

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – DECEMBER 2, 2015

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on December 2, 2015.
Ms. Tyler called the meeting to order at 7:30 p.m.

Those present:

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

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

RESIGNATION OF DOBBY DOBSON

Ms. Tyler announced that Dobby Dobson has resigned from the Board of Supervisors, tendering his letter of resignation on November 29, 2015, due to increased workload with his job. Ms. Tyler stated when a vacancy occurs on the Board of Supervisors it is their obligation to replace that Supervisor within thirty days. Ms. Tyler asked those interested to forward resumes and letters of interest to the Township Manager, Mr. Fedorchak; and they will schedule interviews and move forward.

Mr. McLaughlin stated he understands that this will be a two-year term. Mr. Garton stated when a vacancy occurs, the existing Board has thirty days to fill the vacancy; and while they have agreed to solicit resumes, he would suggest that the Board have a deadline as to when they are to be received so that there is finality as to who will be interviewed. Mr. Garton stated if the Board is unable to select a new member of the Board within the thirty days, the Vacancy Board then has jurisdiction for fifteen days. He stated the Vacancy Board consists of the Vacancy Board Chairman and the remaining Vacancy Board members. Mr. Garton stated if they cannot come to an Agreement, then the Court will appoint the member of the Board of Supervisors.

Ms. Tyler stated that the next Supervisors' meeting is December 16, and she suggested that the deadline for letters of interest and resumes be December 11; and they will then conduct interviews on December 14 and December 15 in advance of their next meeting on December 16.

Mr. Benedetto stated this is a two year term since the next Municipal election would be 2017. He asked how long would the person serve. Mr. Garton stated they are serving the balance of Mr. Dobson's term.

Mr. McLaughlin asked what will happen if the Board of Supervisors is deadlocked; and Mr. Garton stated nothing happens until thirty days from the resignation, and then the Vacancy Board Chairman will convene a meeting at which five people will vote. Mr. McLaughlin asked if that would be a public meeting, and Mr. Garton agreed that all these meetings have to be public. Mr. Benedetto stated thirty days would be December 29 which is the deadline by which the Board of Supervisors needs to fill the vacancy; and then there would be fifteen days for the Vacancy Board so that technically that would run out until January 14. Mr. Garton stated it would be January 4 since the Vacancy Chairman is appointed at the Re-Organization Meeting on January 4, 2016 so theoretically the Vacancy Board will still be in play, although there might be a different Chairman. He stated they would not get fifteen more days because of the Re-Organization. Mr. Benedetto stated technically the meeting could take place with the same group in place on January 2 because that would be before the Re-Organization Meeting, and Mr. Garton agreed. Mr. McLaughlin stated he felt his term would be over; however, Mr. Garton stated Mr. McLaughlin's term ends January 4.

Ms. Tyler stated hopefully the Board of Supervisors will have a positive vote on December 16, 2015.

PUBLIC COMMENT

Ms. Donna Doan, 2814 Langhorne-Yardley Road, Langhorne, stated they had requested a link for Patterson Farm Preservation.com on the Township Website; and they did add a disclaimer stating that the opinions expressed on their Website are not necessarily the opinions of the Township. Ms. Tyler stated as she noted previously, once the litigation is resolved, she feels that would be the appropriate time. She stated she feels the Board would like to see their Business Plan as to how they plan to move forward with this, the funds collected, and the staging of construction.

Mr. Benedetto stated he feels this is a simple decision, and there are a lot of other links on the Township Website.

Mr. Benedetto moved to have the Patterson Farm Preservation.com link as a link on the Township Website.

Ms. Tyler stated they would need to have the Township solicitor look at it, and Mr. Garton stated he could review it by Friday.

Ms. Doan stated the content of their Website is mostly informative and not specifically tailored to the preservation plan although that is also there. Ms. Tyler stated she did read it all; and her concern was with the representations made that the rent from Bright Farms and Mr. Stewart would go to Satterthwaite, and there is no agreement as to that. Ms. Doan asked why the rent from Patterson Farm would not stay on Patterson Farm. Ms. Tyler stated Ms. Doan's view is not necessarily the same as the Township, and Ms. Tyler stated she does not want to create any confusion. Ms. Doan stated she feels that if you have an asset you need to maintain it, and the Farm does generate income and could generate more which would make sure that the Farm remains viable.

Mr. Smith asked if Patterson Farm Preservation is involved in the pending litigation, and Ms. Tyler stated the Township is. Mr. Smith asked why they are making it more onerous for this group to link up than any other group. He stated this is just a link up, and he feels they are engaging in censorship of this group. Ms. Tyler stated she disagrees. Mr. Smith asked why they are reviewing what they have to say on their Website, and he asked if they are reviewing anyone else. Ms. Tyler stated she has reviewed every link.

Ms. Tyler stated she feels they need to wait for the litigation to conclude before they allow them go on the property. Ms. Doan stated at one point they had requested and had been given permission by the Township Manager to go ahead and repair the garage which they did, and it is now restored. She stated they wanted to start on the pack house. She stated they have already been doing work on the Farm, and Ms. Tyler stated she believes that they were asked to stop. Ms. Doan stated the pack house is not in any way involved in litigation, and it is not on the Satterthwaite parcel.

Mr. Smith moved to amend the Motion if the disclaimer is satisfactory to the Township council.

Mr. Benedetto stated they could give Mr. Garton time to review this, and he asked Ms. Doan if they could then vote on this on December 16.

Ms. Tyler stated before they allowed the Artists of Yardley to link up on the Township Website, they required them to present a Business Plan which she feels is a reasonable requirement. Mr. Smith stated he does not feel a Business Plan has anything to do with a link up. He stated all they want is for people to be able to find them. He asked why they are imposing something on them that they do not impose on anyone else, and Ms. Tyler reminded Mr. Smith that she just indicated that they required this of the Artists of Yardley. Mr. Benedetto stated while he recognizes this, there are other links for organizations that did not submit a Business Plan. Ms. Doan stated they are a 501C3 so she feels the Federal Government recognizes that they have a plan, and they are legitimate.

There was no vote on the Amendment to the Motion. Vote on the original Motion was called, but did not carry as Mr. Benedetto and Mr. Smith were in favor and Mr. McLaughlin and Ms. Tyler were opposed.

Ms. Doan asked the status of Satterthwaite. Mr. Garton stated he shared with the Board Mr. Murphy's Brief on the Merits which was submitted approximately one week ago, and now the other participants, the neighbors and the Zoning Hearing Board, have another thirty days to file their Briefs on the Merits. He stated the Zoning Hearing Board's Counsel is participating and will be filing a Brief in support of the Zoning Hearing Board's decision.

Mr. Benedetto stated he read Mr. Garton's letter and the copy of the Brief submitted by Mr. Murphy. Mr. Benedetto stated there was a comment that Mr. Garton did not submit a Brief because that was the direction of the Supervisors. Mr. Garton stated that was on the Merits when the Appeal was first taken, and the Board voted not to have the Solicitor participate in the Appeal on the Merits. Mr. Benedetto stated he agrees that the Decision was that Mr. Garton would not participate on the Merits; however, the discussion Mr. Garton had with Mr. Murphy is why they are in the situation they are in now with the case being decided on the Merits. He stated the reason they are in this situation now is because Mr. Garton and Mr. Murphy agreed that the case would proceed on its Merits, yet now Mr. Garton is not participating by not following a Brief which Mr. Benedetto feels is counter intuitive.

