

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – JUNE 17, 2015

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on June 17, 2015. Ms. Tyler called the meeting to order at 7:30 p.m.

Those present: 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

PROCLAMATION IN RECOGNITION OF SAINT JOHN THE EVANGELIST CHURCH 50TH
ANNIVERSARY

Representatives from the Church were present and Ms. Tyler read the Proclamation into the Record. Ms. Tyler also noted the Citation received honoring the Church from the House of Representatives of the Commonwealth of Pennsylvania signed by State Senator Steve Santarsiero, the Speaker of the House, and the Chief Clerk of the House, a Congratulatory Order from Senator Charles McIlhinney, a Commendation from Michael Fitzpatrick, U.S. House of Representatives, and a Commendation from U.S. Senator Pat Toomey. Deacon James Hartmann accepted the documents and thanked the Board of Supervisors for taking the time to honor the Church in honor of their fifty years of service in Lower Makefield. He stated 98% of their Congregation are residents of the Township and are active in the community.

PUBLIC COMMENT

Raymond Christensen, 859 Gainsway, stated they had a good meeting about the light intrusion in his home with Mr. Fedorchak and Mr. Ware on May 20. He stated Mr. Fedorchak contacted him this evening and has an appointment set up with the neighbors to discuss this matter. Mr. Christensen stated he has found that there is really no residential light Ordinance for the Township, and now Mr. Fedorchak will be in a position of weakness when he approaches the neighbors to do the right thing. Mr. Christensen stated he has found a number of Ordinances from other

Townships in Bucks County that would have helped this situation, and those Ordinances are very clear about light going into homes, bedrooms, and times of day. He provided this information to the Board.

Ms. Tyler stated this is an unfortunate situation, and there have been discussions with the Zoning Office; and they are now reviewing the Ordinances. She stated the Ordinances are silent as to sodium vapor lights; and they are not only going to look to update the Ordinances on that issue but other issues as well that have come up which they feel need to be dealt with. Mr. Christensen stated he hopes they follow through on their promises about helping the quality of life in the Township.

Mr. Smith stated there was a situation at Macclesfield Park some years ago where the lights were impacting the Rivergate residents. He stated the Township was able to utilize a type of light which made the light shine down as opposed to outwards, and possibly this would be possible in Mr. Christensen's neighborhood as well. Mr. Christensen stated the Ordinances he has provided mention shields, time of day, on/off switches, and direction.

Mr. McLaughlin stated he felt there were prohibitions against sodium vapor lights; however, it was noted this only relates to Commercial parking lots. Mr. Christensen stated it was probably always felt that people would not use this type of lighting where they live, but they have a neighbor using it. Ms. Tyler stated she feels there are more types of residential lighting available, and sodium vapor used to only be a commercial application. Mr. Christensen stated this is why the other Townships are amending their Ordinances. He thanked Mr. Fedorchak for his efforts on their behalf.

Mr. Terry Bray, 865 Henry Drive, thanked the Board for their consideration of the needs of the Seniors living in the Township; however, as they review the Community Center Plans, he urged the Board to keep the spending for the new facility within the original \$1 million Grant budget level or at least within the estimates that were originally provided by the architect which were \$1.4 to \$1.5 million. Mr. Bray stated the Board needs to keep in mind that increased spending is almost always correlated with tax increases which is especially difficult for Seniors to manage. He stated upward pressure on taxation could also trigger more Seniors to leave the Township and therefore reduce the original need for the facility. He urged the Board to be fiscally responsible and build an aesthetically-pleasing building within the original Grant amount or at the least within the architect's estimate on which the Board approved the Land Development Plan.

Ms. Holly Nemiroff, 109 E. Ferry Road, stated she and her husband purchased a home at 1701 Westover Road and are in the process of renovating it to make it their next home. She stated they ran into a problem today when an inspector came out to look at the footings which were poured today for a crawlspace, and he mentioned that there is a requirement for the blocks had to be 12" blocks; but their plan was for 8" blocks. She stated the block needs to be ordered by tomorrow morning, and the problem is that 8" block needs the approval of the contractor, the architect, and was approved when the Plans were submitted to the Township. She stated the first time they heard that 12" block was required was this morning. She stated this will incur a considerable additional expense. She stated her contractor tried to reach the inspector but was unable to do so all day. She stated they are at a crucial point time wise, and she is not sure how to proceed. Mr. Fedorchak stated he will get the staff together tomorrow morning to go over this, and he will get back to her tomorrow at some point in the afternoon. Ms. Nemiroff stated she was told that the block had to be ordered in the morning. Mr. Fedorchak apologized but said the best he can do is meet in the morning, and he promised to work on this quickly.

Mr. Joe Menard, 917 Putnam Drive, stated he read in the paper that there was a Court Hearing regarding the Mercer County Airport; and that the group lost their Court case. He asked where the Township stands in terms of any Appeal. He stated the appropriation that was made was limited to the initial phase trying to ascertain the need for an environmental study; and based upon the Court Hearing, he would request that there be an accounting from wherever the monies were deposited and also make it clear to those involved that no additional funds should be spent toward any research or Appeals without coming back to the Board for more clarification.

Mr. McLaughlin asked if the funds provided by the Township were limited to this round or just a specific amount for the legal fund. He stated he felt that they gave the money for however long it lasted. He stated they have not committed more than the \$15,000; but he did not feel it was limited to a certain time before the Court, and it was just a specific amount toward their legal expenses.

Ms. Tyler asked Mr. Garton if he had been provided with an update from Mr. Potter concerning the proceedings; and Mr. Garton stated he was provided the update that the District Judge sustained the FAA's objections to the Suit, and threw it out; and Mr. Potter has filed an Appeal. Mr. Garton stated he does not know how much money has been spent or the accounting. Mr. Fedorchak stated Lower Makefield allocated \$10,000 with the Condition for an additional \$5,000 if there was involvement from other Townships, and he believes that he provided them the entire \$15,000.

Ms. Tyler asked that Mr. Potter be asked to provide a written report on the basis of the Appeal so they know whether there is any validity of the Appeal going forward, and Mr. Garton agreed to do this.

Mr. McLaughlin asked Mr. Garton if he is in a position to advise the Board what are their chances on the next round; however, Mr. Garton was unable to comment on this. He noted he has never been involved in litigation involving the FAA, and this is a specialized niche in the legal profession. He agreed to get the analysis from Mr. Potter and provide it to the Board. Mr. McLaughlin asked Mr. Garton to summarize what the Decision means and where the Appeal is being filed. Mr. Garton stated the Appeal would go to the Third Circuit which is the second level of the Appellant Courts following District Court, and the next level above the Third Circuit is the Supreme Court of the United States. Mr. Garton stated it was dismissed on the basis that they did not have any cause of action to proceed to enjoin the FAA from proceeding on the premise that the FAA had previously provided the commitment to do an environmental study as a Condition precedent to the expansion of the Airport. He stated he will get an analysis for the Board prior to the next meeting.

Mr. Smith stated he does not work in this area of the law himself. He stated he feels Mr. Menard is also asking that the Board commit to not giving additional funds. Mr. Smith stated he feels with regard to the likelihood of success, when you are in the Appellant arena on the losing side, the burden is much more difficult to proceed successfully; and Mr. Garton agreed.

Ms. Tyler also asked Mr. Garton to ask Mr. Potter whether he has pursued any course of action with the DEP.

Mr. Stephen Heinz stated the Board is aware of his interest, enthusiasm, and care for Edgewood Village; and this caused him to attend the Zoning Hearing Board meeting last night. He stated at the corner of Edgewood Road and Yardley-Langhorne Road on the south side, there is a former Residential lot that will be incorporated into a fairly significant development; and he feels it would be worthwhile to have the Township staff become involved in discussions and have a public meeting where all the stakeholders including the Historic Commission, the Historic Architectural Review Board, and others meet with the developer to come up with some solutions that will not require five significant Zoning Appeals. Mr. Heinz stated they are asking for an Appeal to the density which has already been expanded by the Traditional Neighborhood Development which allows for development and some significant additional benefits to developers in order to maintain the Historic District.

Mr. Heinz stated he also hopes that the Board of Supervisors would take under advisement requiring meeting the Agreement that was negotiated at the time of the demolition of the residence that made it a requirement to build on the existing footprint and build a similar house to what was there, and use that as the basis for an expansion if it were to be expanded. Mr. Heinz noted the Edgewood Village Design Guidelines which require that new infill structures should respect the size and scale of their neighbors and use materials and forms common in the area. He stated the size and the scale of what is proposed by the developer is significantly greater than adjacent properties across the street and around the corner. He stated this should be evaluated before the Site Plan is approved.

