield Township, and the development of Snipes would help them do this.

Mr. Fritchey asked the time of their practices, and Mr. Curtis stated typically they run from 6:00 p.m. to 9:00 p.m.

Mr. Gordon Workman, 1152 Kenneth Lane, stated he is with the Lower Makefield Football Association. He stated he lives in the area of the Snipes Tract, and he is very excited about the development of the Snipes Tract as are a number of his neighbors. Mr. Workman stated he agrees that there are traffic issues; however, those traffic issues are during School hours. He stated the sports organizations would not be impacting the traffic during those hours. He stated they need these fields because there is a need for space. He stated their hours are similar to lacrosse because their coaches also work.

Mr. Fritchey asked about their season, and Mr. Workman stated their season starts late July/early August, and they run through Thanksgiving. Mr. Workman stated people are excited about the League, and they need the additional space. He stated fields would be used evening and weekends. Mr. Fritchey asked the number of players in their program, and Mr. Workman stated last season they had about 500.

Ms. Reiss states she is thankful that there is now a football league in Lower Makefield as in the past, her children had to go to Morrisville. She discussed the importance of sports.

Mr. Jason Simon, 514 S. Ridge Circle, stated he hopes the Board of Supervisors can see the unity among the youth sports leagues in the Township. He noted the challenges that they have with inventory and when their coaches and volunteers are available, and why the lighting is necessary. He stated that as the Board hears the concerns voiced by those who live near the Snipes Tract, he asks that the Board have the fortitude to drive forward. He stated the youth organizations work with the Police Department to deal with the traffic. He stated there is research that supports the concept that property values increase when you are in proximity to parks. He stated it will be outstanding to have this facility on the other side of the community.

Mr. Simon stated on the flyer that is being passed around there is a listing of all the Supervisors e-mails and phone numbers, but there is no contact information for the individual who is distributing the flyer. He stated they are present because they wanted to make sure that any misinformation out there is quickly corrected on the record.

APPROVAL OF MINUTES DECEMBER 7, 2016

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

DISCUSSION OF STIPULATION OF SETTLEMENT FOR FIELDSTONE DEVELOPMENT

Mr. Marc Kaplan, attorney representing J. P. Orleans, Mr. Larry Dugan, Sr. Vice President of J.P. Orleans, Mr. Chris Jenson, engineer, and Mr. Jeff Goll, their environmental consultant, were present. Mr. Kaplan stated Mr. Goll will take the closure of the landfill through the process with DEP. Mr. Kaplan stated what they are asking the Board of Supervisors to do is approve a Stipulation and Settlement Agreement that was presented to the Township and they have negotiated numerous drafts with the Township. He stated in order to give the Township staff a complete understanding of the overall program that they propose, they spent approximately two hours explaining not just the land development, but also how they intend to take a property that for eighteen years has resisted a solution and how they proposed to create that solution.

Mr. Kaplan stated approximately two months ago the Board of Supervisors approved a simple Subdivision Plan where they took the thirty-five acre Harris Tract and divided it into two parcels with the northern parcel adjacent to Edgewood Road being the clean parcel. He stated the southern portion, Lot 2, has the long history of being used as a gravel borrow pit by the original owners. Mr. Kaplan stated it was used as a landfill for Municipal waste, but the overwhelming majority of it was construction debris which included asphalt, wood, etc. He stated it has been there for a long time, and it was covered over in a haphazard way with some portions being thick and some portions being thin without any real characterization of what the cap is.

Mr. Kaplan stated Mr. Goll has provided a summary of all the testing and all those who have been involved. Mr. Kaplan stated there have been five to six homebuilders involved in this property over time. He stated Quaker Group currently owns the property. Mr. Kaplan stated Mr. Goll has been involved in most of the testing either in performing the testing or when he was on the Environmental Advisory Council. Mr. Kaplan stated whatever is there should remain there, and it is inert. He stated to the extent that there were contaminants such as gas spills, etc., there has been numerous well testing and characterizations as to what was in the landfill; and none of it will cause any problems.

Mr. Kaplan stated what they propose to do is what DEP and many Boards in the Township have recognized which is to go in there and clean out the two areas of stormwater one of which goes from west to east across the property which is a wetland area. He stated this area includes an old pipe that is not carrying the water. He stated Brock Creek is on the right side. Mr. Kaplan stated they want to restore the wetlands, clean the "junk" out that surrounds it, and do the same thing along Brock Creek. He stated they will do approximately thirty-six additional tests to try to characterize the dirt that is in the cap now to see what is there, how deep the fill is, and to make sure that they can either use some of that fill because it is cleaned or screen it to take out the larger particles; and they will end up with a 2' cap over the entire area other than the wetlands or the creek area. He stated they will seed the cap and it will be a pasture-like setting. He stated this can only be done by the development of the northern property.

Mr. Chris Jenson, civil engineer, showed the Plan for the development of the property. Mr. Kaplan stated in the past there were plans for as many as forty-four lots, but they are showing thirty-three lots in the northern side of the property on Lot 1.

Mr. Kaplan stated they propose to go through the Act 2 process, and at the same time they will be bringing the Township fully-engineered Land Development Plans for the development part. He stated they have already provided the Township engineers the Plan that Mr. Goll has prepared for the Act 2 which will ultimately be approved by DEP. Mr. Kaplan stated once they have an approval for the Land Development Plan and the approval of the DEP Act 2 Plan, they will do the remediation of the landfill/wetlands/Brock Creek area, and get that approved by DEP before they start selling houses.

Mr. Benedetto asked the approximate cost; and Mr. Dugan stated they have not determined the exact amount, but is it easily \$1 million.

Ms. Reiss stated at the Planning Commission meeting they asked about the maintenance of the cap, how long Orleans would be responsible for maintaining it, and who would be expected to maintain it in the future to make sure it stays that way. Mr. Kaplan stated as required by the Act 2 process, there will be Recording of the Environmental Covenants. He stated it is required that the cap is inspected periodically, and to the extent that it needs to be supplemented because of erosion that will have to be done which is not a "big deal." Mr. Kaplan stated it will be the Homeowners Association for this development which will be responsible for maintaining this open space just as any other Homeowners Association would be responsible for maintaining open space.

Ms. Reiss stated the Planning Commission also brought up the historic structure on the property, and she asked if they would be amenable to saving that structure. Mr. Kaplan stated they do not agree that it is a historic structure, and it is in a location that would make the development impossible. He stated they also do not see any use for the structure. Mr. Kaplan stated he does not feel the Township would want to take this structure and be responsible for it.

Ms. Reiss stated the Township also does not want to be responsible for the cap if there is a Homeowners Association that becomes dysfunctional, and unfortunately that does happen. Mr. Kaplan stated these homes will sell for \$600,000 to \$700,000. Ms. Reiss asked the size of the acreage where the thirty-three houses will be built on, and Mr. Dugan stated it is twenty-two acres. Ms. Reiss stated these will not be half acre lots, and most of the houses in that area are on half acre lots. Mr. Kaplan stated the lot sizes are in accordance with the Zoning.