Mr. Garton stated what he had said was for the purposes of moving this along faster, it was decided they would defer any litigation over Standing because the Merits would be decided much quicker. Mr. Benedetto stated while he understands this, he assumed Mr. Garton was going to file a Brief because of the e-mail exchange they had on September 17 which was the day of the Hearing when he asked Mr. Garton for a status report; and he stated Mr. Garton's comment back to him was, "The Stipulation of Facts was submitted and the Judge gave Mr. Murphy forty-five days to file his Brief and me forty-five days after that if I wanted to take that long to file my Brief." Mr. Garton stated what he wrote was not correct.

Mr. Benedetto stated if they prevail, it could still go back and be decided on the matter of Standing, and then the Township would participate; and Mr. Garton agreed.

Mr. Jeff Hirko, 1450 Dolington Road, noted the letter Mr. Fedorchak put together that they all signed regarding maintenance and repairs at the Patterson side of the Farm. Ms. Tyler asked Mr. Fedorchak if there is not an Agreement already with the Artists of Yardley for the pack house, but Mr. Hirko stated this has nothing to do with the pack house. He stated it is just maintenance, and it is not using the pack house. Mr. Fedorchak stated Mr. Hirko had not asked to take possession of the pack

house, and they were very specific in their understanding that it was to maintain the exterior of the pack house and the “lean to” or the section that is attached to the main barn. He stated these are exclusively maintenance items.

Ms. Tyler stated she did review the terms, and she feels some things need to be added before the Township signs on to it including the fact that the Township will not compensate for their time, materials, or provide tools, etc. and they need a hold harmless clause protecting the Township. Mr. Garton stated they could sign it provided it was subject to those modifications. Mr. Hirko stated they would agree to this since their insurance is all in place. Ms. Tyler asked if the Township is an additional insured on that policy, and Mr. Fedorchak agreed.

Mr. Smith asked why it has taken six months to get to this point when they want to do voluntary, free work for the Township. Mr. McLaughlin stated they just received the scope of work from them signed on October 30. Mr. Benedetto stated they had submitted more extensive lists months before that; and Mr. Hirko agreed and stated he met with Mr. Fedorchak, and what was submitted on October 30 was what they came up with.

Mr. Benedetto moved to approve the Agreement between Patterson Farm Preservation Incorporated and Lower Makefield township concerning the work items listed in the document dated 10/30/15 subject to the following modifications:

- 1) The Township will not compensate Patterson Farm Preservation Incorporated for their time, or materials, nor provide tools etc.
- 2) They will have a Hold Harmless Agreement

Mr. McLaughlin seconded and the Motion carried unanimously.

Ms. Joe Grace, 937 Sandy Run Road, provided information to Mr. Eisold this evening stating her home is not in the 100 year floodplain. Ms. Grace asked what the Toll money the Board has referred to in the past to be used for. Mr. Fedorchak stated there is \$1.375 million from Toll Bros. over a three to four year period, and that money is unrestricted with the money going from Toll to the Township. He stated the Township has placed that money in their Capital Funds to finance various Capital improvements. Ms. Grace stated she has a “flood house” that has been damaged over the years, and she has been asking for help with it for the last ten years but received no help. She stated the flooding was the result of Toll Bros. development of Yardley Hunt. She stated they applied for FEMA funds, but they got no response. She stated Mr. Santarsiero’s office wrote a letter to Mr. Fedorchak, but they never heard back from that. She also stated she had retained an attorney.

Mr. McLaughlin asked Ms. Grace for more information about what happened to her house; and Ms. Grace stated her house was used for drainage related to Brock Creek, and her house floods.

Ms. Tyler stated Ms. Grace indicated she had retained an attorney, and she asked what that attorney did for her; and Ms. Grace stated they got an attorney nine to ten years ago who sent a letter to Mr. Fedorchak, and Mr. Fedorchak had indicated it would be feasible to put in storm drains. Ms. Grace stated it is not feasible to do that, and there are no storm drains on Sandy Run Road.

Mr. Benedetto stated he understands that Ms. Grace is going to lose her home, and Ms. Grace agreed. She stated they went to Mr. Garton's office as well. Mr. Benedetto asked if there is anything the Township can do noting that on the Agenda is an item regarding the FEMA floodplain outreach. Ms. Grace stated they owe a quarter of a million dollars, her husband lost his job in 2011, and they are seventy-two years old. Ms. Grace stated Mr. Garton's office had indicated that they could sell the house to the Township or the County, but she stated they owe a quarter million dollars on it. Ms. Tyler asked Mr. Garton if he recalled this; however, Ms. Grace stated she went to Mr. Hecker about this.

Mr. Fedorchak stated over ten years ago the Township reconstructed the bridge, and they substantially increased the size of the culvert underneath the bridge to help minimize flooding. He stated at one point her property was being considered for an elevation project. Ms. Grace stated they applied for that, but they never got a response. Mr. Fedorchak stated her house was not eligible, but he would like to revisit the program to see what the status of her property would be now; and he will then get back to her. Ms. Grace stated they have a Sheriff's Sale for next Friday because they had to stop making payments.

Mr. McLaughlin asked Ms. Grace if her house was damaged, and Ms. Grace stated they have no footings or foundation whatsoever; and they had 5 ½' of water in it. She stated the house has never been reappraised for taxes because the Township does not reappraise houses. Mr. McLaughlin asked Ms. Grace if she is saying that the house was damaged due to flooding, and the value of the house therefore went down; and Ms. Grace agreed. Mr. McLaughlin asked Ms. Grace if she stopped paying the mortgage because it was not worth it to pay any more, and Ms. Grace agreed. She stated they tried for ten years to get someone to answer them.

Mr. Benedetto asked if she retained an attorney, and Ms. grace stated they talked to twelve attorneys; and they indicated that they should sue the Township but she did not want an adversarial relationship. Mr. Benedetto asked if they have retained an attorney to file a Bankruptcy Petition to stave off the Sheriff's sale, and Ms. Grace stated they could not take bankruptcy because they have paid their bills all their lives.

Mr. Benedetto stated they could lose their house if they do not file the Bankruptcy Petition, but Ms. Grace stated they cannot file that.

A neighbor of Ms. Grace stated that the water no longer floods since when the Township reconstructed the bridge and they put in big stones which push the water down. She stated Ms. Grace's home is next to this; and she has seen Ms. Grace and her husband trying to dig a trench when the water is coming up because there are no stones on her side. Ms. Grace stated it is not the stones; and if the water goes above the bridge it goes to her house.

Mr. Eisold was asked to look into the situation as well as the history of the property.

It was suggested that Ms. Grace look into Legal Aid; however, Ms. Grace stated they do not qualify for Legal Aid. Mr. McLaughlin stated they need to stop the Sheriff's Sale; however, Ms. Grace stated they cannot stop it. Mr. Smith advised Ms. Grace that they are trying to help her, and she needs to get a lawyer immediately so that they can at least take action to delay the sale.

Mr. McLaughlin asked Mr. Garton if there was anyone in his firm that could direct Ms. Grace to someone; and Mr. Garton agreed to provide the Township with some firms that do this kind of work, and the Township can then contact her.

Ms. Bobbie Moore stated the Yardley Christmas Parade will be held on Saturday at 3:30 p.m. beginning at the American Legion. She reviewed other events to take place that day. Ms. Tyler thanked them for their help with the Lower Makefield Township Veterans Parade.