Mr. Heinz also urged the Supervisors to become a Party in opposition to the Appeal as at this point, they have not assigned that position. He feels it would be important to react to this Plan which has requested significantly higher density, less parking, removal of 100% of the trees on the site, and to increase the impervious surface ratio by more than 5%. Mr. Heinz stated while there are engineering solutions to all of these, sometimes they do not work as well as they are supposed to. Mr. Heinz stated with all of the variances in design parameters that the TND allows, he feels it should be obvious that the Township has already made some kind of effort to accommodate above and beyond the requirements of the normal Historic/Commercial District. He stated he feels that the developer should respond; and while it would be good to have a nice pizza restaurant especially one with the reputation of the tenant that has asked to be in there, it is critical that they pay attention to the parking and traffic considerations as well as the surrounding area.

Ms. Tyler stated Mr. Heinz raised some excellent points, and she noted that they did discuss this in Executive Session when Mr. Benedetto reported on the Zoning Hearing Board meeting; and they may want to continue that conversation. She stated they are aware of all the points Mr. Heinz raised, and they share his concerns. She stated they did discuss having the Solicitor oppose to the extent of the scope of the Application. She stated they also have concerns with the 2005 Agreement with the prior land owner that Mr. Heinz made reference to. She stated they did not discuss the suggestion made by Mr. Heinz to have a meeting, and there may be an opportunity to do that; however, Mr. Garton stated that would be outside the scope of the Zoning Hearing Board Application since the Zoning Hearing Board sits in a quasi-Judicial role and would not be able to be involved in this. He stated a Motion for the Solicitor to participate in opposition at the Zoning Hearing Board would be in order if the Board of Supervisors wishes to do so.

Mr. Smith moved and Mr. McLaughlin seconded to authorize the Solicitor to appear in opposition as to the scope of the project without being specific as to each element since if the scope is reduced, many of the Variances may not be necessary.

Mr. Smith advised Mr. Heinz that the Board is already on top of this. He stated he and Mr. Benedetto have discussed that a lot of people want this project to go through because it is DeLorenzo's, but it was raised on social media whether so many people would be in favor of it if it were a different entity requesting this.

Motion carried unanimously.

Mr. Michael Brennan, 6 Maplevale Drive, asked for an update on the McKinley Avenue issue. Mr. Fedorchak stated he has had a number of conversations with the property owner, and they looked at a variety of alternatives including the Township purchasing the entire tract or a more modest easement; and the property owner will weigh out the alternatives. Mr. Fedorchak stated he has tasked the Township engineer to work out some calculations which would be helpful toward determining what the cost might be for each of the alternatives. He hopes within the next four to six weeks he will be able to meet again with the property owner to have more detailed discussions.

Mr. David Trotto, 1360 Buford Drive Yardley Hunt, stated he would like to discuss the tennis courts on Revere Road between Randolph and Buford. He stated he appeared at the Board of Supervisors meeting in October and other neighbors have attended Supervisors and Park & Recreation meetings. He stated he would like to know if there is a plan going forward for the tennis courts. He stated after he appeared at the meeting in October, two days later a crew came to cut down some of the trees surrounding the tennis courts which were dropped onto the perimeter fence and destroyed a section of the fence. He stated that fence has since been removed. He stated there was a concern of possible danger, so the nets were removed for the winter although last week one of the nets was put back up; and that court has been in use constantly during the weekend. He stated the other three courts do not have nets, and he does not know what the Plan is; and summer is when people like to use the tennis courts.

Mr. McLaughlin asked the condition of the tennis courts. Mr. Fedorchak stated they are in "rough" shape. Mr. Trotto stated they are not championship condition, but they are flat and the ball bounces; and if there is a net they can be used. He stated they are not looking for perfection. He stated three of the courts are complete, but the fourth court where they dug up some of the soil has a patch that is gravel. He stated he feels if they were resurfaced, they could all be used.

Ms. Tyler stated she understands from the last Park & Recreation meeting that the Park crew was asked to inspect the courts and determine whether any of the courts were playable; and if so, to get the nets up so they must have deemed that the one court was playable. Ms. Tyler stated in the meantime, they are trying to determine the repair method for those courts.

Mr. Smith stated Mr. Dobson is the Park & Recreation Board liaison, and he made an inquiry about why Toll Bros. had not corrected the problem on the courts. Mr. Smith stated he understands there has been no feedback from Toll Bros. as to why this has not been repaired, and Mr. Dobson had pushed for communication to be made with Toll Bros. as to why this has not been remedied.

Mr. Fedorchak stated he has scheduled a meeting with one of the Toll Bros. staffers who handles their developments and is familiar with this area; and he will meet with him next week to discuss this matter. Mr. Fedorchak stated over the last three years there have been a number of sites within the development where it was determined that a certain amount of housing material had been landfilled, and there were about three to four different pockets. He stated once of those pockets was located underneath a portion of that particular tennis court. He stated Toll Bros. has come in and removed the fill and properly disposed of it, and they put in a certain amount of base and a wearing surface in the areas that were effected. He stated they still need to know if there is more in that area that they should be concerned about, and that is part of the conversation he will be having with Toll Bros.

Mr. Smith stated he feels Toll Bros. needs to put the courts back in at least as good a shape as they were before. Mr. Fedorchak stated the question will be what is Toll going to consider is their responsibility.

Mr. Dobson stated the fence and trees were taken down, and there may be the need for additional remediation. He stated he wants the situation fixed; and if Toll caused the problem, they have to be put back the way they were before, and the fence needs to be put back up. He stated if Mr. Fedorchak does not get significant action or commitments from Toll Bros. he has no other alternative than to make to Motion to hold up giving them any more Building Permits until they get this resolved. He stated the Township residents in that area do not deserve this.

Mr. Smith stated he understands the landfill was there for over thirty years, and he asked what brought this to the Township's attention. Mr. Eisold stated some parts of the tennis courts sagged a bit, and there were some low areas and sinkholes forming that were evaluated; and it was determined that these areas at some point were used as stockpile areas.

Ms. Tyler asked Mr. Eisold if he has any concerns that there could be additional problems at the courts other than those he has observed, and Mr. Eisold stated they have dug a number of test pits in the areas where the sinkholes were evaluated. He stated typically when they did these areas, they did not do a lot of small ones; and usually they had one big one so they have evaluated the limits of those areas.

He stated while he cannot guarantee that they have all of them, he feels at this point they have most of them. He stated Toll. Bros., to their credit, has stepped up and remediated these areas. Ms. Tyler stated they expect that they will do the same in this area as well.

Mr. Jeff Hirko, Dolington Road, asked for a status update on the veterinarian at Satterthwaite. Mr. Garton stated a Rule 27 Conference was originally scheduled for later this month; however, two of the lawyers participating in the proceeding could not attend so it was rescheduled to July although he is not sure of the exact date. Mr. McLaughlin asked Mr. Garton to explain what is a Rule 27 Conference; and Mr. Garton stated it is a proceeding within which the Judge sits with Counsel to see if there is a need for adding to the Record which is what occurred before the Zoning Hearing Board in this case. He stated they also discuss any new legal issues that may have arisen. He stated they also establish a schedule for Briefs so that the Judge will be in a position to render a decision.

Mr. Hirko stated they are anxious to move on if they can with the rest of the project at the house. He stated their Incorporation is in place and their Non-Profit is at the IRS. He stated at a prior meeting it was brought up that they would need Liability Insurance, and he asked if that could be narrowed down since when they started looking into this, they were told General Liability was too general. Ms. Tyler asked what they required of the Veterans Foundation, and Mr. Fedorchak they went out on their own. He stated there is a standard Board of Directors Errors and Omissions and a General Liability. Mr. Fedorchak stated the 501C3 will have a stated purpose so to the extent they can match the liability to that would be the place to start. He stated he and Mr. Garton started to discuss this, and he has thought of a few more insurance companies that handle a 501C3.

Mr. McLaughlin asked if the intent of the 501C3 is to purchase the asset or to rehab the asset on the Township's behalf, and Ms. Tyler stated her understanding is that it is to rehab it. She stated they are coming together as a group of concerned citizens to fix up the property with "sweat equity." Mr. Fedorchak stated they will have to insure the building with a homeowners' type of insurance as well as what else was mentioned. Mr. Benedetto asked if they could be attached to the Township's policy as a Rider, and Mr. Fedorchak stated they could not. Mr. Garton stated they are not a Governmental entity or a Sub Committee of the Township, and they are a separate non-profit corporation. Ms. Tyler asked Mr. Hirko to contact Mr. Fedorchak privately as there are some insurers they have used for various not for profits, and he can help guide them.

Mr. Hirko stated at previous meetings they understood that once they came forward with the 501C3 and the non-profit, this property could be conveyed over to the non-profit. Mr. McLaughlin asked if the Board has any interest in donating this asset to the 501C3, and he asked Mr. Garton if the Township is allowed to do that or would they be required to bid it out. Mr. Garton stated he feels as a matter of prudence, they would need to wait until the other litigation is resolved. He stated the Board should also discuss this at a time other than Public Comment. He stated they can convey to specialized, enumerated non-profit corporations without going through the bidding process. He added he articulated a letter about this some months ago. Mr. McLaughlin stated this would be similar to how they convey land to the Farmland Preservation Corporation, and Mr. Garton agreed.

