

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – AUGUST 20, 2014

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on August 20, 2014. Chairman Dobson called the meeting to order at 7:30 p.m.

Those present:

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

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

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B Wren Song Road, stated approximately one and half months ago he requested Discovery on his arrest for terrorizing Judge Falcone, and asked if this was available; however, the Board was unsure what he was requesting. Mr. Kupersmit stated the Board is refusing to comply with the law. Chief Coluzzi stated the correct jurisdiction would be Bensalem Township. Mr. Kupersmit stated the Police were out twice to harass him and to arrest him once, and he is a completely innocent person. Chief Coluzzi stated any Discovery would have to be made through Bensalem Township. Mr. Kupersmit stated he did request this from both the Bensalem Police and Bensalem Township, and they are refusing and will not give him a transcript from his Appeal. He asked if there is a cover-up. He stated he was arrested another time by Mr. Santarsiero; and there was an incident about a month and a half ago when Chief Coluzzi reprimanded him in front of Mr. Santarsiero, and now they have arrested him for trespass on Mr. Santarsiero's office when it was official business. He stated there will be a trial at 2:15 p.m. on September 22, and he expects all five Supervisors to be there to testify on his behalf for all the work he has done to try to help the Township for four years.

Mr. Kupersmit stated he also ran into the Logan Act which says that a private citizen cannot negotiate with foreign countries. He stated he has a peace proposal, and he needs the Board to contact Mr. Casey, Mr. Toomey, and Mr. Fitzpatrick to get him permission since they are not doing anything. Mr. Kupersmit stated if he does not hear by Friday, he will be filing suit to force the Board to do this. He asked that the Township stop harassing him.

Ms. Donna Doan, 1584 Edgewood Road, congratulated Sam Stewart and Charlann Farm for their win at the Middletown Grange Fair this year.

Mr. Ken Seda, 912 Weber Drive, stated he watched a replay of the Fieldstone discussion, and he hopes that there will be much more discussion on this tract so that they look at it from a reasonable growth perspective and the overall feel of the community. Mr. McLaughlin stated the Plan still has to go through the review process as this was only a Sketch Plan. Mr. Stainthorpe stated there are numerous steps that they have to go through. He added that they had been before the Board of Supervisors previously and the Board indicated they were not in favor of the Plan presented, and the developer did take the comments made by the Board into account and made revisions. Mr. Benedetto stated he is interested in preserving the integrity of the Township. He stated he does not feel it is good to have a cluster development across from Yardley Hunt. Mr. Seda stated he is not in favor of the cluster development. Mr. Benedetto stated there are environmental issues on the property.

Mr. Seda stated there was a reference made to impervious surface, and it seemed as though the requirements for developers were lower than for an individual. Mr. Stainthorpe stated the impervious surface is set in the Zoning Ordinance. Mr. Garton stated there is a element in the Ordinance that indicates that the developer gets a certain percent and to avoid problems in the future, there is also criteria that the homeowner gets an additional percentage later; but the stormwater management system takes into consideration the additional impervious and it is still below the maximum. He stated the developer gets less than he is entitled to so it is actually stricter on the developer.

Mr. Seda asked if the Township has an overall plan as to where they plan to go with regard to the overall percentage of open space they want in the community. Mr. McLaughlin stated the EAC has recently proposed properties to the Board, although they do not want to disclose them because of legal issues; and they are actively considering candidates. Mr. Fedorchak stated there is approximately \$475,000 in open space money to use, and they are trying to determine what would be the best way to use that money. He stated the Township would also have to contribute 20% to get that \$475,000.

Mr. Seda asked what is the Plan noting that there was a Referendum which authorized the Township to borrow money to purchase additional properties. Mr. Benedetto stated it was \$15 million. Mr. Seda asked if they have done anything with this; and it was noted they have not. Mr. McLaughlin stated when that Referendum was passed some years ago it was a different time, and the Board is faced with changing financial concerns; and the Board needs to be fiscally responsible.

Mr. Stainthorpe stated a Referendum in favor authorizes the Board to borrow a certain amount of money which in this case was up to \$15 million; however, they do not do this until they have a piece of property they wish to purchase. He stated now there is still money in the County Open Space Fund which they would spend first before they take on additional Township debt.

Mr. Seda stated he sees properties for sale and other open properties, and he feels the Board should put together an overall plan for where they want to go in terms of open space and what percentage of the community in general should be in open space, and then "march" toward that plan.

Mr. Benedetto stated the Board has been presented with a list of properties from the EAC. He noted the number of farms in the Township including the Torbert Farm and the Guzikowski Farm. He stated during the last election there was discussion about preserving open space through Conservation Easements and discussions about the quality of life. He stated he feels a farm like the Guzikowski Farm would be a legacy the Board could establish by preserving that farm since it is touching on Falls Township, and when that goes away because of their financial difficulties, they could easily sell to a private developer and that large piece of property would be gone. He stated there are multiple properties that could be acquired with the \$475,000 Open Space money. He stated this was supposed to run out by the end of this year, but there has been a two-year extension so the Township does have time to make a decision. Mr. Benedetto stated they have had this money for a while; and while they have spent some of it, they have also had options through the EAC and nothing has happened.

Mr. Seda stated he feels they should have a concrete plan for open space with an actual percentage and what they intend to do as a Board to accomplish open space.

Mr. Benedetto stated a plan without any action is useless. He stated there is a plan for Patterson Farm. He stated they have been presented with a list from the EAC with priorities.

Mr. McLaughlin stated Mr. Seda has previously brought up Fieldstone, and he noted a substantial portion of that property will remain open space. Mr. Seda stated he did see that they will retain 76% in open space. Mr. McLaughlin stated it is not always the money the Township spends, but it is also what they get from the developers. He stated a major portion of Fieldstone will be preserved as open space. He stated as part of the Comprehensive Plan they want to make sure that when development does happen, they extract as much open space for free and not spend taxpayer dollars when they do not have to. Mr. Seda stated he also understands that some of that property is not developable which is why it is being left open, and Mr. Benedetto agreed. Mr. McLaughlin stated the land could have been remediated and developed; but in the Plan that is under review, they will preserve all of that as open space. Mr. Benedetto stated he feels they should purchase the Fieldstone property and keep it all as open space.

Mr. Benedetto stated he has had discussions with Sandy Guzikowski and while she could apply for her own easement, there is \$475,000 that could start the process. He stated this was presented to the Board by the EAC months ago, and the Farm has been sitting there. Ms. Tyler stated she does not feel they have sufficient money to purchase that tract, and Mr. Benedetto stated there is enough money to start the process similar to what they did with Patterson Farm where they have 70 acres preserved.

Ms. Tyler stated they are all interested in preserving and expanding open space; however, if they act on the \$15 million bond, taxes will increase, and they must weigh this in determining what is best for the Township. She stated they appreciate the EAC's efforts. Mr. Seda stated taxes will never go down, and he questions when there will be the right time to do this. He stated he does not want to pay more taxes. Ms. Tyler stated the Board must consider if it is more important to raise taxes for open space or put money into infrastructure such as roads, etc. Mr. Seda stated he would like to do both.

Mr. McLaughlin stated there is a finite resource which is the taxpayers' money. He stated he feels the Board has done a number of things including the ball fields and the playground. Mr. Seda stated that money came from the Grant; however, Mr. McLaughlin stated the Grant will not pay the maintenance, and it will be taxpayer resources that are committed to this. He stated they are also constructing a Community Center; and while the money from the State helped, there will be ongoing expenses. He stated the Police have also just negotiated a new Contract requiring raises. He stated there is a balance, and the Board operates every day with a plan. He stated they cannot go into details of the plan if it involves real estate negotiations. He stated the Board has to balance everything.

Mr. Seda stated he understood that Ms. Tyler was following up on PECO's progress related to the Township, and he asked for an update. Ms. Tyler stated she has been working with a newly-formed Township Committee for some time, and she has reached out to political bases beyond the Lower Makefield Township borders. She stated the Electric Reliability Committee has taken the PUC Reliability Report and identified questions to all the action items as they apply to Lower Makefield. She stated this was provided to Senator McIlhinney's office. She stated in May they had also requested that PECO provide them with a Reliability Report for Lower Makefield, and they were told that they were getting that Report. She stated she followed up with a letter on June 16, but they did not receive the report; and she followed it up with a letter about a week and a half ago, and now PECO seems reluctant to release the information that they had intended to give to the Township. Ms. Tyler stated the reason the Reliability Report is as important as it is, is because it will allow the Township to make their own assessment of the reliability of the electrical infrastructure within the Township and not necessarily take PECO's word for it. Ms. Tyler stated there are two electrical engineers on the PECO Committee who can provide extremely valuable assessments of what they see. She stated they want the Reliability Report in advance of the now-delayed Infrastructure Upgrade Report PECO has promised so that there is a basis from which to evaluate the Upgrade Plan as compared to the data. Ms. Tyler stated today she spoke to Senator's McIlhinney's office and expressed to them the reluctance that PECO has communicated to her in providing the comprehensive Reliability Report for Lower Makefield just for this calendar year, and Senator McIlhinney's office is actively working with her to convince PECO to give the Township the data that is needed.