Mr. Smith stated he read about some problems Yardley was having about building a new playground, and he invited Yardley residents to use the Lower Makefield parks. Ms. Moore stated they did form a Committee last evening for the playground, and they will be working on that.

Mr. Jeff Hirko asked if the Township is involved with any litigation involving Mr. Troilo and the property near the point, and Mr. Garton stated he did not believe so. Ms. Tyler stated Mr. Troilo Jr. came in some time ago for a Demolition Permit for a house and the Township denied it, but that did not result in litigation. Mr. Hirko noted a house they were told was a "no-touch" zone. Mr. Benedetto stated it went to HARB who denied the Demolition Permit, and then it came to the Board of Supervisors two years ago, and they denied it. Mr. Benedetto asked if the Applicant could file a lawsuit based on the Township's denial of the Demolition Permit; and Mr. Garton stated they could Appeal it, but they have not.

Ms. Bette Sovinee, W. Ferry Road, stated she is the Coordinator for the Artists of Yardley, and she invited everyone to their Small Works Show which is opening this Friday night at 6:00 p.m. She stated they have one hundred pieces of original art work which are available for purchase as cash and carry. Ms. Tyler stated she attended last year and purchased one of their small works. She stated this is also an opportunity for the residents to get on the Farm and to see what the Artists of Yardley are doing.

APPROVAL OF MINUTES

Mr. Benedetto moved and Mr. Smith seconded to approve the Minutes of November 18, 2015 as written. Motion carried with Mr. McLaughlin abstained.

Mr. Benedetto asked if they have approved the Minutes from any of the Budget Workshops, and it was noted they have not. Mr. Fedorchak stated he will get these to the Supervisors at the next meeting.

DISCUSSION AND APPROVAL OF TRAFFIC CALMING GUIDELINES

Ms. Virginia Torbert and Ms. Sue Herman were present from the Citizens Traffic Commission. Ms. Torbert stated based on feedback from the Board at the last meeting, they have made changes to the Guidelines and included the language recommended by Mr. Garton. She stated the Introduction makes it clear that the process is voluntary, and that residents can always go directly to the Board of Supervisors at any stage of the process. She stated it also makes it clear that where the process is leading is simply a recommendation from the Citizens Traffic Commission to the Board of Supervisors and there is no voting by the Citizens Traffic Commission. She stated it is also clear that before there is any expenditure of Township funds, it will come to the Board of Supervisors.

Ms. Herman stated upon approval by the Board of Supervisors there would be a public meeting with the traffic engineer and the CTC so that the public could weigh in after review of a traffic calming plan, and Ms. Tyler stated this is what they do already. Ms. Herman stated the CTC would summarize the opinions of those weighing in for the Board of Supervisors. Ms. Tyler stated there is also a Supervisor Liaison present at their meetings.

Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to approve the Traffic Calming Guidelines as presented.

Ms. Torbert stated tomorrow there will be a meeting on the Scudders Fall Bridge project to be held at William Penn Middle School from 4:30 p.m. to 7:30 p.m.

Ms. Tyler stated those who have contacted the Township about noise barriers, trees, and any other concerns about the project should attend that meeting.

Mr. Benedetto stated Mr. Fedorchak had previously discussed a request about the interest by the Delaware River Joint Toll Bridge Commission in purchasing the Park and Ride property and building an administration building. Mr. Fedorchak stated about one month ago representatives from the Delaware River Joint Toll Bridge Commission expressed an interest in purchasing the Township property on which the Park and Ride is located which is approximately ten acres on the north side of I-95. He stated they need the property to provide for some exit and entrance ramps that will be going on the outer edges of the property that need to be installed and to construct a two-story office building of approximately 23,000 square feet. He stated they would maintain the Park and Ride facility of approximately one hundred spaces. He stated they are not interested in pursuing this unless there is buy-in from the community and the Board of Supervisors. He stated if the Township is interested in pursuing this, there would be two appraisals.

Mr. Benedetto asked about a timeframe; and Mr. Fedorchak stated while they did not give a definite date, there are looking at other locations as well. He stated he felt they would like to have an answer relatively quickly so he feels it would be in a few months.

Ms. Tyler asked that they have Mr. Ware look at this and advise if this is a permissible use and then proceed with the appraisals if they are interested in going forward.

Mr. Benedetto stated Mr. McLaughlin had indicated the Park and Ride was going to be used as a staging area, and they should consider how this will impact those who use the facility. Mr. Fedorchak stated there are rights-of way they will need from the Township which will be used for entrance/exit ramps along the edges of the ten acres, but they do not need the entire ten acres in order to accomplish that.

Mr. McLaughlin suggested they find out the use now and the impact on the Park and Ride at the meeting tomorrow night. Mr. McLaughlin stated he felt they had already given them approval to use the Park and Ride as a staging facility, and Ms. Tyler stated they will look into this.

Mr. Smith stated he feels the surrounding community and residents who use the facility should be notified about this.

Ms. Judi Reiss, 969 Princess Drive, asked how many parking spaces there are there now, and Ms. Tyler stated she feels there are approximately one hundred and fifty. Ms. Reiss stated losing these parking spaces may be more detrimental than a building.

Ms. Torbert asked if this building will replace an existing administrative building, but Mr. Fedorchak stated this would be in addition to their existing building. Mr. Garton stated they have a large building in Morrisville at this time. Ms. Torbert stated this would be in addition to that; and Mr. Fedorchak stated that is his understanding, but he will revisit that issue with them. Ms. Torbert stated there are residents on Taylorsville Road who already have concerns about traffic, and she asked them to attend the meeting tomorrow night if they can so that they can ask their questions.

DISCUSSION OF MORRISVILLE SEWER AUTHORITY ISSUES

Mr. Wes Plaisted, Township Sewer Authority engineer, was present with Mr. John Koopman, Township solicitor. Mr. Plaisted stated he has been sitting in on meetings regarding the Morrisville sewer treatment plant. He stated currently this is the plant where the majority of Township sewage goes to. He stated the plant is out of compliance because there are too many organics going into the River. He stated the plant was built in 1950, and in 1970 they added a second plant; but it is very old and being overwhelmed with the equipment wearing out. He stated it was not built to handle the flows they are getting now. He stated DEP has told Morrisville they have to do something.

Mr. Plaisted stated Morrisville has looked at short term and long term plans for what is the best for the whole area. He stated the engineering firm for the Morrisville Authority has narrowed it down to two options. He stated one it to build a completely new plant approximately one mile down the River which will be more efficient and will be available for more expansion in case there are other communities that want to join the consortium with Yardley, Lower Makefield, and Morrisville. He stated they also have provisions for equipment for any future discharge criteria that the DEP may put in. He stated their current Permit expires in 2019, and at that point the DEP could decide that they want the effluent treated for other substances as a lot of other plants have been required to handle in their discharge criteria.

Mr. Plaisted stated the second option is to refurbish the new plant with bigger tanks and replace filters and pipes. He stated currently they are a 7.1 million gallon a day plant, and they are attempting to achieve 10 million gallons a day.

Mr. Plaisted stated Morrisville has had discussions with the Yardley and Lower Makefield engineers and solicitors but no decision has yet been made, and they are looking for input as to which way they would want to go. He stated they will then present it to DEP in the hopes that they will give them more time to complete the project which would be a five to eight year project. He stated DEP wants something done now, and they are fully expecting DEP to require them to do certain things now such as replacing the filters and increasing the size of the tanks since they do not want any more discharging into the River.