Mr. Benedetto stated the Conference will not take place until July, and he asked if there is a way for them to start work on the house. Mr. Garton stated theoretically the Applicant feels they are the equitable owner because the Judge has not made the ruling yet whether or not the Agreement of Sale has expired. He stated effectively, they would be working on a house that someone else equitably owns; and the equitable owner would have to consent to having them go in and work on the house, and he would suggest that they just proceed with what they are doing with the garage and whatever else they are doing, but not the house. Mr. Benedetto stated nothing can proceed until the Appeal is decided, and Mr. Garton agreed.

Mr. Smith asked if those working on the property can start receiving contributions to defray their expenses, and Ms. Tyler stated that would have nothing to do with the Township. She stated this is why they are a 501C3, and what they do and how they do it is not comingled with the Township's responsibility in this not for profit. Mr. Hirko stated they have been informed by their attorney that they can start receiving contributions.

Ms. Tyler stated it should be made clear that before they are on the property, they need liability insurance; and the Township must be protected.

Mr. Hirko asked if the Township has deposit money from Dr. Bentz on the property, and Mr. Garton stated they do.

Mr. Jerry Gruen, 10 Twin Circle Court, stated with regard to Mr. Dobson's suggestion on the tennis courts, he feels that if they want to make Toll Bros. cooperate, they should withhold the Certificates of Occupancy and not the Building Permits so that they cannot transfer ownership.

APPROVAL OF MINUTES

Mr. Benedetto moved, Mr. Dobson seconded and it was unanimously carried to approve the Minutes of June 3, 2015 as corrected.

DISCUSSION RELATED TO A POSSIBLE RESOLUTION OF THE ARIA LITIGATION

Mr. Garton stated Mr. John VanLuvanee, attorney, is present as is Mr. Smolow, attorney for RAFR the resident group that has been involved in the litigation since the outset.

Mr. Garton stated on June 18, 2008 Aria submitted an Application to the Zoning Hearing Board requesting a Special Exception to construct a hospital at the location. The Application was later Amended to add medical offices to the Special Exception request. Hearings on the Application went on for some time and finally concluded in October, 2009. The Township and RAFR were Parties to the litigation. The Zoning Hearing Board granted the Special Exception subject to Conditions. The Township and RAFR Appealed the Zoning Hearing Board Decision and subsequent thereto following the usual process involving the litigation with respect to Appeals from Zoning Hearing Board matters, the Judge from the Court of Common Pleas of Bucks County entered an Order Remanding the matter back to the Zoning Hearing Board to supplement the Record. Hearings on that Remand continued until May, 2012; and the Zoning Hearing Board then voted to rescind its prior Decision and Denied the Special Exception on August 2, 2012. Mr. Garton stated an Appeal was taken by Aria, and that Appeal is pending. Mr. Garton stated subsequent to that Mr. Smolow, Mr. VanLuvanee, and the Parties and participants have had some conversations which Mr. VanLuvanee can discuss.

Mr. VanLuvanee stated in September, 2013 Aria appeared at the Board of Supervisors meeting and presented a detailed power point presentation on a concept that was new for the development of a health village on this property. He stated there was a considerable amount of discussion at that meeting; and following that meeting based on the comments from Board members they were encouraged to go back and further develop the concept of the health village. Mr. VanLuvanee stated that on December 2, 2013 he wrote a letter to Mr. Garton and Mr. Smolow indicating that Aria would like to pursue dialogue with regard to the health village and to move forward to negotiate an Agreement in the form of a Stipulated Settlement that would enable Aria to proceed expeditiously with the Approval of a Land Development Plan for a health village. He stated he outlined in that letter in some detail the Ordinance provisions that would be incorporated into an Ordinance. Mr. VanLuvanee stated that Mr. Smolow had indicated that RAFR was willing to participate in discussions, and Mr. Garton indicated that he would

need to get Board approval to do that. Mr. VanLuvanee stated at the January 15, 2014 Board of Supervisors meeting there was a discussion about whether the Board wanted to participate in the discussions, and if so, who would participate. He stated Mr. Benedetto volunteered to participate and there was a Motion passed that Mr. Garton, Mr. Fedorchak, and Mr. Benedetto meet with RAFR and Aria to further the dialogue with a view toward seeing whether or not common ground for a resolution of the litigation by Stipulation could be accomplished. He stated he and Mr. Smollow were advised of that by the letter from Mr. Garton dated January 20, 2014.

Mr. VanLuvanee stated they had a meeting at the Township Building on March 17, 2014 with Mr. Garton and Mr. Benedetto representing the Township, Mr. Smolow with Ms. Koehler and Mr. Rubin, and he participated with Aria representatives. Mr. VanLuvanee stated they discussed what would be included within an Ordinance as well as what would need to be included in the Stipulation if they were to move forward along that line. Mr. VanLuvanee stated following that meeting he sent out a revised draft of an Ordinance and was encouraged to prepare the first draft of the Stipulation which he did in November, 2014 and sent it to Mr. Smolow and Mr. Garton asking for their comments. Mr. VanLuvanee stated Mr. Smolow responded and Mr. Garton indicated he had to review this with the Board; and he knows that there was an issue with the role the Zoning Hearing Board would play which took some time to resolve. He stated he knows that Ms. Kirk, the Zoning Hearing Board Solicitor, did send an e-mail in the beginning of May outlining the position of the Zoning Hearing Board.

Mr. VanLuvanee stated he and Mr. Smolow are present this evening at Mr. Garton's suggestion to further the dialogue and determine how best to proceed. Mr. VanLuvanee stated he is prepared to discuss some of the technical aspects of the Stipulation.

Mr. Smolow stated he represents RAFR which has vigorously opposed Aria's proposed hospital, and there is not a hospital at the corner of Stony Hill and 332. He stated over the last year and a half they have had a dialogue involving a proposed resolution of the litigation, and they have had considerable input into both the proposed Settlement Stipulation and the proposed Ordinance. He stated the Ordinance does propose a minor change to the Township's Zoning Ordinance which will permit a health village in the O/R District. He stated with two exceptions, all of the uses that would be permitted in the health village are already permitted uses either by right, Special Exception, or Conditional Use. He stated the two uses that are new would be a retail sale of medical equipment and a community center. He stated there are a few details left open in the Stipulation because they are waiting for feedback from the Township. He stated the Stipulation itself is subject to not only the Board of Supervisors and RAFR's approval, but also the Court's

approval. Mr. Smolow stated it is RAFR's view that they are willing, subject to the additional items being resolved, to approve the Stipulation. He stated they have looked at this matter as a Court would look at it, and applied the standards that are typically applied to consider whether or not a Settlement should be approved. He stated major factors are what are the benefits, the risks, and the expenses; and they feel the benefits are that there will be no hospital, Aria will withdraw the Zoning Appeal, the change to the Ordinance is minor other than adding the village as a Conditional Use, and the impact on the community will be relatively negligible if a health village is built on the site. Mr. Smolow stated the use will also generate far less traffic and congestion than a hospital would. He stated the health care village will have a maximum size of twenty acres, and its hours of operation in the evenings and on weekends will be limited. He stated it will also provide significant open space, and there is a provision for payment of Fee-In-Lieu of open space if the Township finds that to be appropriate. He stated Aria will also pay a Traffic Impact Fee and will conduct a PennDOT Traffic Impact Study to meet all of the Township and PennDOT road and highway regulations. Mr. Smolow stated the Stipulation also provides for tax ratables which the Township would not have if the site were a hospital. He stated that language does need some work, and Mr. Garton will address that in the future should he be directed to do so. Mr. Smolow stated RAFR has incurred considerable expenses and costs in pursuing its position in the matter, and it wants to be made whole and not have any debt.

Mr. Smolow stated when they consider these factors and the risks and expenses going forward, they feel that there is very little downside to approving the proposed resolution of the case. He stated they feel this would be a favorable solution, and they are looking for direction from the Township as to how to proceed.

Ms. Tyler asked the possible outcomes of the litigation. Mr. Garton stated Aria's pending Appeal suggests that the Zoning Hearing Board should not have Denied the Special Exception and should have permitted the hospital to be constructed. He stated possible outcomes are that the Judge could say the Zoning Hearing Board was correct and the Applicant did not meet the necessary burden of proof with respect to a Special Exception or the Judge could say that the Zoning Hearing Board abused its discretion and should not have turned down the Special Exception and Aria could proceed with a hospital. Ms. Tyler asked what stage they are at in the litigation; and Mr. Garton stated the Appeal has been filed, but no Briefs have been filed. He stated if a resolution does not occur, someone will ask for a Rule 27 Conference.