Ms. Tyler stated that have also interviewed a few more individuals for the Electric Reliability Committee, and will probably be discussing later having more engineers. She stated those who have stepped forward to volunteer for the Committee have incredible credentials and are anxious to get the data to make an analysis. She stated the Committee is working with the data they have and are seeking a voice not only with PECO but also with the PUC to have the PUC advocate more strongly with the request to PECO. She stated they need to be provided with the hard data that identifies the problems in the Township in order to review the Plan for upgrades to see if it will address those problems. She stated Mr. Santarsiero's office has also been working on the Infrastructure Upgrade Plan.

Mr. Seda asked what the Township has at its disposal as motivation to get this done. Ms. Tyler stated there is very little the Township can do to make PECO comply with their requests. She stated PECO is regulated by the PUC and is a conduit with the State Government. Mr. Seda asked if PECO is required to get Permits or Licensing to accomplish work in the Township, and Mr. Garton stated this is only needed

if they enter and cross a Township Road or dig in the streets; and they have no obligations to get Permits for pole work or any other equipment. He stated they are specifically exempt from Township regulations.

Mr. Benedetto noted Mr. Seda's prior discussion on the \$15 million, and stated the Township did borrow \$4.65 million about one year ago and part of that was a \$400,000 improvement to the Golf Course. He stated \$3.6 million of the Bond was for the Dalgewicz settlement. Mr. Seda stated it seems they will borrow for the Golf Course but not for open spaces.

Mr. Seda asked Ms. Tyler to continue discussing the PECO issue, and Ms. Tyler stated they are working with higher-up elected officials to help them get responses from PECO. She stated they were also in discussion with the Township solicitor this evening as to what other potential avenues they have to get the information needed.

Mr. Dobson stated he understands that PECO will present a plan late September and will meet with Senator McIlhinney, Steve Santarsiero, and the Township as to how they will go forward with infrastructure upgrades. Mr. Dobson stated PECO answers to the PUC, and the State Government funds the PUC so the Township has done as much as they could. Ms. Tyler stated she is going to continue to push for the information she believes the Township is entitled to.

Mr. Seda stated with regard to the open space, he feels they need to think beyond the revenue issues although he does not want to pay more taxes. He stated it is also about the value of the quality of life.

Ms. Sue Herman stated she voted in favor of the \$15 million open space, and she would like the Board to pursue acquisition of open space as aggressively as possible given that there is a finite amount of open space left and if we do not get it the developers will. She stated it is paramount to the quality of life we have in the Township and to provide for future generations.

Mr. Benedetto asked Mr. Dresser how many properties have been identified as potential open space acquisitions, adding he feels there was a list of fifty properties or more; however Mr. Dresser stated it was approximately thirty. Mr. Dresser stated they sent out a letter to approximately fifty potential landowners and received twenty-five responses back that they were interested in selling their land or granting easements for the land. Mr. McLaughlin asked of the twenty-five, how many did the EAC cull down the list to, and Mr. Dresser stated it was approximately seven to eight that they recommended since they only had so much money.

Mr. Tim Collins, 479 Jenny Drive, stated for a place that gets as much play as the Golf Course does, it is in excellent condition. He stated there were previous concerns about the ability to serve people and the food; however, they had their annual banquet there last evening and it went flawlessly.

Mr. Collins asked about putting a three-way stop area coming up Reading paralleling Yardley County Club which is getting more and more dangerous trying to make the left. Mr. Stainthorpe stated he would be in favor of this, but they need to coordinate this with Yardley Borough. Ms. Tyler stated the Citizens Traffic Committee discussed this Monday evening. She stated an engineering study had been done, and they made an Application to PennDOT for a stop sign there which was denied. She stated they were told that there are no accidents at that intersection. She stated they are going to ask the traffic engineer to follow up on sight distance. She stated they did request additional signage – not in the form of stop signs – but “stop sign ahead” signs on all three corners. She stated Citizens Traffic is actively pursuing the stop sign; and even though they got their first “no,” they are going to apply again. She stated their best argument is the sight distance limitation.

Mr. Benedetto stated in 2011 a neighbor complained about that intersection, and Mr. Fedorchak looked into this; and they already put in additional signage three years ago. He stated he does not feel PennDOT will do anything more about this. Ms. Tyler stated she believes that there was a report from PennDOT that the addition of a stop sign could actually make the intersection less safe since people would anticipate that the other driver would stop. She stated they will continue to pursue this.

Ms. Wendy Desantis, 1451 Robinson Place, stated her neighborhood has been devastated by four floods over the last several years. She stated her home which was a one-floor rancher on a slab has been destroyed four times. She stated she received notice that she was going to be approved for an Elevation Grant, and her family was overjoyed; however, through the Bid process, the contractor that won the bid was incompetent, dishonest, and has totally destroyed her property. She stated she was notified in December, 2013 that she had four days to get out of her house in order for the elevation to take place shortly before Christmas. She stated they begged for more days and were told that their electric was going to be turned off and the elevation would start taking place. She stated they were told this was because the contractor had a bond that was expiring in March; and if he had to re-apply for that, it would cost him \$6,000 which would be charged to her. She stated she found out later that this was a lie.

Ms. Desantis stated the contractor came into her home on the first day as they were hurriedly trying to remove the last of their personal property, and treated she and her daughter rudely and were dismissive until her ex-husband came, and he was treated like “royalty.” Ms. Desantis stated on December 19 a few days after vacating the home, she and her daughter went to the property to see what was happening, and they were amazed at the amount of work that had been started; however, they were dismayed that all of the appliances, water heater, water system, well tank, and washer and dryer had been stored outdoors and had 6” of snow on them.

Ms. Desantis stated she immediately e-mailed Mr. Majewski who was in charge of the project and the Township, but the results were mediocre at best. She stated the Township representatives were dismissive and non responsive after weeks of begging for a response from the Township and Mr. Majewski.

Ms. Desantis stated her upgraded kitchen has been totally destroyed, her water system froze and split, and her plumbing was not drained properly over the winter and split. She stated the contractor tore out her walls destroying the wiring in her home. She stated all of these things had been working properly. She stated she was told she would be able to move back into her home at the latest by the end of March, and her Contract stipulates this. She stated the Contract also states that if the contractor is late, for every two weeks there would be increasing fines. She stated she was advised by Mr. Fedorchak yesterday that the contractor is still technically employed by the Township. She stated her home is nowhere near being livable, and there is no interest by the Township or Mr. Fedorchak to assess the damages. She stated she is a single mother and has to provide a home for her son and is paying two mortgages which has totally drained what little savings she has. She stated all that is left of her elevated home are plywood walls, studs, and a roof. She stated she had to bring in her own contractor in order to assess the damages, yet the Township finds no sense of urgency and weeks have gone past since they acknowledged that the original contractor was incompetent and should not be on the job.

Pictures of the property were shown to the Board.

Mr. McLaughlin asked if she has pursued legal matters against the contractor, and Ms. Desantis stated she wanted to. She stated in July she indicated to Mr. Fedorchak and Mr. Majewski that she had spoken to an attorney, but she wanted to avoid retaining the attorney; and Mr. Fedorchak advised her that he wanted to help but was concerned about her threats to approach the media, retaining an attorney, and her contacts with FEMA and the Attorney General’s office for a criminal investigation which could jeopardize the elevation projects for her neighbors which she felt bad about. Mr. Fedorchak indicated in an email dated July 25 that he would “make her whole.”

Mr. McLaughlin asked Ms. Desantis if she contracted privately with the original contractor; and Ms. Desantis the bidding process was all through the Township, and she had no say in it. She stated it is her understanding that the Township administers the Grants, they advertise the Bid, and the Bid was awarded to John Sakoutis of Jackson, New Jersey.

Ms. Desantis stated by the end of March her house was nowhere near habitable, and she sent e-mails to Mr. Majewski who went six weeks without returning a call or e-mail. She stated she had a meeting with Mr. Sakoutis and Mr. Majewski at the Township Building to outline the damages, and Mr. Majewski prepared a punch list of what needed to be completed before the contractor would receive final payment. She stated there were approximately forty-two items including reimbursing her for the appliances, the heating system, etc.; however, the contractor has been allowed to walk away and has been paid in full by the Township.

