

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – MAY 6, 2015

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 6, 2015. Ms. Tyler called the meeting to order at 7:30 p.m.

Ms. Tyler stated last week the Township lost Detective Denise Siano, and the Police and Fire Departments honored her beautifully. She asked for a moment of silence in memory of Detective Siano.

Those present:

Board of Supervisors: Kristin Tyler, Chair  
Dan McLaughlin, Vice Chair  
Jeff Benedetto, Secretary  
Dobby Dobson, Treasurer  
Ron Smith, Supervisor

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

#### PUBLIC COMMENT

Mr. Ray and Ms. Margo Christensen, 859 Gainsway, were present. Mr. Christensen stated they were present on April 1 regarding problems with light shining in their house from their neighbor's property. They provided handouts to the Board this evening. He stated they have lived there since 1972, and he feels they have paid over \$340,000 in property taxes. He noted the number of illnesses his wife has had and stated these lights are effecting her health.

Mr. Christensen stated at the Supervisors' meeting on April 1 they had asked for the Township's help concerning the glare and light emanating from their neighbor's house across the street. He stated these include sodium vapor floodlights which send a garish, orange glow which shines into their living room, dining room, and most intrusively into their bedrooms.

Mr. Christensen stated he first came to the Township on March 21 when a Township representative indicated he would look into the Ordinance get back to them. That individual did not indicate that they had to file a complaint form.

Mr. Christensen stated he went back to the Township on March 30, and that individual indicated that he was still looking into the Ordinance. Mr. Christensen stated that Ordinance is less than one page.

Mr. Christensen stated when they came to the Board on April 1 to express their concern, someone was to come to their home; but they were concerned that the newly-hired employee from Keystone did not live locally, and they did not understand how he would be coming out to their property in the evening; and the Board indicated at that time that they would make them come out. Mr. Christensen stated on Monday, April 6 someone did come out at 2:20 p.m. and took daytime photos and indicated that someone would be back the next evening after the Zoning Hearing Board meeting to see their situation in the evening. Mr. Christensen stated the next day he e-mailed the Township a letter with attachments of the light intrusion upon their home to Mr. Fedorchak, and they have those photos this evening for each of the Supervisors.

Mr. Christensen stated on Wednesday, April 8 at 3:03 p.m. Steve Ware called to tell them that last evening's Zoning Hearing Board went to 10 p.m. which was too late for him to come to their property even though they were expecting them because that is what they had been told by the Township representative they had talked to. Mr. Christensen stated he asked Mr. Ware if he was coming that evening, and he indicated he was not because he and the other individual "Joe" were not lighting experts, and they would not know what they were looking at. Mr. Christensen advised Mr. Ware that he had more time-stamped photos, and Mr. Ware told him to send them to Mr. Fedorchak.

Mr. Christensen stated on Thursday, April 9 at 2:32 p.m. he forwarded an e-mail with additional photos and a long letter to Mr. Fedorchak, and Mr. Fedorchak sent back an e-mail indicating that he was forwarding all of the information to Code Enforcement. Mr. Christensen stated they heard nothing from Steve Ware from Wednesday, April 8 until Monday, April 20 when he and his wife came to the Township Building to speak to Mr. Ware. At that time Mr. Ware assured them that he and a co-worker would be out to their property after the Zoning Board meeting on April 21. He stated at 8:09 p.m. he received a call from Mr. Ware that he and his co-worker were coming over, but Mr. Christensen advised him that it was not yet dark enough. Mr. Christensen stated Mr. Ware and his co-worker measured the lights at the home across the street and indicated that none of the lights measured over 0.5 foot candles. Mr. Christensen stated they invited Mr. Ware and his co-worker into their home so that they could see the effect of the lights in their home and they witnessed firsthand how the neighbor's sodium vapor floodlights lit up their downstairs and upstairs bedrooms. Mr. Ware indicated this was because the Christensen's house was on a hill. Mr. Christensen stated neither Mr. Ware nor his co-workers identified the neighbor's floodlights as sodium vapor lights, and

Mr. Christensen stated he found this out since the last meeting; and they are glowing orange and lighting up his home. Mr. Christensen stated Mr. Ware indicated they had a long ride home since he lives in Ambler, and his co-worker lived in Hershey. Mr. Christensen stated the co-worker indicated upon leaving that the situation should be better once the leaves come out, but then apologized stating it is true that there are no leaves half the year.

Mr. Christensen stated Mr. Ware indicated that the next step would be that he would be checking the Ordinances, would be speaking with Mr. Fedorchak in a few days, and hoped that they would get some sleep. Mr. Ware stated Mr. Ware and his co-worker were at their home on April 21, it is now May 6, and they have not heard anything.

Mr. Christensen stated a new neighbor at the corner of Gainsway and Sensor Drive has now installed sodium vapor lights which are lighting up the front of his yard and the corner with an orange glare; and they wonder whether this is going to be the trend in the neighborhood since it is starting to look like a parking lot or a construction site. Mr. Christensen stated he does have a copy of the Ordinance which he read to the Board regarding glare and that no sodium vapor lights can be used.

Mr. Fedorchak apologized for having all of this happen to them, and he agrees it has taken unacceptably long to get to some resolution of this. He stated he will meet with the staff first thing tomorrow morning and get an understanding of where they are at, and they will take action.

Mr. Smith stated after the last meeting he was contacted by the Jacobs family, and they told him a different story as to the situation. Mr. Smith asked if the Township professional disagreed with Mr. Christensen's position, and Mr. Christensen stated he indicated the lights were 0.5 at the sidewalk. Mr. Fedorchak stated he understands that the readings that were taken at the perimeter of the property were not in violation of the Ordinance, but there may be other ways they can approach this including talking to the neighbors across the street. Mr. Fedorchak stated he would like the opportunity to discuss this with his staff to see if something can be worked out amicably.

Mr. McLaughlin stated the use of a sodium vapor light seems like a violation, and Mr. Fedorchak stated based on what he has heard it seems that would be a violation.

Mr. Smith stated at Macclesfield they have lighting which shines down rather than shining out, and Mr. Christenson stated the Jacobs family did put shields on; and that problem has been resolved, and there is no problem with them.

Mr. Alan Dresser, 105 E. Ferry Road, stated he has been a member of the Environmental Advisory Council (EAC) for nine years and is the current Chair, although after the last meeting, he is not sure that is still the case. He stated his term ran out on April 5, and he sent a letter to Mr. Fedorchak indicating he was interested in being re-appointed; but at the last meeting by a three to two vote, the Board voted down his re-appointment. Mr. Dresser stated the EAC is supposed to have seven members, and they are already down two; and without him, they will be down three members.

Mr. Dresser stated in the nine years he has been a volunteer, he felt that he had done a reasonably good job representing the environmental concerns of the Township citizens. Mr. Dresser stated he believes that he is no longer on the EAC although he has heard from some sources that he may still be on the EAC even though he was voted off and his term has expired.

Ms. Tyler stated they had asked Mr. Benedetto not to make that Motion because they were not doing re-appointments at that time. Ms. Tyler stated she did not wish to attack a volunteer publicly; but when she learned what Mr. Dresser had done as a representative of the EAC with respect to the Township's Application to the Bucks County Open Space Board, she was going to dismiss him for cause. Ms. Tyler stated there was an Application before the Bucks County Open Space Board seeking to use some of the Open Space money to lock in portions of the Patterson Farm. She stated she was informed that Mr. Dresser called each member of the Open Space Board and appeared at the Hearing and openly opposed the Application of Lower Makefield Township.

Mr. Dresser stated he has free speech. Ms. Tyler stated while she understands that he has the right to free speech, she is concerned he would do this as a volunteer and Chair of the EAC.

Ms. Tyler stated also in the last few months there was an issue with a tree in front of the St. Ignatius Development that the developer indicated had to come down, and Mr. Dresser objected and indicated that the tree was healthy. Mr. Dresser stated he had asked that the tree be looked at by another arborist. Ms. Tyler stated at significant expense to the Township, they did hire an arborist who issued a seven-page report detailing many reasons why the tree should be taken down; and Mr. Dresser was present at a public meeting arguing against the expert's report.

Ms. Tyler stated the Board of Supervisors agrees with the EAC 85% of the time, but on the few times when they do not agree with them, Mr. Dresser attacks the position and policy of the Board. Ms. Tyler stated what he did with the Open Space Board by opposing the Application was overstepping his bounds.

Mr. Dresser stated he does not deny that he opposed the Application which he feels was a “ridiculous Application and a total waste of money.”

Ms. Tyler stated she informed her fellow Board members of what had occurred; however, Mr. Benedetto stated he was not informed.

Ms. Tyler stated she feels Mr. Dresser crossed the boundaries from an advisory group to advocating a position against the majority of the Board of Supervisors.