Ms. Tyler asked how many acres Aria owns, and Mr. Garton stated they own approximately forty. Ms. Tyler asked if this Stipulation speaks to all forty acres or only twenty acres. Mr. VanLuvanee stated the Ordinance which is attached to the draft Stipulation speaks to a health village that is limited to twenty acres, and it would not take up the entire property. Ms. Tyler asked what Aria intends to do with the other twenty acres, and Mr. VanLuvanee stated there is no office market for the foreseeable future. He stated there have been a lot of recent changes, and this would be the first phase; and if Aria proceeds with the health village, they would be in a position then that it might attract other uses that would be consistent with the Zoning. He stated the draft Ordinance would provide for a mixture of uses under a common Master Plan and provides some flexibility that might be harder to fit in the current Ordinance. He stated across the street there is a restaurant use and a hotel. He stated the O/R use does have a lot of flexibility. He stated in this case, they would like to do something that is a little more up to date, and to bring the Ordinance up to date. He stated Aria would get a clear path forward under the Stipulation so that it could proceed along that line, and they would not have to come in with a proposal for a health village and then have to figure out the dimensional Variances needed to move forward, and would not have to ask for a Use Variance if they wanted to incorporate one of the two uses that Mr. Smolow identified as not being permitted in the O/R District. He stated they would also be asking to streamline the development process. He added they had gone through all the engineering studies that the Ordinance requires during the Land Development for the property, and they are asking for some minor relief with respect to some Waivers they have already identified that they would need in the Land Development process to move forward.

Mr. VanLuvanee stated this is not a lengthy Stipulation, and he feels Mr. Garton would agree that Stipulations are very common to resolve contested Zoning cases; and case law is very clear that the Board has the authority to enter into a Stipulation like this, and has the power to enter into a Stipulation to modify requirements that might otherwise apply to both Zoning and Subdivision because the law always favors settlement resolution of litigation. He stated this also provides protection to all sides moving forward.

Ms. Tyler asked what portion of the Aria property has 501C3 status and how will that impact the Stipulation. Mr. VanLuvanee stated Aria Health has 501C3 status. Ms. Tyler asked how that will effect the potential medical village, and Mr. VanLuvanee stated it would depend on the uses. Mr. VanLuvanee stated there is a provision that any new development on the property which was not consistent with Aria's 501C3 Corporation status would be subject to payment of real estate taxes. Ms. Tyler asked what portion of the medical village is intended to be run under the 501C3, and Mr. VanLuvanee stated at this point Aria does not feel they will have a significant part of the health village.

Mr. Ron Kumar, Aria Health, was present and stated they do not believe that there will be a significant amount that will fall under the 501C3 designation because of the distance from the Hospital; and their intention at this time is that a significant portion would pay real estate taxes.

Mr. Garton stated the uses that are contemplated by the Stipulation are the following: medical offices, outpatient ambulatory care, urgent care, long-term acute care, outpatient surgical center, physical rehabilitation facility, hotel/motel, nursing home, retail sale of medical equipment supplies, general business professional office, health or fitness club, community center, day care/nursery, restaurant and food services, pharmacies, financial services, and accessory uses.

Mr. Garton stated in addition some of the other topics that the Board needs to focus on are Fee-In-Lieu or open space, and they have asked for a Waiver of the Traffic Impact Fee. They also need to discuss the tax exempt status, and they need to discuss reimbursement of the Township expenses. He stated they would also need to discuss the Plans to be approved, architectural approval, and they have also raised the question of what is to occur on the balance of the site. Mr. Garton stated all the uses except the ones that Mr. Smolow mentioned are either permitted by right, by Special Exception, or by Conditional Use in the O/R District already. He stated the uses are not that much different, but they need to deal with the other issues.

Mr. McLaughlin asked if Aria opens an outpatient ambulatory care, urgent care, long-term care, acute care facility on the site would they pay taxes to the Township; however, Mr. Garton stated he would need more information before he could provide a definitive answer, but as part of a Stipulation, they could deal with the tax status of the various improvements by Court Order.

Mr. Kumar stated the ambulatory surgery center and urgent care center would be for-profit organizations, and they would not fall under their 501C3. He stated they have two urgent care centers, and they are not tax exempt in that regard. Mr. McLaughlin stated they could open one under a 501C3; however Mr. Kumar stated it is becoming more and more difficult to do so because there is no benefit from an insurance company perspective that would allow them to proceed in this way.

Ms. Tyler asked if they are willing to waive the tax-exempt status with respect to these twenty acres; and Mr. Kumar stated there may be a small component that would be tax-exempt, and he does not feel today he could state that he could waive it for the entire twenty acres.

Mr. Smith stated he has always been against the hospital. He stated he believes the original purchase price was approximately \$20 million, and Mr. Kumar agreed. Mr. Smith stated he also assumes that there have been significant costs on behalf of Aria to move this along. He stated RAFR will be reimbursed of their legal fees; however, Mr. VanLuvanee stated that has not been finalized although there has been a request. Mr. McLaughlin asked the amount of the request, and Mr. Smolow indicated it would be approximately \$142,000. Mr. Smith stated the Township has invested a lot of money as well in terms of costs and fees, and the Agreement provided has no mention of reimbursement to the Township for what they have spent. Mr. VanLuvanee stated that is correct at this point adding they had not had any response from the Township; and one of the reasons there has been no agreement to pay a fixed amount to RAFR is because they do not know what the Township's position is on any of the issues. He added that some of the issues in the Stipulation will result in some cost savings to Aria which may in turn facilitate their ability to reimburse RAFR and the Township.

Mr. VanLuvanee stated assuming the Board of Supervisors is inclined to go in this direction, they need some mechanism for the three Parties to get together.

Mr. Smith stated on its face the initial draft is something that he could not accept. He noted the definition of a health village as follows: "A health village is a development consisting of multiple uses which may include medical offices, outpatient ambulatory care, urgent/emergent care, long term acute care, outpatient surgical center, physical rehab facility, hotel/motel, nursing home, retail sale of medical equipment supplies, general business or professional office, health/fitness club, community center, day care/nursery, restaurants, food services, pharmacies, and financial services." Mr. Smith stated financial service would be another bank, and Mr. VanLuvanee agreed adding this is a use already permitted in the District. Mr. Smith asked how "community center" came about; and Mr. VanLuvanee stated that was not Aria's idea, and it was a comment they had heard at some point when the Township was exploring a community center use, so they put it in there, and it was not something they asked for.

Ms. Tyler asked if all of the items Mr. Smith just noted are presently permissible in the Zoning as is, and Mr. Garton stated the two exceptions are community center and the sale of medical devices. He stated it does not mean that they would be permitted as a matter of right, as some would only be permitted either by Special Exception or Conditional Use.

Mr. Smith asked Mr. Garton to explain the concept of "spot zoning," and Mr. Garton stated it is a legal doctrine in the Zoning law; and if a house was zoned for a gas station, that would be considered spot zoning because there would only be one small location that has that use. He stated generally speaking the law looks upon spot zoning unfavorably.

Mr. VanLuvanee stated he is familiar with the concept of spot zoning and has handled several challenges on that basis and the classic definition is you single out an area of land that is an "island" in the middle of a large Zoning District where the characteristics of that island are not dissimilar to the surrounding property and you arbitrarily pick that circle out and re-zone it. He stated he does not believe you will find any case where the addition of a new use to an existing Zoning District that is much broader than forty acres constitutes spot zoning.

Mr. Garton stated he does not feel that what is being discussed would be a spot zoning issue.

Mr. Smith noted Paragraph one of the new Section 11 in the initial draft of the proposed Agreement, and Mr. VanLuvanee stated this is the Section that indicates that the Township would initiate the process of advertising the Ordinance which is Exhibit A, the Stipulation, for adoption. Mr. Smith stated he feels this paragraph indicates that it is really spot zoning; however, Mr. Garton stated it is not spot zoning because there is an existing Zoning District called Office/Research, and all the uses contemplated by the health village concept are permitted except for two – one of which he understands they have no interest in pursuing so they would be down to one – the sale of medical goods. Mr. Garton stated he does not feel change the O/R list of permitted uses either by Special exception or Condition Use to include medical sales would constitute spot zoning.

Mr. Smith noted Paragraph 12 which reads, "In consideration of Township's agreement to adopt the Health Village Ordinance, Aria stipulates and agrees that any new development on the Aria property not consistent with Aria's status of a 501C3 Corporation shall be subject to payment of real estates taxes," and he asked if this is waiving their obligation to pay taxes. Mr. Garton stated it states that they acknowledge the obligation to pay real estate taxes except to the extent that the use or structure is consistent with their 501C3 designation. He stated certain of the potential uses would be part of their 501C3 umbrella, and they are suggesting that they would not be paying real estate taxes on the 501C3 components. He stated if there was a bank taxes would be paid for the bank site.