Mr. Fedorchak stated he feels Ms. Desantis has made a number of statements and is allegedly quoting her, and he feels he is being misquoted. He stated he feels the e-mails he sent to her will support this. Mr. Fedorchak stated Mr. Sakoutis was the contractor who started the project which is very close to being finished, as it is approximately 80% to 90% complete. Mr. Fedorchak stated he would not characterize Mr. Sakoutis as being incompetent although he does agree that there are a few things Mr. Sakoutis could have done better including protection of some of her appliances which he does not feel were properly covered during the bad weather, and this took its toll.

Mr. Fedorchak stated his approach over the last two months since he got involved was to get the project finished quickly. He stated toward that end he agreed to work with the contractor that Ms. Desantis selected, Frank Murray, rather than require Mr. Sakoutis to complete the work. He stated he felt that it made more sense to work with someone that Ms. Desantis was comfortable with. Mr. Fedorchak stated this process started two months ago when they reached out to Ms. Desantis and her contractor and asked them to identify what they felt the scope of work should be to see what they could do to finish the project quickly. Mr. Fedorchak stated one week ago he received a proposal from Ms. Desantis through her contractor, and they have reviewed it. He stated probably by tomorrow he will be sending a written proposal to Ms. Desantis and her contractor to review in the hopes that they can get that piece of the project completed and get Ms. Desantis into her house as quickly as possible.

Mr. Stainthorpe stated the Township has done these elevations several times and they all seemed to go smoothly, and he asked why this was different. Mr. Fedorchak stated he feels it is due to a number of things including the fact that the project started in November, and it was a very difficult winter which he feels was the major contributing factor to prolonging the project that could have been done a lot quicker. He stated he also feels there was a deteriorating relationship between Ms. Desantis and the contractor which exacerbated the situation. He stated when it reached a point where he recognized that those differences were irreconcilable, it was evident that the best way to close this was to work with Ms. Desantis' contractor. He stated he believes that they will be able to bring this to a successful conclusion. He stated they need to get the project finished, and he does not feel that there is that much work to be done; and he believes they can use Mr. Murray to complete the work.

Mr. Fedorchak stated Ms. Desantis made the comment that Mr. Sakoutis has been paid in full, but this is not the case. Mr. Stainthorpe asked who made the decision to go with the low bidder, and Mr. Fedorchak stated the Township did. Mr. Stainthorpe asked if this follows the rules that FEMA has, and Mr. Fedorchak agreed. Mr. Fedorchak stated they kept FEMA and PEMA "in the loop," and they have not had a project that unraveled quite like this one before. Mr. Fedorchak stated he made certain recommendations to them, and it is his hope that they will accept his recommendations. Mr. Stainthorpe asked if Congressman Fitzpatrick's office has become involved in this, and Mr. Fedorchak stated they have not yet; and if they run into any resistance from FEMA, it may be a good idea to get him involved. He stated at this point he believes that FEMA is agreeing to the switch in contractors.

Mr. Stainthorpe asked why Remington Vernick is still involved since they have not been the Township engineer for three years; and Mr. Fedorchak stated they kept them on this one project since Remington Vernick has done this for a number of years and are very familiar with the circumstances on River Road, but they could re-examine this on a going-forward basis.

Mr. McLaughlin asked how long Mr. Fedorchak feels this project will take to complete; and Mr. Fedorchak stated if they can come to an agreement with Ms. Desantis, he feels it can be done very quickly once the new Contract is signed. He stated they want to get this done quickly so that they are not up against another winter.

Mr. Fedorchak stated the second piece are the damages to Ms. Desantis' appliances and other items. Mr. Charles Desantis stated in the Contract there is a \$5,500 part of the Bid referring to storage of all the appliances and everything in the home, yet the contractor still said that it was the Desantis family's responsibility to store everything.

Mr. Desantis stated with permission from Mr. Majewski and Mr. Sakoutis he recorded a message when Mr. Sakoutis stated it was not his responsibility to store the things, and Mr. Fedorchak offered the Lower Makefield Township storage unit to store the refrigerator, heater, water system, filter system, etc. Mr. Desantis asked if Mr. Sakoutis was not responsible for storing these items, he questions why it was in the Bid and Contract. Mr. Fedorchak stated he agrees with Mr. Desantis, and there are a number of directions that this could go including the possibility that Ms. Desantis or the Township could go back to the original contractor for certain damages. He stated his current mission is to get Ms. Desantis back in her house as quickly as possible, and he feels this is doable.

Mr. Stainthorpe asked Ms. Desantis if this seems reasonable; however, Ms. Desantis stated Mr. Fedorchak is painting this incorrectly, and to state that the house is 80% to 90% ready to be inhabited is a gross underestimate. She stated her house has no wall board or insulation, no plumbing, no electric, no water system, and no well. Mr. Stainthorpe stated he wants to get the home finished and have them back in their home.

Mr. Fedorchak stated the original Bid contained a number of different work elements, and Ms. Desantis reduced that scope of work by a certain amount in order to maintain a budget; and she told them that she was accepting the responsibility to do a number of different additional things. Ms. Desantis stated what she had agreed to do was instead of the contractor re-connecting the electrical service from PECO, she was going to do this. She stated she was also going to build the stairs into the house. She stated the electrical she was referring to was the re-hook up to PECO which would cost approximately \$2,000, but the contractor when ripping out the studs totally stripped out and destroyed the entire house's wiring. She stated she also stated she would be responsible for reconnecting the drainage system into the sewer; but her plumbing which was perfectly functioning, was all destroyed because the contractor had not properly drained it. She stated she had three different plumbers advise her of all the splits and that it had not been drained properly

Mr. Fedorchak stated where they are now and what the Township is identifying as additional work are elements that they are going to consider as part of the work that they want Mr. Murray to do. He stated they have not yet submitted to Ms. Desantis the scope of work, and they will do this in the next few days so that she can review and comment on it. Ms. Desantis stated earlier Mr. Fedorchak stated it would be tomorrow and now it is two days, and this is the theme of this entire project.

Ms. Desantis stated Mr. Murray is an extremely honest, very competent and educated contractor who cares about this project because he sees what has been done to her. She stated he had a meeting with Mr. Majewski yesterday to go over this proposal. She stated she was under the impression that the proposal would

take care of the damage. She stated she is not looking to benefit from this, and just wants to have back what she had. She stated after the meeting yesterday, Mr. Murray called her and told her that Mr. Majewski told him very clearly and specifically after a lengthy meeting that they would only pay up to \$19,900 or else it would have to go to Bid; and they would have to pay prevailing wage. Ms. Desantis stated she has no confidence in Mr. Majewski for many reasons. Ms. Desantis stated Mr. Majewski indicated he was using the numbers from Mr. Sakoutis for the electrical and plumbing which are the pre-damage numbers and also the numbers from the man who destroyed her house who obviously does not know what he is doing.

Mr. Benedetto stated Ms. Desantis has been very patient since this was to be done by March, and he understands she is frustrated with the lack of response. Ms. Desantis stated she was ignored for six weeks from March to almost June, and did not get even an e-mail back from the paid engineer.

Mr. Stainthorpe asked who is in charge of the construction management for the project, and Mr. Fedorchak stated it is the engineer. Mr. Stainthorpe stated it seems that Mr. Majewski has a problem. Ms. Desantis stated he does have a problem as she now has a lawyer.

Mr. Benedetto asked if they have used Sakoutis Builders before; and Mr. Fedorchak stated he believes he has done similar jobs.

Mr. Stainthorpe stated he questions how they got to this point since there should have been "red flags" such as why the appliances were in the yard, and why the dry wall was torn down.

Mr. Benedetto asked how much Mr. Sakoutis has been paid, and Ms. Desantis stated she was told that they retained \$5,400 of the \$200,000. Mr. Fedorchak stated he believes that it is between \$10,000 and \$15,000.

Mr. Stainthorpe stated he feels there are some legal issues with Remington Vernick who were responsible to manage the construction. Ms. Stainthorpe stated he also wants Ms. Desantis back in her house as quickly as possible.

Mr. Dobson asked how the Township is involved if there is a builder with a Contract; and Mr. Fedorchak stated ultimately the Contract is between the Township and Sakoutis since the Township awarded the Bid, and they then had Remington Vernick serve as the project manager. Mr. Benedetto asked why they paid Sakoutis if the work was so sub-standard. Mr. Fedorchak stated the process is that all payments go to the engineer, and the engineer authorizes the payments.

Mr. Dobson asked what the Township can do legally to recoup these costs since he feels it will cost more than \$19,000 to fix the house. Mr. Garton stated tonight is the first he has heard about this; however, if there is a Contract between the Township and Mr. Sakoutis which has been violated, he would owe damages to the Township for failure to do the job in accordance with the Contract. If he caused damages, he effectively caused damages to the Township so there is probably a cause of action. He stated if there is a Bond, they could notify the Bond issuing company that they have a claim because of defective work.