Mr. Dresser stated sometimes he has opposed the Board but he always had good reasons. He stated the arborist that did the tree evaluation had just got her Certification six months before she did the evaluation; and it was probably her first evaluation of an old tree. Mr. McLaughlin asked Mr. Dresser if he has his Certification. Mr. Dresser stated he talked to someone who came out and looked it and had stated it looked okay, and for \$600 they could have gotten a risk assessment specialist to evaluate the tree. He stated it is the largest red oak in Lower Makefield, and he feels they should take a second look.

Mr. McLaughlin stated his concern is that whenever someone disagrees with Mr. Dresser’s opinion, they are wrong even if they have an expert arborist giving them an expert opinion. Mr. McLaughlin stated there is a fine line between advocacy versus advisory; but in his opinion, he feels Mr. Dresser has crossed that and has indicated that the experts do not know what they are talking about and are wrong. Mr. McLaughlin asked how many experts they have to get, and Mr. Dresser stated they should get someone who is a “real expert.” Mr. McLaughlin stated that kind of response is what troubles him.

Mr. Benedetto apologized to Mr. Dresser and stated this is an “embarrassment.” He stated there are now three vacancies on the EAC, and he was never asked not to re-nominate Mr. Dresser. Mr. Benedetto stated he feels Mr. Dresser does a fantastic job, and he wants him to be an advocate because that is how they make better decisions with Mr. Dresser bringing his expertise and passion. Mr. Benedetto stated Mr. Dresser is a volunteer who has donated his time, and they are asking him to step aside because they did not like the way he spoke.

Ms. Tyler stated she had articulated her reasons to Mr. Dresser, and she did not want to speak about this in public and did not want to embarrass anyone about their performance. She stated for the most part Mr. Dresser did a very good job, and she thanked him for that.

Mr. Dresser stated he has volunteered for nine years, and he summarized the work he had done in recycling, environmental Ordinances, and land use. He stated he was able to work with the Township to increase the recycling rates in Lower Makefield.

He stated he also identified the Commercial businesses in the Township which were not recycling and drafted a letter for Mr. Fedorchak's signature encouraging them to set up a recycling program. He stated he also worked with YMS and PAA to make sure that they had recycling bins at the big tournaments. He stated he brought in revenue through the State 904 Grant as he identified a number of places which were not being accounted for in the Township's report to the State which resulted in an increase of approximately \$50,000. He stated in 2007 he had a discussion with the Bucks County Recycling Coordinator who had indicated that Lower Makefield was the only Municipality in the County which was not receiving money from Otter Recycling, and that money was going to the trash haulers instead. He contacted the Township Manager who contacted the Township solicitor and the situation was fixed and between 2008 and 2011 the Township received almost \$200,000 from Otter. He stated although Otter recently did close, in 2012 and 2013 the Township received additional money. He stated he feels his volunteer efforts have brought in \$250,000 to the Township, and he feels a quarter million dollars is above average for what a typical community volunteer brings in to the Township.

Ms. Tyler stated while he has indicated he brought in this money, she also feels he potentially cost the Township \$500,000 by opposing the Open Space Application. Mr. Dresser stated the Township can still get the money, and they just have to use it for open space and not a "sham deal" for something that is already open space.

Mr. Dresser stated he authored three environmental Ordinances – one with regard to recycling in 2008, and two last year one for pervious paving and the other the Tree Bank Ordinance. He stated he also drafted thirty-seven land development review comment letters which were three to five pages long.

Mr. Smith asked Mr. Dresser why he feels the Patterson Farm Grant for \$500,000 is a "sham," and Mr. Dresser stated this is actually \$430,000 in open space money; and he feels they should preserve new open space as opposed to Patterson Farm which is already owned by the Township. He stated if they want to put a second Conservation Easement on Patterson Farm, they could spend only \$20,000 to do this. Mr. Smith stated this is really an issue which must be decided upon by the Board of Supervisors. He stated he feels when you are a member of one of the advisory Boards and you make a recommendation to the Board of Supervisors, he does not feel you should then go and advocate against the Board of Supervisors. Mr. Dresser stated he went as a public citizen and did not say anything about being a member of the EAC; and he just stated he lived in Lower Makefield and did not like the idea. He questioned why he should lose his free speech just because he is a member of a Committee.

Mr. McLaughlin stated he does not lose that right, but the Board of Supervisors also has the discretion to appoint members to their Advisory Committees.

Mr. Benedetto thanked Mr. Dresser for his service, and he asked him to re-apply when the Board of Supervisors changes.

Mr. Zachary Rubin, 1661 Covington Road, stated he is in support of Mr. Dresser being re-appointed to the EAC because what he discussed is basically what the EAC's position is. He stated they have spent years identifying and prioritizing parcels in the Township that the Board of Supervisors should be purchasing for open space. He stated the Board of Supervisors has not acted upon those recommendations. Mr. McLaughlin stated they cannot discuss this in public because it deals with real estate issues, and they have discussed this in Executive Session. Mr. Rubin stated this does not negate the work that the EAC has done for years. Mr. McLaughlin stated they value this work, and they are looking at it currently. Mr. McLaughlin stated in his opinion the issue with Mr. Dresser is not the work that he has done, it is the line that he crossed.

Mr. Rubin stated the County Commissioners agree with the position of the EAC that the \$430,000 should not go to Township-owned property, and it should be going to purchase open space.

Ms. Tyler stated the matter was tabled, and the County Commissioners have not voted on it. Mr. Benedetto asked how long they are going to wait on this. He stated they have discussed an easement for access to the Canal that these funds could be used for.

Mr. McLaughlin asked if it is inappropriate to talk about Executive Session items that could compromise negotiating ability with potential real estate sellers. Mr. Garton stated with regard to the access easement, that has been the subject of public discussion; and he and Mr. Fedorchak had conversations subsequent to the meeting and Mr. Fedorchak is working on a process of trying to acquire that from the property owners. Mr. Garton stated nothing in the law precludes the Board from discussing something but it would be highly inappropriate to discuss matters of litigation where there is a strategy, labor negotiations, or potential real estate acquisitions since the other side would then have advance knowledge of the Township's position.

Mr. Rubin stated while he understands that the County Commissioners tabled the matter and did not vote it down, he disagrees with the Chair's characterization that Mr. Dresser cost the Township \$500,000; because if that Grant had merit he has confidence that the County Commissioners would have approved it. He feels Ms. Tyler's statement was incorrect and should be rescinded. Mr. Rubin stated the Board of Supervisors also has up to \$15 million to borrow money to purchase open space, but they have not acted upon that. Mr. Rubin stated Mr. Dresser opposing the use of the open space funds for the Patterson Farm should not be a reason for not re-appointing Mr. Dresser.

Mr. Smith stated while he and Mr. Dresser have had some disagreements on EAC issues over the years, he would still like to thank Mr. Dresser and the EAC for some of the great things they have done for the Township.

Mr. Ben Weldon, 2103 N. Crescent, stated he has never met Mr. Dresser but feels he has a impressive resume; and he does not feel they could find a more qualified volunteer on any of the Committees. He feels they are losing a valuable asset. He stated he understands that there is another EAC member who may be leaving that Board very soon so they will be down to three members, and he asked what the plan is.

Ms. Tyler stated Mr. Dresser has done an excellent job; however, she needs to have confidence in her Boards and to know that they will not do what Mr. Dresser did with the Open Space Board and not argue against expert reports. She stated they do have resumes of individuals they plan to interview and to fill the vacancies.

Mr. McLaughlin stated the Township commissioned an Electrical Reliability Committee to discuss the outages by PECO. He stated that Committee is working with the Board of Supervisors to push Agenda items they feel are important in terms of electrical reliability. He asked Mr. Weldon how he would feel if the Chair of that Board went to PECO and advised them that he feels the electric is okay in Lower Makefield. Mr. McLaughlin stated the job of the Committee is to work with the Board of Supervisors and push forward the Board's and the public's agenda of electrical reliability. Mr. McLaughlin stated he feels you can put that same analogy to the EAC which is to help the Board with their position in public for the betterment of the Township. Mr. McLaughlin stated they are advisory committees, and not advocacy committees. He stated people in the County know Mr. Dresser as a member of the EAC even if he did not state he was Chair of the EAC, and he brings a lot of weight with his opinion.

Mr. Benedetto stated Mr. Dresser was very up front about this, and he came to the Board of Supervisors providing feedback on the use of Municipal Open Space money and stated he felt it was a bad idea. Mr. Benedetto stated he also felt it was a bad idea, and he wanted to go to the meeting as well to tell them it was a "horrible" use of the money and they should be using it to purchase open space. Mr. Benedetto stated he just heard that all the Boards are the "mouthpieces" for the Board of Supervisors, and they are looking for "mindless drones" to serve on the Township Committees; and if you want to express you opinion, you should not apply for any open vacancies.

Mr. McLaughlin stated there are three vacancies on the EAC, and he asked if this may potentially speak to the leadership at the Committee level.

Mr. Smith commended Mr. Weldon on the work he has done at his property.