Mr. Smith read Paragraph 14 as follows: "In consideration of the execution of the Stipulation and Settlement Agreement by the Township and the Zoning Hearing Board, Aria agrees that it will not use or make application to use any of the portion of the Aria property as a hospital as that term is defined by the Zoning Ordinance in effect the date the Application was filed." Mr. Smith asked if the word "hospital" is not the subject of interpretation. Mr. Garton stated it is subject to interpretation but it clarifies that the definition of hospital as was in the Zoning Ordinance so the definition would follow what the Zoning Ordinance says is a hospital.

Mr. Benedetto stated Paragraph 14 indicates that there must be agreement by three Parties – the Township, RAFR, and the Zoning Hearing; but he feels the whole discussion is moot because the Zoning Hearing Board indicated they were not willing to agree to the Stipulation. Mr. VanLuvanee stated he feels that the Court will probably approve the Stipulation without the joinder of the Zoning Hearing Board as there have been cases where that has occurred where the Township and an Applicant have gone forward over the Objection of a Party and had it approved. He added as he read Ms. Kirk's e-mail that is really not the case, and there were a couple of changes that she requested which are easily accommodated in his view; and that point she has indicated the Zoning Hearing Board would agree to join for a limited joinder to those issues that were within its purview.

Ms. Tyler asked if it would be normal course that the Zoning Hearing Board would be Party to this, and Mr. VanLuvanee stated it would not. Mr. Garton stated the Zoning Hearing Board has entered an appearance, and Mr. VanLuvanee agreed that in this case it has. Mr. Garton stated normally all Parties would have to agree to a Stipulation; however, he added there are occasions when the Judge can approve a Stipulation over the objection of one of the Parties if the Judge concludes that it is in the public's interest and the best interest of the Parties. Ms. Tyler asked what position has the Zoning Hearing Board taken with respect to this Stipulation. Mr. Garton stated all he knows is what Ms. Kirk communicated to Mr. VanLuvanee, Mr. Smolow, and himself. Mr. VanLuvanee read the e-mail from Ms. Kirk dated May 6 into the record.

Mr. Smith noted Paragraph 16 with regard to the natural resource protection requirements regarding manmade steep slopes "to be exempt from regulation and may be altered, graded, cleared, and built upon without limitation." Mr. VanLuvanee stated if you have seen this property you know that while farming the property, they created terraces so they could level the fields, and there are a number of places where the field steps down; and these are man made slopes and was not the natural contour if the property.

Mr. Smith noted Paragraph 17 where they are asking for an open space exemption. Mr. VanLuvanee stated they included in the Ordinance a provision for open space requirements specific to this use, and what this Paragraph does is clarify that as long as they meet the Ordinance requirements for set back and buffer requirements, there would be no additional open space requirements.

Mr. Smith noted Paragraph 18 which indicates that "Aria should not be required to pay any other Impact Fees to the Township regardless of whether such Fees are presently required under the Township Zoning Ordinance, SALDO, or the Township's fee schedule." Mr. Smith stated he does not know what other impact fees would be applicable, but they are asking that Aria not be required to pay them

whatever they may be. Mr. VanLuvanee stated while he is not here to negotiate the language, he can state that the MPC makes it clear that the only Impact Fee the Township can charge is the Traffic Impact Fee. Mr. Garton stated to his knowledge the only Impact Fees are the Traffic Impact Fee and perhaps the Fee-In-Lieu of Recreation. He stated there are Tap-In Fees for sewer, etc. but they would not be governed by this, and Mr. VanLuvanee agreed.

Mr. Smith noted Sections 19 and 20 and asked if they are asking for a Waiver from certain aspects of the SALDO and the Existing Resource and Site Analysis Map, and Mr. VanLuvanee stated they are. He stated they have already done the Analysis from their perspective, and they need to know if they can move ahead.

Mr. Smith stated when developers move forward with Plans, it is a two-step process since there is a Preliminary Approval and then a Final Approval, and he stated in Paragraph 22 they are asking for a one-step process to just get Preliminary/Final; and Mr. VanLuvanee agreed. Mr. VanLuvanee stated he knows that the Township has done that in the past. Mr. Smith asked if this does not take away some of the authority of the Planning Commission. Mr. Garton stated the traditional manner in which developments occur is that they start with a Sketch Plan which the Planning Commission reviews and make recommendations and the Sketch Plan may then go to the Board of Supervisors for comment. He stated the Plans are then engineered, and a Preliminary Plan is provided which goes through the review process; and if the Board is inclined, they approve the Preliminary Plan. He stated it then goes to Final Plan stage, and normally the "heavy lifting" is at Preliminary Plan stage because once Preliminary Plan approval is granted, they are entitled to a Final Plan approval subject to meeting any Conditions imposed as part of the Preliminary Plan approval.

Mr. McLaughlin asked Mr. VanLuvanee why they are asking for this Waiver; and Mr. VanLuvanee stated it is a timing issue. He stated it is more risk on Aria to proceed in this way as it relates to costs because they would have to go further to comply with the Final Plan requirements before the Board would grant a Final Approval than they would to have them grant a Preliminary approval. He stated the only benefit to Aria relates to time. He stated it is possible than even if the Board agrees to the Waiver, that they may come back and indicate that they would rather first get Preliminary approval because of what issues may arise. Mr. McLaughlin stated he feels if this request is granted, the residents may feel that they are fast-tracking a Plan that has brought out a lot of passion. Mr. McLaughlin stated he feels this request by the developer shows a lack of understanding of the Board's responsibility to the Township citizens. Mr. VanLuvanee stated the Township has signed Stipulations in the past; however, Mr. McLaughlin stated they were not for this type of project.

Ms. Tyler stated she does not feel the scope of the project has been defined, and they have not been told what they will be putting there; and they are asking the Board to void the review process. Mr. VanLuvanee stated he is not asking them to void the review process. He stated when the Board approves a shopping center, they do not know who the tenants will be; however, Mr. McLaughlin stated he would still know what it is going to look like. Mr. VanLuvanee stated they cannot market it until they have an approval; however, Mr. McLaughlin disagreed and added he is not willing to give up the right for the Township to review development in the Township.

Mr. VanLuvanee stated they are not asking for this, and they are going to provide a detailed Plan. Mr. McLaughlin stated he feels they are trying to avoid a “grass-roots energy environment” which RAFR was born out of. Mr. VanLuvanee stated he does not agree, and over forty years he has signed approximately forty of these Stipulations. Mr. VanLuvanee asked Mr. McLaughlin to ask Mr. Smolow if his clients object to this provision. Mr. McLaughlin stated he feels Mr. VanLuvanee wants to fast track the project without a lot of commentary by the public. Mr. VanLuvanee stated he has never seen the Township pass a Final Plan that has not been thoroughly vetted, and he has never seen the Township Planning Commission recommend a Plan for approval in which they have not vetted every issue; and this will happen in this case as well. Mr. VanLuvanee stated they are not entitled to approval unless they satisfy all the Ordinances.

Mr. Smith stated while he recognizes that this is just an initial draft, Mr. Smolow indicated that most of the uses proposed are already permitted; and if that is correct and so that they do not do away with the review of Zoning or Planning, he asked why they would not just withdraw the lawsuit and the original Application and start over new so that the Township and the residents have all their protections.

Mr. Smith stated he is not in favor of waiving any part of the review process.

Mr. Garton stated if the Board went in that direction, there are some things the Board would not be able to accomplish including the tax-exempt status issues and they could not compel them to restrict the amount of the tax-exempt properties that would be part of this. He also stated the Board could not require the reimbursement of Township expenses to date, and they could not insist upon architectural as to what the project will look like. He stated they could also not restrict anything from the balance of the site. Mr. Smith stated there are still things they can accomplish and one of them is that the Planning Commission would be able to protect them.

Mr. VanLuvanee stated Mr. Smith was not on the Board in September, 2013 when they started this, and he asked the Board that night if they had no interest in pursuing this to advise the Applicant and they would not pursue it; but they were encouraged to work on this, and they have worked hard. Mr. Smith stated he is in agreement with reaching a resolution, but he feels there needs to be a middle ground; and he does not feel they are there yet. Mr. VanLuvanee stated with regard to the review process, the Township will be reviewing it and the Planning

Commission is part of this as is the Zoning Hearing Board for those items they will comment on. Mr. VanLuvanee stated he and Mr. Smolow are asking the Township to meet with whomever the Board designates to try to proceed, and they have been trying to do this since November.

Mr. Benedetto stated he is most concerned about streamlining the development process, and by changing the Health Care Village Ordinance to a Conditional Use it actually does by-pass the Zoning Hearing Board. He stated a number of the uses listed are all Special Exceptions that have to go to the Zoning Hearing Board; so if the Ordinance is passed, and they become Conditional Uses, they all by-pass the Zoning Hearing Board. Mr. VanLuvanee stated it is actually their proposal that the Health Village be a permitted use and not a Conditional Use. Mr. Benedetto stated he feels this is then streamlining the development process. Mr. VanLuvanee stated it is making something that is incredibly cumbersome at the present time and time consuming and making it more streamlined.