Mr. Plaisted stated the cost of refurbishing the plant is estimated to be \$85 million, and the cost for a new plant is estimated at \$117 million. He stated Lower Makefield is approximately 50% of the flow so they would be responsible for 50% of that cost. Mr. Plaisted reviewed some other options the considered which involved taking Lower Makefield flows to other treatment plants but either they were already at capacity themselves or it involved installing extensive sewer mains.

Mr. Plaisted stated Morrisville has already put in \$3.5 million into extending the outfall into the River; and if the plant moves those funds will be lost. Ms. Tyler questioned when the Township was advised of this \$3.5 million project, but Mr. Plaisted did not have the exact date. Ms. Tyler asked Mr. Plaisted if he agrees with Morrisville's engineer's assessment, and Mr. Plaisted stated something does have to be done to bring Morrisville into compliance.

Mr. McLaughlin stated two years ago the Board of Supervisors was told they should divert more flows to Morrisville because that was going to cost less than going to Philadelphia. He stated now they are getting a bill for a short-term fix and then will have to pay 50% of a \$125 million bill. Mr. Koopman stated the Heacock reversal was approximately fifteen to twenty years ago; however, Mr. McLaughlin stated there was an interceptor they changed recently at Derbyshire so Lower Makefield has actually contributed to the problem based on a decision they made two years ago, and this is the first time he is hearing that there was a problem at Morrisville.

Ms. Tyler asked Mr. Koopman if the existing Agreement between Lower Makefield Township and Morrisville Municipal Authority speak to a situation such as this. Mr. Koopman stated Lower Makefield had no idea that the plant was in such bad shape. Mr. McLaughlin stated he feels this is negligent behavior on the part of the Morrisville Sewer Authority if they agree to accept more flows from Lower Makefield, and then two years later they advise them that they are filled; and Lower Makefield's part of the bill is even higher because they sent them even more flows. Mr. Smith stated Lower Makefield is a captive of Morrisville.

Mr. Koopman stated they did not send additional flows to Morrisville on an on-going basis, and it was a situation where there were peak flows, and they constructed a by-pass line that could possibly send overflow sewage from the Derbyshire area to the Morrisville treatment plant; but he is not sure that it has ever been put in use, and the flows were minimal if they did use it. He stated it was an emergency by-pass to take care of a situation where sewage was backing up to the Derbyshire area on certain roads. Mr. McLaughlin stated he recalls that they decided to send flows to Morrisville because of the savings per gallon. Mr. Fedorchak stated there was a plan for a major section of the Derbyshire area to be re-directed from Falls to go to Morrisville, and an analysis was performed showing that in five years, it would pay for itself; however, that plan was abandoned for a number of reason mostly because of the rights-of way required in order to accomplish that. He stated instead they went to an emergency by-pass scenario to resolve sewer back ups in the area.

Mr. McLaughlin asked why Lower Makefield was not informed by Morrisville about the condition of the Morrisville treatment plant and how do they get away with this. Mr. Koopman stated a few months ago, they received a long letter from the Director of the Morrisville Authority, John Warendra, which outlined a series of problems; and he feels this is the first time anyone was aware of the problems with violations and fines and the serious problems with the operations at the plant. He stated he feels this letter surfaced in September or October.

Mr. Smith stated as of now Lower Makefield is not part of the Morrisville Authority, and Mr. Koopman agreed. Mr. Koopman stated the Agreement provides that Morrisville is supposed to inform Lower Makefield by November 1 of each year what capital improvements are anticipated to be needed in the following year, and he is not aware that they did this. Mr. McLaughlin asked if that gives legal grounds to sue them. Mr. Koopman stated they are supposed to inform the Township by November 1 of the year proceeding the year when they propose to do the capital improvements, and he is not aware that they did this with respect to most of the items; although he does feel there was some discussion about the outfall structure verbally. Mr. McLaughlin stated if they do not get a plan for what their improvements are, Lower Makefield would not know what was coming; and he does not feel Morrisville acted in a responsible manner. Mr. Koopman stated he does not feel they met the letter of the contract about notifying the Township. He stated the remedy may be that if these are valid capital improvements that need to be made to the plant, maybe Township can defer their contributions; however, he has not been asked to address that.

Mr. Smith stated Mr. Fedorchak alluded to this at the Preliminary Budget Workshop when he indicated they need to have a serious discussion about this. Mr. Smith stated he feels Lower Makefield is stuck with this, and he asked the sewer engineer which way he feels is the most beneficial way to proceed from an engineering

standpoint and whether they should refurbish the current facility or contribute to a new plant. Mr. Smith stated he also feels a future Board should discuss the communication, and there should be someone at the Morrisville Authority meetings so that Lower Makefield knows what is happening.

Mr. Plaisted stated from a long-term engineering point of view looking out forty to fifty years, he feels they should have a new plant. He added if they keep repairing the old plant, it will eventually cost as much as a new plant would cost and it will still be an old plant. Mr. Smith asked which way Morrisville prefers, and Mr. Plaisted stated they feel if they can afford it, they should build a new plant. He stated there is a possibility that DEP may come in and tell them to fix the three major pieces of equipment that are causing the problem now, and that may handle the problems for the next ten to fifteen years. He stated the plant is only over capacity when there are heavy rains which is an I and I issue, and this problem is Nation wide. He stated the plan that would meet those requirements would cost \$25 million to \$30 million. Mr. McLaughlin stated this would be a “band aid,” and they will eventually need a new plant anyway.

Mr. Koopman stated there was a draft of a Consent Assessment for the fine which came from DEP, and DEP required Morrisville to come up with a Corrective Action Plan. He stated the Plan together with input from Lower Makefield and Yardley will go back to DEP shortly and will indicate what they are going to do to remedy the situation. Mr. McLaughlin stated while Lower Makefield has input, he asked who will make this decision; and it was noted it is Morrisville. Mr. McLaughlin asked if Lower Makefield has any jurisdiction; and Mr. Koopman stated while it is Morrisville’s plant, the way the Agreement reads is if Morrisville believes the capital improvements are necessary, they are to notify Lower Makefield which they have now done. He stated the Township then has forty-five days to evaluate that and make a determination whether they agree with it. He stated if Lower Makefield does not agree, there is a provision for arbitration to determine whether the capital improvements are reasonable, necessary, and how to proceed.

Ms. Tyler stated she has reviewed the Agreement, and she noted Sections 13 and 14 adding she feels this is not just a capital improvement as it is also repairing deferred maintenance. She stated she feels the deferred maintenance is a breach of the Agreement they have with Morrisville. She also noted Section 22 requiring Morrisville to maintain the treatment plant in good order and repair and in operating condition, and they obviously did not do this. She also noted Section 24 about the requirement for notice to the users which they did not do. She also noted Section 25. Mr. McLaughlin stated he read the Agreement and felt Morrisville had violated almost every clause, and Ms. Tyler agreed. Ms. Tyler asked Mr. Koopman if legally Morrisville has complied with the Agreement; and if not, does the hold harmless clause come into effect such that Morrisville would then be on their own.