Mr. Benedetto stated this is just a discussion of the Stipulation of Settlement, and Mr. Dugan agreed this is just the first step in the process. Mr. Dugan stated if the Board approves this, they will present full development plans. He stated they have not yet engineered the Plans. Mr. Dugan stated with regard to the comment about the HOA, they have considered this and understand that this is a concern that has

been raised by the Township. Mr. Dugan stated Orleans would engage an environmental consultant, probably Mr. Goll. Mr. Dugan stated the cost to maintain the cap and do the inspection is relatively nominal. Ms. Reiss stated the issue is the last development that did this in the Township also had Covenants in the Deed regarding trees and other environmental issues, and as soon as people moved in trees were cut down. She stated this is a landfill so it is a concern because people do not always do what they are supposed to do. Mr. Kaplan stated right now nothing is being done, and it is in a haphazard condition. He stated they will go through the DEP process to clean up the wetlands and the creek, and put a cap on.

Ms. Tyler stated the last time they were before the Board, they talked about the Subdivision; and the reason for the Subdivision was so that the eventual homeowners would not have an Environmental Deed restriction on their property, and Mr. Kaplan agreed. Ms. Tyler stated the way they are proposing it now with the Homeowners Association responsible for Lot 2, she does not see how they are getting around the restriction. Mr. Kaplan stated when you go through the Act 2 process when there is a site with environmental contamination, you can clean it up to different standards. He stated there is a Residential and a non-Residential standard. He stated the Residential standard is a more stringent standard. He stated you can also clean up a Residential property to State-wide health standards if you check every box. He stated many sites like the one they are discussing cannot meet State-wide health standards so there is an alternative which is a rigorous process that DEP takes you through so that if you cannot meet State-wide health standards, you have to meet an alternative standard which is equally safe from a health point of view. He stated usually that involves a site like this and capping it. He stated when you do this site-specific standard, you have to have Environmental Covenants the most of important of which is you cannot remove or pierce the two foot cap. He stated it must also be maintained. Mr. Kaplan stated those Environmental Covenants will be Recorded against the landfill. He stated the other set of Covenants is under the Pennsylvania Planned Community Act where they will set up a Homeowners Association that will take care of not only maintaining the landfill but also the detention basins and open space. He stated those Covenants will be Recorded against the homes on Lot 1 that requires the payment of fees that are determined each year to maintain the open space.

Mr. Dugan stated the Environmental Covenant will be on Lot 2, and it will not be on the single-family homes. Mr. Dugan stated under the Uniform Planned Community Act they are obligated to advise the potential homeowners about all of this. He stated there will be a restriction on Lot 2, and the Homeowners Association will own it, and it will be made very clear. He stated Mr. Truelove will have the opportunity to review their Public Offering Statement and offer whatever comments he would like. Mr. Dugan stated he also knows that the Township has a Disclosure Ordinance.

Mr. Kaplan stated this is not the first time he has done this. He stated when they get the Act 2 approval, they will Record against the landfill property all of the DEP documents as to exactly the process they have gone through; and they will also Record the approval by DEP of the Plan. He stated they will also Record the approval by DEP of compliance with the Plan. He stated all of this will be Recorded in Doylestown, and their Public Offering Statement under the Planned Community Act for all of the homeowners will disclose everything. He stated if they do not disclose this to the homeowners, the developer would be subject to extensive liability.

Ms. Tyier asked what would be the difference between what Mr. Kaplan just described and the Environmental Covenant against the property itself.

Mr. Dugan stated the reason they did it this way is if they did not have the Subdivision line and they went to DEP it would be on the entire property; and when they would then Subdivide to create the Lots, the restriction would be on all the Lots even though the Lots would not have the un-Permitted landfill on them.

Mr. Lewis asked if they provided notice of this issue to local residents; and Ms. Reiss stated residents were at Planning, and they were very concerned about the sewers. Mr. Benedetto stated what they are considering tonight is just for the Stipulation of Settlement for Fieldstone; and Ms. Reiss stated while she understands that, she does not want the developer to think that if they do the Subdivision, everything else will be acceptable. She stated there were a lot of issues brought up at Planning that need to be further investigated.

Mr. Kaplan stated he feels they have addressed everything that was brought up at Planning including the sewers and how they will make available a manhole at the end that the four to five people can connect into. Ms. Reiss stated there was also discussion about the bike path; and Mr. Kaplan stated that is in the Stipulation, and he added Mr. Eisold made him put in the last draft that there will be a bike path along the front.

Mr. Lewis stated he assumes with regard to the Act 2 remediation at the point DEP says it is okay, the landowner still has contingent liability if stuff is found years later. Mr. Kaplan asked for a further explanation. Mr. Lewis stated receiving approval from DEP on an Act 2 remediation would not provide a safe harbor if things are found in the future. Mr. Lewis stated he assumes the owner of the landfill has liability if other things are uncovered within the property; however, Mr. Kaplan stated he does not agree with that. Mr. Lewis stated the Board is concerned about contingent liability. He asked what would happen if the HOA fails or if they uncover things that they did not know were issues at this time, but are later found to be issues. Mr. Lewis asked if those risks are insurable and could the developer buy insurance such that in the event that something is found, it would be covered. Mr. Kaplan stated there is commercial insurance that can be purchased, but this is

not the kind of site that would justify that. Mr. Kaplan stated there have been ten to twelve investigations of this property by Township-hired people including Skelly & Loy. He stated this site has been excavated, and there is good knowledge of exactly what is on the property; and he feels they have a better knowledge of what is on this property compared to a farm property which gets developed as there would be more of a chance of something being buried on a farm property that never goes through the Act 2 property.

Mr. Lewis stated the risk then for the HOA and the Township would so deminimus that the insurance should be relatively low cost. Mr. Kaplan stated the idea behind the Act 2 process is to limit liability so that sites could be re-used. He stated the process makes you rigorously investigate the property. He stated you have to go to DEP with a plan as to how you will investigate the property, and he feels they have satisfied that. He stated you then have to come up with a remediation plan which Mr. Goll can describe in detail, and you then have to implement the Plan. He stated once you implement the Plan and DEP approves it under a Section of Act 2 there is a statutory release of liability to the person who cleans it up and to anyone who comes later. He stated if Orleans cleans it up, gets approval, and gets the statutory release of liability, that means that the State or Federal Government cannot come after you, and it also means that anyone coming after such as the Homeowners Association is exempt from liability. Mr. Kaplan added you only get a release of liability from that which you discover on the property; and if there is something buried someplace else just like on any farm property that has been developed in the Township, there would be that same liability.