Ms. Donna Doan, 2814 Langhorne-Yardley Road, Langhorne, asked what the County just tabled, and Ms. Tyler stated it was the "Plan B" Application to use the open space funds to lock down a certain amount of acreage at Patterson Farm at \$9,000 per acre. Mr. McLaughlin stated this would have rendered the Farm undevelopable with the Easement strategically placed through the Farm so that it would prohibit any type of development because there would not be any single developable parcel left.

Ms. Doan stated the County turned down the Farmland Preservation Application for the same reason – that they felt it was more beneficial to pursue other farmland that was privately owned. Ms. Tyler stated nothing has been turned down. She stated they have both the A Application and the B Application pending. Ms. Doan stated she feels they should pursue the Farmland Preservation Application because Lower Makefield Township citizens pay into this fund which is State and County money. She stated it would also result in more money to the Township. She stated if they pursue the Farmland Preservation Application they know that the farmland will be farmed. Mr. McLaughlin stated the Farmland Preservation Application is the Board's first choice.

Ms. Doan stated the public should be aware that the Township can donate that Easement and still enroll the Farm in Farmland Preservation so they technically do not have to go after County funds. She stated they could preserve the Farm at no cost to the taxpayers and use the County funds to purchase other land. Mr. McLaughlin stated they are discussing that option as well.

Ms. Doan stated it is possible that this should be a test case since this is something that should be litigated since if this is what happens when a Government takes over farmland, this really should set a precedent for what happens in Pennsylvania for farmland and has the potential to effect many other farms going forward since as she noted previously this is the best farmland.

Ms. Doan stated she thought that the Satterthwaite Sales Agreement had been extinguished, but she has heard that the Vet has pushed forward her Appeal. Mr. Garton stated he notified the Vet's counsel that this was his opinion, and the Applicant has filed for a Rule 27 Conference; and one of the issues will be whether they even have any standing to be there.

Mr. Benedetto stated this was discussed last night at the Zoning Hearing Board. Mr. Benedetto stated at the last Board of Supervisor's meeting on April 15, Mr. Garton indicated that it was his understanding that the Agreement of Sale had lapsed based on a conversation he had with Mr. Murphy. Mr. Garton stated

this is incorrect, and he had stated that was his opinion; and Mr. Murphy does not necessarily agree. He stated this is one of the issues that will be discussed as part of the Rule 27 Conference before the Judge.

Mr. Benedetto stated last night they had a public discussion about this which he feels is how it should be discussed whether it is a matter of litigation or not. Mr. Benedetto stated Ms. Kirk, the Zoning Hearing Board Solicitor, indicated that it was her understanding based on a conversation she had with Mr. Garton that the Agreement of Sale had lapsed; however, Mr. Garton stated he did not discuss this with Ms. Kirk. Mr. Benedetto stated Ms. Kirk indicated that she contacted Mr. Murphy and stated that if it had lapsed and they were going to withdraw the Appeal, she should be advised so that she can put it in the file that the Appeal was withdrawn. Mr. Benedetto stated on April 27 Mr. Murphy filed the Motion for the Rule 27 Conference. Mr. Benedetto stated there was a disconnect somewhere since there was a misunderstanding about the Agreement of Sale and the fact that Dr. Bentz was going to withdraw her Appeal. Mr. Benedetto stated now she is not withdrawing her Appeal and has filed a Motion for the Rule 27. Mr. Benedetto stated the only way he found out about this was not because he was at the Zoning Hearing Board meeting but because he is on the e-mail distribution from the residents, and they sent him a message last week stating she was proceeding with the Motion for a Rule 27 Conference. Mr. Benedetto stated he does not understand why no one knows what is going on.

Mr. Garton stated Mr. Murphy did not file until April 29, and there has not been a Supervisors meeting since he did that. Mr. Benedetto stated he has the Motion and it shows April 27, 2015. Mr. Garton stated they have not had a public meeting since then.

Ms. Tyler asked Mr. Garton to advise where the Township stands; and Mr. Garton stated there is an Agreement of Sale, and there are two Parties. Mr. Garton stated as noted previously his position is that the Agreement has lapsed; however, Mr. Murphy disagrees with Mr. Garton's conclusion. Mr. Garton stated there was an interest on the part of the Board and others to move the matter forward so he was directed by the Board members to move to a Judicial Proceeding which is what a Rule 27 Conference is.

Mr. Benedetto stated the Agreement of Sale has expired, and Mr. Garton stated that is his opinion; however, Mr. Garton added in actuality he cannot state unilaterally that he is correct, and this is a Judicial determination because the other Party disagrees. Mr. Benedetto stated Ms. Kirk brought up last night a Mandamus Action. Mr. Garton stated it is not a Mandamus Action since that is directed toward a Governmental body to take a certain action, and the Township is not going to Mandamus itself. He stated there could be a Declaratory Judgment, but the bottom

line is that this will be part of the Rule 27 proceeding, and his position is that the Applicant has no right to be there and no right to an Appeal because the Agreement has lapsed.

Mr. Benedetto stated his understanding from Ms. Kirk was that a Rule 27 Conference has been assigned, there will be no additional Testimony, and they will likely rule based on the Briefs. Mr. Garton stated that is for the underlying action but not the issue of whether they still have standing since there was no Record made of that. Mr. Benedetto asked what the Agreement of Sale says, and Mr. Garton stated the Agreement of Sale states that it expires in June although he does not recall the year; however, he added that there was a question of whether it was extended, and he has found no evidence of an Extension. Mr. Benedetto stated it was "a June" which has already passed, and Mr. Garton agreed.

Ms. Tyler asked the date of the Rule 27 Conference, and Mr. Garton stated it has not been fixed yet. Ms. Tyler asked Mr. Garton his recommendation to the Board as to how to proceed, and Mr. Garton he intends to appear and assert that the Agreement has lapsed. He stated if the Agreement has lapsed, he feels the Appeal is moot because she has no right to be there.

Mr. Smith asked Ms. Doan the status of the 501C3, and Ms. Doan stated they have set up the Board which includes a member of the Patterson family. She stated their attorney is proceeding. Mr. Smith stated he understands Mr. Hirko has already been inside the property, and Ms. Doan agreed. Ms. Doan stated they would like to be able to paint while the weather is still good.

Mr. Benedetto stated he understands that the Township must still maintain the property, so he feels they can have Mr. Hirko go in there and do this work while this is still pending; however, Ms. Tyler stated they cannot. Ms. Tyler stated they need the 501C3 established and they need a liability policy to protect the Township. Mr. Benedetto stated nothing about Dr. Bentz's action would prevent them from going in once they get their paperwork in order. He stated her Appeal was in October, 2013 so it has been a year and a half during which time that the house has not been getting in any better shape.

Ms. Doan stated it would be a shame to lose the summer months. Ms. Doan stated if the Township had put the Farm in Farmland Preservation seventeen years ago when they acquired the land, it would be done.

Ms. Kim Rock, 13 Highland Drive, asked about the status of the Canal path. Mr. Fedorchak stated his objective is to open the lines of communication with Mr. Jennings who stopped by his office last week, and they discussed various

possibilities. Mr. Fedorchak stated he will be meeting with Mr. Jennings on his property next week, and Mr. Jennings agreed to consider what, if any, role the Township may be able to play in this matter.

Mr. Benedetto stated there are two pending Applications, and it has been at least a year on Option A which is the State agricultural money; and assuming this is not taking place and by tabling the Municipal Open Space money, it does not seem that there is a real sense of urgency. He stated this would be the perfect use of the money plus the list that the EAC has come up with for a number of other properties.

Ms. Tyler stated this would be true if Mr. Jennings agree, and she asked that Mr. Fedorchak continue to dialogue with Mr. Jennings and report back to the Board of Supervisors as to what his feelings are with regard to a potential easement or any other way they may be able to allow the residents access to the Canal.

Mr. Fedorchak stated he is trying to establish a relationship with Mr. Jennings so that he will feel comfortable with the Township, and he does not want him to get the impression that the Township is forcing themselves on him.

Mr. Benedetto asked about the communication with the County Commissioners on the two pending Applications. Mr. Fedorchak stated he will pursue this with the County Commissioners. Mr. Benedetto asked if there is a deadline on this.

Ms. Tyler asked Mr. Fedorchak to send a letter on behalf of the Supervisors.

Ms. Rock thanked the Board for looking into this because the Canal path is so important to all of the families in the neighborhoods surrounding it.

Mr. Smith stated several years ago the EAC did put together a prioritized list of open space parcels, and hopefully they will move on some of those in different parts of the Township.

Ms. Sue Herman stated she is saddened with what has transpired between the Board and Alan Dresser being dismissed from the EAC. Mr. McLaughlin stated he has not been dismissed. It was noted that you serve until you are replaced. Ms. Herman stated she feels the Township, the EAC, and the citizens will lose if Alan Dresser is not re-appointed to the Board. She stated he and many of the EAC long-time members have put Lower Makefield Township on the map in terms of environmental action, and the Township has won a number of awards because of the Environmental Advisory Council.