Mr. Stainthorpe asked that Mr. Garton, Mr. Eisold, and Mr. Fedorchak discuss how they can come to a quick solution on this. Ms. Tyler stated she also feels they need to hear what Remington Vernick has to say about this, and she needs a lot more information about this situation. She stated this needs to be prioritized because time is of the essence. Mr. Fedorchak stated they will be presenting a scope of work tomorrow so they can get Ms. Desantis to comment on it.

Mr. Garton stated when you have a Bid, there is also an exception for an emergency, and this may qualify as an emergency; and they could get away from all the bidding issues since she is not in her home and is paying a mortgage payment as well as paying for a place to live. He stated they might be able to convince FEMA that this does not require a Bid and could get it done a lot quicker. Mr. Stainthorpe stated everyone has to put effort in this to get Ms. Desantis back into her home.

Mr. Fedorchak stated if they can work it under an emergency basis, this would be helpful.

Mr. Stainthorpe stated if they need to get Mr. Fitzpatrick's office involved, they do have expertise. Mr. Desantis stated they tried to get Mr. Santarsiero's office involved, and they showed no desire to help. Mr. Stainthorpe stated Congressman Fitzpatrick has an aide who spends half her time dealing with FEMA on issues like this and is pretty effective. Mr. Fedorchak was asked to contact her and he agreed to do so.

Mr. McLaughlin asked how they will approach Sakoutis for his failures, and Mr. Fedorchak stated he and Mr. Garton could go over the details and determine the appropriate course of action for the Township. Mr. McLaughlin stated he would like to know from Mr. Sakoutis where the money was spent given the condition of the house shown in the pictures and what are the recourses from a legal perspective to retract those funds.

Mr. Desantis stated he has serious concerns about Remington & Vernick being involved in the bidding process. He stated prices have been whited out in the invoices, and items were included that could not have been used in the home.

Mr. Fedorchak stated he feels they should continue to use Mr. Majewski with assistance from Mr. Eisold. Ms. Tyler stated she feels they need to hear from Mr. Majewski, and Ms. Desantis stated they should be prepared to wait to hear from Mr. Majewski. Ms. Tyler stated they understand the gravity of this situation, and they are going to get this solved so she can get back in her house.

Mr. Desantis stated when they expressed concerns to Mr. Majewski about work not being up to Code, they were told everything was fine, even when it was clearly demonstrated that it was not okay. Ms. Desantis asked if she could leave her contact information with the Board members because she is concerned about the prior lack of response. She stated if anyone has questions or needs information from her, they can do so since going through Mr. Fedorchak takes forever. She stated she questions why the Board is just hearing about this now.

Ms. Lisa Huchler-Smith, Disabled Persons Advisory Board, stated the Kohl's/Shop Rite parking lot has been a problem; and since February, 2013 she has been working with the manager of the parking lot expressing her concerns specifically with the curb cuts and some of the handicap parking spots. She stated once a tenant was obtained, they were ready to re-stripe the parking lot; and she met a number of times with their engineers to go over changing the locations of curb cuts and handicap spaces, and proper re-striping. She stated this has been done, and is wonderful; and she thanked the manager of the parking lot for working with them.

Ms. Smith reported on the progress of the construction of the inclusive playground. She stated when it is done, it will be an asset to the community. She stated the cooperation with Ms. Liney, Mr. Fedorchak, and the Township engineer has been excellent. She stated it should be done within a month, and they will have a ribbon-cutting ceremony that everyone will be invited to. She presented flyers about the playground.

#### APPROVAL OF MINUTES

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Minutes of July 16, 2014 as written.

#### APPROVAL OF JULY 21, AUGUST 4, AND AUGUST 18, 2014 WARRANT LISTS AND JULY, 2014 PAYROLL

Ms. Tyler moved, Mr. McLaughlin seconded and it was unanimously carried to approve the July 21, August 4, and August 18, 2014 Warrant Lists and July, 2014 Payroll as attached to the Minutes.

#### FEMA FLOOD INSURANCE UPDATE

Mr. Eisold stated yesterday they received the Letter of Good Standing for the Community Rating System which is the first major hurdle to be accomplished. He stated there are some other steps to go, and the next step is to set up a meeting with a representative from FEMA and work with them to fill out the formal Application. They are in the process of setting up that meeting. Once the formal Application is submitted, it will be reviewed and hopefully approved. He stated normally they take Applications twice a year; and while he is not sure they will make this fall, it would definitely be in the spring if they do not make the fall cut off.

#### QUIET ZONES UPDATE

Mr. Eisold stated the project is proceeding in accordance with the original schedule. He stated they have completed the first two phases of work which includes the data collection and traffic counts have been done. He stated they also completed the base surveys for the three intersections. All of this information has been forwarded to Gannett-Fleming, the consultant, and they are doing the Grade Inventory Sheets and calculating the risk index. He stated there are a number of steps in the process.

Mr. Dobson asked about the Grant, and Mr. Eisold stated he believes they indicated the Township would hear later in the year possibly November or December.

Mr. Benedetto stated the property on Dobry Road on the other side of the tracks was purchased by CSX, and they will make closing on it next week so that has been removed as an obstacle.

Mr. Tim Collins stated at a prior meeting someone questioned the timing of when they did the traffic studies, and Mr. Eisold stated that it was done before the Schools were closed so the bus counts were included.

Mr. Benedetto stated an individual who lives on Stony Hill Road was concerned about the Quiet Zone egress. Mr. Art Widmann, 510 Stony Hill Road, stated when they took the traffic counts, the only School that was in session was Pennsbury and all the other Schools were closed so half the buses were not included in the count. He also stated they cannot block his driveway with the Quiet Zone. He stated this would keep his wife and son from getting to work. Mr. Eisold stated they understand this although they are not at that point yet. He stated they are collecting data, and the consulting engineer is doing the Risk Assessment. He stated they will then have a preliminary design; and once the preliminary design is done, they will have to meet with all the residents in the area so they will be notified to meet and discuss what the options are once they have the preliminary design, but at this point

they do not have enough information. Mr. Widmann stated he understands that they want to prevent people from going around the gates with the four-gate system. He stated on July 8, the gates were down; and approximately fifty cars went around the gates. He stated he does not feel the four gate system will work because someone could get stuck between the gates. Mr. Eisold stated the four gate system is much more expensive, and they do not feel they will do this; although the evaluation will determine what the best solution is. Mr. Widmann stated he understands that SEPTA is redoing all of the crossings, and Mr. Eisold stated SEPTA is working on the crossings. Mr. Widmann asked if SEPTA will pick up the cost of the Quiet Zones, and Mr. Eisold stated they have been discussing this, and SEPTA is working with the Township to try to get some Grant money.

Ms. Sonya Daulerio, 510 Stony Hill Road, stated the last time she was here, it was stated that there was a possibility that rather than a 100' barrier, there could be a 60' barrier; and Mr. Eisold agreed. Ms. Daulerio stated according to the blueprints the Railroad had designed that she has possession of, their driveway is 50' from the Railroad crossing and not 60' so that would still block the driveway. Mr. Eisold stated they are going to look at all of this when they do the preliminary design and what the impacts of that design are. Mr. Widmann and Ms. Daulerio stated the trains never wake them up. Mr. Widmann stated they were never notified about any of this until they were told about it by a neighbor.

#### ROAD RESURFACING PROGRAM UPDATE

Mr. Eisold stated two months ago there was a recommendation to award the Base Bid for the 2014 Road Resurfacing Program. He stated the contractor has started reconstructing some of the handicap ramps. Mr. Eisold stated he has had further discussions with Mr. Fedorchak, and Mr. Kall; and at this time they would recommend that they include Bid Alternate #2 which is to pave Lafayette Drive which had quit a bit of water main work.

Mr. McLaughlin asked if the \$659,360.04 is the final number, and Mr. Eisold stated he feels this is a good number recognizing that you never know what you may run into. Mr. McLaughlin asked the final Budget number, and Mr. Fedorchak stated there should be enough in Liquid Fuels to cover this. Mr. Benedetto stated the final Budget number was \$790,000. Mr. McLaughlin asked if they could include more, and Ms. Tyler stated they wanted to have a cushion because of potential problems; and Mr. Eisold agreed that there is a cushion, but until they start milling, they do not know how much more they may need.

Mr. Benedetto stated the Bid went to General Asphalt Paving in the amount of \$528,436.68, and Mr. Eisold agreed. Mr. Benedetto stated Alternate #2 which adds Lafayette Dive is \$62,317, and this will get added to \$528,000 which is approximately \$600,000, and he asked how they get to \$659,000. Mr. Eisold stated this includes handicap ramps; and per the requirements, sometimes when you remove a handicap ramp at the curve of the road, you have to put two handicap ramps back so the increase in the Base Bid had to do with adding a number of other handicap ramps.