Mr. Lewis stated his concern is there is a small but negligible risk that the Township is absorbing here. Mr. Kaplan asked how the Township would have contingent liability. Mr. Lewis stated everything could be approved and the Homeowners Association functioning for a number of years, but in year twenty they could find something there that was not previously found; and if the Homeowners Association goes bankrupt, they would no longer be able to fix or remediate whatever that is. Mr. Kaplan stated he feels Mr. Lewis is making a lot of assumptions. Mr. Lewis stated he needs to protect against the catastrophic failure or contingent liability that could potentially cost taxpayers money. He stated he needs to understand exactly what the risk is and that they have taken all the steps they can to mitigate that on behalf of the Township.

Mr. Benedetto stated he feels Mr. Goll can speak to this issue. Mr. Goll stated he is the Vice President of Princeton Hydro which is an environmental consulting firm, and he has twenty-six years of experience. He stated he is licensed in seven States including Pennsylvania, and he has lived in the Township for the last sixteen years. He stated at one time he was also on the Township's Environmental Advisory Council.

Mr. Goll showed the entire property on the Plan, and stated none of the residential portion of the property is proposed to be located on any of the landfill now or in the future. He stated the landfill is located on the southern end of the property. He noted where Long Acre Lane comes in from the southwest and dead ends at a location he showed on the Plan. Mr. Goll stated in the 1930s the Harris family purchased the property, and there was gravel and sand in the rear of the property which they mined, and it was likely installed throughout the development of the Township. He stated at the same time, a hole was created which they needed to fill; and as construction took place, they would bring materials in. He stated the majority of the material in the landfill is construction/demolition material which can range from timber, lumber, bricks, asphalt, concrete, and metal debris. He stated they also found in the landfill colored fish tank gravel from a pet store that was demolished and numerous pair of shoes from a store.

Mr. Goll stated in 1986 the Township, being proactive, was concerned about the landfilling activities at this property; and they called the Pennsylvania DEP and had them come in since people were identifying orange seeps coming out of the side of the landfill into Brock Creek. He stated DEP sampled that seep, which they now know was an iron seep. The DEP did not find anything other than iron seeping into Brock Creek. Mr. Goll stated they subsequently installed their own wells below the landfill. He stated they installed three wells and sampled them within the bedrock aquifer below the landfill. Mr. Goll stated those wells still exist today, and when his firm took over they videotaped them to make sure they were still intact; and they used them as well as sampling wells.

Mr. Goll stated in 1998 his firm was contracted to do a Phase I Environmental Assessment on the property, and working with the Township they realized that there was a large landfill here. He provided a hand out showing red dots which are approximately seventy-five test pits they dug throughout the landfill. He stated at that time they had been hired to simply characterize what was in the landfill itself. He stated they found that in total there was approximately 126,000 cubic yards of fill, and 90,000 cubic yards of that fill is what they would characterize as construction and demolition material that is mixed with soil. He stated there are pockets where there is pure construction and demolition material, but for the most part it is soil mixed with the construction and demolition material. Mr. Goll stated the remaining 30,000 cubic yards is what the Harris Paving Company thought would be a good cap, because when DEP came in and shut down the operation in 1986 they advised them that they had to put a 2' soil cover on it. Mr. Goll stated the problem is that they brought in cap material that had concrete, asphalt, and other types of debris in it. He stated while it was not as much as what was underneath it, there was enough to consider it not an adequate cap.

Mr. Goll stated Brock Creek runs from south to north, and where it comes out there is a vertical bank of exposed trash and soil with iron seeps in the area that are exposed to flood flows; and it is eroding the landfill and has been since he has been involved. He showed a light green line on the Plan which is on the northwest side, and this is a delineated wetland. He stated portions of that wetland line are also full of trash. He showed gray hatching on the Plan which is where the outer boundary of the landfill is located. He stated in 2003 they went back out and did additional testing and found there were low levels of contamination primarily trace metals such as nickel, lead, iron and a heavy oil type of material. He stated they talked to DEP, and they installed sentinel wells on the down grade portions of the landfill as they wanted to know what the water was like in the landfill and at the point of compliance which is where the water flows off the site. He stated if groundwater contamination is above the drinking water standard as it leaves the site, they have to go after that. He stated they have gone in at various times and found that all the constituents in the groundwater were well below the drinking water standard which means that even if there were some contaminants in the soil, none of it is leeching to the extent that it contaminates groundwater at the point of compliance leaving the property that would be a danger to the public in accordance with DEP health-wide standard criteria.

Mr. Fritchey asked Mr. Goll to clarify what he meant when he stated “none of the water was below drinking water standards,” and Mr. Goll stated he meant to state “above.” He stated this is considered a use aquifer which means it is considered a well that could be used for potable purposes. He stated they found there is not contamination to a level that is leaving the site. He stated what they have found is there are “no smoking guns” that would lead them to believe that there is anything in the landfill that would be a danger or toxic to the public.

Ms. Reiss stated she has lived in the Township for forty years, and she knows that there were items other than building materials that were dumped here prior to 1985. Mr. Goll stated he agrees and he had previously noted the fish tank gravel and the shoes.

Mr. Goll stated as far back as 1986, DEP indicated that they had not found anything of concern; and that they should put on a soil cap. He stated through the testing since then, they have found the same thing; and DEP was still saying they should cap it when they met with them recently. He stated DEP is insisting on the Act 2 process and the Covenant so no one will go in there and dig.

Ms. Reiss stated the issue is the normal wear and tear that results when children play in the area. She stated she is concerned that every few years the standards get higher as they know more.

Mr. Benedetto asked what they are here to approve tonight, as he feels the discussion about landfills, covenants, etc. has likely nothing to do with what they are here to decide tonight. Mr. Kaplan stated this was the reason he asked to have the meeting they had a week and a half ago since what is in the document is about the development of the property and the process. He stated he knew the Township wanted to know about the landfill and what they were going to do with it. He stated they have laid this out in the document, and they had the Boucher & James environmental representative meet with Mr. Goll and review all of the materials; and they basically agreed on the way this should be done. Mr. Kaplan stated what they need to do in order to move to the next step is to enter into the Stipulation because it will govern how the property is developed. He agreed there is a long list of Waivers and modifications because much of this will be governed by DEP. He stated with regard to the development, the Township's stormwater and wetlands regulations are going to apply. He stated they have gone through in great detail each of the SALDO requirements that need to be interpreted or modified, and that is all they are here about this evening. He stated they want to start the Land Development process and the Act 2 process and run them parallel.

Mr. Truelove stated this establishes an alternative process because of the unique characteristics of this property, but still maintains oversight of the Land Development. He stated this is needed in order to develop any part of it and remediate it; and if not, it will remain as it is and there may not be any opportunity to remediate at all because as Mr. Goll has indicated there is a long history of attempts to develop the property over the last twenty years. Mr. Truelove stated this property is unique to the Township, but it is not unique in other areas. He stated he and members of his staff have been involved in this as have Mr. Eisold and others from his office, as well as Mr. Fedorchak and Mr. Ware.

Mr. Goll stated a lot of what they will do will be cleaning up the area adjacent to the stream, improving the stormwater ponding issue, and it will be a lot better when they are done than it is now.