Ms. Tyler stated if the Board of Supervisors decided that they wanted to do re-striping in an area and put in an Application before PennDOT and the Chair of the Citizens Traffic Commission went before PennDOT and opposed it she asked

Ms. Herman what she feels should happen. Ms. Herman stated she feels she would probably take her off the Board, but she can also relate to Mr. Dresser who appeared before the Board of Supervisors with the EAC's convictions and indicated to the Board about how troubled they were about what the Board of Supervisors was doing with the Application to the County. Ms. Herman stated she spoke about her own concerns, and Mr. Stainthorpe actually indicated they could use it for another property. She stated by positioning the questions, you can change the minds of politicians, but unfortunately politicians "drag their feet for so long, that a passionate citizen who is willing to dedicate nine years to making the community great, could not give up the opportunity to "spill his guts" and fight for what he felt was right. She stated that is also what makes him give all those hours to the Township on the EAC. Ms. Herman stated she feels someone on the Board could have said they should get Mr. Garton, two Supervisors, and someone from the County to meet and find out why there is so much friction over this. She stated this is what the citizens depend on the Board of Supervisors to do. She stated it is hard to be on an Advisory Committee and "toe the line" when you are passionate. She asked the Board of Supervisors that they consider that they are possibly responsible for what happened and establish a better way to resolve this. She stated she does not feel Mr. Dresser intended to betray them, although she can understand that the Board of Supervisors feels betrayed. She added she recognizes that the Board of Supervisors has the right to take him off of the Committee.

Mr. McLaughlin stated Mr. Dresser has not been dismissed, and he serves until he is replaced. Mr. Benedetto stated they just indicated they did not "trust him." Mr. McLaughlin stated the Supervisors are taking the time to consider this further. Mr. McLaughlin also asked Mr. Dresser to consider this matter further and to understand what the expectations are. He stated he understands that Mr. Dresser is a passionate advocate, and they have re-appointed him a number of times; but he does feel that Mr. Dresser crossed the line. He stated they did discuss dismissing him, but he has not been dismissed. Mr. McLaughlin stated he wants to weigh his decision, but at this point he cannot have "rogue people going off" especially when you are the Chairman of one of the most important Committees that the Township has, and that is what he is disappointed in.

Ms. Shannon Hibbs, community mobilizer for Pennsbury LYFT was present and stated Pennsbury LYFT is a volunteer coalition that has been in existence since 1995 serving the community working to give children the skills they need to make healthy, smart decisions. She stated most of the time their work is grant funded, but requires all sectors of the community coming together to accomplish goals. She stated they are looking for new adult volunteers for their many activities and events in the community. Ms. Hibbs stated they are partnering with the car seat check. She provided a copy of their Newsletter to Mr. Fedorchak this evening, and Ms. Tyler stated they will put this on the Township board and provide them in the office for

distribution to the residents. It was noted that the car set check is May 16<sup>th</sup> from 10:00 a.m. to 2:00 p.m. at Kids Kingdom. Mr. Dobson noted that this is on the Township Website and TV channel.

Mr. Harold Kupersmit stated he has complete confidence in the Board of Supervisors, and they should make it clear to all Advisory Boards that they serve at the pleasure of the Board. He stated the Board sets policy and the Advisory Boards should fall in line or resign if they do not agree with the Board.

Mr. Joe Menard, 917 Putnam Drive, stated recently there was a letter published in the Bucks County Courier Times by two candidates for Supervisor in the upcoming Election. He stated he feels the letter grossly misrepresented Lower Makefield's management of the Township debt. He stated it implied the management, the Board of Supervisors, and the advisors are not acting responsibly. Mr. Menard stated he includes the Citizens Budget Committee (CBC) among the advisors involved in fiscal responsibility and debt management. He stated as a member of the CBC he finds the comments offensive and troubling. He stated the CBC works year round with Township management and members of the Board of Supervisors to constantly strive to not only maintain but improve the fiscal policies and procedures of the Township. He stated every year without fail the Township has paid off principal and interest on bonds. He stated on January 1, 2006 the Township had \$42.1 million in outstanding debt, and today the Township owes \$34.2 million a reduction of \$7.9 million in principal and that does not take into account the fact that during that time there has been debt issued for various reasonable, practical, and necessary purposes as determined by the Board of Supervisors.

Mr. Menard stated dating back to 2009, the Township Manager and the Citizens Budget Committee together with public financial management bond experts, have presented to the Board of Supervisors a game plan to refinance several bond issues in order to take advantage of the historically-low rates. He stated these recommendations were approved by the Board of Supervisors resulting in debt service savings to the taxpayers of Lower Makefield Township in excess of \$3 million. Mr. Menard stated these savings figure prominently into the fact that the property taxes have not been raised over the last seven years. Mr. Menard stated every time the Township makes a decision to go to the Bond market either for refinancing to achieve lower rates or for additional debt, the Township must submit its prospectus that includes sufficient financial disclosure on operations and debt to allow independent rating agencies to rate the debt risk in the global marketplace. He stated during this time Moody's has upgraded the bond rating to Aa1 which is an exceptionally high rating for the size and demographics of the Township. He feels this is something everyone should be proud of and be assured that an independent, non-political agency thinks quite highly of the Township finances.

Mr. Menard stated he feels it is disappointing that these candidates have not fairly or completely presented all the facts on this issue nor did they seek advice or fact check their assumptions. Mr. Menard stated he is also disappointed that neither of the writers took the time to come to any of the CBC monthly meetings or attend the Budget Workshops to learn, ask questions, or provide their recommendations. Mr. Menard stated despite what they wrote, they are still welcome to come and be educated on the Township finances. He stated for 2015 the CBC meets at 7:00 p.m. the third Monday of the month at the Township Building.

Mr. Benedetto asked Mr. Fedorchak if they are making principal payments on the Series B 2013 Golf Course settlement loan. Mr. Benedetto stated he understands that they will not start making payments on the principal until approximately 2025, and they are paying interest only. Mr. Fedorchak stated all the Golf Course revenues cover 100% of the debt. He stated this is the way it has been for the last ten years. He stated in each one of those ten years, they have paid principal and interest on the Golf debt. Mr. Fedorchak stated they structured the debt in such a way to make it easy and to guarantee that the Golf Course revenues would be able to cover that debt. He stated they backed into the number which was approximately between \$900,000 to \$1 million in debt service, and they determined that based on revenue projections. He stated as long as they were in that range, they were reasonably assured that the Golf revenues would cover all of the debt. He stated there are times when they just pay interest, but in other cases they pay both principal and interest; and while it is a little complicated, they are paying approximately \$1 million with all of the debt obligations, and they needed to do that to make sure that they would not have to use taxpayer money to pay for Golf debt.

Mr. Benedetto stated the statement that we are making only interest on certain Golf Course debt is an accurate statement, and Mr. Fedorchak agreed.

#### APPROVAL OF MINUTES

Mr. McLaughlin moved, Mr. Smith seconded and it was unanimously carried to approve the Minutes of April 15, 2015 as written.

#### APPROVAL OF APRIL 20, 2015 AND MAY 4, 2015 WARRANTS LISTS AND APRIL, 2015 PAYROLL

Mr. Dobson moved, Mr. Smith seconded and it was unanimously carried to approve the April 20, 2015 and May 4, 2015 Warrants Lists and April, 2015 Payroll as attached to the Minutes.

#### UPDATE ON THE 2015 BONDS REFINANCING

Mr. Fedorchak stated they have been pursuing refinancing a few of the Bond issues, and they had the sale of the Bonds which was all done over the Internet. He stated the process is essentially an auction, and the process lasted twenty to twenty-five minutes; and they received a rate of approximately 1.38% over the term. He stated this was less than what Mr. Walker had expected since he anticipated it would be 1.62% so this is good news. Mr. Fedorchak stated Mr. Walker had anticipated savings of approximately \$305,000, and the savings will be \$367,209 for this issue. He stated of that approximately \$164,000 will fall in the Golf Course side.

Mr. Benedetto stated he understand that they are taking the \$351,086 up front for this year. He asked what will go to the Golf Course Debt, and Mr. Fedorchak stated that portion is approximately \$164,000. Mr. Benedetto stated there would then be approximately \$200,000 left, and Mr. Fedorchak stated \$203,000 will fall in the Debt Service Fund.

Ms. Tyler stated this is good news since they got a better interest rate than expected and got a little more money than anticipated.

Mr. Benedetto stated he is bringing this up because previously when they discussed this, he disagreed with taking the savings up front because they were losing out on possibly \$20,000; but he was told that they will put this in the bank and it will be earning interest, but now Mr. Fedorchak stated they are using it for Debt Service. Ms. Tyler stated it will be in the Debt Service fund earning interest.

Mr. Benedetto stated he feels instead of putting it into Debt Service, they should do something for essential services and it should go to road resurfacing.