Mr. McLaughlin stated it is time consuming and cumbersome to the developer. Mr. McLaughlin stated he represents the Township and the people in the Township, and it is not time consuming and cumbersome to them. Mr. VanLuvanee disagreed. He stated Mr. Benedetto provided a list of the different uses, and the prospective tenants interested in this have to go through this process and they lose tenants through this process. He stated if the Board sees the architecture and how the campus will look, the uses should not be an issue. He stated a free-standing use on a separate tract would be different. He stated in this case they will see the Master Plan which is what they explained a year and a half ago.

Mr. Benedetto stated he feels the processes are in place for a reason which is to protect the residents from overdevelopment; and he is not in favor of eliminating the "time-consuming" aspect. Mr. VanLuvanee stated if it were a free-standing use, he would agree as well; but in this case they will have a Land Development Plan for the entire property, all the issues with respect to parking laid out, the lighting will be taken care of as will the stormwater.

Mr. Dobson asked Mr. Garton his opinion on this matter. Mr. Garton stated Board members have expressed concerns about the expedited process through the Planning Commission, and Mr. Benedetto has indicated that certain of the enumerated uses in the Ordinance are required to have a Special Exception or Conditional Use and if they need a Special Exception they would have to go to the Zoning Hearing Board; and if they meet the criteria, they are entitled to it unless there is an adverse impact on the health, safety, welfare. Mr. Garton stated

Mr. VanLuvanee is stating that much like the medical office complex that is off Township Line Road, there are separate uses there and they can already meet the criteria, the building is there, the traffic has been considered, the stormwater and sewers are there so that chances are there are not any adverse public consequences to a tenant within a larger development. He stated if they were talking about a two-acre piece of property where they are putting a restaurant, those issues would come to bear.

Mr. McLaughlin asked how they know the impact on Township services if they do not know who is there. He stated the two largest issues surrounding the hospital were traffic and disturbance of quality of life. He asked how they know traffic will not be an issue if they have no idea what is going in there. Mr. Garton stated like most office building projects, you never know who the tenants will be; and the traffic engineers would look at the potential uses and the traffic manuals to determine how many cars are likely to be generated. He stated with that information the Traffic Study then determines what improvements are necessary and the impact on surrounding roads.

Mr. Dobson stated they are not asking to fast track the whole Development Plan. Mr. VanLuvanee stated they were asking to combine Preliminary and Final so that they would not have to go through the separate filing, but they would revise the Plans to meet the review letters, get another set of review letters and meet those requirements, get the Permits, and then come to the Board to indicate that they have everything. Mr. Garton stated if the Board of Supervisors gets a well-drafted Preliminary Plan, they could indicate that everything is in order and could give Final; and Mr. VanLuvanee stated the Board always has that discretion.

Ms. Tyler stated she feels the dialogue needs to continue, and she sees the benefit of attempting to settle this; however, the proposed Ordinance for the Medial Village needs to be tightened up in favor of the Township. She stated she also has significant concerns about the terms of the Stipulation and Agreement related to the 501C3 status which she feels is vague whether it will be a tax ratable or not, and she would need representation on that. She stated she is also concerned about the Township's expenses in approving the process. She stated Aria would get no benefit beyond what any other Application would get in terms of paying fees going forward. Ms. Tyler stated she would not be in favor of waiving the Traffic Impact Study or Traffic Impact fees. She stated she would also like representations concerning the other twenty acres of the parcel contained within the Stipulation Settlement. She stated Fee-In-Lieu of Recreation would have to be explored as well. Ms. Tyler stated the Township has incurred over \$80,000 in legal expenses, and she is not aware what the engineering expenses are. She stated they also do not want to short cut or circumvent Planning, and they have discussed perhaps striking Paragraph 22. Ms. Tyler stated she does not want anyone leaving to think this

project is not going to happen, but she feels they need to look at what is not contained in the Agreement that would be a benefit to the Township and protection of the Township residents. She stated she does not feel what they have presented benefits and safeguards the Township residents and their review process. She asked that they continue the dialogue to address those things and other items that may be raised.

Mr. Smith stated he has no problem with on-going dialogue but is not willing to agree to what is currently before them. He feels they should move to a middle ground and resolution which is good for the Board and the Township residents.

Ms. Tyler stated the Board needs to decide if they want to amend the Zoning to allow a Medical Village which would be a new concept or do they want something like that to come to them piecemeal. She stated if they want to amend the Zoning, they need to look at the language of the proposed Ordinance and make it more favorable to the Township and to the existing policies and possibly exclude some of the items that are in the proposed Ordinance. She stated she would like Planning to weigh in on this as well. Ms. Tyler stated they next have to look at the terms of the Stipulation Settlement and Agreement and this would include the items she raised.

Mr. Benedetto stated the fact that the Zoning Hearing Board is being cut out of this discussion is a "deal breaker." Mr. Benedetto stated he is concerned about the comments regarding "streamlining the development process and minor Waivers." He stated he feels with regard to traffic the restaurant, medical offices, and hotel will actually result in more traffic than the hospital. He stated he does not feel this would be a "minor" change to the Ordinance. He stated there are eight uses that would be Special Exceptions that would have to go to the Zoning Hearing under the current Ordinance. He stated he feels the fundamental question is whether they are going to allow a change to the Ordinance to suit the time constraints and cost constraints of the developer since he feels this will set a bad precedent in the Township as there will be others looking to do the same thing.

Mr. VanLuvanee stated forty to fifty years ago when you look at Zoning Ordinances there was no such thing as shopping centers rather there were individual retail uses, and Municipalities recognized that it made sense to plan for it in a broader sense and identify the uses which would come in and occupy a shopping center; but you plan the center as an integrated whole. He stated that is what they are proposing, and it is a more modern approach to non-Residential development that has been used in other places and makes sense. He stated across the street from this property there is a bank, offices, and a restaurant. He stated the Township has mixed uses, but they do not have a definition within which to fit this proposal. He stated he feels it makes sense to do master planning when you are trying to encourage mixed use and do something that is cutting edge. He stated this is why

they started the process to try to show the Township what is happening in other parts of the Country, and that was the presentation made in September. He stated they were encouraged to pursue this and for twenty-one months they have done this. He stated he does not know how Mr. Benedetto alone will help the process if the rest of the Board would like to see a dialogue proceed.

Mr. Benedetto stated he feels there are examples where a developer will come in requesting a number of Variances, and people are tired of that situation and question if the Township is going to enforce their Ordinances or not.

Ms. Tyler asked Mr. VanLuvanee what they could put at the property currently as of right, and Mr. VanLuvanee stated as long as he meets the Ordinance requirements, he can proceed with the list of uses that were read already. Mr. Benedetto stated one of the Conditional Uses is hotel which is already under C-2, and he asked why that was included. Mr. VanLuvanee stated in the Commercial District there are parking requirements for each individual use, but there is also a parking requirement for a shopping center; and parking is permitted to be designed for the entire shopping center. He asked the Board how they would envision it should be approached if he came in with four or five different permitted uses, and he asked if the Board would want him to set each building down and park around the building to show that he can meet each parking requirement. He stated by requiring that, he does not feel they will get a quality integrated project if they insist on each individual use going through this process.

Mr. Benedetto asked why there would be a hotel/motel or a restaurant included in the definition of a Health Care Village. Mr. VanLuvanee stated those who come for procedures may need a stay to place. He noted the Ronald McDonald House at the Children's Hospital.

Mr. Smith stated it appears they are looking to put in a shopping center with a restaurant, a bank, and an "LA Fitness Center;" and he does not feel it is a Health Care Village. He stated he does not feel the public wants there to be a shopping center at this location.

Mr. Smolow stated the community center use was not proposed by RAFR. He also stated he does not want anyone to lose sight of the fact that his clients and the community oppose a hospital on this site. He stated one of the purposes of the Settlement was to make sure that there was not going to be a hospital on this site. He stated they felt the Board was interested in pursuing this proposed option; and when you engage in a Settlement discussion with your opponent you look at the risks associated with moving forward and the law. He stated it may become more desirable to put a hospital on this site from a business standpoint in the future than to have a Health Village, and his clients are concerned about this. Mr. Smolow

stated one of the reasons they want a Settlement is to make sure that there is no hospital on this site; and if there is no Ordinance like the one proposed and no Settlement Agreement Aria or its successor could put a hospital there.

Mr. McLaughlin stated that is assuming that the developer would win their case.