Mr. Lewis stated the challenge is that this is a lot for the Board to digest, and they want to make sure that they are protecting everything they can in terms of the development and making sure it is safe for the community. He feels it might be best for the Board to Table this at this time, finish reviewing it, and come back at a future meeting. He stated their goal is to make sure they are doing this the right way if they are going to do it.

Mr. Kaplan asked that the Board review the Agreement now that they have heard the background provided this evening.

Mr. Fritchey stated he feels they want to provide reassurance to the Board members, and it would be profitable to assuage some of the concerns that have been expressed. Mr. Dugan stated they will try to address the concerns that have been raised; and while he would like approval tonight, he also recognizes the Township's responsibility to the residents. He stated he hopes they have found their explanations adequate on how they intend to remediate the property, and he believes that it has been extensively tested as Mr. Goll presented. Mr. Dugan stated they are going to do this through the Act 2 process, and they will address the concerns the Supervisors have with respect to the Settlement Agreement. He stated if the Settlement Agreement is approved, they will be back with Land Development Plans.

Ms. Reiss stated they have subdivided this into two lots, but she does not feel that should bind the Board to accepting any Land Development as is. Mr. Kaplan stated they told that to the Board at the time of the Subdivision. Mr. Kaplan stated the Township consultants will be participants and invited to the DEP meetings since when you do a Site Specific Development, the Township has the right to be there. Mr. Kaplan stated if this is not done right, they will not be able to sell any houses. Ms. Reiss asked if they own the property yet, and Mr. Truelove stated they are the equity owners. Mr. Dugan stated once they do the remediation, they will own the property.

Ms. Tyler stated she has reviewed the Settlement Agreement a number of times, and her concern is not with the Act 2 as she understands the testing that has been done and the DEP oversight. She stated her concern with the Settlement Agreement is the incorporation of terms that are related to Lot 1 and looking for Waivers. She stated she feels they are short circuiting the development process in substantial ways including tree replacement, side yard setbacks, flag lots, and other calculations. She stated she feels the Settlement Agreement is undercutting much of the approval process.

Mr. Kaplan stated to develop this property they have to develop it in this configuration that has been through many reviews by the Planning Commission. He stated they had Mr. Jensen go through SALDO to tell what works and what does not work. Ms. Tyler stated that may be what works for the developer, but not for the Township. Mr. Kaplan stated they are the fifth or sixth developer to come in; and if they cannot develop this Plan and it is not acceptable, they will leave. He stated he feels the Plan will be acceptable because before the developer signed the Agreement he read Planning Commission Minutes that said the Plan was "fine." Ms. Reiss stated they did not say it was "fine," and that has been her question all along.

Mr. Fritchey stated what he heard Mr. Kaplan say was that if they do not get to do this project the way it is designed everything is over and their client will not discuss any modifications; however, Mr. Kaplan stated that is not his position. Mr. Dugan stated they are on draft 18 of the Settlement Agreement, and they would be happy to come back and answer whatever questions the Board has with respect to the Settlement Agreement. Mr. Fritchey asked if they have some flexibility with what is on the chart they have presented this evening. Mr. Dugan stated it is tight although there is some flexibility. He stated the ability to develop the site considering that they are spending \$1 million to remediate the landfill makes this a site improvement that is unique, and they have to allocate that \$1 million over thirty-three lots which is why he indicated it is tight.

Ms. Tyler stated a fair amount of what she is reading in the Settlement Agreement would not be necessary but for the density of the proposed development. Ms. Tyler stated one of her main concerns with the Settlement Agreement is that whatever agreement they are able to reach would not preclude the Township from their normal review process except for those very specific trade offs that they may agree to due to the remediation of Lot #1. Mr. Benedetto stated they have indicated a number of times that they are going to go through the normal Land Development process; however, Ms. Tyler stated that is not what the Settlement Agreement states.

Ms. Reiss stated she is also concerned about the Settlement Agreement because the Waivers included lock the Township into the Plan as shown. She stated this takes away their ability to function as the Board of Supervisors. Mr. Kaplan stated when they got involved with the property, they were shown by Quaker basically the Plan that is being shown. Mr. Kaplan stated he went back and read Planning Commission Minutes from a prior Board that there was some level of acceptance, although he is not saying "approval." He stated in their negotiation it was that they would take on this burden if they can get a Plan like that which they are showing. He stated Mr. Jenson took the Plan and went through SALDO and advised that he could not design the Plan unless certain things were modified. Mr. Kaplan stated they gave it to Mr. Eisold who has reviewed it and commented upon it; and they have changed the list of Waivers based on his comments although they are mostly modifications and not Waivers. He stated if they cannot get the modifications up front, they do not know how they can engineer the Plan.

Mr. Fritchey stated there are certain parcels of property which are very close as to whether they are developable in a fashion that is economically acceptable to the developer and also functionally acceptable to the Municipal authority. He stated he feels it is prudent for there to be further review of this to see if there is a realistic process to reach a meeting of the minds.

Mr. Truelove stated they could just agree to re-schedule this for another time, and Mr. Kaplan agreed to this.

Mr. Benedetto stated he wants to do business with this developer. He stated Mr. Goll has indicated that they will be making improvements to this property. Mr. Benedetto stated he hopes there is some flexibility, but this is probably what the development will look like. He stated if they want this property to stay exactly the way it is, he feels the Township should buy it. He stated what this developer is proposing to do is an improvement. He stated he feels they are taking a bad situation and making it into a situation where homeowners can move in. He stated he would like to see the property become something besides what it is right now. Mr. Benedetto stated he would like to see the developer come back to the Board's meeting on January 18, 2016. He stated he would also like them to be available to meet with some of the other Supervisors.

A short recess was taken at this time. The meeting was reconvened at 9:40 p.m.

DISCUSSION AND APPROVAL OF AMENDED FINAL LAND DEVELOPMENT PLAN OF MATRIX

Mr. Edward Murphy, attorney, was present. He stated ten months ago Matrix approached the Township with a proposed modification to the Plan that was approved as part of the 2006 Settlement Agreement. He stated the one change involved the area that was originally approved for age-qualified condominium units. He stated the proposal that Matrix advanced ten months ago is to eliminate those one hundred sixty-five multi-family condominium units and replace them with sixty-two age-qualified townhomes. Mr. Murphy stated over the past ten months the Plan has gone through the typical reviews by the Township, Township consultants, and the Planning Commission. He stated in anticipation of tonight, Mr. Truelove prepared a proposed Addendum to the original 2006 Settlement Agreement that reflects what Mr. Murphy just described. Mr. Murphy stated it is contemplated that the Addendum prepared by Mr. Truelove would be signed by Matrix, Toll Bros., Mr. Cruzan, and Ms. Weyrick who were also Parties to the original 2006 Settlement Agreement. Mr. Murphy stated the Addendum has been circulated to all those Parties. He stated at this point they are waiting for Mr. Cruzan and Ms. Weyrick to sign it adding that Toll Bros. signed it this afternoon.