Mr. Benedetto moved to add Flint Court to the road resurfacing program for 2015. Mr. Benedetto stated this would be approximately \$50,000 which is a quarter of the money they are saving taking the savings up front.

Mr. Fedorchak stated he is not sure that they can legally take these savings and re-apply them some place outside of the Debt Service Fund. He stated he feels those monies are restricted. Mr. Benedetto stated this was never discussed when Mr. Gordon was present as to what the use of the funds would be and that they would go into Debt Service.

Mr. Fedorchak stated this is the fourth time over the last five years that they have refinanced, and he reviewed how much was saved over the years for a total savings of \$3,091,000.

Mr. Benedetto stated there is \$3 million in savings; and since they are not spending money they would have had to spend for Debt Service, he would continue his Motion for \$50,000 to pay for Flint Court which is money they are not spending on Debt Service. He stated this is a job they are supposed to be doing which is resurfacing roads and public infrastructure.

Mr. Smith stated he would not want to use this money and effect the Township elsewhere to its detriment.

Mr. Smith agreed to second the Motion since he believes that road repair in the Township is very important to the residents; however, he does not want to see them take money that is supposed to go elsewhere.

Mr. McLaughlin stated while they are spending money in this area, the Township has other expenses such as the very brutal winter, and they need to consider the entire Budget. Mr. Fedorchak stated he feels it would be good for him to give a year-end financial report for 2014 to see where the balances are. At this point he would not recommend taking the \$200,000 out of the Debt Service. Mr. McLaughlin stated he would like to know how they did versus the snow removal budget, and Mr. Fedorchak stated they were over. Mr. McLaughlin stated they cannot consider this in isolation. Mr. Fedorchak stated he feels they should look at all the fund balances, and the Board of Supervisors can then make a decision.

Ms. Tyler asked Mr. Fedorchak how much they are funding the roads this year, and Mr. Fedorchak stated based on the numbers he feels Mr. Eisold will provide at the next meeting, they are well over \$900,000 in road funding.

Motion did not carry as only Mr. Benedetto was in favor.

Mr. Benedetto asked that a determination be made on whether or not they can use the funds for something other than Debt Service.

#### MOODY'S RATING REPORT

Mr. Smith asked that Mr. Fedorchak explain what Moody's is and what the Moody's Rating Report reflects. Mr. Fedorchak stated Moody's is a well-established rating investor service; and when it comes time to go out for a refinancing or to sell bonds for new monies, one of the most important steps is to provide Moody's with all of your financial information. They do a thorough examination of Township Budgets going back four to five years and collect Audits for that period of time. He stated

they do a very exhaustive financial analysis of the Township. He stated they have had several ratings over the last five years. Mr. Fedorchak stated there is then a Committee Conference that he is involved with where he is fielding questions from the individuals on the Committee concerning the data that the Township has presented to them.

Ms. Tyler stated for the Bond refinancing, the interest rate the Township was able to achieve was a better interest rate than Council Rock received, and Mr. Fedorchak agreed.

Mr. Fedorchak stated on April 23 Moody's Investor Service issued their final report and assigned the Township the Aa1 rating for the proposed 2015 refinancing, and they affirmed the Aa1 rating for all of the Township outstanding debt, which is an excellent rating. Mr. Fedorchak stated in the Moody's report they stated, "The Aa1 rating incorporates the Township's sizable and affluent suburban tax base, modest debt position, and healthy financial position supported by conservative, management practices." Mr. Fedorchak stated Moody's further identified the Township's strengths as, "sizable tax base with above-average wealth indices, stable financial trends with satisfactory reserve levels and liquidity, management debt burden, and below average pension liability." Mr. Fedorchak stated at some point in the future, he would like to give the Board a report on the "below average pension liability" as it relates to Lower Makefield; and he feels the Board will be very pleased.

Mr. Fedorchak stated the Moody's report is on the Township Website.

Mr. Smith stated he is concerned about what Mr. Menard just commented on about statements made by potential candidates. He stated he feels a better platform would be to continue the great Township legacy by the Supervisors past and present whether they were Democrats or Republicans. Mr. Smith stated he is proud of those who have served on the Board of Supervisors and the work they have done.

Mr. McLaughlin stated this started with Mr. Smith's leadership as he was the leader at the time, and it was an uncomfortable and hard path since it is difficult to say "no." He stated this reflects a strategy of directing the residents' money to the right places even if it means tough decisions. He stated it is the continued legacy of the Board no matter your political party to take the residents' money and view it as a "sacred trust." Mr. McLaughlin stated they have doubled and possibly tripled what they spent on the roads when he first got on the Board, and this involved sacrifice in other areas. Mr. McLaughlin stated Mr. Fedorchak, the Department Heads, and the professionals are the ones that institute the policies set by the Board of Supervisors.

Mr. McLaughlin stated they went through a recession with few houses being sold and had to deal with difficult winters and were still able to deal with this without raising taxes. Mr. McLaughlin stated he feels those running should celebrate what prior Boards have done.

Mr. Benedetto asked when the Local Service Tax was implemented, and Mr. McLaughlin stated he feels it was 2010. Mr. Benedetto asked how much this brings in a year, and Mr. Fedorchak stated he feels it is approximately \$250,000. Mr. McLaughlin stated the majority of those paying that tax are not Township residents, but Township residents do pay other Municipality local service taxes since it is based on where you work and not where you live; and all the surrounding communities have this.

Mr. Smith stated Moody's is an outside, independent organization which has stated the Township is doing a good job.

#### APPROVAL OF TENT AGREEMENT WITH BUCKS MONT PARTY RENTAL

Mr. Mike Attara was present with Mr. Adam Glenn, from Bucks Mont Party Rental. Mr. Attara stated they have been working with Mr. Glenn and his company to structure an Agreement that would save the Township up-front money by not having to buy the tent. Mr. Attara stated Mr. Glenn will be providing the tent and some of the services that go with having the tent. Mr. Attara stated they will then be able to move forward and cater weddings and events which will bolster the food and beverage revenues and to continue to help with the Debt Service.

Mr. Beck stated they have this type of structure at five other locations. He stated they provide the tent environment but they do not participate in the food preparation.

Mr. Attara stated the Agreement would be a three-year Agreement that would provide Lower Makefield Township and Makefield Highlands Golf Course with a 40' by 60' tent. He stated they also have the opportunity to expand the tent when need be with an additional 20' by 20' temporary structure which they can add.

Mr. Smith asked if they will be able to make use of the tent this summer, and Mr. Attara stated they will. He stated in the wedding business you need to have the structure there to promote and sell the weddings so that the future Bride and Groom can see it. He stated it is important to get the tent up as soon as possible.

Mr. McLaughlin asked if it is a fixed rate or a percentage, and Mr. Attara stated it is a fixed rate, and Bucks Mont Party Rentals would receive a site fee piece, and the Golf Course would receive a site fee, and there are then options so that the Golf Course could host the event themselves and do both the food and beverage or they may have an outside preferred caterer do the food. The Golf Course would always do the beverage portion because of the liquor license.

Mr. McLaughlin asked if the tent will impact the use of the Course. Mr. Attara stated it will actually improve the situation since one of the current issues is the space in the room they have today and it is very difficult to have golfers in that room and also try to host an event at the same time. He stated this will allow them to do larger parties. He stated they can also time the weddings so that the bulk of the golfers are ending their day when the weddings are getting started. Mr. McLaughlin stated he wants to make sure they are not impacting the quality of play. Mr. Attara stated he has been doing this for some time and has had a lot of weddings at other facilities, and he does not feel that this should become an issue. He stated the tent will be up for nine months, and Mr. Glenn will take it down and clean it and have it ready for the next season.

Mr. Benedetto asked why they chose Bucks Mont Party Rentals; and Mr. Attara stated they had discussions with other companies, but they were impressed with Bucks Mont's creativity and finding a way to get the tent to fit the space. Mr. Attara stated he is familiar with Mr. Glenn through another caterer and other Townships who have worked with Mr. Glenn for over twenty years with very good reviews. Mr. Benedetto asked how many other tent rental places he spoke to, and Mr. Attara stated they spoke to four.

Mr. Benedetto asked the maximum number of guests they are looking at, and Mr. Attara stated it would be approximately two hundred depending on whether they want buffet, plated, dance floor, DJ, band, etc. Mr. Glenn stated he feels the numbers they discussed were one hundred fifty to one hundred seventy-five although you can get creative by adding the additional small tents. Mr. Attara stated he does not feel they should exceed two hundred people even with the additional tents. Mr. Attara stated the weddings they have hosted over the last ten years were in the one hundred twenty-five to one hundred thirty range.

Mr. McLaughlin asked what time they would start the reception usually, and Mr. Attara stated it is normally between 4:00 p.m. to 5:00 p.m. Mr. McLaughlin asked about parking; and Mr. Attara stated he feels they will be fine since they have had other large events, and they time it so that the golfers are leaving when the guests are coming in. Mr. Attara noted a lot of weddings are bringing in party buses and this cuts down on the number of cars.