Mr. Benedetto stated they Budgeted \$790,000 and are still \$135,000 short of what was Budgeted. Mr. Fedorchak stated to date they have spent \$142,000 in salt purchases so this leaves \$715,000. He stated with the adjustments and adding Lafayette they are close to that number, and he would agree with Mr. Eisold's recommendation and stop there. Mr. Benedetto noted Alternate #3 which is less than \$20,000 and could be included. Mr. McLaughlin stated there is still the potential for winter weather this year, and they may need to buy salt again. He feels they should keep a cushion in just in case it is needed. Mr. Benedetto stated he disagrees since the road resurfacing is the biggest complaint they receive. Ms. Tyler stated they also need to have a reserve in case problems are uncovered when they start working on the roads. Mr. Fedorchak stated this is a major concern, and they could find that there are increased costs of \$15,000 to \$30,000 if they find that more base work is needed on some of the roads.

Mr. Benedetto reviewed the amounts of money spent each year since 2007 on roads. He stated if you talk to people on some of the roads that have not been done, they ask when their road will be resurfaced. Mr. McLaughlin stated since 2011 they have more than tripled the amount spent on roads.

Mr. Benedetto stated he has an issue with the figures for 2012, and it was indicated \$916,000 was spent from Liquid Fuels; and he asked where that was in the Budget. Mr. Fedorchak stated they discussed this previously, and he had indicated at that time that for 2012 they took the road resurfacing expenses out of the Capital Reserve Fund in the amount of \$454,000. Mr. Fedorchak stated he believes there are also other accounts where road monies were taken from, and he can comfortably state that \$455,000 was spent on road resurfacing. Mr. Benedetto stated there is a discrepancy, and during the last Election in 2012 there was an indication that \$700,000 was spent on road repairs so either the Township is wrong or the campaign in 2012 was wrong; and he feels it is misleading to indicate that they spent \$700,000 when it was \$455,000. Mr. McLaughlin asked Mr. Fedorchak to get the exact number for 2012. Mr. Fedorchak stated he believes they spent \$674,000 in 2013. He stated they have also increased the amount every year what

is being spent on the roads. He stated this year they will be spending approximately \$700,000. He stated a number of years ago the engineer at the time projected that over twenty-five years, on an annual basis they should spend approximately \$700,000 to \$800,000.

Mr. Benedetto moved to add Bid Alternate #3 (Fordham Drive) in the amount of \$19,879.64 to the approval for Bid Alternate #2. Motion died for lack of a Second.

Mr. McLaughlin moved and Ms. Tyler seconded to approve the Base Bid plus Alternate #2 totaling \$659,360.04.

Mr. Benedetto asked why Bid Alternate #2 (Lafayette Drive) was selected and not Bid Alternate #1 (Yale Drive). Mr. Eisold stated it was based on the condition of the road and the length of the trench that has been disturbed in the road, adding Lafayette is in the worst condition out of all the remaining roads. Mr. McLaughlin stated those roads not included this year will be included next year. Mr. Benedetto asked when the decision was made to add Lafayette Drive, and Mr. Eisold stated it was in the last two to three weeks. Mr. Benedetto stated he is curious if the e-mail they received from an individual from Lafayette Drive had anything to do with it being selected; however, Mr. Eisold stated he was not aware of this e-mail.

Mr. Kupersmit stated the Township is spending approximately \$715,000 a year resurfacing roads, and he asked the process of putting one road on the list as opposed to deferring it to the next year. He noted a portion of Oxford Valley Road which is starting to break up. Mr. Eisold stated the evaluation process is based on the condition of the road based on a rating system and the deterioration and the capacity/traffic on that road. He stated there is a weight put to the more heavily traveled roads as opposed to the neighborhood roads. He stated they have been trying to get a mix of both – major roads and neighborhood roads. He stated he and Mr. Fedorchak are in the process of putting together a plan going forward of what they will recommend over the next five to ten years. He stated there was a plan that was done by the previous engineer approximately ten years ago, but they are looking to update it.

Mr. Benedetto asked if they could publish the plan so that people know when their road will be resurfaced. He stated he thought they already had a plan. Mr. Eisold stated given the weather they have had, roads that might have been good a few years ago are not as good so it is a flexible plan that can be changed over time. Mr. Benedetto stated once they come up with a plan, he feels residents should know what the plan is.

Motion approved unanimously.

## DISCUSSION AND MOTION ON OPEN SPACE GRANT FOR PATTERSON FARM

Ms. Judy Stern Goldstein was present and stated she was asked by the Township Manager to come up with some documents to start the Application process for exploring options of obtaining a Bucks County Open Space Grant for the Patterson Farm. She stated the amount available for Lower Makefield is \$438,355.

Mr. Benedetto asked for an explanation of the different funds available, and Ms. Goldstein stated there were three different components – the agriculture, the resource protection, and the Municipal Open Space Program which has a farmland preservation and a resource protection component to it. Mr. Benedetto stated the first component, the agricultural Grant, was the Application the Township filed which was held up at the County Commissioner level for \$900,000; and Ms. Goldstein stated she understands that was not approved. Mr. Benedetto stated the discussion this evening is to spend \$438,355 for Patterson Farm. Mr. Benedetto stated earlier Mr. Seda was discussing potential areas in the Township they could use the money on such as the Guzikowski Farm, the Torbert Farm, and other properties; and now they are discussing using that money for Patterson Farm. Ms. Goldstein stated it is not a finite amount of \$438,355 because there is the potential to get additional funding from those Municipalities who are not able to come up with a match. Mr. McLaughlin stated his understanding is not every Township has used their allocation, and some Townships are giving back and some may get more than their allocation if another Township is not using their allotment.

Mr. Fedorchak stated they may recommend to the Board to ask for more than the \$438,355 and ask for an amount based on what the Appraisal comes out to. He stated they are in the process of doing the Appraisal right now.

Ms. Goldstein noted a Plan showing Patterson Farm, and she stated the light green is approximately 71 acres in size which is an existing Bucks County Open Space Easement on the land. She stated the area in dark green is the area of the potential Conservation Easement that they are discussing, and those three areas total approximately 93.28 acres. She stated for a number of reasons the area in blue is the area that would not be part of the Conservation Easement that is being proposed. She stated these are areas that are not permitted to be included in the program, and chief among them would be the leaf composting and recycling activities that the Township has and existing farmsteads. Ms. Goldstein stated if they were going to acquire a new piece of land, they would have to carve out the existing farmstead anyway. She stated they made sure that the lands that would not be Eased would encompass the totality of the land that the Township needs for the farmstead and leaf composting/recycling and this equals approximately 57.5 acres.

Ms. Goldstein stated there is the potential for additional funding above the Township's allocated share. She stated appraisals are being done, and there is an Application process which will be finalized when the Board makes a decision. She stated as part of the process the Board would need to authorize the Township Manager to submit the Application on the Township's behalf and a Resolution would need to be passed at a public meeting in order to have that executed.

Mr. McLaughlin moved and Ms. Tyler seconded to direct the Township Manager to prepare an Open Space Grant for a Conservation Easement for approximately 93.2 acres of the Patterson Farm in the form of a Resolution.

Mr. Stainthorpe stated the idea of putting a Conservation Easement on the Patterson Farm has been discussed for several years. He stated he feels this is a good idea. He stated Patterson Farm is prime farmland, but it is also potentially prime Commercial land. He stated it is located next to I-95, and it would be perfect for an Outlet Center, Mall, etc. He stated a future Board may face financial difficulties and could easily change the Zoning on it and sell it for a lot of money. Mr. Stainthorpe stated they have invested millions of dollars to buy it, and he felt for many years that would mean it was preserved; but granting a Conservation Easement to the County would prevent a future Board from using this to get money and to keep it farmland in perpetuity. Mr. Stainthorpe stated while they pursued the Agricultural Grant, they are not going to get the votes from the Commissioners to make this happen. They did indicate that if the Township wanted to use their Open Space Fund, they would consider that; and that is what is being discussed this evening. Mr. Stainthorpe stated there has been discussion that the buildings need to be maintained better, and there is a need for cash to do some basic things that he would rather not do with taxpayer money. He feels they can accomplish a great deal by pursuing this.

Mr. Benedetto stated the program allows for acquisition or improvements, so they are talking about using this money for improvements. Ms. Goldstein stated the program allows for acquisition, Conservation Easements, and improvements; and they are asking for this for Conservation Easement for the purpose of farmland preservation. Mr. Benedetto noted Page 2 of the Municipal Open Space Application guidelines which states, "The MOSP funding may be applied toward the following purposes: acquisition..." He stated the Township already owns the Patterson Farm. He read further from the guidelines, and stated it clearly states, "improvements." He stated allegedly they are now going to use this money toward preserving Patterson Farm and use it for some of the structures. Mr. Dobson stated that is not what they have discussed, and Mr. Benedetto stated he feels they should have a discussion about that since they are asking for this Open Space Money.