Mr. Koopman stated the threshold question becomes whether these are necessary capital improvements or are these maintenance/repair items that should have been dealt with. He stated the Agreement provides that Morrisville is obligated to operate and maintain the plant pursuant to all applicable regulations. He stated there is also a provision that states that “in the event that future capital expenditures are made necessary by Morrisville’s failure to properly maintain the plant, those expenditures shall be the sole responsibility of Morrisville Authority. Mr. Koopman stated from Mr. Plaisted’s analysis, he understands that at least initially it is an engineering question whether these are legitimate capital improvements that are needed for this plant because of its age and condition; and Mr. Plaisted has indicated for the most part, these are legitimate capital improvements. He stated to the extent that the capital improvements are necessary because Morrisville failed to properly maintain the plant, then the Agreement provides that would be Morrisville’s responsibility; but he feels this is an engineering question and not a legal question. He stated there is still a problem because this is where the Township sewage flows.

Mr. Smith stated he understands the Agreement goes back to 1977, and Mr. Koopman stated the original Agreement does go back to 1977 and it was amended and updated in 1991. Mr. Koopman stated the references he is making are to the 1991 amendment to the Agreement. Mr. Smith stated this was still a long time ago; and he would feel much stronger about this if they had just entered in the Agreement a year or two ago, and they were stuck with things they should have done a long time ago. He stated Lower Makefield has been part of this Agreement for over forty years, and now they are complaining about it, and Lower Makefield should have taken the steps to know what was going on. Mr. McLaughlin stated he feels there is an expectation that they were putting in necessary capital improvements every year, and now they are being fined for the DEP violation.

Mr. Koopman stated he does not feel Lower Makefield or Yardley are responsible for the fine. Mr. Koopman stated the issue is are these legitimate capital improvements that are needed for the plant; and if they are, the Township is responsible for them unless there is an opinion from the engineer or someone else that the only reason these capital improvements are needed is because Morrisville failed to maintain the plant. He stated their obligation is to “maintain the plant.”

Mr. McLaughlin asked what would happen if DEP had not come in and fined Morrisville and would Morrisville still be asking for this money; and Mr. Koopman stated he feels sooner or later someone should have realized there were problems with the plant, and they were probably needed for some time. Mr. McLaughlin stated he feels work should have been done every year not “sooner or later.”

Mr. Koopman stated what probably should have been happening is someone should have been making capital improvements to the plant for several years, and Mr. McLaughlin stated this is his point. Ms. Tyler asked if there is any recourse because of that, and Mr. Koopman stated the recourse is if the reason these capital improvements were necessary was because Morrisville did not maintain the plant then those capital expenditures will be the sole responsibility of Morrisville Authority. Mr. Koopman stated based on what he is hearing from Mr. Plaisted to date his conclusion is that these are legitimate capital improvements that have to be done “sooner or later.” Mr. McLaughlin stated they have been sending money based on the sewer bill for Morrisville to operate the plant in an effective and efficient manner. He stated they should not wait until they have violated DEP regulations to say that they are not doing capital improvements. Mr. Smith stated Lower Makefield was told what the bill was, and they paid their bill, and their expert is saying that these are necessary expenditures.

Ms. Tyler stated the Board needs the sewer engineer’s professional opinion as to what is a legitimate capital improvement and what is the result of deferred maintenance since she would view deferred maintenance as negligence which entitles indemnity and may lower Lower Makefield’s bill. Mr. Plaisted stated they do spend \$300,000 to \$400,000 a year in maintenance, and Mr. McLaughlin stated that was obviously not enough. Mr. Plaisted stated they also spend money on capital. He stated the problem they have is if the tank is too small for the flows coming in, maintenance will not help that. Ms. Tyler stated they should not have taken the additional flows in the first place, and they needed to consider their own capacity and not just keep taking flows and then indicate their equipment was not big enough. She stated she feels Morrisville should be responsible for their negligent conduct if such a determination is made.

Mr. Plaisted stated the plant capacity is set up for 7.1 million gallons per day, and they can peak out at 8.9 million gallons a day. He stated on average they bring in approximately 3.5 to 4 million gallons a day so they are at about half capacity; but the problem is, as it also is at the Neshaminy Interceptor and that Philadelphia plant, that when it rains they get four to five times the flow for that day. Mr. Fedorchak asked Mr. Plaisted how long that has been happening, but Mr. Plaisted was not sure. Mr. Fedorchak asked Mr. Plaisted if he is aware of any significant I and I reduction program Morrisville has conducted within their community in the last five years; and Mr. Plaisted stated he is not sure that they have expended any Capital Expense for that type of item although he knows they were cited. Ms. Tyler asked if the I and I is the cause of the excess at the plant, what community is responsibility for that I and I, and Mr. Plaisted stated all three communities would be – Yardley, Morrisville, and Lower Makefield. Ms. Tyler stated she knows Lower Makefield has been doing some work on this, and Mr. Fedorchak agreed.

Ms. Tyler stated a second major issue is that Lower Makefield needs a “seat at the table” because Lower Makefield will be charged for almost half of the bill.

Mr. McLaughlin stated he feels everyone’s sewer bill could triple.

Mr. Koopman stated after this all came to light, he, Mr. Koopman, and Mr. Plaisted met with John Warena; and there was a discussion at one point and Mr. Warena recognized that if Lower Makefield was going to contribute to a new sewer treatment plant at \$177 million it would be appropriate to consider a Joint Authority with members from Lower Makefield and Yardley on the Board. Mr. Koopman added that Mr. Warena is the Executive Director and not the Sewer Authority Board, but he did recognize that this was something that should be considered.

Ms. Tyler stated she also feels that in their Agreement moving forward there needs to be a requirement that as a user Lower Makefield is entitled to see DEP violation notices. Ms. Tyler stated she looked at the report and was very concerned when she saw how many violations there were and how far back they went.

Mr. Smith asked how long Lower Makefield is committed to the Agreement; and Mr. Koopman stated the Agreements do not have a time frame, but the Township needs to consider what would be their alternative. Mr. Smith stated he received a text whether Lower Makefield could build their own facility, and Mr. Smith asked if that is viable and what would be the cost. Mr. Koopman stated twenty to twenty-five years ago Lower Makefield decided that wanted to look at building their own plant, and Mr. Smith stated that is why they now have Macclesfield Park. Mr. Koopman stated the residents of Lower Makefield Township at that time did not want a sewer plant. He stated the next plan they considered was the Township condemning land in Falls Township and building the Lower Makefield Township plant in Falls Township, but this did not go over well either. He stated getting Permits from DEP for a new sewer treatment plant in Lower Makefield or some other area would be very difficult. Mr. Garton stated they would have to get an allocation for flows into the River, and it would be a complicated, expensive process. Mr. Smith stated this is why he feels they are captive.

Mr. McLaughlin asked if they could not divert to Philadelphia, and Mr. Koopman stated Bucks County and Neshaminy are also having these same problems or worse. Mr. Koopman stated Mr. Plaisted had also discussed piping the flows directly down twenty-five miles to the Northeast Philadelphia Treatment Plant, but he does not feel this is a viable option. Mr. Smith stated Philadelphia especially has also allowed a lot of their infrastructure to deteriorate so he does not feel that is a viable option. Mr. Koopman stated Philadelphia’s costs would be well in excess of Morrisville’s.

He added that Morrisville's sewer rates have always been historically lower than many others, and possibly maybe one of the reasons why was that they had not made the capital improvements.