Ms. Tyler moved and Mr. Fritchey seconded to approve the Amended Final Land Development Plan for Matrix for Plans dated 2/22/16, last revised 8/1/16 previously Approved by the Board of Supervisors and further subject to the following Conditions:

- 1) Applicant shall comply with the Lower Makefield Township Subdivision and Land Development Ordinance and Lower Makefield Township Zoning Ordinance and all applicable State and Federal Ordinances, Statutes, Regulations, and/or Laws;
- 2) Receipt of all Permits, Authorizations, and Approvals from all agencies with jurisdiction including but not limited to Pennsylvania Department of Environmental Protection and the Bucks County Conservation District;
- 3) Compliance with Boucher & James Consulting Engineers 8/16/16 review letter and any supplements to said letter;
- 4) Compliance with Ebert Engineering Inc. review letter dated 10/27/16 and any supplements to said letter;
- 5) Compliance with the 9/16/16 Traffic Planning & Design Inc. review letter and any supplements to said letter;
- 6) Waivers are granted as listed and enumerated in the applicable Boucher & James letter as noted above;
- 7) Where applicable Applicant shall comply with all comments of the appropriate authorities responsible for the proposed utilities;
- 8) Subject in its entirety to the execution of an Addendum Agreement Settlement Agreement dated 5/18/06 by and between Matrix/AEW Acquisition LLC, Residents Against Matrix, Dana Weyrick, and the Township of Lower Makefield and the necessary filing of all related documents including the Addendum Agreement with the appropriate Governmental Agencies, Authorities, and Offices to the satisfaction of the Township;

- 9) The requirements of this approval will be agreed to by the Applicant, signature to confirm receipt of the Approval letter, and incorporate the Final Record Plan being Executed and Recorded after review by the Township engineer;
- 10) General requirements for Land Development and Subdivision matters will be enclosed as well.

Mr. Murphy agreed to accept the Conditions on behalf of his client.

Mr. Benedetto stated he understands that there will be a reduction in the number of units from 165 to 62, and there is a part of the Agreement that discusses a per unit dollar amount; and he asked if the dollar amount will stay the same or will it be reduced. Mr. Murphy stated it would be reflected by the reduction. He stated they had initiated conversations with Mr. Fedorchak about advancing the payment by Matrix of its remaining obligations over the next three years with a possible payment in full on that obligation in the first quarter of next year so that might be a benefit to the Township which may offset the reduction.

Ms. Reiss stated at the Planning Commission there was concern about street trees; and Mr. Murphy stated this does not deal with the developer seeking a Waiver of the obligation to plant the trees rather it was the location where they wanted to plant them given the utility and driveway conflicts, and they have to find the right place to do it. Ms. Reiss stated they were also concerned about the width of the sidewalks. Mr. Murphy stated the Planning Commission was looking for five feet instead of the four feet the Applicant was requesting. Mr. Murphy stated he would be happy to defer to the engineer since there were conflicts with the driveways and other utilities as to where they could get the full width. Ms. Reiss stated if it is an age-qualified development, there could be people with walkers and wheelchairs.

Ms. Tyler stated with respect to the fees, it was originally 165 units which would have been a far greater fee to the Township. She asked if the 165 units were part of the original Settlement Agreement, and Mr. Murphy stated they were. Ms. Tyler stated she does have an issue with the reduction of those fees. Mr. Murphy stated they would not be able to sell 165 age-qualified condos as there is no market for them. Mr. Lewis asked the amount of the loss, and others present suggested it would be \$100,000. Ms. Tyler stated the larger number was negotiated as part of the overall Settlement.

Mr. Zachary Rubin stated he is a member of the Executive Board of Residents Against Matrix, and on May 18, 2006 the Settlement Agreement was agreed upon by the Township, Bellemead, Matrix, Dana Weyrick, and Residents Against Matrix.

Mr. Benedetto thanked Mr. Fedorchak and the Finance Director for their work on the Budget as well as the Citizens Budget Committee.

Mr. Fritchey moved and Ms. Tyler seconded to approve the Budget at proposed.

Ms. Eileen Killeen, 1116 University Drive, stated on November 30 at the request of the Board of Supervisors, a Budget recommendation regarding the monitoring of Trenton-Mercer Airport activities was presented by BRRAM. She stated following that meeting, per the wishes of the Board of Supervisors, each Board member was supplied a copy of the presentation with a proposal and recommendations regarding actions and monies to be considered going into 2017. She stated BRAAM has not received any follow-up questions from the Supervisors regarding their proposal and recommendations. She asked the Board for an update regarding their plans moving into 2017. She stated they are not familiar with a direct line item within the Budget that addresses the monitoring of Trenton nor if a reserved appropriation is being considered for next year's Budget to continue the work of this critical issue impacting Lower Makefield Township. She asked what is the amount of money budgeted for this issue next year.

Ms. Tyler stated they have not inserted a line item for this issue. She added they do not have any way to estimate what resources might be invested moving forward. She stated what they have done is that they have completed seven interviews for the Task Force, and they will ask the Task Force with the help of BRRAM's recommendations, to consider the Township's best course of action. She stated litigation is not at the forefront of their mind at the moment, and they are very encouraged by a lot of the applicants for the Task Force. Ms. Tyler stated the fact that they have not budgeted a specific amount or included a line item does not in any way indicate a lack of support for this issue, and does not indicate that they do not intend to pursue this through various avenues. She stated some of the people they interviewed for the Task Force had specialized knowledge. She stated while there is not a specific line item, whatever decisions they make, they will absorb that into the general Budget. She stated they plan to continue to try to maintain the quality of life of all of the residents.

Mr. Benedetto stated BRRAM has done a substantial amount of work, and they want to engage with them and have them continue to be active as they have for the last eighteen years. He stated they want to get the Task Force up and running, and they want to continue to dialogue. Mr. Benedetto stated he hopes the Airport is getting the message, and he added the Township did send out a letter to Urban Engineers.

Motion carried unanimously.

Ms. Tyler stated she and Mr. Benedetto have been on the Board of Supervisors for a long time and increasing taxes is the last thing they ever want to do. She stated she wanted to let everyone know where these tax monies are going. She stated they are making investments in the Park & Recreation system including the Community Center, the Snipes Tract, Memorial Park Arboretum, and many other Park improvements including Macclesfield traffic redirection. She stated they are funding the roads at record levels, and they have more than doubled their road improvements since when she started on the Board of Supervisors. She stated they have increased staffing with the realization that they are losing Mr. Fedorchak who has been performing several jobs, and they now have a new Finance Director. Ms. Tyler stated they are also going to hire additional Park & Recreation crews and two additional Police Officers. She stated they also have Contractual benefit obligations that go up every year. Ms. Tyler stated they are also making vehicle purchases for the Public Works Department and building structures to protect and maintain the vehicles. She stated they are also providing an additional quarter mill to the Emergency Services, and are bolstering the Ambulance Corps providing them with needed funding to make sure there is adequate response to emergency situations in the Township. She stated they have also worked on the Quiet Zones. She stated they are also making technology improvements in the Office, on the Website, and with the production equipment to transmit the meetings. She stated they have made significant open space procurements, and they plan to continue to do so when the proper property presents itself as most residents in Lower Makefield are soundly behind procuring additional open space.