Mr. Benedetto read from the guidelines regarding improvements as follows, "For those Municipalities where available open space is limited..." He stated this is why he asked Mr. Dresser the amount of open space properties that have been discussed. He stated letters went out to twenty-five properties, and eight to ten properties were interested and highly desirable; and included on that was the Guzikowski Farm, Torbert, and other properties in the Township.

Mr. McLaughlin stated Mr. Benedetto is divulging confidential information. Mr. Benedetto stated they reached out to them in a letter. Mr. McLaughlin stated the EAC did this, and Mr. Benedetto is now making it public knowledge and jeopardizing the Township's negotiating ability if he is announcing the Township's interest level. Mr. Benedetto stated he is not jeopardizing anything because apparently the Township is not interested. Mr. McLaughlin stated they have not determined this yet.

Mr. Benedetto stated they are discussing using money they have left in the amount of approximately \$430,000 for a piece of land they already own. Mr. Benedetto stated he has had multiple conversations that he can quote in his e-mails from the County Commissions that said the reason the Township was not getting the agricultural money in the amount of approximately \$900,000 was because they did not want to spend money on land that the Township already owned. Mr. Benedetto stated they indicated that the open space money is supposed to be used for purchasing open space. Mr. Benedetto stated the Township already owns the land and all the Supervisors need to do to show that they are interested in doing this is to get the Township attorney to write a Conservation Easement and protect the land. He stated they do not need to spend \$430,000 on this, and there are identified pieces of land in the Township identified by Mr. Dresser and the entire EAC; and now they are "playing games" with Patterson Farm saying they will use it again as a "piggy-bank," and use it for something although they are not indicating what they will use it for.

Mr. McLaughlin stated if this is used at Patterson Farm they will know that it will always be open space, and he feels this is an unbelievable opportunity to insure that it will never be developed or sold. He stated they are getting an Easement and \$430,000 which potentially could be invested in the House to get it back to where it needs to be. Mr. McLaughlin stated past Minutes show that Mr. Benedetto felt that this was a top priority and had asked why they had not protected this space permanently. Mr. McLaughlin stated now they are getting it done, and they are being told that they are doing something wrong.

Mr. McLaughlin stated with regard to the list of open space, they are small parcels that are located throughout the Township and would provide no real benefit to most Township residents as there would not be trails or parks there. He stated what they are discussing is 93 acres of Patterson Farm that could never be developed. He stated they are achieving the goals of the Township in a creative way. He stated he feels there are no better candidates to spend the money on other than the Farm to make sure that Ms. Doan and her constituency are happy. He stated people have also written the Board letters asking them to be fiscally responsible, and with this proposal they will not spend one dollar of the Township's money but will get everyone what they want.

Mr. Stainthorpe stated a lot of the debate that has taken place was about fixing up the buildings, painting, and maintaining the property better; and having this money serves that purpose. He stated he feels the Patterson Farm works fine the way it is. He stated he agrees with Mr. McLaughlin that there is not a lot of good open space left to buy that serves a public purpose and that the public can use and enjoy like the Five Mile Woods, Patterson Farm, etc. He stated the Guzikowski Farm would be a great Applicant to the Agricultural Preservation Program as they give money to individual farmers. He stated Ms. Guzikowski would qualify for an Agriculture Easement from the County and the State. He stated the Patterson Farm is working with the farmer farming it and the Artists of Yardley being a successful organization.

Mr. Stainthorpe stated he feels people are trying to make this a political issue. He stated since 1996 the Township has acquired over 500 acres in open space and spent \$16 million. He stated they have more open space than any other Township in the County and have been acknowledged for this. He stated there is another 350 acres from Farmland Preservation, and it cannot be said that the Township does not have open space.

Mr. Benedetto asked Ms. Goldstein if the logic behind this Easement is to restrict it against Commercial Use, and Ms. Goldstein stated you would not have any development at all unless it was agriculture related. Mr. Benedetto noted the greenhouse, and Mr. Stainthorpe stated the greenhouse is on the previously-preserved part. Mr. Benedetto stated the greenhouse is a Commercial operation so technically it is an agricultural use which is broadly defined. Mr. McLaughlin stated his understanding is that Bucks County would have to approve a greenhouse if it were to be put on this space being discussed. Ms. Goldstein stated if there were any structures constructed on the part being discussed now, it would have to be agricultural related and would have to be approved by the County as part of the Easement document. Mr. McLaughlin stated he feels the Township is giving up their rights to the land; however, Mr. Benedetto stated it is the same situation that just occurred with Bright Farms, and they went to the County asking if it was an

agricultural use. Mr. Benedetto stated he went to the Open Space Board in that situation, and that advisory board indicated they did not want that use on their land; however, a Commercial operation was put there. Ms. Tyler stated that use was approved by the County. Mr. Benedetto stated even with the easements placed on the land, there can still be a Commercial operation like a greenhouse as long as it is technically defined by the County, the Planning Commission, and Lynn Bush as an agricultural use. He stated the broadness of that term will be interpreted by them.

Mr. Benedetto stated there is land in the Township that was identified by the EAC . He stated the Guzikowski Farm is fifty acres. Mr. McLaughlin asked how much that would cost, and Ms. Tyler stated she feels it would cost more than \$400,000. Mr. Stainthorpe stated Ms. Guzikowski could apply to the County Agricultural Preservation Program, and it would not cost the Township anything. Mr. Benedetto stated he feels the Township should take the initiative when they have identified a piece of property. He stated the Township already owns the Patterson Farm.

Mr. Benedetto asked what they are going to do with the \$438,000 if they get it for a Conservation Easement at Patterson Farm, and he asked if the intent is to put it in the Patterson Farm. Mr. Dobson stated that has not been decided, and they are not deciding that tonight. Mr. Benedetto stated they are proceeding with the Application for money that they have no idea how they are going to spend. Mr. Dobson stated the Motion before the Board is to proceed with the Application. Mr. Benedetto stated there are no plans for that money.

Mr. McLaughlin asked Ms. Goldstein if they can include in the agreement that nothing can ever go on the land including greenhouses or any other structures, and that this remain pristine farmland with no structures even those related to agriculture. Ms. Goldstein stated theoretically the Township can put whatever additional restrictions they choose, but they cannot do less than what is required.

Mr. McLaughlin moved to Amend the Motion to include that they raise the bar and restrict any Commercial use even related to agriculture be prohibited as part of the Conservation Easement except farming.

Mr. Benedetto asked if the 93+ acres includes the Janney House, and Ms. Goldstein stated it does not. She stated the 93.28 acres is the area in dark green on the Plan, and the houses are in the blue. Mr. Benedetto asked if they receive the \$438,000 can use the money be used for whatever they deem necessary or does it have to be used for improvements on the preserved acres. Ms. Goldstein stated when you talk about acquiring a Conservation Easement usually what the Municipality is doing is getting that money and pooling it with other money and paying a landowner for the property; however, in this case the Township is the landowner, and the Township is offering the Easement to the County, and the County would acquire the Easement

and pay the Township those funds. She stated they are being paid the funds to compensate for the loss of development of the 93.28 acres. She stated just as the County would not dictate what an individual property owner can do when they receive the monies from the transaction, those monies from the County perspective are not restricted; and the Township has no obligation to tell them what they will do with the funds.

Mr. Stainthorpe stated if the Application is approved, the Township would still have the option up until the check is cut to change their mind and keep the money for other open space and provide the Easement for \$1; and Ms. Goldstein agreed. Mr. Stainthorpe stated to do this he would need to be convinced that there is other valuable open space to spend the money on before he would change his mind. Ms. Goldstein stated it is not to spend the money – it is to use the allocation since they are not expending additional funds, rather they are using the allocation for that purpose. Ms. Goldstein stated the Township match would already be the money they put into the property so the Township does not have to come up with the 25%. She stated if they were to spend the \$430,000 for something other than the Patterson Farm, the Township would have to come up with the 25% match.

Mr. Benedetto stated this is why he asked about the purpose. He stated there is an acquisition purpose which can be used to acquire land or a Conservation Easement. He stated he wants to understand if they are talking about this for an acquisition or are they talking about improvement. Ms. Goldstein stated they are talking about a Conservation Easement for the purpose of farmland preservation. Mr. Benedetto stated there is nothing in it that states they are going to get the money and use it to improve the structures on Patterson Farm; and Ms. Goldstein stated what the Township uses the money for has nothing to do with this, and the purpose is for the Conservation Easement. She stated in this case rather than the Township paying someone else to acquire the Easement from them, the money is coming to the Township so there are no strings attached. She stated the purpose of the Grant is the Conservation Easement for farmland preservation.