Mr. Smolow agreed, and he stated he feels that they had a strong case against the hospital. He stated the case was built solely on traffic impact of the hospital, and there are very few cases in Pennsylvania where a Court has sustained an opposition to a Special Exception based on traffic impact. He stated it is a very difficult standard, and he feels he made that; however, there is a risk. He stated this is why he is in favor of a Settlement.

Mr. McLaughlin asked Mr. Smolow if he feels they have served the residents' best interest with this Settlement. Mr. Smolow stated when they met at the Township over a year ago they were given direction to do the best they could to negotiate with Aria, and then the Township would get involved. He stated they are asking for the Board's input. Mr. McLaughlin stated Mr. Smolow has been before the Board frequently about how bad development at that location would be, but now he does not feel RAFR is serving the best interests of the Township and is instead looking for a way out. Mr. McLaughlin stated now Mr. Smolow is asking the Board to approve something called a "Health Village," but it has all of these uses and seems like a hospital. Mr. McLaughlin stated Mr. Smolow inspired a lot of people and now they are supposed to "cut a deal." He stated Mr. Smolow had previously chastised the Board for meeting with Aria years ago and trying to negotiate, and now Mr. Smolow is asking for the Board to accept a deal for a "health village." Mr. McLaughlin stated he has not seen a traffic study or what it will look like.

Mr. Smolow stated he is not looking to "cut a deal." He stated they are here to say that they are okay with the concept. He stated they do not want a hospital at this location, and this is not a hospital. Mr. McLaughlin asked Mr. Smolow if he would agree that it is not that far away from being a hospital, and Mr. Smolow stated it is not even close to a hospital. Mr. McLaughlin asked what is different, and he asked if they have the traffic studies for the health village. Mr. Smolow stated they are reasonably sure talking with their traffic engineer that the traffic impact from a combination of these uses will be nowhere as significant as the impact of a twenty-four hour hospital with several hundred beds.

Mr. McLaughlin stated the hours of operation they are being asked to approve are 6 a.m. to 11 p.m. Monday through Friday and 6 a.m. to 6 p.m. Saturday and Sunday. He stated while this may not be twenty-four hours, it still seems significant. He asked what would happen if the fitness center/gym wants to run their operation up to 11 p.m. Mr. McLaughlin stated they are being asked to give carte blanche. He stated in the Stipulation they have included "Aria shall not be subject to the procedural steps required pursuant to Section 178.13."

Mr. Smolow stated they wanted to hear the comments from the Board of Supervisors. He stated his clients did not want to propose something and tell the Board to “take it or leave it.” He stated Mr. VanLuvanee proposed a Stipulation, and they spoke to the Board of Supervisors about it in January and asked for their comments.

Mr. Smith stated he feels the residents will feel that RAFR will get all their expenses paid back, a community center has appeared somehow, and they are also looking to get around the review process by this proposal. Mr. Smith stated he does feel they can continue to discuss this project. Mr. Smolow stated he feels they should have Mr. Garton tell Mr. VanLuvanee their concerns.

Ms. Tyler stated she feels dialogue should continue, but the scope of the Ordinance must be narrowed. Mr. VanLuvanee asked who they should work with going forward, and Ms. Tyler stated it would be Mr. Garton. Mr. Smith recommended that Ms. Tyler also work with Mr. Garton on this; and Ms. Tyler stated she and Mr. Garton will meet with Mr. VanLuvanee and Mr. Smolow to discuss this further.

Mr. Robert Abrams, 652 Teich Drive, stated he feels the Township must include a Stipulation as to what is the maximum amount of the property that could be afforded to a non-profit; and Ms. Tyler stated she agrees. Mr. Dobson stated they are all in agreement with this. Mr. Abrams stated he does not feel the Township should give up this prime tax parcel. He stated he feels there will also be a lot of drugs and untrained people. He stated if leftover drugs are not handled properly, they get into the water and sewer systems. He stated he also feels they are going to need more Fire and Police personnel and they need to make sure they are trained properly for hazardous waste disposal. He stated there will be oxygen and flammable gas deliveries which will go through residential areas. He stated other traffic studies will have to be done to determine what hazards this will create. He feels the land could be put to much better use.

Mr. Adrien Costello, 2122 N. Crescent Boulevard, asked for an explanation of cash in lieu of open space. Mr. Garton stated this is Fee-In-Lieu of Recreation and/or open space so instead of them providing an area of open space, they would give the Township money for the Township to use to acquire open space or do whatever it chooses. Mr. Costello stated he does not understand why that would be included if they have twenty acres that they are not using. Ms. Tyler stated she does not feel that they can assume that they will not use the twenty acres at some point. Mr. Costello stated if the Township were to get this money, he would want it identified specifically to buy another parcel rather than go to the General Fund. Mr. Garton stated Park & Rec funds cannot be used for any purpose other than Park & Rec. Mr. Costello stated with regard to their concerns over Waivers from the process, he would like to know what their concerns are and possibly if there is an

expedited way the Township can do it for large projects like this. Ms. Tyler stated in the past she and Mr. Stainthorpe have met with the Zoning Department and developers at the outset when they had these large Plans, and it was very helpful.

Mr. Abrams stated if the Township is going to consider allowing the Health Village he would like to see a list of what they plan to keep on site with regard to Hazmats.

Ms. Tyler asked that Mr. VanLuvanee and Mr. Smolow correspond with Mr. Garton to set up a meeting to continue the discussions.

A brief recess was taken at this time.

FINANCIAL REPORTS

Mr. Fedorchak stated for 2014 year end across all twenty-one funds, the Township ended as anticipated; and there are no negative variances to report. He stated the General Fund finished strongly ending 2014 with a Fund Balance of over \$2 million. He stated it has steadily increased over the last five years, and in 2009 the Fund Balance was approximately \$922,000. Mr. Fedorchak stated this is one of many financial facts he reported to Moody's which was one important reason the Township was able to maintain the AA1 rating which is a measure of the Township's financial stability and the Township's ability to repay its debt.

Mr. Fedorchak stated a number of other trends have emerged that have positively effected the Revenues. He stated new home construction is up, and there have been 163 new homes constructed since 2011 which is a rate of approximately 40 new homes a year. In contrast if you go back the previous five years, a total of 42 new homes were constructed during that period. Mr. Fedorchak stated over the last three to four years, the Board has approved a number of new housing developments; and when you add the lots available at the Toll age-restricted development plus these additional lots, there is an inventory of over 500 buildable single-family lots now available which is a substantial change from five to six years ago. Mr. Fedorchak stated this strong housing market has translated into significantly higher Deed Transfer Tax receipts as well as Building Permit Fees. He stated in 2014, the Township received \$1.38 million in Deed Transfer Tax. He stated going back to 2009, the Deed Transfer was approximately \$800,000.

Mr. Benedetto stated in October, 2014 they were Budgeted for \$1.05 million in Deed Transfer Tax; but it was projected at that time that they would reach only \$950,000. Mr. Fedorchak stated the final five months of the year were very good, and he had never seen numbers that good for the final five months of the year.

Mr. Fedorchak stated with regard to Building Permit Fees in 2013 the Township received approximately \$220,000 and last year, 2014 it was nearly \$340,000 which is a 50% increase in that line item in one year.

Mr. Fedorchak stated in 2015, the Township is doing well; and he will present the Board with a mid-year report in August.

Mr. Smith asked if the Township is spending more now on the roads than in years past, and Mr. Fedorchak stated they are. He stated since 2011, including 2015, the Township has spent nearly \$3.4 million on roads; and this compares to the period from 2007 to 2010 where they spent approximately \$1 million on roads.

Mr. Fedorchak stated the Township assessed value is over \$519 million which is a historical high. He stated they are finally seeing the assessment Appeals abate, and there is stability in the assessed value. He stated non-tax revenues have also increased significantly with the two largest being the Cable TV Franchise Fee and the rent received for the two communication towers. He stated last year these accounted for \$1.1 million in revenue to the General Fund which is a 33% increase from five years ago. Mr. Fedorchak stated since 2009 the General Fund Revenues averaged approximately a 4.4% increase and Expenses approximately 3.1%.

Mr. Fedorchak stated the Pool and Sewer have enjoyed an excellent year with Operating Revenues exceeding their Operating Expenses. He stated the Sewer Fund ended the year with a \$1.27 million fund balance and the Pool with nearly \$290,000. Mr. Fedorchak stated for 2015, he has received an updated report from Finance on the Pool; and they are again doing very well. He stated he had established in the 2015 Budget what he felt might be "lofty" Revenue goals with respect to Pool Membership, and for 2015 the Pool has already met its Budgeted Revenue numbers.

Mr. Fedorchak stated he will provide the mid-year report in August, and he plans on having the Auditors present the 2014 Audit to the Board at the July 15 meeting.

Mr. Smith commended those who were on the Board in 2014. He also thanked Mr. Fedorchak and his team.

Mr. McLaughlin asked about snow removal costs, and Mr. Fedorchak stated they are doing better this year than the last few years.