Mr. Benedetto stated there are three sides to every story, and they are talking about all the bad things that Morrisville has done to them; and they are being told that they did not do any capital improvements. Mr. Plaisted stated they have been making capital improvements. Mr. Benedetto stated it was approximately \$5.7 million since 2008. Mr. Benedetto stated they are also speculating that the Township did not know anything about this; however, there is a report on Media Commentary by Public Officials regarding Morrisville Wastewater Treatment Plant Operations, and Mr. Warena sent this as an e-mail to Mr. Fedorchak today.

Mr. Benedetto stated Begley Carlin represents Lower Makefield, and they also represent the Morrisville Sewer Authority; and Mr. Koopman agreed. Mr. Benedetto stated they are now talking about suing the Morrisville Sewer Authority and they are represented by the same legal firm as the Township. Mr. Benedetto stated Mr. Warena made a statement that they put in \$5.7 million of capital improvements and multiple meetings took place including a meeting on 12/20/13 between John Warena, Terry Fedorchak, and the engineer for Morrisville. Mr. Benedetto stated it was also indicated that there were communications on 7/17/14 with Kevin Kall.

Mr. McLaughlin asked Mr. Fedorchak if he knew about this; and Mr. Fedorchak stated those meetings took place but Morrisville never stated to Lower Makefield that they needed to build a brand new plant or to spend \$85 million in capital improvements to the existing plant. Mr. Fedorchak stated he also demanded that they have those meetings, and it was his constant complaint about the Morrisville Authority that the Township was not getting the full story or five year capital improvement plan; and he asked that of them year after year. He stated when the Township started seeing there was the need to spend \$2 million for one item, \$1 million on another, he asked that they all meet and have Morrisville explain to Lower Makefield Township what was going on; and that is when they started to have the meetings. He stated he demanded that they have those meetings.

Mr. Benedetto stated John Warena is not here, and he feels it is important that he be here since there are three sides to every story. Mr. Benedetto stated Mr. Warena made the statement that "it is the regular practice of the Morrisville Authority to share with Lower Makefield and Yardley the annual operations reconciliation and an annual capital reconciliation by which Yardley and Lower Makefield pay or reimburse for credit for actual shares of operational costs." Mr. Fedorchak stated that is not what he is talking about. Mr. Fedorchak stated those documents have nothing to do with what he is saying tonight. He stated he

gives these documents to his engineer, and he just received a 2014 reconciliation which is in the amount of \$250,966; and typically it is \$40,000 to \$70,000. He stated he has given this to Mr. Plaisted to look at the numbers to see if he agrees with them. He stated this is different from planning as this is after the fact and these things are what they have done. He stated what he is talking about is being completely forthright and telling them what direction they are going, and he feels Morrisville had to know that there were going in this direction.

Mr. McLaughlin stated every year during the Budget session when they discuss sewer, they always ask if they should raise the sewer rates; and it has been four to five years since they raised the rates, and he feels the Board would have raised the rates if they knew that this was coming up. Mr. Smith stated when you raise rates, you get “slammed politically.” Mr. McLaughlin stated the sewer is a rental fee and not a tax. Mr. McLaughlin stated they have raised rates when they were informed that things were on the horizon, and they were not informed about this until approximately one month ago.

Mr. Smith stated he is uncomfortable discussing strategies with Mr. Koopman when he represents Morrisville as well as Lower Makefield, and he feels this is a potential conflict. Mr. Koopman stated until recently no one knew that there was a potential issue. Mr. Garton stated they would recuse themselves, and Morrisville should do the same. Ms. Tyler asked if there is a Conflict Counsel, and Mr. Garton stated they use Barbara Kirk sometimes. Mr. Koopman stated if there are any potential litigation issues, both parties should get counsel.

Mr. Smith stated someone has indicated to him that Begley also represents Elcon; and if they do, he questions whether they should provide legal advise to the Township on this. Mr. Koopman stated they have represented Elcon in connection with Falls Township issues. Mr. Smith asked why Begley Carlin did not feel it was necessary to make this disclosure to the Township before they provided an opinion. Mr. Koopman stated if they were in a potential litigation issue, they would advise the Board of that. Mr. Koopman stated they do not represent Elcon with anything to do with any of the environmental or DEP issues; however, Mr. Smith stated they are still their client, and he feels this should have been discussed with the Board or the Township Manager. Mr. Koopman stated to the extent that there was any potential conflict there, they would have advised the Township to get separate counsel.

Mr. Benedetto stated they need to look for another counsel and get an opinion whether it is a legal question or an engineering question of whether they failed to properly maintain the infrastructure. Mr. Benedetto stated he would be satisfied with Ms. Kirk representing them; however, Ms. Tyler stated this is a specialty issue. Mr. Smith asked who represented the Sewer Authority before Mr. Koopman, and Mr. Koopman stated it was Bucky Claussen from Curtain & Heefner. Mr. Plaisted

stated the Northampton solicitor is Ed Rudolph. Ms. Tyler asked Mr. Fedorchak to look for some experts in the issues that have been outlined this evening; and they will address this when the new Board members come on.

Mr. Fedorchak stated he is still trying to put a Budget together for 2016 and everyday something new comes up. He stated he has already provided the reconciliation statement to Mr. Plaisted and reported it to the Board, and this is in the amount of \$251,000 being mostly Capital. He stated Capital expenditures for wastewater the total is \$2.9 million, and the Township's share is \$1.277 million; and he had put \$1.2 in the Capital Budget. He asked Mr. Plaisted to evaluate this and provide input. Mr. Fedorchak noted the arbitration award, and he asked if this means that there is another \$1.4 million and the Township share would be \$600,000; and Mr. Plaisted stated this is the way he reads this. Mr. Fedorchak advised the Board that he did not account for this anywhere in the Capital Budget so this would be another \$600,000 that the Township will have to pay.

Mr. Smith stated there is a vote on the Budget set for two weeks, and he asked if there should be another Budget Workshop; however, Mr. Fedorchak stated he feels he can put the numbers together adding they may have to finance a piece of this. He stated over the last five years they have been able to "pay as they go" for the Capital improvements as they had set aside \$500,000 from the Sewer Operating Budget and put it in the Capital which was working very well until this year. Mr. Fedorchak stated even with the proposed 10% increase, they are not going to be able to cover this in the short term; and he feels they should look at a bond issue or a bank loan.

Mr. Zachary Rubin, 1661 Covington Road, stated four to five years ago when they raised the sewer rates, they had spent a few million dollars fixing the Lower Makefield interceptor that was going to Morrisville; and the reason the increase was sold to the taxpayers was because it would increase the Sewer Authority's Capital funds. He stated no one objected to this because it was going for work in Lower Makefield. Mr. Rubin stated he feels they should raise the sewer rate to 15% or 20% rather than going out and borrowing the money and paying interest on it. He stated he feels this is a user fee, and people should pay it.

Mr. Rubin stated Mr. Koopman has stated that if there is a disagreement over the capital improvements, it would go to arbitration; and Mr. Rubin asked who would be the arbitrator. Mr. Koopman stated there is a provision in the Contract as to how the arbitrator is selected. Ms. Tyler read this clause. Mr. Rubin asked if the arbitrator would be an attorney or an engineer, and Ms. Tyler stated it would depend on who they select. Mr. Rubin asked if Lower Makefield decides a new plant is needed by Morrisville and Morrisville decides they want to fix the existing plant, would this go to arbitration; and Mr. Koopman stated if there is a dispute about what capital improvements are reasonable and appropriate, it would go to arbitration.