Ms. Tyler stated they are also maintaining the Capital Reserves which are very important as they want to maintain the AA1 Bond Rating; and in order to do so, they have to show that the debt remains modest and that the Capital Reserves are going in the right direction so that they do not jeopardize the Rating. Ms. Tyler stated she feels they are achieving a large portion of the vision set forth in the Master Plan. She stated they are able to do this by taking advantage not only of Grants that were achieved by the State Representative, but also by taking advantage of historically low interest rates. She stated the increase in taxes is to improve the community's quality of life in a variety of ways. She stated she is hopeful that the residents of Lower Makefield Township will recognize what they are getting for the increase in taxes.

Mr. Lewis stated it is a difficult decision whenever you decide to take money from people and increase taxes. He stated he could not say he was in favor of the investments they were making if he was not in favor of paying for them properly. He stated he feels the investment in roads is crucial. He stated at \$1.5 million they are at historic funding levels. He stated asphalt prices are approximately 49% lower than they have been so they will be able to do more roads. Mr. Lewis stated he did

not want to borrow as much money or give the Pennsbury School District the subsidy they ended up getting in terms of Building Fees which was about 1 mill. He stated increasing taxes was a painful decision for all the Board members, and it was not one that they chose lightly.

Ms. Reiss stated she had considered abstaining because it is very difficult for her to raise taxes. She stated she continually hears about the condition of the roads. She stated she also feels it is very important to preserve the farmland and open space that is left. She stated it was also important for the Seniors to have a facility as they have waited almost twenty years for a place to meet, and the Community Center will be a place where everyone can meet. She stated having open space and decent recreation is important for the future generations. She stated it is also important that there are walking and bike paths so that there are safe places for walkers and bikers. She stated she is very much opposed to any kind of an Earned Income Tax, and she feels this tax increase was a way to get the things that the vast majority of people in the Township want.

Mr. Fritchey stated infrastructure deteriorates and needs to be fixed. He stated the streets and the sewer system need to be fixed; and they also have amenities and facilities that have been planned for years but never built, and they need to be built to make the community a more desirable place to live. He stated they are investing in their own Township and making things better for everyone.

Mr. Benedetto stated at the beginning of the year they indicated what they were going to do and he reviewed all that they are doing which is what they discussed in January. He stated at the local level, he would put this Board up against any other Board in the County; and he is proud of the work they have done as a group. He thanked the Board for their support this year as well as the Township staff, their professionals, and the Advisory Boards.

Mr. Fedorchak stated a short time ago he gave the Board of Supervisors a spreadsheet that Anne Gladwell, the Finance Director, prepared at his request; and she was asked to look at the total taxes Lower Makefield residents pay as compared to fifteen other communities including Bensalem, Lower Southampton, Upper Makefield, Warwick, Middletown, Northampton, Warrington, and Warminster. He stated they looked at the Property Tax and the Wage Tax recognizing that Lower Makefield does not have a Wage Tax. He stated there was a ranking, and he was shocked in a good way at the results. He stated the tax comparison is posted on the Township Website, and at a future meeting he would like the Board's permission to present this.

Mr. Joe Menard asked if Ms. Gladwell, the new Finance Director, had been introduced to the public yet. He stated she came to the Township in September and was able to work on this Budget, and he welcomed her to the Township. Ms. Gladwell was present and stated starting in September was the perfect time to start as Mr. Fedorchak immediately provided her with the Budget, and this gave her a solid understanding of what the Township does. She stated they should be proud of everything that has been done. She stated when she interviewed she was very happy to see the solid financial condition the Township was in.

DISCUSSION OF DOG PARK GRANT AWARD

Mr. Eisold stated the Dog Park Grant was awarded on December 15 with the Grant portion being \$75,000. Mr. Eisold stated they are waiting for the final paperwork from the DCNR. He stated they are optimistic that by spring/early summer they can be underway to get the project complete.

Mr. Lewis stated three of our Elected Officials should be thanked for helping out with this – Senator Chuck McIlhinney, former State Representative Steve Santarsiero, and State Rep Perry Warren.

Mr. Benedetto stated this is a matching Grant, and Mr. Eisold stated the total project is \$150,000 so the other work has to be done either in kind or with Township funds. Mr. Benedetto stated a number of organizations are making donations, and Ms. Tyler asked where they are with fundraising. Ms. Reiss stated those on the Dog Park Committee may want to get involved with Special Events, and they could have some fundraising events such as a Doggie 5K.

DISCUSSION OF RAILROAD QUIET ZONES

Mr. Eisold stated they have been working on some of the final punch list items.

Mr. Coluzzi stated Chief Coluzzi had indicated that the Railroad issues today were not attributable to the Quiet Zones in any way. Ms. Reiss stated she received an e-mail about the trains today, and she understands that one of the trains had an issue and it stopped. Chief Coluzzi stated it stopped prior to the Stony Hill crossing, and it caused the arms to come down. He stated it actually acted properly as it is a safeguard that when a train reaches a certain part of the track, the arms come down at the next crossing; and that is what happened. He stated until they could get the

train up and running, the arms stayed down. He stated people from the Railroad and the Police Department were there to get people across, but it was a major inconvenience. He stated this had nothing to do with any Quiet Zone issues.

Mr. Benedetto asked when they will have the actual implementation of the Quiet Zones. Mr. Eisold stated the one issue that is remaining that they need to work through is with regard to the Federal requirements for power off lights, and both SEPTA and CSX have some questions on the installation process and the necessity for those lights. Mr. Eisold stated the consultant has written a letter to the FRA trying to get more definitive answers, and they hope to get those answers in the next week or two. Mr. Eisold stated both CSX and SEPTA have agreed to install them, but they wanted to understand all the technical issues so it is done right. Mr. Eisold stated since safety is the primary concern, they want to make sure everything is 100% complete and in compliance with Federal regulations.

Mr. Eisold stated the physical improvements at all the crossings have been installed as well as other improvements particularly at Edgewood with regard to the configuration of the road.

Mr. Benedetto asked about the Positive Train Control, and Mr. Eisold stated he believes that is part of the Federal requirements and not specifically related to the Quiet Zones.

Mr. Lewis asked if they will be able to monitor the length of time that the gates are down so that they will know if there is an extended blockage of the road.

Mr. Eisold stated with the third rail being installed, SEPTA has accepted the responsibility for monitoring the gates; and there is a blue sign at each of the gates that if there is any kind of malfunction or irregularities, there is a number to call, and SEPTA will get the call and come to the site to determine what the issues are. Mr. Lewis stated he is referring to enforcement when there are extended delays. Chief Coluzzi stated anytime there is a delay or the gates come down when they are not supposed to someone always calls 911 and a Police Officer responds, and an Incident Report is filed so it is in their Records Management System and they could go back and retrieve those reports to get statistics.