Mr. Benedetto stated there is a component that is an improvement portion of the Grant money as well, and they are not doing this. Mr. Dobson stated they have already indicated that the Grant is for the Easement and not for improvement. He stated he would like to move this matter forward rather than repeating the same information. Mr. Benedetto stated he understands that they do not have to match the money and can use it for whatever purpose they want. He stated they can put it in whatever fund they want including the General Fund. Mr. Stainthorpe stated they can also put it in an Open Space Fund. Mr. Dobson stated they can also retire Debt Service or do whatever they want. Mr. Benedetto stated currently there is no plan for the money, and Mr. Dobson agreed.

Mr. Benedetto stated if they do this Easement, just like with the greenhouse, they are at the mercy of Lynn Bush, the Planning Commission, and the County. He stated if there is an Easement, he is not comfortable that there will be any restriction on the use if it is agricultural and broadly defined. Ms. Goldstein stated in this case, the Township gets to come up with the draft language for the Easement; and as long as they have the minimum required which is on file, the Township can add additional restrictions to it because it is the Township's Easement. Ms. Tyler stated they will have Mr. Garton look at this language. Mr. McLaughlin stated he feels they are trying to prohibit building any Commercial structures. Ms. Tyler stated a barn could be a Commercial structure which is her concern with the Amendment. Mr. McLaughlin stated he does not feel they want to build a barn. Ms. Tyler stated the farmer may need a barn.

There was no second to Mr. McLaughlin's Amendment, and the Motion died for lack of a second.

Mr. McLaughlin restated his Motion to direct the Township Manager to prepare an Open Space Grant for a Conservation Easement for approximately 93.28 acres of the Patterson Farm in the form of a Resolution. Ms. Tyler seconded.

Mr. Dresser, Environmental Advisory Council, stated there is an Open Space Plan that was passed in 2009; and it states that the Environmental Advisory Council is designated as the advisor to the Board of Supervisors on open space issues. He stated their advice on this issue is to vote it down, and they feel the Grant money should be used to expand the amount of open space in the Township and not be used for something else that they do not know about at this time but will probably be debt reduction. Mr. Dresser stated Mr. Stainthorpe indicated that he felt the Township had more open space than any other Municipality in the County; however, Upper Makefield has almost three times as much open space as Lower Makefield. He stated they also are getting the Heritage Conservancy to put Overlay Easements on all of their open space. Mr. Dresser stated Patterson Farm is already open space; and if the Board is interested in giving this additional protection, which they are all in favor of; there are simpler, cheaper ways to do so, and they could have a Conservation Easement written and have an outside group monitor and enforce it. Mr. Dresser stated Mr. Marshall was present last year and described how this could be done, and he was just discussing the blue area. Mr. Dresser stated this would be for the green areas which would be much simpler because there are no buildings. Mr. Dresser stated Mr. Marshall indicated that the cost would be \$15,000. Ms. Tyler stated she felt it was \$25,000. Mr. Dresser stated it would still not be nearly as much as \$438,000. He stated it would even be less expensive to have the County agree to have a co-Easement on the agricultural land they want to protect, and they would probably do this for free.

Mr. Dresser stated last week he spoke to David Johnson, the coordinator of the Bucks County Open Space Program, and he indicated they could propose this for any open space the Township has; and they would consider it on a case-by-case basis. Mr. Dresser noted the August 21, 2013 meeting when Mr. Garton stated that the Township has the right to file a Unilateral Declaration of Restrictions and Covenants which would propose our own limitations and grant any resident the right to enforce these limitations. He stated they have a number of ways to protect the Patterson Farm, and they do not want to lose the \$438,000 since with that money they could probably protect up to twenty acres of property in the Township; and he feels that this was the intention of the voters in 2007 when they passed the Referendum.

Mr. Dresser asked Mr. Stainthorpe if he has been at any of the sites the EAC recommended, and Mr. Stainthorpe stated he does not feel any of the sites are useful to the residents. He stated at least one of these properties will probably remain open space simply because it is not that desirable to a builder. Mr. Benedetto stated they could have used the money for the Ferri Tract.

Mr. Dresser stated when they make this Application, the Open Space Committee in Doylestown will see whether this proposal is consistent with what is in the Open Space Plan; and he does not see anything in the Open Space Plan that matches up with what is being proposed.

Ms. Goldstein stated when looking at the Goals and Objectives in the Open Space Plan, there are three that this would be consistent with. She stated one is "Preserve Farmland within the Township" because it would be a Conservation Easement for farmland preservation. She stated the second would be "Preserve land that would support and reinforce land use planning goals for the Township" which would be to preserve farmland and not develop it. She stated the third would be to "Preserve land that is important to the community for its scenic, open space, environmental, or other values; and she feels they have heard about that constantly with regard to the Patterson Farm. She stated these three would be consistent with the 2009 Open Space Plan which is on line and can easily be read.

Mr. Benedetto stated the County Commission looked at the \$900,000 Grant Application for an Agricultural Grant and indicated they would not use money toward a project where the Township already owns the property. He stated the Commissioners stated that the intent of the program is to preserve other farms. He stated there is a sign that says the Patterson Farm is already preserved open space. Mr. McLaughlin stated Mr. Benedetto has alluded many times that he does not feel the sign is true, and this would make it true. Mr. Benedetto stated they can do this without spending additional money, and then they could preserve additional land. Mr. McLaughlin stated the Township would be getting money from the County

for this, and they would then have it available possibly for open space so that they would get an easement for the Patterson Farm and additional open space. Mr. McLaughlin stated the Board could be shown a piece of property which they could consider.

Mr. Dresser stated he feels the open space in the Township has been shortchanged in the last ten years. He stated since 2004 they have added six acres of open space using County money and lost almost thirty-five acres for various reasons including twenty-two acres of Patterson Farm. Mr. McLaughlin asked Mr. Dresser if he counts the Golf Course as open space since he does. Mr. Dresser stated this was bought before 2004. Mr. Dresser stated they sold twenty-two acres at Patterson Farm and sold Elm Lowne which is another twelve acres. Mr. McLaughlin stated they bought the Golf Course property in 2003. Ms. Tyler asked what twenty-two acres Mr. Dresser was referring to on Patterson Farm, and Mr. Dresser stated it is where the I-95 Interchange is; and the Board advised Mr. Dresser that this was condemned. Mr. Dresser stated they received \$485,000 for that, and they also made a profit of \$255,000 when they sold Elm Lowne so there is three quarters of a million dollars that has gone into the Township General Fund. It was noted some of this went into the roads. Mr. Dobson stated this was also done by a prior Board.

Mr. Tom Conoscenti, 1595 Ginko Lane, stated the Board is aware of his interest in Patterson Farm and the integrity of the Zoning, and he asked the engineer why are the lines adjoining the blue area where they are. He asked why the dark green along Mirror Lake does not abut the subdivided property, and Mr. Stainthorpe stated this is because they still have the leaf piles and the mulching going on. Mr. Conoscenti stated it is not north of the subdivided property, and he noted on the Plan where they could change the lines. Mr. Fedorchak stated they could move this, and Ms. Goldstein stated they did not want to unduly restrict what might need to be done with the Township property in conjunction with the leaf composting/recycling not knowing what might be needed in the future, so they left land around the property as security since once there is an Easement, they do not get it back. Mr. Conoscenti stated he feels they have added too great a buffer. Ms. Goldstein stated they were being conservative, and this would be at the Township's discretion. Mr. Dobson stated they should get as much land as they can in the Easement. Ms. Tyler stated she does not want the Township to be restricted from the use of the Farm. She stated they also still have the unknown factor of what will be at the Satterthwaite House. Ms. Tyler stated once they get the appraisal in, they could tighten this up.

Mr. Benedetto noted the edge of the Janney House and asked how this relates to the Artists of Yardley operation as far as some of the planned events they have there including the concert and how far that will extend into farmland. He stated they are planning a rock concert for 1,000 people, and Ms. Tyler stated she was told it would be 500 or less. She stated this is the Oktoberfest which they had last year.

Mr. Benedetto stated this is a live music festival. Mr. Dobson stated he feels this is a different issue; however, Mr. Benedetto stated that it is not a different issue if they are restricting their use for an annual event that they plan on having. Mr. Dobson stated they may need to re-visit this with them.

Mr. Conoscenti stated he would like to see the dark green area maximized, and Mr. Dobson stated he is in favor of this.

Mr. Stainthorpe stated they are not writing the Easement tonight. He stated they also do not have to make a decision on whether they are going to accept the money; and they can still proceed with the Application to get the process started. Mr. Conoscenti agreed.