Mr. Joe Menard, 917 Putnam Drive, stated he is Chair of the Citizens Budget Commission; and they had recommended that they increase the sewer rates by 10%. He stated when they looked at the capital improvements for the 2015 Five Year Plan, knowing where they were going, they attempted to identify projects which have been listed; and where they are going now the \$500,000 needs to cover a lot of local items. He stated they identified eleven items which were for long-term useful life of fifty to sixty years, and the \$500,000 was more than sufficient for that category. He stated looking at these new items, he agrees with Mr. Fedorchak that they should look to long-term financing so that they do not have to raise the rates more this time. He stated when they get into planning for 2017, they will have a lot more information, and they can lay this out in more detail. Mr. Benedetto stated the 10% did not have anything to do with this new issue and had more to do with maintaining the balance in the fund, and Mr. Menard agreed.

Mr. McLaughlin asked about the Yardley projects, and Mr. Fedorchak reviewed the three capital projects which were discussed at the last meeting adding that they also signed three Agreements with Yardley Borough. Mr. Fedorchak stated the obligation on the part of Lower Makefield is approximately \$2.5 million. He stated that number may increase when they get into construction, and he feels Yardley Sewer Authority has a much better handle on their short-term capital needs. Mr. McLaughlin asked when the funds would be due, and Mr. Fedorchak stated it would be in the next two to three years. Mr. McLaughlin stated the 10% increase would cover some of that, and Mr. Fedorchak agreed that was included.

Mr. Fedorchak stated there is also the cost of the sand filters which he had not included. Mr. Plaisted stated Morrisville is fully expecting that DEP is going to indicate that they need to replace the filters, as currently they are fifty to sixty years old; and this is a \$3.5 million item. Mr. Fedorchak asked Mr. Plaisted assuming DEP requires this, when would this be done; and Mr. Plaisted stated it would be in two years. Mr. Fedorchak stated this will be an approximate cost of \$1.2 million to the Township. Mr. Plaisted stated he feels Morrisville is hoping that if they indicate they are going to proceed with a new plant, they would just be losing this money if they put the filters in the old plant so they may be able to convince DEP to delay this. Mr. Fedorchak stated those filters are critical to prevent violations now, and Mr. Plaisted agreed.

Mr. Tim Collins, Jenny Drive, asked if Morrisville can tell Lower Makefield that they no longer want Lower Makefield's waste. Mr. McLaughlin stated they could not do that because of the existing Agreement. Mr. Collins asked if the Agreement does not require them to take care of the plant properly, and Ms. Tyler stated that is the question as to what part is negligence, what part is capital improvement, and what

recourse does the Township have. She stated the amount which they will have to contribute will depend on how much was deferred maintenance and what was a capital improvement.

Ms. Rebecca Cecchine stated rather than starting “cold turkey” with a new counsel, they already have a good relationship with Yardley Borough who also have a stake in this; and she suggested that they talk to Yardley Borough’s counsel to see if they could join together and split the cost. Ms. Tyler stated Lower Makefield has a much larger share. Mr. Smith stated there would still be an inherent conflict since that counsel represents the Borough, and he does not feel that is an appropriate way to proceed. Ms. Tyler stated they want to gain control of this situation.

Mr. Fedorchak stated he strongly recommends that the Board of Supervisors strike for a joint Authority, and they need a seat at the decision-making table. Mr. Smith stated while this is a great idea, there has to be a Plan B if Morrisville will not do this.

Mr. Benedetto asked for an update on the sewer billing contract; and Mr. Fedorchak stated it is tentatively scheduled to start with the first quarter bills, however there are some things they need to check on first. He stated worst-case scenario is that it would be mid-year.

UPDATE ON QUIET ZONE

Mr. Eisold stated within the past week they received comments from PennDOT on the Heacock and Stony Hill crossings; and while the comments were relatively minor there are some administrative issues he has been working through with Mr. Fedorchak and some minor changes to the Plans. He stated he hopes that within a month, they will have all those approvals in place from PennDOT. He stated once they have them, they can prepare the final specifications and the Bid documents. He stated with regard to the Multi-Modal Agreement there have been discussions with the Township, SEPTA, and PennDOT to work through the Agreement. He stated he feels they will go out to bid in February or March, 2016.

Ms. Tyler asked what the Heacock crossing will look like, and Mr. Eisold stated it will contain a curved island for 100 feet from the tip of each side of the gate crossing back so that the left turn lane will be non functional so that people cannot get around the gate. Ms. Tyler asked that they do what they can to “beautify” that. Mr. Eisold stated one of the administrative issues is that there will have to be a Maintenance Agreement with PennDOT, and the Township will have to take care of that so they do have some leeway to make this a “gateway;” and they can consider

what the Board might want to consider for this. Ms. Tyler stated this is really the only crossing where there is a need to do anything like this, and Mr. Eisold agreed that the others are not nearly as wide.

Mr. Tim Collins stated at a previous meeting someone asked about the rough crossing at Oxford Valley Road, and Mr. Eisold had indicated that SEPTA stated they would take care of that. Mr. Eisold stated what SEPTA indicated to him on numerous occasions was that at the point when they have control of two of the lines, they would be able to make those changes. They indicated that in order to do that there would have to be a closure for SEPTA to do that work. He stated he has continually reminded them of the statement that they made that they would make those improvements.

UPDATE ON FEMA FLOODPLAIN PUBLIC OUTREACH/INFORMATION PROGRAM

Mr. Eisold stated Ms. Maryellen Saylor from his office is a Certified Floodplain Manager, and she has been working closely with the Township on a lot of the issues from the CRS as well as the new maps that were adopted recently. He stated over the last two years, Ms. Saylor has been contacted by over two hundred residents with regard to the floodplain maps whether they were out of or in the floodplain or if they need to go for a Letter of Map Amendment. He stated there are other areas where the map lists them as within the floodplain, yet their house is not in the floodplain and it is only a portion of their property. She has helped these residents negotiate to minimize their floodplain insurance. Mr. Eisold stated she has direct contact with FEMA when questions come up, and she then goes back to the residents with what is their best option to minimize their flood insurance.

Ms. Tyler stated she has spoken to Ms. Saylor a number of times, and Ms. Saylor has been doing an excellent job on behalf of the residents. Ms. Tyler advised residents if they are in this situation and need information, they have made Ms. Saylor available to the residents.

Mr. Benedetto asked if they know how many people have filed Appeals who she has helped, and Mr. Eisold stated he can provide to the Board the spread sheet she keeps.

Mr. Benedetto asked the budgeted amount for 2016 with regard to the floodplain for any of the situations on River Road. Mr. Fedorchak stated they have received a \$500,000 Grant from FEMA for three elevation projects. He stated at this point two of the three homeowners are not interested in pursuing this, but they are continuing to have discussions with the third. He stated Mr. Eisold's office is working on this.

Mr. Benedetto asked if they could identify others who may qualify, and Mr. Fedorchak stated he is not sure that there are many left. He stated FEMA developed a set of criteria, and they are then put on the list; and there were not really that many LMT properties that qualified.

Mr. Eisold stated last month there was discussion with regard to the Bible Fellowship Church parking lot setback, and he talked to the engineer; and from the architectural plans, the lower exit/entrance off the back parking lot was going into three parking spaces. He stated to the right of that, there was a large island, and he asked the engineer to consider the safety concerns that were raised and “flip-flop” the island so that when people came out there would be a wide, open area as opposed to cars being parked there. Mr. Eisold stated he felt there was merit in that, and he felt they could address this. He stated they are finalizing the Plans, and the engineer agreed to make the final adjustments and submit them back to the Township.