Mr. Smith stated a number of years ago they had problems with parties at Elm Lowne, and he asked if they anticipate there will be problems at this location. Mr. Attara stated they are very specific about the time the music needs to go off which is 10:00 p.m.; and they can offer that there could be an after party inside the facility.

Mr. Benedetto asked about the fees, and Mr. Attara stated there will be a Contract and it will show the fee for the tent and the Golf Course will be paid a site fee. Mr. Benedetto asked about the flooring which will be covered with carpeting, and Mr. Glenn stated the carpeting they use is an industry standard for use under the tent. The dance floor will be hard wood. It will be a carpeted venue with a sub floor and carpet on top of that. He stated there will be a dance floor, but most of the interior will be a carpeted look. Mr. Benedetto expressed concern with the effect of moisture over time, and Mr. Glenn stated they use this in other tents, and provided it is aired out, there are not issues with the carpet.

Mr. Benedetto noted Paragraph 10 regarding Waiver of fees for Lower Makefield Township fundraising events, and he asked if there is something planned; and Mr. Attara stated while there is nothing planned, they wanted to make sure if there is an opportunity to support the Township that they could do that.

Ms. Tyler asked about insurance coverage/liability, and it was noted there are provisions for this.

Mr. Menard stated this is a culmination of a two-year effort. He stated they had been before the Board about redoing the kitchen and all of that was in order to get to this point so that they could substantially improve the financial fitness of the Golf Course which is an asset of the Township.

Mr. Tim Collins, 479 Jenny Drive, asked if golfers will be able to use the inside amenities following a round of Golf on a Saturday at 7:30 p.m. and Mr. Attara stated they had previously had a problem having a single room and not having the ability to provide the service to both the golfer and the parties; and with this plan they will be able to do that. Mr. Collins asked about a room for the Bride; and Mr. Attara stated while there will not be a separate room, there will be a space toward the back of the room in the existing building.

Mr. McLaughlin moved, Mr. Dobson seconded and it was unanimously carried to approve the Tent Agreement with Bucks Mont Party Rentals.

Mr. Attara stated on Thursday next week the Golf Course will be hosting a U.S. Open Qualifier which is exciting for the Course and the Township. Mr. Smith asked why they were able to get this. Mr. Attara stated over the past five years, they have worked very hard with the Philadelphia and Pennsylvania Golf Association and other organizations by hosting other events successfully. He stated the Golf Course conditioning also plays a big part in this particularly after this very difficult winter. He stated this all goes back to the Board of Supervisors who approved the Course years ago and built a wonderful Golf Course.

#### DISCUSSION AND MOTION TO PURCHASE PUBLIC WORKS EQUIPMENT

Mr. Kevin Kall, Director of Public Works, was present and stated several weeks ago he was asked to do some research on alternatives on road resurfacing of potholes and small patches. Mr. Kall stated in this research he reviewed the materials they use for potholes and small patch repair, and he discussed the advantage of using some reclaimed materials and the costs. Mr. Kall stated cold patch is used from November to April which is made from the recycled material, millings, which is very pliable and cost effective in patching potholes in the winter time because the plants are not open for the Township to buy hot material. He stated once cold patch is used it is good for approximately one year unless it rains or there is another ice or snow storm. He stated the hot mix is used throughout the summer when they make their permanent repairs. He stated it has a lifespan of approximately twenty to twenty-five years. Mr. Kall stated recycled materials are asphalt millings, and contractors who do most of the road resurfacing projects throughout the Township take those millings back to the plant; and the plants use them to either create new hot mix, asphalt, bituminous pavement, or cold patch. Mr. Kall stated these millings when re-heated can be rejuvenated to do surface repairs. He stated there is also reclaimed material which is hot mix that has gone cold; and once it is reheated in a reclaimer it is as good as fresh asphalt.

Mr. Kall stated cold patch is the most expensive and has the biggest impact on their materials budget. He stated it is \$100 per ton, and they spend approximately \$5,000 to \$7,000 per year. He stated hot mix is \$60 per ton, and they spend approximately \$6,000 to \$12,000 per year. He stated millings are free.

Mr. Benedetto asked about Black Rock Road and asked if it is a Township Road, and Mr. Kall stated it is. Mr. Smith asked about Mirror Lake which was in very poor repair, and Mr. Kall stated that is a State road. Mr. Kall stated the State has done some work there already, and they know that they have to do more work there as he has discussed this with his counter-part at PennDOT. Mr. Benedetto stated the

reason he brought up Black Rock is because he looked at the Twenty-Five Year Road Improvement Plan when a resident contacted him about this, and that road is not on there. Mr. Eisold stated he will look into this. Mr. Kall reviewed the areas where the Township has crews working currently.

Mr. Kall stated there is a piece of equipment which would allow them to reuse millings. He stated there are a number of paving contractors that do driveway work in the Township, and they are always looking to get rid of the material; and he would welcome that material and could enter into Agreements with them to take that material from them to be reused. He stated the cost of the Falcon is approximately \$38,000, and it is made in the USA. He stated there is also the Spaulding which would cost in the low \$40,000s, and it also made in the USA. He stated several Townships in New Jersey use the Spaulding and the Falcon is used by Warminster and PennDOT. Mr. Kall stated he would like to see the equipment himself before making a recommendation. Mr. Kall stated using this piece of equipment could reduce material costs to the Township by 50% to 70%, and the rate of return would be four to six years.

Mr. Dobson asked if they can use this in the cold months as well, and Mr. Kall stated they can. Mr. Smith asked the life space, and Mr. Kall stated it would be similar to that of a piece of heating equipment. Mr. Smith asked if would help reduce the time in making repairs; and Mr. Kall stated as he noted previously if they are called, and it is not an extreme pothole, they are usually out within twenty-four hours. Ms. Tyler stated instead of just cold patching, they would be able to do a permanent repair.

Mr. McLaughlin asked if it is possible that they would be able to rent out this piece of equipment to other Townships, and Mr. Kall stated they could have a discussion with the Township or the State as to what their requirements are with regard to material. Mr. Kall stated they could look into creating an Inter-Agency Agreement.

Mr. Garton stated this would have to go out to public Bid.

Mr. McLaughlin moved, and Mr. Smith seconded to instruct the Township Manager to proceed with a Bid for an asphalt recycler and the model and make of the equipment be at the discretion of the Manager and Public Works Director.

Mr. Zachary Rubin asked where the funds would come from, and Mr. Fedorchak stated he feels it would come from the General Fund. Mr. Rubin asked Mr. Kall the approximate cost of purchasing a bucket truck to work on lighting and tree maintenance/removal, and Ms. Tyler stated they have not yet fully researched this.

Motion carried unanimously.

#### UPDATE ON QUIET ZONES

Mr. Eisold stated on March 25 the Notice of Intent to establish the Quiet Zones was submitted to the appropriate agencies, and there is a sixty-day comment period they are now within. He stated they also submitted the PUC Application on March 31, and they have been recently contacted by the PUC to set up a site meeting to look at the site areas. Mr. Eisold stated they are anticipating the receipt of the PennDOT Grant Agreement which will specify some of the requirements and issues that need to be addressed.

Mr. McLaughlin asked if the third rail project is impacting the progress of the Quiet Zones; and Mr. Eisold stated it is not, and that is a totally separate project.

Mr. Rubin stated it was previously mentioned that when the closures were taking place on the weekend, Heacock Road was going to be closed; and he had asked the Township engineer to look into the rough crossing there. Mr. Rubin stated all they did at that location was to put up a "rough crossing" sign and did not do anything to improve that rough crossing. Mr. Eisold stated he has been in discussions with SEPTA about that, and they indicated they will do it; but the time frame they had to install the third rail from Friday 7 p.m. to Monday morning was already tight to get done the work they needed to do. Mr. Eisold stated the new third track does have a much smoother surface. Mr. Eisold stated at this point SEPTA does not have access to either of the other tracks, as they are owned by CSX so they cannot do those improvements yet; but they have indicated that work will be done. Mr. Rubin stated that they have not received any assurances about having this done by CSX, and Mr. Eisold stated SEPTA has indicated that they will work with CSX to get the tracks done.

#### UPDATE ON EDGEWOOD ROAD RAILROAD CROSSING

Mr. Eisold stated during the closure of Edgewood Road for the installation of the third track as they extended the third track they have noticed that the slope of the road itself has become steeper. Mr. Eisold stated they had a meeting with the SEPTA engineer last week and indicated that what they have done is not acceptable, and they have committed to completing the survey of that area of road; and they will evaluate it and come to a solution to extend the paving out whatever is necessary to take the steep slope out of the road. Ms. Tyler stated she has spoken to members of the volunteer Fire Department, and they have indicated that because of this slope, they have less than three inches of clearance on the largest truck, and they have a new truck coming in that they have indicated will "bottom" because of the overhang. Mr. Tyler stated he was recently made aware of this, and he is pushing SEPTA to make sure that they get this addressed as quickly as possible.