Mr. Benedetto asked if there could be the opposite situation where the gates do not come down. He stated there was a report of the gate not working and someone went over the tracks at Edgewood, and the train passed by within a very short period of time later. Chief Coluzzi stated he has never seen a malfunction where the arms did not come down and a train came through. He stated there are warning signs on the tracks that show malfunctions at the crossing ahead; and when that happens the conductors stop the train and flagmen get out and walk the train through the crossing. He stated he cannot say that it could never happen; and while

he did see the report from an individual who claimed they were almost hit, he has never seen the arms not come down. Chief Coluzzi stated they are investigating this, and they also turned over the report to SEPTA to investigate it as well.

Mr. David White, Gayle Drive, stated he does not understand Mr. Lewis' question about keeping track of how long the gates are down as that has nothing to do with the Quiet Zones. Ms. Tyler stated he was not referring to the Quiet Zones and it was about fining the train companies for blocking our roadways. Mr. White stated his concern is they have been talking about the Quiet Zones with the Railroads for two years, and he asked why they are just now talking about a power off light. Mr. Eisold stated it was a situation that the consultant brought up with them early on; and when it came time for them to install them which was near the end of the project, is when some of their questions came up. Mr. Eisold stated both SEPTA and CSX understand that it is their responsibility to do this, but they had some technical questions which they are trying get resolved.

Mr. White stated he noticed the rebuilding of the medial strips on Heacock Road today, and he understands CSX said that it was too close to the Railroad and they had to extend and change the dimensions of it; however, that has been there for a month, and now CSX says they have a problem. Mr. White asked if they also looked at their timbers in the middle of the rails while they were there, and Mr. Eisold stated Mr. Fedorchak has made them aware of that on numerous occasions. Ms. Tyler stated they were put on notice of the existence of a dangerous condition to the residents of the Township, and that they should get it fixed. Mr. Fedorchak stated they did come out and do a little bit of patching approximately a week ago, and since then a few more potholes have come up.

Mr. White asked Mr. Eisold what he sees now as the implementation of the Quiet Zones. Mr. Eisold stated once they get the letter from the FRA with regard to the technical issues, they will communicate them to CSX and SEPTA and notify them of a timeframe of two to three weeks to get these lights installed; and the question is whether they can do that concurrently with the notification to establish the Quiet Zones or not, and the consultant will look into that. Mr. Eisold stated he is optimistic that within one to two months, the process will be done.

Mr. Mike Brody, 509 Brookbend Court, stated he is in favor of the Quiet Zones. He asked when they regraded Edgewood Road did they consider it from Sandy Run Road as it is now harder to see coming from that direction with the new grade. Mr. Eisold stated they did look at that; and while the conditions are not optimal, they are somewhat better than they were prior to the regrading. He stated most cars that travel this road now are going slower but he agrees from Sandy Run it is not

optimal. He stated there are constraints and they did what they could to alleviate the bump in the road. Mr. Brody also asked how far away can you see the train lights if you are on the train tracks; and although Mr. Eisold stated he did not have the answer, he feels you can see them from some distance away.

Ms. Kevin Treiber, Sherwood Drive, stated if they can get information about safety mechanisms if the gates were to stay up when they should be down to the engineers, they could then at least sound the horn at those times. Mr. Eisold stated his understanding from the Railroad is that the gates are failsafe down. Mr. Eisold stated he also believes that part of the power off lights involve notification to the engineer that the power to the gates is not correct. Chief Coluzzi stated the engineer is notified if the gates are malfunctioning; and the train slows down to a stop, and someone has to get out and walk the train through.

DISCUSSION OF MEMORIAL PART ARBORETUM PHASE IV

Mr. Eisold showed the Plan for Memorial Park showing the first three Phases of the Arboretum as well as the proposed Phase IV which is along the entrance drive to the site, and it includes a summer grove and a fall grove and describes the types of trees. He stated this is proposed to be planted in April, 2017, and it was presented to the Park & Rec Board last week.

Ms. Tyler asked how this is being funded, and Mr. Fedorchak stated it is from the Tree Bank. Mr. Benedetto asked if they could put this on the Township Website, and Mr. Fedorchak agreed to do so. Mr. Fritchey stated signage is up for the first two Phases as well, and the signage for the third Phase should be up after the holidays.

DISCUSSION AND APPROVAL OF DEVELOPMENT AGREEMENT WITH YARDLEY STATION FOR ESTATES AT SANDY RUN

Mr. Truelove stated there is an issue that relates to the Conservation Easement, and there was some confusion about what was or was not included in the Board's Motion in August of last year. He stated the Board did approve a Conservation Easement in March of this year, but whether or not that included the 6.2 acres that are referenced in some recent e-mails from a member of the EAC was the issue.

Mr. Eisold stated when the Church Subdivided the property there was a ten-acre piece that went off to Conservation as part of the Minor Subdivision. Mr. Eisold stated also with the development of the new Lots, there was a section that would go to the Homeowners Association that would have a Conservation Easement on it.

He stated the Plan clearly says that there will be a Conservation Easement, and the requirements are that there be no disturbance in any way in the 6.2 plus or minor acres. Mr. Eisold stated he spoke with Mr. Garton today who has been awaiting the description of that area so that they can include it with the typical Conservation Easement language which has been reviewed by everyone and approved on previous projects including most recently the Moon property. Mr. Eisold stated he also spoke to the engineer and asked if they submitted it to the Township solicitor, who in this case is Mr. Garton; and apparently because the original developer of this Lot was different and had a different engineer who has purchased this Lot, there was a little bit of miscommunication. Mr. Eisold stated the Record Plans state that there is nothing to be done, and he believes that Erin Development did not give all the details of some of these loose ends that had to be taken when they sold the property.

Ms. Tyler asked if the current owner is pushing back; and Mr. Eisold stated they are not, and they fully realize they have to do it, and they are going to take care of it in the next week or so. Mr. Eisold stated they did ask that the formality of this be done, as it is clear on the Plans as they will be Recorded; and this would be a Condition of any Approval that there would be a Condition that this be done prior to receiving the first Building Permit. Mr. Eisold stated they have put up a lot of fence showing the zones of limited disturbance lines, and he believes they have taken down the large tree at this point which was part of the project. He stated they have indicated they will do this as soon as they possibly can, but they want to continue with the site work which is the first phase; and they asked that the Board make it a Condition of Approval.

Ms. Reiss stated she has an issue that while they are doing their site work that they do not disturb that area, and Mr. Eisold stated someone from his office has walked with their contractor looking at the lines to make sure that the lines are exactly as detailed. Ms. Reiss asked who is the developer now, and Mr. Eisold stated it is Prime Properties.