Mr. Garton stated the Board was in Executive Session to discuss the Zoning Hearing Board Application and had discussion about a real estate matter that was discussed in public.

ZONING HEARING BOARD

With regard to the Mark and Amy Schnurr Variance request for the property located at 15 Effingham Road in order to permit demolition of existing garage, construction of a new garage with height of 19’6”, and enlarging of driveway resulting in expansion of existing non-conformance and greater than permitted height, it was agreed to leave this matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Ms. Tyler asked that in lieu of Mr. Dobson’s resignation if Citizens Traffic, Park & Recreation, or Planning Commission need a Supervisor to attend a meeting, they should contact the Township.

Mr. Benedetto asked for an update on the Jennings Tract. Mr. Fedorchak reviewed what he had advised the Board of at the last meeting when he had thought there was an agreement in principal with Mr. Jennings to purchase 3.78 acres of his property but when he met with Mr. Jennings, Mr. Jennings indicated he had second thoughts. Mr. Fedorchak advised him that the Township was still interested. Mr. Fedorchak stated he called Mr. Jennings yesterday, but he has still not made a final decision;

and while he did not say no, he did not indicate that they should move forward. Mr. Fedorchak stated he will follow up with a letter to Mr. Jennings. Mr. Fedorchak stated when he last met with Mr. Jennings he had indicated that he was hopeful that once the 3.78 acres was subdivided and the ownership of that parcel transferred to the Township, he could still turn the remaining five to six acres into a two-lot Subdivision. Mr. Fedorchak had consulted with Zoning and the Township engineers, and he felt that this would be highly unlikely since the property is RRP which is Resource-Protected and requires three acre lots, and because there was a high premium on preserving protected natural resources of which there is an ample amount on that property. Mr. Fedorchak stated he did not feel Mr. Jennings would be able to get two lots out of what would remain. Mr. Fedorchak stated Mr. Jennings seemed to hold out hope that it would be possible, and he understands that the reason he had that hope was because he had a conversation with a Zoning Hearing Board member although Mr. Fedorchak stated he does not know what the details of that conversation were.

Mr. McLaughlin asked if this conversation with a Zoning Hearing Board member was at a public meeting, and Mr. Fedorchak stated it was not although he does not know the details. Mr. Fedorchak stated it seems that conversation influenced Mr. Jennings to the point that he was not as enthusiastic moving forward with the scenario that had been presented by the Township. Mr. McLaughlin asked which member he had a private conversation with, and Mr. Benedetto stated it was Jerry Gruen. Mr. Benedetto stated he spoke to Mr. Gruen who indicated that he had a conversation with Mr. Jennings.

Ms. Tyler stated she and Mr. Fedorchak met with Mr. Jennings and at that time when Mr. Jennings came in they felt that there was a “done deal,” but Mr. Jennings then indicated that he had been “kind of assured” by a Zoning Hearing Board member that he could sell the Township the property and still get it subdivided; and Ms. Tyler stated she and Mr. Fedorchak advised him that they had made no representation to Mr. Jennings that could be done.

Mr. Benedetto stated his understanding is that Mr. Jennings has approval for a Subdivision, and he still had an interest in this. Mr. McLaughlin stated he feels Mr. Gruen’s conversation with Mr. Jennings was highly unethical, and he asked Mr. Benedetto if he feels it was unethical. Mr. Benedetto stated he does not feel they should have been talking about anything to do with any sort of plans about that. Mr. McLaughlin stated Mr. Gruen should not be discussing Zoning Hearing matters outside of the meeting. Mr. Smith stated while he agrees, he is not under the Supervisors’ control. Mr. McLaughlin stated this is how corruption happens. Mr. Smith stated this is something that the Board has to take up as the situation presents itself. Mr. McLaughlin stated he would like to have Mr. Gruen come to the Supervisors meeting.

Mr. Benedetto stated this was not an active Application. Mr. McLaughlin stated he would like to know if Mr. Gruen had an inappropriate discussion and was “peddling his influence” on a potential Real Estate transaction since he does not feel anyone on the Zoning Hearing Board should do that.

Ms. Tyler stated what Mr. Jennings represented was that he was told, although he did not name a name with her, that the Zoning Hearing Board would very likely grant that relief and the Zoning Hearing Board member saw no problem with that as it was the kind of thing that is granted. Mr. McLaughlin stated he feels that is highly inappropriate.

Ms. Tyler asked if counsel at the Zoning Hearing Board meeting discussed this with Mr. Gruen; and Mr. Benedetto stated it was brought up off the record following the meeting, and the discussion was that you cannot have a discussion about this. Mr. McLaughlin stated they need to be consistent about this adding he has heard that Mr. Gruen does this quite often.

Mr. Rubin stated he feels they are casting aspersions on someone through hearsay. Mr. Rubin stated he had a conversation with Mr. Gruen who stated he told Mr. Jennings, “you will get a fair Hearing.” Mr. McLaughlin stated it was not appropriate to talk about anything.

Ms. Tyler asked that they ask Ms. Kirk to submit a report on what occurred. Mr. Garton stated the Zoning Hearing is a quasi-Judicial body which is independent of the Board of Supervisors. He stated they can correspond to Ms. Kirk expressing their concerns, and she can take it up with her Board.

Mr. Rubin stated he feels this is based on hearsay, and Mr. Gruen has not done anything inappropriate. Ms. Tyler stated they are going to find out from Ms. Kirk. Mr. McLaughlin stated Mr. Benedetto indicated he had a conversation with Mr. Gruen who said the same thing so that is not hearsay. Mr. Benedetto stated Mr. Gruen stated that he did have a conversation with Mr. Jennings. Mr. Rubin stated what Mr. Gruen did was not inappropriate. Ms. Tyler stated they will take this up with Ms. Kirk. Mr. Rubin stated he does not feel they should make accusations until they have the facts. Ms. Tyler stated the conversation took place, and that is not hearsay. Mr. Rubin stated no one is denying that they had a conversation, but what they are talking about is the substance of that conversation. Mr. McLaughlin asked Mr. Rubin if he knows what the conversation was that Mr. Jennings had with Mr. Gruen, and Mr. Rubin stated he does because Mr. Gruen told him. Mr. McLaughlin stated Mr. Gruen and Mr. Jennings had a conversation about a potential Zoning issue outside of a public meeting, and that is wrong.

OTHER BUSINESS

Mr. Smith asked if there is anything they should be concerned about during the month of December; and Chief Coluzzi stated there are no specific threats to any of the Municipal facilities, but they are obviously on heightened alert although he does not want to alarm anyone since there has been nothing geared toward their area. Mr. Smith stated someone indicated on Social Media that there were some problems down near the Canal and the Black Rock area where there was property damage and vandalism, and he stated he assumes they are taking some steps in that area; and Chief Coluzzi agreed.

APPOINTMENTS

Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to re-appoint Patrick Frain to the Golf Committee.

Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to re-appoint David Rogers to the Disabled Person Advisory Committee.

Mr. McLaughlin moved, Mr. Benedetto seconded and it was unanimously carried to re-appoint Jeff Shanks to the Sewer Authority.

There being no further business, Mr. Benedetto moved, Mr. Smith seconded and it was unanimously carried to adjourn the meeting at 10:15 p.m.

Respectfully Submitted,

Jeff Benedetto, Secretary