APPROVAL OF ESTATES AT CHANTICLEER PRELIMINARY/FINAL PLAN LOT LINE CHANGE

Mr. Garton stated two of the owners in Chanticleer, Mr. Peters and Mr. Pisauro have filed an Application with the Township requesting various Lot Line changes; there are no new Lots, just a reconfiguration of existing Lots. Mr. Garton stated approximately 34,000 square feet will be transferred from the Waters' property to the Peters' property, and there will be an additional Lot Line Change between Lot #15, the Peters' lot, and Lot #16 which is the Pisauro Lot in order to relocate the property line between the two parcels so that the driveway for Lot #15 will be entirely contained within Lot #15. Mr. Garton stated there is no change in the acreage as far as that adjustment.

Mr. Garton stated the Plans are dated 7/23/14, last revised 3/19/15, and the Planning Commission recommended Approval at their 4/27/15 meeting subject to various Conditions. Mr. Clase was present representing the Applicant.

Mr. McLaughlin moved, and Mr. Dobson seconded to Approve the Preliminary/Final Plans for Chanticleer subject to the following:

- 1) Compliance with Boucher & James report dated 4/15/15 except with Item #2 and it is agreed that based upon prior Approvals, the impervious surface is 19%;
- 2) Compliance with the Tri-State Engineers review letter dated 4/10/15;
- 3) Compliance with the Bucks County Planning Commission's letter dated 8/28/14
- 4) Deeds of Conveyance and Deeds of Consolidation shall be Recorded contemporaneously with the Plan
- 5) Receipt of all Permits and Approvals from any agencies having jurisdiction including but not limited to the Conservation District
- 6) The Applicant to pay any and all expenses incurred by the Township associated with the Application including engineering, legal, and the like.

Mr. Clase agreed to the Conditions, and the Motion carried unanimously.

## ZONING HEARING BOARD MATTERS

Mr. Garton stated the Board met in Executive Session for approximately fifteen minutes prior to the meeting to discuss the Zoning Hearing Board Applications.

With regard to the K.S. Greenday Inc. Variance request for John & Deborah Deeney for the property located at 1570 Clark Drive in order to permit construction of an in-ground pool and decking resulting in encroachment into the rear yard setback and greater than permitted impervious surface, this matter was resolved last evening by the Zoning Hearing Board and needs no further comment.

With regard to the Richard Doyle Variance request for the property located at 872 Queens Drive in order to permit construction of a detached garage resulting in encroachment into the side and rear yard setbacks and greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

Mr. Dobson moved, Mr. Smith seconded and it was unanimously carried that with regard to the Paul & Kim Palmieri Variance requests in order to permit construction of a second story addition and front porch on an existing non-conforming structure because there is a potential floodplain issue the engineer should determine if there is a floodplain issue; and if so, the Solicitor should participate and report back, and if there is not it should be left to the Zoning Hearing Board.

Mr. Dobson moved and Mr. Smith seconded that with regard to the Makefield Glenn LLC Variance requests for the property located at the south side of Yardley-Langhorne Road at the intersection of Edgewood Road in order to permit construction of a structure for a restaurant, retail space, and second-story apartments the Solicitor is authorized to participate and report back and the Board of Supervisors will decide whether they should oppose, support, or leave it to the Zoning Hearing Board.

Mr. Benedetto asked if HARB has any say on this, and Mr. Garton stated they do not with respect to the Variances because they do not go the appearances of the structures. Mr. Benedetto stated this Application does not include the two houses across the street, and Mr. Garton agreed it does not.

Mr. Rubin stated he is the Vice President of the Makefield Glen Homeowners Association. He stated when the original Applicant came in front of the Board, Mr. Murphy represented them and Mr. Rubin had brought up the confusion of naming this development Makefield Glen LLC, and he would request the Township solicitor to ask Makefield Glen LLC to petition the Department of State of the Commonwealth of Pennsylvania to change their name to avoid confusion; and Mr. Garton stated he will do this.

Mr. Dave Miller, 1648 Yardley-Langhorne Road, asked Mr. Garton what he recommended about the Makefield Glen Application; and Mr. Garton stated he indicated that the Board discussed it in Executive Session, and he and the Manager recommended to the Board that the Solicitor participate in the proceeding when scheduled, and that they report back to the Board what the Application is about and the Board will then decide whether they will be in opposition, leave it to the Zoning Hearing Board, or support it.

Mr. Benedetto stated what they are looking to do is construct three second-floor Residential apartments in combination with a first-floor restaurant and retail use, eliminate the requirement to provide a private yard of 200 square feet for each second-floor residence, permit 74 off-street parking spaces in lieu of the 105 required, increase the impervious surface ratio to 85% where 80% is the max, eliminate the need for the protection of an on-site woodlands, and to provide parking stalls of 9' by 18' as opposed to 10' by 20' required.

Mr. Garton was asked the date this matter will be before the Zoning Hearing Board, and Mr. Garton stated he believes that it will be June 2; and it was suggested that Mr. Miller contact the Township tomorrow about the exact date.

Mr. Garton advised Mr. Miller that if he lives within 500 feet of the subject property, he will receive written notification.

Motion carried unanimously.

## SUPERVISORS REPORTS

Ms. Tyler stated this Saturday, May 9 from 9:00 a.m. to 4:00 p.m. an Eagle Scout Candidate, will be working at Veterans Square and could use some help.

Mr. Dobson again noted the car seat safety check to be held Saturday, May 16 from 10 to 2 at Kids Kingdom.

Mr. Benedetto stated Farmland Preservation discussed content for the LMT.org page and whether they would also like to have some apps posted so people know what farms are preserved. Their annual meeting will be in June. Mr. Benedetto stated HARB had requested a joint work session with the Planning Commission which has been scheduled for May 11 at 7:30 p.m. to review the current and proposed development since 2005 at the Edgewood Village Historic District as these entities are the ones that shepherded the process of development recommendation, oversight, and ultimately approval of the development in the Township.

Mr. Benedetto stated they have indicated that they have reviewed archival Board of Supervisors' Minutes from 2005 to learn about the sequence of events regarding the demolition of Tenant House where the current owner, Troilo Properties, is moving forward with new construction on the site but did not adhere to the Conditions attached to the Approval of the demolition in 2005. Mr. Benedetto stated HARB acknowledges that this apparent breakdown in oversight is understandable considering the ten year time frame as well in the change in leadership and staff. Mr. Benedetto stated they also want to discuss that an inventory of the historic structures identified as contributing to the character and integrity of the Historic District, Edgewood Village, has revealed that out of 27 listings, 6 have been demolished and 6 are in imminent damage; and this represents over 40% of the inventory. They added it appears that if the Township continues on the same trajectory, there will be irreparable changes made to the character of the Historic District.

Mr. Benedetto stated at the Zoning Hearing Board meeting on Tuesday they discussed the Aria Appeal. Mr. Benedetto stated there were letters going back and forth between Mr. VanLuvanee, Ms. Kirk, and Mr. Smolow, and possibly with Mr. Garton; however, Mr. Garton stated he was not part of those communications. Mr. Garton stated what he had done was what he indicated previously that he had sent a letter to Ms. Kirk with respect to a copy of the Stipulation and what was provided at the meeting with RAFR and the Board, and the Board of Supervisors wanted to make sure that the Zoning Hearing Board was included in these discussions. He stated then there were discussions between Mr. VanLuvanee and Mr. Smolow on behalf of RAFR, and Ms. Kirk about the Zoning Hearing Board's involvement in the process. He stated just like the Township, RAFR, and Aria, the Zoning Hearing Board is a Party to the Appeal that is pending in the Courthouse from the last actions of the Zoning Hearing Board.

Mr. Benedetto stated what the Zoning Hearing Board wanted him to report to the Board of Supervisors is consistent with what Mr. Garton has indicated; and they wanted to make it adamantly clear that they are not going to address the list of Conditional Uses that were talked about because their role is quasi-Judicial; and they believe that their input is not necessary. He stated they are not an advisory board, and they are quasi-Judicial; and if the Township wants to change the Ordinance, they have the power to do that outside of the any Stipulation. He stated they basically said, "Do your job as Supervisors – you have the power to change the Ordinance – you have the power to put in this Health Care Village usage, and if you are interested in doing that you will be held accountable to the Electorate." Mr. Benedetto stated they were saying "Don't punt it to us," and they are not going to be a Party to any Stipulation or any Agreement.

Mr. Benedetto stated he understands the Board of Supervisors are allowed to change the Ordinance, and Mr. Garton stated the Board can proceed through the process of Amending the Zoning Ordinance and Subdivision Ordinance pursuant to the MPC which requires the creation of an Ordinance, Public Hearings, and the Township and County Planning Commissions recommendation. Mr. Benedetto stated if the Board takes that approach and passes an Ordinance as opposed to the Stipulation, he understands that this would eliminate the terms of the Settlement which would include Aria reimbursing both RAFR and the Township's legal and engineering fees; and Mr. Garton stated if the Board did not proceed on a Stipulation premise and adopted an Ordinance, the other components of the suggested Stipulation that came from Mr. VanLuvanee and was discussed by RAFR would be gone.