Mr. Benedetto asked if it would make sense to postpone this until January 18; and Mr. Eisold stated he would recommend, if the Board is so inclined, to make it a Condition of the Approval, and that it must be done before any Building Permits are issued which he feels is fair.

Ms. Reiss stated she wants to make sure they do it before they start doing any more clearing and land work there. She asked if Prime Properties is new to this area or just a builder with a new name; and Mr. Eisold stated he does not believe they have done anything in Lower Makefield but Mr. Garton has worked with them in other Townships. Ms. Reiss stated she wants to make sure they do not disturb the areas they are not supposed to disturb while they are doing the site work, and that it be left alone. Mr. Eisold stated they definitely cannot do that, and the fences are up.

Mr. Fritchey stated if they put this off until the January 18 meeting, this would give them an impetus to get all of this done so that they are moving forward correctly. Mr. Truelove stated there is no Motion on the table so they could defer to the January 18 meeting. Ms. Tyler stated while that is fine, they could approve it subject to the prior Approval and the 10 acre and 6.2 Conservation Easements with the proviso that those areas not be disturbed during the course of construction. She stated while they could postpone it, she does not see the need for that. Ms. Reiss stated she does not want to have a situation with another developer who thinks it is better to say, "I'm sorry," than to ask first. Ms. Tyler stated this would be a Conditional Approval. Mr. Benedetto and Mr. Lewis agreed with Ms. Tyler.

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to approve the Development Agreement with Yardley Station for Estates at Sandy Run subject to the 10 acre Conservation Easement in the prior Approval, and in addition subject to the 6.2 acre Conservation Easement with the proviso that there is to be no disturbance within those areas during the course of construction and all proper paperwork concerning the Conservation Easement must be agreed to by all Parties as a Condition to this Approval.

APPROVAL OF CERTIFICATE OF APPROPRIATENESS FOR BERKSHIRE BANK, 706 STONY HILL ROAD SIGN REPLACEMENT

Mr. Lewis stated he needs to abstain from voting on this matter due to a potential business conflict of interest.

Mr. Fedorchak stated this is a different bank, but it is the same location. Renderings of the signs were shown.

Mr. Zachary Rubin stated First Choice Bank has been bought by Berkshire Bank. He stated First Choice did have a problem with HARB as to the red color on their sign. He asked if HARB had a problem with this sign, and Ms. Tyler stated HARB did review it and recommended approval.

Ms. Tyler moved and Mr. Fritchey seconded to approve the Certificate of Appropriateness. Motion carried with Mr. Lewis abstained.

Mr. Truelove stated the Board met in Executive Session beginning at 7:10 p.m. and matters of litigation specifically Zoning Hearing Board matters and informational items involving some Agenda items were discussed.

ZONING HEARING BOARD MATTERS

With regard to the Heacock Meadows Condo Association Variance request for the property located at the corner of Stony Hill Road and Cardinal Drive in order to permit construction of a second entrance sign which was previously approved at a different location it was agreed to leave the matter to the Zoning Hearing Board. Mr. Truelove stated that in his review of the Application he is not sure that a Zoning Hearing Board determination is required, and he will write to the Zoning Hearing Board and Code Enforcement Officer to see if this is even required.

With regard to the Tim McHale Variance request for the property located at 549 Freedom Drive in order to permit construction of a pool resulting in encroachment into the collector road setback, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. Lewis stated the Citizens Budget Commission reviewed the Budget in detail and discussed trends with the Budget over time. He stated Electronic Media Advisory Commission met and discussed timelines for the final release of the Website.

Ms. Reiss stated the Farmland Preservation Corporation met and needs guidance on running bamboo that keeps coming onto the farmland, and they will be getting in touch with Mr. Fedorchak. She stated the Seniors had a luncheon at Washington Crossing Inn which was extremely well attended. Ms. Reiss thanked Ms. Liney for her help with this event. Ms. Reiss stated with regard to Special Events, they would like to do a Doggie 5K and need additional volunteers. She asked that those interested contact her.

Ms. Tyler stated Citizens Traffic Commission continues to monitor and seek a resolution on the Highland Drive/Maplevale U-turn issue as it relates to the Scudders Falls Bridge project, and Chief Coluzzi is working with them on this for some remediation. Ms. Tyler stated EAC will hold a Styrofoam collection on January 14 between 10 and Noon at the Township Building. Ms. Tyler stated the Historic Commission reorganized, and the new Chair is Christa McConaghy who in conjunction with Kaaren Steil worked on the Cemetery walk through. Ms. Tyler stated they continue to look for members for the Historic Commission and those interested should send a letter of interest to Mr. Fedorchak.

Mr. Fritchey stated Robert Archibald who had served for many years on the Sewer Authority has resigned, and Mr. Fritchey stated he feels it would be appropriate to recognize him at a future meeting.

Ms. Bussey asked if it is a requirement to serve on the Township Task Force that members live in Lower Makefield Township, and Ms. Tyler stated a non-resident could attend the meetings although they could not be appointed to the Task Force. Mr. Benedetto stated he believes that Mr. White lives in Yardley Borough. Ms. Tyler stated if that is true, they would have to amend the Motion. Mr. Benedetto stated he feels Yardley Borough is just as impacted as is Lower Makefield, and he does not see why they have to limit it to Lower Makefield residents.

Mr. Lewis' Motion was withdrawn.

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to appoint Peter Kakoyiannis and Richard Preston to the Trenton Mercer Airport Task Force.

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to appoint Robert White as an Associate Member to the Trenton Mercer Airport Task Force. Ms. Tyler stated this would mean that he is a non-voting, contributing member.

There being no further business, the meeting was adjourned at 11:25 p.m.

Respectfully Submitted,



Kristin Tyler, Secretary



Township of Lower Makefield

BOARD OF SUPERVISORS
Jeffrey Benedetto, Chairman
John B. Lewis, Vice Chairman
Kristin Tyler, Secretary
Judi Reiss, Treasurer
David E. Fritchey, Supervisor

NOVEMBER/DECEMBER 2016 WARRANT LISTS AND NOVEMBER 2016 PAYROLL COSTS FOR APPROVAL DECEMBER 21, 2016 BOARD OF SUPERVISORS MEETING

Accounts Payable Warrant Report:		
Printed Checks:		
11/21/16 Warrant List	\$ 675,683.55	
12/05/16 Warrant List	\$ 309,943.04	
12/19/16 Warrant List	\$ 635,733.72	
Manual Checks:		
11/21/16 Warrant List	\$ 55,578.07	
12/05/16 Warrant List	\$ 33,343.74	
12/19/16 Warrant List	\$ 20,620.91	
Total Warrant Reports		\$ 1,730,903.03
Payroll Costs:		
November 2016 Payroll	\$ 514,183.10	
November 2016 Payroll Taxes, etc.	\$ 234,942.97	
Total Payroll Costs		\$ 749,126.07
TOTAL TO BE APPROVED		\$ 2,480,029.10