Ms. Doan stated she agrees with Mr. Conoscenti that the area is too broad and to take fifty-seven acres out of the farmland that is useful farmland is too much. Mr. Dobson stated they have indicated that they are going to tighten this up. Ms. Doan stated it is true that the Township could put an Easement on the entirety of the Farm and not have any expenditures of funds or receive any funds. She stated there is a clear distinction between open space and agricultural tillage of the land. She stated this is land that is in the top two percentile of quality in the Commonwealth. She stated she hopes that if the money comes in it will be used to restore the Farm. She stated she knows that the farmer has an interest using the barn and the pack house but so do the Artists of Yardley, and she would not like to see this money used to turn the barn into an entertainment venue since this is a property of the caliber that it should be on the National Register of Historic Properties.

Ms. Doan stated the Farm is almost paid for as the Township has owned it for almost sixteen years. Ms. Doan stated there was a twenty year Note on the Farm, and Mr. Fedorchak agreed and stated they have about \$2.5 million left on the Note. Ms. Doan stated she understands that the taxes were raised at the time of the acquisition of the Farm to fund the project and obviously the taxes will not be lowered once the Note is paid off, and she asked if it would be possible to take a similar amount of whatever is put on the Debt Service and allocate those funds to the continuing and perpetual restoration and maintenance of the Farm, and Ms. Tyler stated this could be considered.

Ms. Doan stated there is discussion in other parts of the Country about uses that are called farming which are not actually tillage of the land or production of food such as equine grazing or the fallowness of the land, and she urged the Board to carefully consider restricting those types of uses in favor of the agricultural use and its value

of land to grow food on because of the extreme and excellent quality of the land. Ms. Tyler stated this is something that they can consider when they are looking at the language with Mr. Garton as far as additional restrictions above and beyond.

Mr. Benedetto stated this needs approval by the three County Commissioners, and Ms. Goldstein agreed that they have to authorize it.

Ms. Cynthia D'Alessio, EAC, stated she would like to see an Easement go onto Patterson Farm so that they never in the future have to worry about a future Board wanting to raise money and sell parts of the Farm off; however, she feels there are ways to put an Easement on the Farm that do not cost \$438,000. She stated she is concerned that they will get the \$438,000, obtain the Easement, and the money will not go to the purpose of open space or for preservation of the Farm in some other way but will be put into the General Fund and used for some other purpose. She stated they should get an Easement for as little money as possible for the Patterson Farm, but use the rest of the \$438,000 for the purpose of acquiring new open space in the Township. She stated the voters had clearly spoken in 2008 when they voted in favor of the Township taking a Bond out to acquire new open space. She stated this was at a time when there was a financial crisis with people losing their homes, and yet the voters still came out and stated open space is important. She stated the intent of this fund established by the County is to acquire new open space, and she feels this is what it should be used for.

Mr. Benedetto stated the track record of the Township does not speak too well as to what they are going to do with this money, and there is no plan for the money; and they may put it into the General Fund as they did with some of the other money they received from Patterson Farm and from Elm Lowne.

Mr. McLaughlin asked how much the Township spent on the purchase of the open space in the south side of the Township; and Mr. Fedorchak stated this was the Ragan Tract, and Mr. Stainthorpe stated it was \$515,000. He stated they also purchased the Sweeney Tract in the amount of \$365,000. Mr. McLaughlin asked how much Elm Lowne was sold for, and Mr. Fedorchak stated it was sold for approximately \$680,000. He stated with those proceeds, they put \$450,000 into Debt Service which was related to Elm Lowne and the rest went into the Roads Program. Mr. McLaughlin stated in that same time period they purchased two tracts of open space. Mr. McLaughlin stated the Board has committed to open space and have done the responsible thing with their money.

Mr. Paul Roden, EAC, stated he is opposed to the Application for the \$438,000 unless it is going to be used for the purpose of new open space. He stated he does not feel it is an appropriate use of these funds to go to the General Fund or retire debt according to the County guidelines. He stated he is in favor of an Easement to protect the Patterson Farm which can be done much cheaper. He stated the EAC has done a lot of work to look at the space that is still out there, and he feels it would be a misuse of the Application to get the money and use it for purposes other than preserving open space.

Motion carried with Mr. Benedetto opposed.

#### TABLING MID-YEAR FINANCE REPORT

Mr. Dobson stated they will table this until the September 3, 2014 meeting.

#### APPROVAL OF DEVELOPMENT AGREEMENT FOR BRUNO TRACT

Mr. Garton stated the Board approved this two-lot Subdivision, and the Development Agreement has been executed by the Applicant.

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to approve the Development Agreement for the Bruno Tract.

#### APPROVAL OF DEVELOPMENT AGREEMENT FOR HCR PROPERTIES LP AND MANOR CARE OF YARDLEY PA, LLC

Mr. Garton stated the Board approved a Land Development for Manor Care for some additions, and this is the Development Agreement related to that Approval.

Mr. McLaughlin moved, Ms. Tyler seconded and it was unanimously carried to approve the Development Agreement for HCR Properties LP and Manor Care of Yardley PA, LLC.

#### APPROVE EXTENSION FOR JENNINGS TRACT

Mr. Stainthorpe moved, Mr. McLaughlin seconded and it was unanimously carried to grant the Extension for the Jennings Tract to October 30, 2014.

Mr. Garton noted that the Board was in Executive Session for approximately twenty minutes prior to the meeting to discuss Zoning Hearing Board Applications and the Labor Relations issues with respect to the Public Works employees.

#### APPROVE CERTIFICATE OF APPROPRIATENESS FOR 673 HEACOCK ROAD

Mr. Stainthorpe stated HARB did approve this.

Mr. McLaughlin moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the Certificate of Appropriateness for 673 Heacock Road.

#### ZONING HEARING BOARD MATTERS

With respect to the Douglas Judge Variance request for the property located at 1088 Drew Drive in order to construct a fence in the front yard setback, Mr. Garton reported that this matter was already heard last evening by the Zoning Hearing Board.

With respect to the Joseph W. Pryor Variance request for the property located at 21 Glen Drive in order to install a generator within the 100 year floodplain, Mr. Garton reported that this matter was already heard last evening by the Zoning Hearing Board.

With respect to the Mark Szul Variance request for the property i/n/o Hadley located at 1166 University Drive in order to replace existing retaining wall resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

#### SUPERVISORS' REPORTS

Ms. Tyler stated the Pool is having a Pirate Party for the children on Saturday from 1 p.m. to 5 p.m.

Mr. Benedetto stated the Veterans Committee asked that he announce the Labor Day Concert and the information on this is on the Website. He stated it is at Veterans Square on Monday, September 1.

APPROVE RESOLUTION NO. 2285 AUTHORIZING EXECUTION OF WINTER TRAFFIC SERVICES AGREEMENT WITH PENNDOT

Mr. Fedorchak stated this is consistent with Mr. Kall's recommendation, and the Township will just be responsible for Dolington Road.

Mr. Benedetto stated he agrees with Mr. McLaughlin who previously voted against this. Mr. Benedetto stated after the last meeting, there was an article in the Courier that indicated someone from PennDOT did not have plans to maintain these additional roads and did not have anything in the Budget. Mr. Benedetto stated he would not want there to be substandard snow and ice removal in those areas.

Mr. Benedetto moved and Mr. McLaughlin seconded to have the Agreement reconsidered to include the two roads that were taken out.

Mr. McLaughlin stated he feels as a Township resident he can call the Township Manager or Public Works Director and get the roads done if there is a problem. He stated he is concerned about giving this responsibility to someone that does not report to him.

Ms. Tyler stated Mr. Kall looked into this and was on the ground this winter with the Public Works Department and was responsible for the clearing of these roads. She stated she knows that he looked into this long and hard, and she will back what the Public Works Director feels is best when it comes to this issue.

Motion did not carry as Mr. Benedetto and Mr. McLaughlin were in favor and Mr. Dobson, Mr. Stainthorpe, and Ms. Tyler were opposed.

Mr. Stainthorpe moved and Ms. Tyler seconded to Approve Resolution No. 2285. Motion carried with Mr. Dobson, Mr. Stainthorpe, and Ms. Tyler in favor and Mr. Benedetto and Mr. McLaughlin opposed.

APPOINTMENT

Mr. Stainthorpe moved and Ms. Tyler seconded to appoint Bernard Griga to the Electric Reliability Committee. Mr. Benedetto stated he was not a part of the interview and will Abstain. Motion carried with Mr. Benedetto abstained.

August 20, 2014

Board of Supervisors – page 33 of 33

Ms. Tyler stated they did conduct some interviews this evening; and while they are not making any other Appointments this evening, this is not to say that they will not be making future Appointments after further discussion.

There being no further business, Ms. Tyler moved, Mr. McLaughlin seconded and it was unanimously carried to adjourn the meeting at 10:30 p.m.

Respectfully Submitted,

Pete Stainthorpe, Secretary