Mr. Benedetto stated this is why he wanted this in public session, and the Aria discussion was held by the Zoning Hearing Board publically. Mr. Garton stated there was also a public meeting before the Board of Supervisors when Aria made a presentation of their concept publically with photographs. Mr. Benedetto stated he is talking about the Settlement negotiations with RAFR being there and talking to the Board in Executive Session. Mr. Benedetto stated at the last meeting in Executive Session when they were talking about the status with the Zoning Hearing Board saying they were not going to agree to a Stipulation, he felt they would update the public on what was going on because he feels where they stand on this issue as Supervisors should be public information. Mr. Garton stated he does not recall stating that since he does not know where anyone stands on this issue at the moment. Mr. Benedetto stated it is clear where the Zoning Hearing Board stands.

Ms. Tyler stated she wants to hear from Ms. Kirk, and she should send the Board a letter as she is concerned about the word "punting," as the Board was being respectful to the Zoning Hearing and wanted to know what they felt of Aria's proposed Settlement. Ms. Tyler asked Mr. Garton to speak to Ms. Kirk and get a clear legal opinion on the potential Settlement Agreement.

Mr. Benedetto stated this has gone back twice, and the Zoning Hearing Board was very adamant; and he does not know how much more discussion needs to take place with them. Mr. Benedetto stated they are asking for the Zoning Hearing Board to agree to something that they are not willing to agree to, and they have indicated they do not want to be involved in this process.

Mr. Garton stated all along the Board of Supervisors has said that the Zoning Hearing Board is a Party to the litigation so anything that is discussed, the Zoning Hearing Board should be made aware of and have input; and he feels all five Supervisors agreed to that approach. Mr. Garton stated they have done this,

and the Zoning Hearing Board has indicated that if it comes to an Ordinance, that is within the Board of Supervisors' Constitutional right to do, and the Zoning Hearing Board did not want to be privy to a Stipulation because that is not their role according to what is being told to the Board. Mr. Garton stated he will ask Ms. Kirk to definitively author something to describe all of this.

Mr. Benedetto stated he is saying what the Zoning Hearing Board was saying, and they did not want to provide political cover for the Board of Supervisors and that the Board should do their job and everybody will know where the Supervisors stand. Mr. Benedetto stated he is not in favor of passing a Health Care Village Ordinance. Mr. McLaughlin stated he has not seen what the Health Care Village Ordinance looks like. Mr. Benedetto stated he feels they are at an impasse because RAFR has signed off on the Conditional Use changing to a Health Care Village, but the Zoning Hearing Board is not interested in participating in a Stipulation.

Mr. Garton stated if there is a Stipulation submitted to the Court for Court Approval, the Zoning Hearing Board has to agree because they are a Party; and in the absence of the Zoning Hearing Board agreeing, there can be no Stipulation, and you are left with making Amendments to the Zoning Ordinance to accommodate it.

Mr. Zachary Rubin stated he is on the Executive Board of Residents Against Frankford Hospital Relocation, and the Board of Supervisors opposed the Application of the original Aria Hospital and so did RAFR. Mr. Rubin stated the Zoning Board agreed with their positions and it was Appealed to the Common Pleas Court by Aria Hospital. He stated he understands they are waiting for a Rule 27 Conference; however, Mr. Garton stated he does not know that any participants have petitioned for a Rule 27 Conference on the Aria matter.

Mr. Rubin stated it is RAFR's position that they will accept the Stipulation that has been agreed upon by RAFR and Aria Hospital, and they would like the Board of Supervisors to sign on; and there was a discussion in Executive Session about that. Mr. Rubin asked why the Zoning Board has standing if it goes into a Rule 27 Conference since Mr. Garton stated they are a quasi-Judicial Board. Mr. Garton stated that is not what he said, rather it was Mr. Benedetto who had stated that.

Mr. Garton stated when the Appeal was filed by Aria, the Zoning Hearing Board as a separate entity intervened in that litigation because under the rules the Zoning Hearing Board can be a participant even in an Appeal from their own decision. He stated when there is a pending matter of litigation all Parties would have to approve a Stipulation.

Mr. Rubin asked if there was not Case Law in the Commonwealth of Pennsylvania that disagrees with that position and that the Zoning Hearing Board does not necessarily have to agree; and Mr. Garton stated there is not recent Case Law. Mr. Garton stated what has been done in the past with some success is that if you have Parties to a litigation, and one Party will not agree to a resolution, you can file for a Hearing in front of the Judge, and the Judge can determine irrespective of the lack of consent by one Party that the Stipulation and Agreement is in the interest of the Parties and the public and can in fact approve it over the objection; but it is a very convoluted, difficult process, and the burden of proof is significant.

Mr. Rubin asked if the Zoning Hearing Board and the Board of Supervisors sign on to the Stipulation do they have to go through the Ordinance process for the O/R; and Mr. Garton stated they would because if you look at the Stipulation it says the Township will adopt an Ordinance.

Mr. Smith stated the Economic Development Commission has a Business Survey coming out. He stated they would like to come before the Board of Supervisors at some point in June. Mr. Smith stated EMAC also wants to make a presentation to the Board of Supervisors. Mr. Smith stated he was contacted by Mr. Kevin Treiber today who indicated that an Eagle Scout project was completed at Veterans Square this past weekend and they also thanked Mr. Troilo who paid for replacement of plants which had died. Mr. Treiber also discussed the Yardley Borough Memorial Day Parade starting at 11:00, and Carry the Load will be taking part in this as well.

Mr. Smith stated he received some questions from people in Yardley Hunt who were concerned what the Township was going to be doing with tennis courts on Revere Road. Mr. Fedorchak stated at the last Park & Rec meeting there was a discussion about those tennis courts, and it was their preference that those courts be done away with and that the Board of Supervisors consider building courts at Memorial Park as part of the Memorial Park Master Plan. Mr. Fedorchak stated the condition of those courts is very bad, and to bring them up to playable condition, it would take a considerable amount of money. Mr. Fedorchak stated there are also a number of tennis courts a few blocks away on Schuyler which are readily available to everyone.

Mr. Smith asked what they would put in the area if the tennis courts were removed, and Mr. Fedorchak stated the Park & Recreation Board suggested that he have discussions with Toll Bros. because there have been some issues in Yardley Hunt with fill, and some of that fill did touch upon these tennis courts. Mr. Fedorchak stated he will have a discussion with Toll Bros. about the tennis courts and possibly they can get Toll Bros. to contribute to the construction of new tennis courts someplace else. Mr. Smith asked that they reach out to the residents; and Mr. Fedorchak stated he discussed this with Ms. Liney today, and she is supposed to be doing that.

## APPOINTMENTS

Ms. Tyler stated in reviewing past Meeting Minutes it appears that the Board of Supervisors appointed Mr. Mark Goodman to Economic Development when they meant to appoint him to the Citizens Budget Committee.

Ms. Tyler moved, Mr. Smith seconded and it was unanimously carried to appoint Mark Goodman to the Citizens Budget Committee.

## DISCUSSION OF OUTSOURCING OF THE SEWER BILLING SERVICE

Mr. Benedetto stated he understood that the Bids closed on April 30 for the outsourcing of the sewer billing service; and Mr. Fedorchak stated they received three proposals, and the price point of each was a little less than what was anticipated which is very good news. He stated their consultant is in the process of reviewing the proposals, and he will meet with her next week to review her recommendation; and he anticipates putting this on the Agenda of the Board of Supervisors at their first meeting in June.

## CANCEL MAY 20 AND JULY 1 BOARD OF SUPERVISORS MEETINGS

Ms. Tyler moved to cancel the May 20 Board of Supervisors meeting as she will be out of town.

Mr. Benedetto stated he sent a message to Chief Coluzzi about the Emergency Preparedness Plan with respect to a railroad car derailment, and he would like to have a special meeting for that. Ms. Tyler stated she feels this is a good idea adding that Emergency Management just met, and she spoke to a member of that Committee who was interested in the prevention of derailments. Ms. Tyler stated she agrees it would be a good idea to have an open forum to discuss this, and they will ask Chief Coluzzi for possible dates.

Mr. Benedetto asked Mr. Fedorchak if there is anything that would have been on the Agenda for May 20, and Mr. Fedorchak stated at this time he does not see the need for the meeting.

Mr. Smith stated he understands that in the past the Board has canceled one meeting in July and one meeting in August, and he stated he would like to discuss this so that they can plan for this.

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Mr. Smith seconded the Motion to cancel the May 20 meeting and amended it by also cancelling the July 1 meeting of the Board of Supervisors, and the Motion carried unanimously.

There being no further business, Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to adjourn the meeting at 10:40 p.m.

Respectfully Submitted,

Jeff Benedetto, Secretary