Mr. Benedetto noted the Capital Reserve Fund. He noted Miscellaneous Expenditures, Capital Projects for Township facilities on Page 49. He stated the Budgeted amount was \$90,000, and they came in at \$123,814; and he asked what this encompassed and why was it \$33,000 more than was Budgeted. Mr. Fedorchak

stated he can provide more specific information on this, but he knows the new boiler was included in this amount. He stated he feels they projected \$60,000 for this; but when they found a few additional items were needed, it came in over \$70,000. Mr. Benedetto asked about Capital Construction – Roads, noting there was \$0 Budgeted, and they spent \$102,700; and Mr. Fedorchak stated that was a carry over from the previous year and were additional road expenses he had to take out of Capital Reserve rather than Liquid Fuels since there is a limit on the Liquid Fuels side. He stated there was additional money in the Capital Reserve so they were able to do that. He stated for that same Line Item for 2015, there is \$300,000 which is the Township Line Road project.

Mr. Benedetto stated for Capital Purchases for General Fund it was Budgeted at \$179,000 and they came in at \$354,000; and Mr. Fedorchak stated he will provide Mr. Benedetto information on this.

Mr. Benedetto stated it appears for the Inclusive Playground the construction was \$291,861 and engineering costs were \$47,231 which is approximately \$340,000 total for the playground; and Mr. Fedorchak stated there will also be one final payment to be made to the construction company so it may be close to \$350,000 which includes all the Change Orders. Mr. Benedetto stated they Budgeted \$250,000 for that project but they decided to do both phases at one time.

Mr. Benedetto stated he is concerned about the Professional Services Fees for the Grant projects. He stated \$250,000 was Budgeted for the Community Center, but it is already at \$211,000. He stated next year they Budgeted \$75,000 in professional services for the Community Center. He stated this is on top of the inclusive playground engineering which was also part of the State Grant and the ball fields which were approximately \$130,000 in 2013, \$65,000 in 2014 and \$25,000 in 2015. Mr. Benedetto stated he feels these Professional Services Fees are "exorbitant." He stated there was \$2 million on Grant money, and they are going to go over that.

Ms. Tyler asked Mr. Eisold how they calculate the Professional Services Fees on the Capital Improvement Projects. Mr. Eisold stated as to design, it is typically 10%, and construction through bidding is approximately another 10%. He stated a number of these projects extend over a long period of time.

Mr. Benedetto noted the Quiet Zones and stated the engineering costs have been approximately \$25,000. He stated they are looking at construction costs of approximately \$350,000 to be covered by the Multi-Modal Grant and engineering costs of \$125,000 for 2015 in addition to the \$25,000 which has already been spent. Mr. Eisold stated he feels this is accurate as to costs adding that this is different from a typical construction project since they have a lot of Approvals needed to be

received and Applications to get the funding. He stated getting the approval to do the Quiet Zones was a project in itself and would not be a typical construction project as it relates to the 20% he spoke about earlier. Mr. Benedetto asked what was the amount that the Township discussed beyond the Grant money that the Township would have to spend, and Ms. Tyler stated she felt was 70/30.

Mr. Benedetto referred again to the Capital Reserve Fund and stated there were loan proceeds of \$1.85 million, with \$1 million for the Community Center and 850 for Public Works needs. Mr. Fedorchak stated there was not a final commitment made by the Board of Supervisors to go for the 850. He stated Mr. Kall had a list of equipment he had hoped to be able to purchase over the next few years; and he believes the Board indicated they would look at this and put it in the Budget, but Mr. Kall had to come back to the Board with more information and justification.

Mr. Benedetto stated Special Projects Capital Construction relates to digitizing the Township documents, and they have Budgeted \$100,000 for next year and they are at approximately \$13,000 this year. Mr. Fedorchak stated he hopes that they will be able to take many of the Township documents including the Ordinances, Resolutions, and Building Permits and have them digitized in such a way that the staff and the public would have access to this information through the Internet.

Mr. Benedetto noted FEMA Elevation – Special Projects Fund. He stated the DeSantis elevation cost more than Budgeted, but the Duffy elevation came in at zero. Mr. Fedorchak stated FEMA withdrew the Duffy project, although it may still go through. Mr. Benedetto stated he spoke to Ms. Susan Mazitelli who handles those projects, and she indicated that the FEMA/PEMA Grant Application was opened a few weeks ago and goes through the beginning of August. He asked if the Township has any projects on board for this year, and Mr. Fedorchak stated they are looking at a few possibilities. He stated he hopes to first close out two projects which involve a great deal of paperwork.

DISCUSSION AND APPROVAL OF RESOLUTION NO. 2293 ADOPTING SEWER PLANNING MODULES FOR MOON TRACT

Mr. Fedorchak stated the Applicant has to put together a detailed package concerning the sanitary sewers within the Moon Nursery Development and the extension of the public sewer that will service this particular development. He stated part of that Application is that the Board approve by Resolution the extension of the public sewer into Moon Nursery.

Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to Approve Resolution No. 2293 adopting Sewer Planning Modules for Moon Tract.

Ms. Tyler noted that the Board met in Executive Session for approximately fifteen minutes prior to the meeting to discuss the Zoning Hearing Board Application regarding Makefield Glen.

SUPERVISORS' REPORTS

Ms. Tyler stated the Garden of Reflection Committee will have a Designer Handbag Bingo tomorrow, June 18; and proceeds go to support the maintenance of the Garden of Reflection. She stated tickets can be purchased at lmt.org.

Mr. Dobson stated they need more information on the dog park as they are now hearing that it will cost more than originally anticipated. He stated the Township engineer is looking into this.

Mr. Benedetto stated the EAC met on June 10 and they have requested that a drug recycling poster be posted in the Township lobby to notify residents of the drop-off point at the LMT Police Department. Chief Coluzzi stated they can put up a poster, and it will also be on the Website. Mr. Benedetto stated they also requested the Bid documents for the Community Center, and Mr. Fedorchak stated they are posted on line. Mr. Benedetto stated some EAC members met with Mr. Kall regarding alternatives to Round-Up, and Mr. Kall is looking into this further. Mr. Benedetto stated there was a recognition at the Artists of Yardley event on Saturday, and there is a plaque that was dedicated for the largest cucumber magnolia in Pennsylvania which is next to the Brown-Janney House.

Mr. Smith stated Electronic Media will come to the Board meeting in July to make a report. Ms. Tyler stated Economic Development has been invited to come to that meeting as well. Mr. Smith stated the US Open Qualifier at the Golf Course last month was an overwhelming success, and they are most likely on the rotation again for 2018. Mr. Smith stated they have purchased and installed a bench at the Golf Course in memory of Pete Stainthorpe, and there will be a ceremony in the future. Mr. Smith stated the tent at the Golf Course will go up in approximately two weeks. He stated the Audubon Society also has an award for the Golf Course and would like to attend the September Board of Supervisors meeting for a presentation. He stated May was the Golf Course's second best month ever in terms of Revenues. He stated the Golf Course is ahead of Budget at this time.

OTHER BUSINESS

Mr. Eisold stated there are some modified Mylars for Flowers Fields. He stated these were five units originally configured in an "odd way," and they have been realigned to be more consistent; and everyone was in agreement with that. He stated they need to re-record the Record Plan to show the new lay out. These are ready to be signed this evening.

Mr. Dobson confirmed that the July 1 meeting of the Board of Supervisors has been canceled, and Ms. Tyler agreed. It was also agreed to have the one meeting in August to be the first meeting in August, and the August 15 meeting was canceled.

Mr. Benedetto stated a resident asked him about the Scammel House and whether Orleans had submitted any Plans; and Mr. Fedorchak stated they did, and they have a different vision for what they want to do with the Scammel House than what was approved as part of the Court Order. Mr. Fedorchak stated he will be sending the sketches and drawings to the Historical Commission and possibly HARB as well and have then weigh in on this; and once they have done this, he will bring everyone in to a future Supervisors meeting which he feels will be some time in September.

Mr. Benedetto stated there was a recent water main break on River Road that took over eight hours to repair and he understands there was a second outage, and he asked for an update. Ms. Tyler stated they had requested an update from Pennsylvania American Water and received a response dated June 16 which she read into the record. It was agreed to post this response on the Township Website.

Mr. Smith stated they are working possibly on an event for Labor Day. Ms. Tyler stated she is working with Mr. Smith, Mr. Fedorchak, and Ms. Liney on a Family Fun Day for Labor Day and the Pool is open to all residents; and they are going to couple that with a number of other activities.

APPOINTMENTS

Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to appoint Dawn DiDonato Burke to the Planning Commission, Barbara L. Williams from Alternate to full member of the Disabled Persons Advisory Board, and Matt Conley from an Alternate to full member of the EAC.

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There being no further business, the meeting was adjourned.

Respectfully Submitted,

Jeffrey Benedetto, Secretary